

# 1. National Trade-related Legislation for Montenegro

Since the opening of Montenegro's accession negotiation with the EU in June 2012, 30 out of 33 chapters have been opened, three of which provisionally closed. With regards to the economic criteria, the newly issued Report on Montenegro (dated 17 April 2018) indicates that Montenegro has made some progress in relation to economy and trade and is moderately prepared in developing a functioning market economy. The Report also indicates Montenegro to be moderately prepared to cope with competitive pressure and market forces within the Union.

Montenegro's trade-related legislation basically relies on five pillars, and they are:

1. Law on Business Organisations of Montenegro (Official Gazette Nos. 06/2002 and 17/2007), which states that a corporation's legal identity is distinct and separate in its functioning and defines entrepreneurs, general partnerships, joint stock companies, limited liability companies and branches of foreign companies as types of business organisations in Montenegro.
2. Law on Foreign Trade and the Decree on Implementation of Foreign Trade Law (Official Gazette Nos. 28/2004, 52/2004, 37/2007 and 44/2007, 1/2014, 14/2014 and 57/2014), as well as the Control list for Export and Import of Goods, define foreign trade, participants in foreign trade transactions, national quotas, licenses as well as legal commercial capacities in Montenegro.
3. EU's trade-related legislation – Montenegro sets EU integration as a priority and is preparing for full membership status. Chapter 1 of Montenegro's accession negotiation – Free Movement of Goods suggests that Montenegro's legal framework for the free movement of goods is largely aligned with the EU principles, and that additional alignment is needed only with regards to medical and tobacco products.

4. CEFTA Agreement – The Central European Free Trade Agreement (CEFTA) helps Montenegro to strengthen its trade position especially in South East Europe and with the most important partners being Serbia, Bosnia and Herzegovina and Kosovo.
5. World Trade Organization (WTO) – On 29 April 2012, Montenegro became a 158th member of WTO.

Apart from the above stated pillars, there are other free trade agreements and treaties that influence trade operations in Montenegro, and the main agreements are:

1. Free Trade Agreement between Montenegro and the Republic of Turkey – entered into force on 1 March 2010.
2. Free Trade Agreement between Montenegro and EFTA States – entered into force with Switzerland and Lichtenstein on 1 September 2012, with Iceland on 1 October 2012, and with Norway on 1 November 2012.
3. Free Trade Agreement between the Government of Montenegro and the Government of Ukraine - entered into force on 1 January 2013.
4. Bilateral Investment Treaties (BITs) – 15 with EU countries and 10 with non-EU countries.
5. Economic Co-operation Agreements – 12 with EU countries and 8 with non- EU countries.
6. Generalised System of Preferences (GSP) – Montenegro is a beneficiary of the GSP benefits in the following countries: Japan, the US, Norway, the Russian Federation, Ukraine, Belarus and Kazakhstan.

Other important laws and regulations regarding trade and investment in Montenegro, and those governing business activities with domestic and foreign partners in Montenegro include:

- Customs Law,
- Decree on Implementation of the Customs Law,
- Customs Tariff Law,
- Decree on Harmonisation of Customs Tariff,
- Law on Foreign Trade in Arms, Military Equipment and Dual-Use Goods,
- Law on Export Control of Dual-Use Goods,
- Decision on Establishment of National Control List of Arms and Military Equipment,
- Decision on Establishment of National Control List of Dual-Use Goods,
- Decision on Establishing List of Non-Military Ordnance, and
- Decree on Foreign Trade with Special Purpose.

According to the Law on Foreign Trade, which is the supreme trading act in Montenegro, foreign trade shall be unrestricted, except as otherwise provided by this Law, and all persons may conduct foreign trade in accordance with the relevant legislation regulating those commercial activities.

## **1.1 Product Standards**

The Institute for Standardisation of Montenegro (ISME), as a National Standardisation Body, was established on April 2007 according to the Decree passed by the Government of Montenegro. The Law on Standardisation (Official Gazette No. 13/2008) was adopted in February 2008 and is in line with the WTO/TBT Code of Good Practice for Preparation, Adoption and Application of Standards. ISME has been a correspondent member of International Organisation for Standardisation (ISO) since 1 July 2007, an associate member of the International Electro-Technical Commission (IEC) since 1 January 2009 and an affiliate member of the European Committee for Standardisation (CEN) since 1 July 2008. Application for the status of Committee for Electro-Technical Standardisation (CENELEC) affiliate member is currently under way.

In 2017, Montenegro adopted an action plan to implement accreditation development strategy and an action plan for the implementation of the standardisation development strategy. ISME adopted a total of 2,300 Montenegrin standards (MEST) designed to be fully harmonised with European and international standards which bring the total to 17,102.

Several pieces of implementing legislation were adopted in the field of metrology, but the overall conclusion is that the capacity of the Metrology Bureau needs reinforcing as it currently has only 40 staff.

A new Law on General Product Safety (Official Gazette Nos. 45/2014 and 13/2018) was designed to be in alignment with the EU standards.

In market surveillance, as of the end of 2017, 1,515 inspection controls were carried out in the Montenegrin market, out of which 425 inspections were in proactive surveillance and the rest in reactive surveillance. With regards to product safety, some 210 types of hazardous products were found (out of total quantity of 15,042 items); 105 products (3,193 items) were permanently taken off the market; 63 products (707 items) were returned to the supplier/distributor, and 16 types of products (2,375 items) were destroyed.

On accreditation, in January 2017 the Accreditation Body of Montenegro (ATCG) accredited 4 new conformity assessment bodies – 3 management system certification bodies and 1 testing laboratory. In the same period, a single conformity assessment body lost the status of an accredited organisation. As of February 2018, 35 bodies have been accredited by the ATCG, including 22 testing laboratories, 2 calibration laboratories, 6 control bodies, a product certification body and 4 management system certification bodies.

Apart from the new Law on General Product Safety, other laws and regulations – as national legislations – directly covering product standards issues, are as follows:

- Regulation on the way of exchanging Information on products that pose a risk (Official Gazette No. 13/2010);

- Instructions for the forms of notification on products posing a risk (Official Gazette No. 60/2010);
- The Rulebook on the contents of notifications of dangerous product (Official Gazette No. 30/2010);
- The Rulebook on establishing the list of Montenegrin standards in the area of general products safety (Official Gazette No. 74/2010).

A product may be placed in the market only if it meets:

- all safety requirements: 1) follows prescribed obligation on safe products, 2) takes into account the characteristics of the product, labelling of the product and the categories of consumers, 3) prohibits to produce, import, export or place on the market misleading products.
- all standard conformity criteria: a product shall be presumed safe as far as the risk or risk categories are concerned, if it conforms to the applicable standards in Montenegro adopted on the basis of the European standards, the list of which has been published in the Official Gazette.

## **1.2 Labelling Requirements**

### **General labelling requirements**

All products offered on Montenegrin market, no matter whether imported or locally produced, must contain the following:

- title of the product;
- list of ingredients;
- quantity of ingredients or category according to special rules;
- net quantity/weight/volume;
- expiry date;
- manner of storage (transport, use of maintenance);

- series of foods;
- full address of the producer or importer;
- country of origin;
- pertinent consumer warnings;
- In case of drinks with more than 1.2% of alcohol, the exact quantity of alcohol.

Technically complicated products must be accompanied by the manual and instructions on use, the manufacturer's specifications, a list of authorised maintenance offices, warranty information, and other applicable data. It is very important for all information to be in Montenegrin language.

Laws and regulations directly covering the labelling requirements in Montenegro are as follows:

- Law on Surveillance of Products on Market (Official Gazette Nos. 33/2014 and 43/2018),
- Law on General Product Safety (Official Gazette Nos. 45/2017 and 13/2018),
- Regulation on Marking, Labeling and Marketing of Foods of Plant Origin After Primary Production, Combined and Other Foods (Official Gazette No. 16/2011).
- Law on Technical Requirements for Product and Conformity Assessment (Official Gazette Nos.53/2011 and 33/2014) and the Decree on the Notification of Technical Regulations, Standards, Regulations on Information Society Services and Conformity Assessment Procedures (Official Gazette No. 11/2013).

Special labelling regulations apply to:

## **1. agricultural products**

Marking and labelling of agricultural and foodstuff are regulated by the Law on Market of Agricultural Products (Official Gazette No. 57/2017), according to which fruits and vegetables can be put on the market only by companies registered as such. Goods put on the market need to have a compliance certificate, issued by a relevant Ministry.

## **2. medical and pharmaceutical products**

Medical (medicinal) products have to be labelled with the information referred to the Law on Medical Devices (Official Gazette Nos. 53/2009 and 40/2011) and to the Rulebook on the labelling of medical devices. Montenegro has an Agency for medicines and medical devices and all wholesalers and traders must be registered with the Agency. Only those who entered into the register can market and import medical devices.

## **3. textile products**

Textile products are to be marked or label with accordance to the Rulebook on the labelling and marking of textiles (Official Gazette Nos. 48/2014 and 40/2018), along to the Rulebook on labelling of footwear (Official Gazette Nos. 48/2014 and 18/2018). The mentioned Rulebooks lay down requirements concerning the marking and the labelling of all textile products. According to said rules, textile products may be put on the market, only if they are labelled with the names of textile fibres as well as supporting documentation.

Apart from the above Rulebooks on marking and labelling of products, there are other legal labelling requirements applying to a large number of specific products, and all in accordance with the harmonisation process with EU laws and regulations. Those products include:

### **Compliance with EU labelling requirements**

According to the 2018 Report on Montenegro, legislation on chemicals classification, labelling and packaging (CLP) belongs to Chapter 1 of Montenegrin accession negotiation (based on the Acquis Chapters), named

Free Movements of Goods. As it is written in the Report, the legislation on chemicals classification, labelling and packaging aims to align with the acquis.

The new Law on Chemicals (Official Gazette No. 51/2017) was adopted in July 2017, and several pieces of implementing legislation were also adopted, including some designed to align with the EU standards on the export and import of hazardous chemicals and biocides

### **Sanctions against violating labelling requirements**

The use of a false labelling is an offence in Montenegro and is penalised by a fine that can amount between 10-fold to 100-fold of the minimum wage in the country, depending on the offense and depending on how harmful that very product is for the human and animal use. Ban of import or trading of certain product(s) is the most certain fine with heavy offences and with regards to labelling requirements, especially when food, chemicals, tobacco or alcohol products are concerned.

## **1.3 Environmental Protection and Waste Treatment Requirements in Relation to Merchandise Sales**

### **Montenegrin progress on Chapter 27 of the Acquis**

According to Chapter 27 of 2018 Report on Montenegro, Environment and Climate Change, it is emphasised that Montenegro has reached some level of preparation, and some progress has been made in further aligning with the acquis.

However, it is stipulated that in the coming year Montenegro should in particular:

- accelerate implementation of the national strategy for transposing, implementing and enforcing of the EU regulations on environment and climate change, especially in the waste and water sectors;



- take measures to preserve and improve the ecological value of protected areas and potential Natura 2000 sites such as Ulcinj Salina (southeast of Montenegro), Lake Skadar and river courses;
- start implementing the Paris Agreement by implementing the national strategy legislation on climate change, as well as related energy and transport policies.

The implementation of the Environmental Crime and Environmental Liability Directives (with special regards to Habitats Directive) is still at its early stage due to insufficient inspection and prosecution capacities. The Law on Infrastructure for Spatial Information was adopted in June 2017, and the former Environmental Protection Agency was integrated into the Ministry of Sustainable Development and Tourism as Nature and Environmental Protection Agency (NEPA).

With regards to production and merchandise sales, and in order to clause chapter 27 of the Acquis (i.e. to fully harmonise with EU regulations and standards) Montenegro needs to do the following:

- **In the field of air quality** – Montenegro shows a good level of alignment with the acquis, and an action plan to implement the national strategy on air quality management for 2017 – 2020 was adopted, along with a report on its implementation between 2013 and 2016. On ambient air quality and cleaner air for Europe, a short-term action plan to tackle air pollution in the town of Pljevlja was adopted, however, it remains a challenge for the government. Alignment with the EU requirements on Sulphur content in liquid fuels further progressed and the work on further improving its monitoring system is ongoing.
- **In the field of waste management** – Montenegro is partially aligned with the acquis and no progress has been made in this area since 2013. The national strategy for waste management until 2030 and the national waste management plan 2015 – 2020 are in place. However, considerable efforts are needed to implement it and Montenegro still needs to decide on its basic waste management model. Affected municipalities need to remedy illegal waste disposal and the use of

temporary waste disposal sites. Urgent action is needed to set up infrastructure for separate waste collection and recycling and to provide adequate financial and human resources, including for inspection activities.

- **In the field of water quality** – Alignment in the area of water quality remains limited. The National Strategy for Water Management Until 2035 was adopted, along with the Law on Urban Wastewater Management in December 2016. The division of responsibilities in water quality between the Ministry of Sustainable Development and Tourism and the Ministry of Agriculture and Rural Development is operational, but the competent management authorities are yet to be operational. A monitoring system for water status still needs to be established. Wastewater has been identified as a main source of pollution. The decision to designate sensitive water areas in the Danube and Adriatic basins was adopted, and the implementation of the Marine Strategy Framework Directive is at an early stage.
- **In the field of nature protection** – The level of alignment with the acquis in this field is partial. Montenegro aligned with the Habitats Directive and streamlined the institutional framework for designating future Natura 2000 sites, but still needs to strengthen administrative capacities to manage Natura 2000 in future. Resolute and urgent action is needed to protect the potential Natura 2000 site Ulcinj Salina, including its value to bird protection, and the potential investments in hydropower and touristic developments need to comply with nature protection requirements. Work for the identification and designation of marine protected areas needs to start, as well, and the enforcement and inspection capacity needs to be further strengthened, particularly through skills development.
- **In the field of industrial pollution and risk management** – alignment with the EU regulations in this particular field is again partial. Five integrated permits have been issued so far. In October 2017, the Agency for nature protection refused the aluminium plant's request for issuing an integrated permit, and work has started for the rehabilitation and remediation of four ecological hot-spots.

- **In the field of chemicals** – Montenegro is partially aligned with the acquis on chemicals. A new Law on Chemicals was adopted to further align with the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and Classification, Labelling and Packaging of Chemicals (CLP) regulations.

Montenegro adopted the Law ratifying the amendments to the Stockholm Convention on long-lasting organic pollutants, but full implementation of the Rotterdam and Stockholm Conventions is still pending. Montenegro needs to strengthen its professional and technical capacity on chemicals.

- **In the field of noise** – Montenegro is fully aligned with the Noise Directive and works on the preparation of strategic noise maps.
- **In the field of environmental civil protection** – Montenegro has been a member of the EU Civil Protection Mechanism since April 2015, but it still needs to connect with the EU Civil Protection Mechanism Common Emergency Communication and Information System. The national strategy for emergency situations has been in place since 2006, and the strategy for disaster risk reduction and corresponding action plan 2018 – 2023 was adopted.

### **National regulations in the field of environmental protection**

Improvements in the fields of environmental protection related to the implementation of adopted following legislation:

- In the field of air protection:
  - Law on Air Protection (Official Gazette Nos. 25/2010, 40/2011 and 43/2015), along with the:
  - Rulebook on the limitation of emissions of air pollutants from stationary sources,
  - Regulation on the establishment of a network of measurement points for monitoring air quality,

- Regulation on the types of pollutants, limited values and other air quality standards.

From 1 January 2010, the use of motor gasoline with additives based on lead and regulate the Sulphur content of liquid fuels of petroleum origin was prohibited under the Regulation on Limited Values of Pollutants in Liquid Fuels of Petroleum Origin” in accordance with EU regulations.

The first “National Strategy on Air Quality Management (2013-2016)” was adopted along with 54 additional measures that were put in the Action Plan framework. Under the Law on Air Protection, it is envisaged that in areas in which the air is polluted it is necessary to make plans on air quality with all the measures that need to be undertaken in line with the National Strategy.

Efforts to create a national legal framework in the area of climate change is still ongoing. In July 2016, the Government of Montenegro adopted the National Strategy for the Transposition, Implementation, and Application of the EU acquis in the field of environmental and climate change with the Action Plan for 2016-2020. An Action Plan strategy has been prepared and structured to respond to the initial benchmark requirements for Chapter 27.

The Law on Waters (Official Gazette Nos. 32/2011, 47/2011, 48/2015, 52/2016, 2/2017, 80/2017 and 55/2016) is in place and defines that water and natural wealth and wealth of general interest are in state ownership. Montenegro has also a special Law on Sea.

The development of the Coastal Area Management Program for Montenegro is considered one of the most significant national plans, and this project is implemented by the Mediterranean Action Plan – in the scope of UNEP and Montenegrin Ministry of Sustainable Development and Tourism – with the involvement of local governments from the project area and relevant institutions such as Environmental Protection Agency.

### **The Law on Environment**

The Law on Environment (Official Gazette No. 52/2016) stipulates that Montenegro shall confirm its economic and social development with the

principals of environmental protection. All legal entities and individuals are obliged to secure environmental protection in the following way:

1. sustainable use of natural resources and energy;
2. introduction of energy efficient technologies and use of renewable resources;
3. use of products, processes, technologies that cause lesser damage to the environment;
4. taking prevention measures in this respect
5. control of activities and work of facilities that may cause risk or damage for the environment and people; and
6. other measures in line with the Law.

Special material regulations (i.e. Law on Forests, Law on Coastal Zones) and regulation for implementation of such laws, as well as concession agreements regulate the matter for calculation and payment of eco-charges in Montenegro.

### **Waste Management status in Montenegro**

According to the European Commission, one integrated waste management system in Montenegro is at a very early stage of development.

National Plan on Waste Management (2014-2019) was adopted, along with the Strategy on Energetic Development of Montenegro till 2030 as well as the National Environmental Approximation Strategy. The other major adopted regulations on environment protection are the National Biodiversity Strategy, National Strategy for Sustainable Development, and the Law on Nature Protection.

As for waste production:

- *It is difficult to give exact numbers as not all municipalities know exactly how much waste is produced in their regions. According to 2017 data,*

*there would be about 160,000 tons of produced waste per one year, i.e. approximately 250kg per person per year. However, no official data include waste dumped illegally, so no precise data on solid waste production are available to-date.*

As for waste collection:

- *Montenegro, as a small country has 23 municipalities divided into 3 main regions. There are 155 medium-to-large unregulated landfills across the country, and around 60% of total waste collected in the country end up in those unregulated landfills.*

As for waste infrastructure:

- *The waste management infrastructure system in Montenegro is still under development. As part of the new National Solid Waste Management Plan, there are currently 8 recycling yards (6 in Podgorica, 1 in Herceg Novi and 1 in Kotor), 4 material sorting facilities (in Podgorica, Zabljak, Kotor and Herceg Novi) and 2 sanitary landfills (in Podgorica and Ulcinj).*

As for waste recycling:

- *Currently, less than 2-3% of Montenegro's waste is recycled. There are ambition targets yet to be seen with waste recycling issues.*

### **What is the eco-tax and who is obliged to pay?**

This is the fee paid by all individuals and companies who use road motor vehicles and their auxiliary vehicles on the territory of Montenegro. Citizens of Montenegro pay for the eco-tax when registering their vehicles, whereas foreign nationals pay the tax when entering Montenegro. The fee amounts are determined according to the type of vehicle used. The eco-sticker, obtained upon the payment of the eco-tax is valid for the period of one year. Below is the table with the fee values:

**Road Motor Vehicles for Passengers' Transportation with at Least Four  
Wheels / Category M /**

<b>Type of the vehicle</b>	<b>Category</b>	<b>Tax value</b>
Motor vehicles for passengers' transportation that have eight seats at most in addition to driver's seat	M1	EUR10
Motor vehicles for passengers' transportation that have eight seats at most in addition to driver's seat and with the biggest mass allowed not exceeding 5 tons	M2	EUR30
Motor vehicles for passengers' transportation that have more than eight seats in addition to driver's seat and whose mass allowed is over 5 tons	M3	EUR50

**Road Motor Vehicles for Cargo Transportation with at Least Four  
Wheels / Category N /**

<b>Type of the vehicle</b>	<b>Category</b>	<b>Tax value</b>
Motor vehicles for cargo transportation with the biggest mass allowed not exceeding 3.5 tons	N1	EUR80
Motor vehicles for cargo transportation with the biggest mass allowed over 3.5 tons but not exceeding 12 tons	N2	EUR100
Motor vehicles for cargo transportation with the biggest mass allowed exceeding 12 tons	N3	EUR 150

The eco-tax has been introduced based on the obligation arising from the implementation of multilateral agreements in the field of environmental protection, reforms in the context of the EU accession process, as well as on the grounds of recommendations made by the World Travel and Tourism Council (WTTC), with the ultimate goal to allocate the gathered funds for the implementation of operative measures of preservation and improvement of natural potentials of the ecological state of Montenegro.

All funds gathered from charging the eco-tax are considered the income of the Budget of Montenegro, used only to finance the concrete projects aiming to

protect and improve state of the environment ([www.ecotax-montenegro.gov.me](http://www.ecotax-montenegro.gov.me)).

### **Environmental Protection Agency of Montenegro**

Environmental Protection Agency of Montenegro is the main organisation in the country as far as issuing of permits, monitoring and reporting are concerned.

The basic activities of the Agency are: issuing of permits, environmental monitoring, inspection, daily communication with national and international organisations as well as with the public.

All those activities are done through 5 Sectors of the Agency:

1. Sector for monitoring, analysis and reporting,
2. Sector for issuing of permits,
3. Sector for communication and information system management,
4. Department of environmental inspection, and
5. Service for legal and financial Affairs.



## 2. Currency Exchange and Regulations

The banking system in Montenegro consists of commercial banks and the Central Bank of Montenegro.

The Central Bank is governed by the Council of the Central Bank of Montenegro consisting of seven members – the Governor and three Vice-Governors and four members that are not the Central Bank employees. In addition to governing the Central Bank, the Council specifies policies, passes regulations, recommendations and orders to be issued by the Central Bank of Montenegro; decides on the issuing and revoking of licenses to banks, financial institutions and payment systems, and performs other duties in accordance with the law. Decisions passed by the Council have the nature of general acts (regulations) published in the Official Gazette.

Montenegro has no currency of its own. From 1996 the Deutsche Mark was the currency in all private and banking transactions, and it was formally adopted as Montenegro's currency in November 1999. The mark was replaced by the euro in 2002.

The European Commission and the European Central Bank (ECB) have since displayed their discontent over Montenegro's unilateral use of the euro on several occasions, emphasising that the conditions for the adoption of the euro are clear, which means that the country first and foremost is to be a member of the EU. Although the EU insists on the strict adherence to convergence criteria (such as spending at least 2 years in the European Exchange Rate Mechanism - ERM- System) which are not negotiable before euro adoption, still have not intervened to stop the unilateral use of the euro by Montenegro. The EU only has raised concerns of Montenegro's state debt, which has risen to 60 percent of GDP by 2018. Nevertheless, officials from the Central Bank of Montenegro have indicated on several occasions that the European institutions do expect them to strictly follow the ERM rules, particularly because of their EU accession process.

Montenegro does not have standard monetary policy tools at its disposal, leaving fiscal policy as the main macroeconomic policy instrument. Within this

framework, amendments to the Law on the Central Bank and the Law on current capital operations with foreign countries, adopted in October 2017, created the legal preconditions for the full functional, institutional, personal and financial independence of the Central Bank. The amendments also authorise the Central Bank to approve emergency liquidity assistance to a credit institution and stipulate that it can buy public debt securities only on the secondary market. Legislation on insurance and voluntary pensions needs to be brought in line with the EU rules on the prohibition of privileged access of the public sector to financial institutions.

Unlike official members of the Eurozone, Montenegro does not mint coins and therefore has no distinctive national design. The change of the foreign currency, for example dollar, pound and others, is provided by the exchanges, banks and post offices, but also hotels and travel agencies dispose of the exchange. The post offices and most of the banks are exchanging without fees, but it is useful to be informed before the exchange.

There are 15 banks currently operating in Montenegro: Crnogorska komercijalna banka AD Podgorica (member of the OTP Group), Hipotekarna banka AD Podgorica, Societe General banka Montenegro AD, Invest banka Montenegro AD Podgorica, Prva banka Crne Gore AD Podgorica (founded in 1901), Erste banka AD Podgorica, Atlas banka AD Podgorica, NLB banka AD Podgorica, Komercijalna banka Ad Podgorica, Addiko bank AD Podgorica, Universal Capital bank AD Podgorica, Lovcen banka AD Podgorica, Zapad banka AD Podgorica, ZIRAAT Bank Montenegro AD Podgorica and Nova banka AD Podgorica.

A tourist may bring an unlimited amount of foreign currency. However, if the amount exceeds 10,000 euros, it is necessary to declare it at the customs authorities on entering the territory of Montenegro and apply for an issued written certificate of customs clearance. In other case, there is a danger that the exceeding exchange will be confiscated on leaving the country. Chance to get the confiscated money back is very small.

There are no currency or payment restrictions related to the use of euro in Montenegro.

### **3. Common Payment Methods**

Apart from the Law on Central Bank of Montenegro (Official Gazette Nos. 40/2010, 46/2010, 06/2013 and 70/2017), and the Banking Law (Official Gazette Nos. 17/2008 and 44/2010), the Payment System Law (Official Gazette Nos. 62/2013 and 06/2014) is the main regulatory body that defines all parties in payment transactions, nature of payment transactions, and describes all payment services offered, but adding a new dimension to the Banking Law – electronic money issue, putting more institutions on the list of authorised payment service providers.

The following entities may be issuers of electronic money in Montenegro: banks and other credit institutions licensed in Montenegro, special electronic money institutions, the Central Bank, as well as the state and local self-government if acting on a commercial basis. The issuance of e-money is regulated by an agreement concluded between the issuer and the holder of e-money.

In everyday business operations, consumers and business in Montenegro may use cash and non-cash payment instruments to make their payments. Non-cash payment instruments include: credit transfer, debit transfer, debit and credit cards and cheques. Cash payment instruments are: the pay-in order and pay-off order.

Cash payments still account for a significant share of total payments, and the Central Bank is monitoring the banknotes and coins. The coins in use are: 1, 2, 5, 10, 20 and 50 cents and 1 and 2 euros. The banknotes are ranging from 5, 10, 20, 50, 100, 200 to 500 euros.

Apart from the cash payments, other common methods of payment, especially with the companies in Montenegro, are; credit and debit transfers through payment orders, letter of credit, cash in advance, documentary collections, factoring, etc., and there are several credit-rating and collection agencies that monitor transactions within the country. Large importers regularly receive goods under short-term supplier credits that average about three months. Longer-term financing may be sought for larger purchases, but it is more

difficult to obtain such arrangements. The following instruments are used in Montenegro for payments abroad: remittances, documentary collections, checks, and letters of credit. For cross-border money transactions, the international bank account number (IBAN) along with the bank identifier code (BIC) of the account holder, is the most required information written on the payment order.

As for payment orders, e-banking transactions have become more popular than paper-based orders, especially with companies that have a large number of transactions on a daily basis.

Other commonly used methods of payment include checks and credit cards. Since banks nowadays issue a limited number of checks to individuals, credit cards are becoming more and more popular and you can pay by credit cards in the largest number of catering facilities, restaurants, hotels, bars, gas stations, food store and consumer goods shops. In all Montenegrin towns, there are ATMs where you can raise money. In Montenegro, one can use the following credit cards: Visa, MasterCard, American Express and Diners.

A quick transfer of money (by Western Union, SendMoney24, or Global Web Pay, for example) can be performed as well, although this service is regularly subject to fees.

## **4. Appointment of Sales Agents / Representatives**

The use of agents and distributors is an important mechanism for foreign firms to enter the Montenegrin market. Many companies find more efficient and cheaper to hire a good local agent or distributor to conduct direct sales or marketing.

The Montenegrin Credit Bureau ([www.kbcg.me](http://www.kbcg.me)) is useful in checking the credibility of a potential local partner, and the Montenegrin Chamber of Commerce ([www.privrednakomora.me/en](http://www.privrednakomora.me/en)) provides useful information on local companies and their operations.

### **4.1 Recruitment of Agents and Representatives**

There are many advisors as well as consulting companies that can provide assistance in search of potential clients and representatives and checking upon their credentials by making business profiles. These profiles usually include up-to-date information on potential partners, such as bank and trade references, principals, key officers and managers, number of employees, financial data, sales volumes, market outlook, etc.

Apart from the institutions mentioned above, the American Chamber of Commerce ([www.amcham.me](http://www.amcham.me)) can also be helpful in establishing the credibility of a potential representatives and is a reliable source of information. In addition, the Montenegro Business Alliance ([www.visit-mba.org](http://www.visit-mba.org)) and the Montenegrin Employers' Federation ([www.poslodavci.org](http://www.poslodavci.org)) can be helpful as well.

Foreign companies that consider engaging sales agents or representatives need to be informed that the legal representative(s) shall be a person(s) or a company registered under the Montenegrin law. If it is a company, it must have at least one director that will hold a special power of attorneys for representing a foreign company (partner). Besides, both parties need to sign a contract on representation, and it needs to be in Montenegrin language as well.

## 4.2 Commissions and Other Compensations

The commission compensation in Montenegro is to be defined by a clause in a Sales Representative Agreement that will describe:

- the amount of fee/compensation (typically defined as a percentage of commission),
- how the commission is calculated, and
- may define the circumstances when no commission is payable.

In calculating the commission that is due to the representative, the company may offset any credits, cancellations, refunds, allowances and returns by customers for delivered goods.

Commissions can normally vary depending on the industry, the degree of involvement of the sales representative, the type or nature of service(s), etc. Sales representatives in car industry (and Montenegro does not have its own car industry), can earn commission percentage between 20% and 25%, however, the most common commission percentages will vary between 10% and 15%.

## 5. Establishment of Sales Offices / Subsidiaries

Any foreigner or a foreign company can start a business in Montenegro and, in general, there are no restrictions. A foreign business can be established in Montenegro in three different ways:

- *through the formation of a representative office of a foreign company (Chapter 5.1);*
- *through the formation of a foreign company's branch office (Chapter 5.2);*
- *through the formation of a subsidiary company with its own legal form (incorporation of a business, see Chapter 6 below).*

### 5.1 Representative Office

#### **Main features**

A representative office of a foreign company can have different functions; however, it cannot conduct commercial activities. As such, a representative office cannot issue commercial documents such as invoices or sign contracts with other entities. Its main attribute is to maintain the connection between the headquarters abroad and the local market.

Through a representative office, an investor can perform an analysis of the Montenegro market even if this structure does not actually bring any direct financial gains. A representative office can certainly help its foreign company in building more efficient collaborations with suppliers or clients in Montenegro.

#### **Formation**

In order to incorporate a representative office in Montenegro, companies do not need to go through the complete registration process required for commercial entities. The Central Register of Economic Entities of Montenegro ("CRPS") requires only a name reservation for the representative office and

some data concerning the foreign company it represents. Those necessary data are as follows:

- *Notarised extract from the trade register or certificate of incorporation and charter of the foreign company;*
- *Resolution on the opening of the representative office in Montenegro;*
- *Regulations on the representative office in Montenegro; and*
- *Power of attorney for the head of the representative office or Resolution on Appointment of Legal representative(s);*

All the above documents must be duly translated and apostilled, unless the foreign company is registered in Serbia, Bosnia and Herzegovina or Croatia. Translation fee per a page amount to EUR20.

No taxation rules apply for representative offices since these business structures do not deal with financial transactions related to commercial activities. However, a representative office can employ workers for its daily operations thus all social contributions and income taxes are due to be paid in relation to work employees.

## **5.2 Foreign Company's Branch Office**

### **Main features**

A branch office is a part (extension) of a company established and registered outside of Montenegro, which performs operations on the territory of Montenegro. It is not a full legal entity but has a permanent character. A branch has its own management and has the right to negotiate business with other entities but requires a special approval from the parent company before closing of major deals. All the responsibilities for its actions are taken by the foreign company because of the fact that the branch office is not considered a legal entity, as mentioned above.



## **Formation**

Before starting to operate a business, a branch must be registered with the Central Register by submitting the following information and documents:

- *Notarised copy from the trade register or certificate of incorporation and charter of the foreign company;*
- *The name and the address of the branch with the performed activities;*
- *The name and type of business of the foreign company;*
- *Signature of the branch office representative, duly notarised; and*
- *The last balance sheet and the profit and loss statement of the foreign company, along with the auditor's report.*

All the above documents must be duly translated and apostilled, unless the foreign company is registered in Serbia, Bosnia and Herzegovina or Croatia. Translation fee per a page amount to EUR20.

All relevant information on the establishment of foreign business in Montenegro i.e. documents, procedures, current fees, is available on the website of the Central Registry ([www.crps.me/Home/Index](http://www.crps.me/Home/Index)).

Subsidiaries in Montenegro are treated exactly the same as local companies and are described in detail in the next Chapter.

An application for registration of business entities may be submitted through the portal [www.euprava.me](http://www.euprava.me) ([www.euprava.me](http://www.euprava.me)).

## 6. Incorporation of a Business

A legal entity registered in Montenegro with majority of capital or voting shares owned by a foreign company is defined as a subsidiary. According to the law, the subsidiary must be registered with the Central Register no later than 30 days from the date of its establishment.

The Company Law (Official Gazette Nos. 06/2002, 17/2007, 80/2008, 40/2010, 36/2011 and 40/2011) regulates the establishment of subsidiaries in Montenegro. According to it, the following documents must be deposited at the Central Register:

- *The address of the foreign company;*
- *The domain of activity;*
- *The name and legal form of the parent company;*
- *The company's articles of association accompanied by a certified translation;*
- *A copy of the registration certificate;*
- *Last balance sheet of the parent company; and*
- *The name of the Montenegrin residence (company or an individual) which will represent the company in legal matters and in the relations with other legal entities.*

Along with the documents above, the company must submit the notarised Articles of Association, and in 4 days the Central Register is issuing the Certificate of Registration, a VAT number, a Tax Identification number and a Customs Authorisation. The employees of a subsidiary must be registered at the Health and Pension Fund and at the Tax Administration counter, as well.

The next step in opening a subsidiary in Montenegro is applying for the company's seal and opening of a bank account, and the last step is announcing the competent tax authority and the municipal authority in charge with the economic affairs for the full subsidiary incorporation.

The whole process of subsidiary registration in Montenegro takes approximately 10 days, the period of time that might be influenced by the correctitude of the submitted documents.

## 6.1 Main Features

The most popular types of business in Montenegro are the following:

- a) *Hotel business;*
- b) *Restaurant business (a large number of vacationers makes this type of business extremely promising); and*
- c) *Services providing business (excursions; outdoor activities; vehicles, yachts and small planes rent, etc.).*

In Montenegro, an economic activity is performed either by companies or entrepreneurs. Forms of business activity which are registered in accordance with the law shall obtain a license prior to commencing the activity, if such a license is prescribed by a special regulation (see Chapter 6.2.3). However, obtaining a license to practice is not a condition for registration in accordance with the Business Organisation Law.

The most popular forms of business that entities may take are limited liability companies and joint stock companies which will be described in detail under the Sector 6.2.

If one or more individuals or legal entities commence or engage in economic activity, without conducting a full registration in accordance with provisions of the Law, it will be regarded as an entrepreneur or a partnership in relation to third parties.

### ➤ Entrepreneur

An entrepreneur is an individual who performs business activities for the purpose of gaining profit. An entrepreneur is liable by his/her entire property for all the activities he/she undertakes when doing business. Entrepreneurs perform the activities under their names or titles and are obliged to register at

the Central Register only for statistical purposes by submitting a registration statement. For the registration, an entrepreneur needs:

- a) Copy of an ID card or passport,
- b) To pay the registration administrative fee of EUR10,
- c) To pay the administrative fee of EUR12 for the publication of registration in the Official Gazette, and
- d) To fill in a registration application that can be downloaded from the Central Register website (Form PS01).

➤ Partnership

A partnership can be general or limited. A general partnership is a company set up by the agreement between at least two individuals or legal entities, and partners are jointly liable for all obligations of the company by all of their assets. A limited partnership is a company of one or more individuals called general partners and one or more individuals called limited partners, and they are collectively called – a firm. General partners have joint and unlimited liability for all the obligations of the company. Limited partners are liable for the company's obligations up to the amount of their deposits. The deposit of a limited partner may be in cash or in kind and in rights that are assessed. A general partner (GP) and a limited partner (LP) must contain abbreviations "GP" and "LP".

The general partnership is registered for statistical purposes only, by submitting a registration form and paying a registration fee of EUR10.

The registration of a limited partnership is done through the Central Register by submitting of a statement or an agreement signed by all members of the company, which include the following information:

- e) The company's name and the "LP" abbreviation,
- f) The company's seat,
- g) The date of commencing of business activity,

- h) Full names of the company's members,
- i) Identification documents of the company's members,
- j) Information on deposits inscribed (in cash or in kind), and
- k) The registration fee paid in the amount of EUR10.

## 6.2 Formation

### **Main characteristics of a joint stock company**

- A joint stock company is a company with at least two founders, individuals or legal entities which is established to carry out an economic activity, and whose capital is divided into shares. Big investors usually form such a formation since the minimum initial capital amounts to EUR25,000.
- The founders sign the agreement on the establishment of a joint stock company, and they can be either domestic or foreign individuals or business entities. By concluding the agreement on the establishment of a joint stock company, the founders become shareholders.
- Joint stock companies are liable for their obligations with all of their assets, and shareholders are liable for the company's obligations up to the amount of their capital in the company.
- The minimum initial capital of a joint stock company amounts to EUR25,000. An initial capital for a bank amounts to at least EUR5,000,000, and at least EUR2,000,000 for an insurance company.
- The company's name must contain the "J.S.C" abbreviation.

For registration of a joint stock company, it is necessary to submit the following documentation:

- The Foundation Act, verified in accordance with a law;
- The Charter;

- List of names of all Board members and managers;
- Decision of the Securities Commission approving the prospectus for the public offering of shares;
- Minimum capital requirement of EUR25,000;
- Completed registration form;
- Registration fee of EUR50;
- Administrative fee of EUR12 for placing an advertisement in the Official Gazette;
- If the company wants to apply for the registration of the value-added taxpayers, a form PR PDV-1 is to be filled in (the mentioned form can also be downloaded from the Central Register's site [www.crps.me](http://www.crps.me) );
- If the company wants to apply for registration in the register of axis payers, the AKC-P form is to be filled in (the mentioned form can be downloaded from the Central Register's site [www.crps.me](http://www.crps.me) );
- The registration documents contain information on whether the persons authorised to represent the company can act collectively or individually;
- The company acquires legal person status as of its entry in the Central Register, and a certificate as a proof that the company is registered shall be issued upon the completion of the registration.
- Bookkeeping in Montenegro – The registered company in Montenegro should maintain accounting records, even in case of lack of income.

### **Main characteristics of a limited liability company**

- A limited liability company may be founded by individual or legal entities (up to 30) who are responsible for the company's obligations up to the amount of their deposits.

- This is the most common form of registration in Montenegro, and it is very suitable for small companies that can be established by one or more persons.
- The amount of the initial capital is at least EUR1
- There must be the “LLC” abbreviation that stands at the end of the company’s name;
- Upon the payment of the initial deposit, individuals acquire the company’s shares in proportion to the size of their deposits, and upon the acquiring of the shares, individuals officially become members of the company. One member has only one share, and that one share represents his/her percentage of capital in the ownership.

To register a limited liability company, the company needs to submit the following documentation:

- Foundation Act;
- The Charter;
- Minimum capital requirement of EUR1;
- Registration fee of EUR10;
- Administrative fee of EUR12 for placing an advertisement in the Official Gazette;
- Completed registration form PS01 (this form can be downloaded from the Central Registry site [www.crps.me](http://www.crps.me) );
- If the company wants to apply for the registration of the value-added taxpayers, a form PR PDV-1 is to be filled in (form can be downloaded from [www.poreskauprava.gov.me](http://www.poreskauprava.gov.me));

- If the company wants to apply for registration in the registry of axis payers, the AKC-P form is to be filled in (form can be downloaded from [www.crps.me](http://www.crps.me)).
- The company acquires legal entity status as of the date of registration. A certificate on registration is issued by the Tax Administration.
- The registered company in Montenegro should maintain accounting records, even in case of lack of income.

### **Creating a seal and opening of a bank account**

Although no more a legal obligation, most of the companies after the registration approach to making stamps and seals. The seal is usually round, with the company's name, place of registration and the type of formation engraved in it. The stamp is generally rectangular, and in addition to the company's name, it also contains the reference number and the date since it serves for filing and tracking of documents in companies' archives.

There is no limit to the number of banks within which the company can open an account. For the opening of a business account, companies need to submit the following documents:

- A request to open a bank account, which is obtained from the bank;
- Certificate on registration obtained from the Central Register;
- A copy of the Foundation Act;
- Specimen signature card (the form obtained from the bank);
- Verified signature of the authorised person(s) or representative(s). Verification is performed by a notary. The verification fee amounts to EUR2.5 per a copy per a signature.
- Photocopy of identity cards of authorised persons in the company;
- Tax Registration Number.



## 6.3 Government Approvals, Licenses, Permits and Insurances

According to the Law, special permits and licenses have to be obtained by companies doing business in certain industries in Montenegro. These business permits and licenses attest that Montenegrin companies meet the requirements for safety working conditions, for manufacturing and selling different products and completing notifications and inspections from the local authorities.

There are certain industries which require permits and licenses for lawfully doing business in Montenegro. These include the following:

- The construction sector – there are technical requirements for urban development which have to be met in order to build a facility in Montenegro and construction companies must obtain the construction permit from the authorities (see below).
- Gas and energy sector – special licenses and permits related to the protection of the environment have to be obtained by Montenegrin companies. They are described in the Law on Environment (See Sector 1.3).
- The financial industry – legal entities involved in banking, insurance and investment funds need special licenses before operating on the market.
- The gaming industry and the related services – banking, payments and nominees.
- The fishery sector – licenses and permits regulate the commercial fishing and sport fishing.
- The food sector – restaurants and facilities which sell food and foodstuffs need special permits and licenses before operating.

To open a company in Montenegro in the construction sector, a company has to acquire a specific license from the municipality where the company is

registered. The company is obliged to take some necessary steps, and these steps include:

- Complying with the urban development requirements and obtain the main project study from the municipality;
- Paying compensation for utility provisions on the construction land – the company needs to provide the authorities with a proof of legal purchase of the property where the company intends to build;
- Obtaining a building permit from the municipality;
- Receiving inspection from the Administration for Inspection Affairs;
- Obtaining water and sewage connection;
- Receiving technical inspection for building control;
- Obtaining building use permit from the municipality.

Sale of extremely dangerous chemicals, production and trade in medicines and medical devices, tobacco processing, and operating in some other exotic industries need to apply for obtaining special approvals and licenses.

With regards to insurance, the most common obligatory insurances for companies include motor vehicle's owner's insurance for damage towards third persons, and insurance of employees for hazards of injury at work, professional illness and illness related to work.

## 7. Taxes

The tax system in Montenegro is settled in a modern way that corresponds to the comparative experience of developed countries and international standards. It provides the following:

- Functioning and stability of the integral market and efficient conducting of macroeconomic and stabilisation policy;
- Compatibility with the tax systems of countries of market economy;
- Equal position, business conditions and competitiveness of taxpayers in a unified economic territory and on an integral market, which enables the free movement of goods, services, persons and capital;
- Equal position of all legal entities and individuals in the territory of Montenegro;
- Payment of liabilities of all taxpayers in conformity with their economic force;
- Foreign investment incentives by providing equal tax treatment and tax security in the territory of Montenegro, and thus also competitiveness on the international market of capital, goods and services.

The tax system in Montenegro consists of the following tax segments:

- 1) Corporate tax;
- 2) Withholding tax;
- 3) Personal tax; and
- 4) Value added tax.

### 7.1 Corporate Tax

Here are the characteristics of corporate taxation in Montenegro:

- **Residence** – A company that is registered in Montenegro or that has its management and control there is defined as a resident for tax purposes. Resident companies are taxed on worldwide income, non-residents are taxed only on Montenegro-source of income.
- **Taxable income** – Taxable income is based on accounting profit, adjusted for tax purposes by non-deductible expenses, non-taxable income, tax depreciation, etc.
- **Taxation of dividends** – Dividends paid between residents are subject to withholding tax but are not included in taxable income. Dividends received from abroad are included in taxable income, but a resident taxpayer can claim a tax credit for foreign tax paid.
- **Corporate profit tax and capital gains tax** – Capital gains are included in taxable income and are subject to the **normal corporate tax rate of 9%**. Capital gains are calculated in accordance with the tax rules and may be offset only against capital losses.
- **Losses** – Tax losses (including capital losses) may be carried forward for five years. The carryback of losses is not permitted.
- **Rate** – The main rate is 9% and applies to both domestic and foreign companies.

#### **Other taxes on corporations:**

- **Payroll tax** – The municipality authorities levy a surtax of up to 15% on an employee's salary. In addition, labour fund contributions are levied on the gross salary, at a rate of 0.2%.
- **Real property tax** – Property tax is levied on the ownership/use of the property at rates ranging from 0.25% to 1%. Limited tax exemptions exist for construction companies.
- **Social security** – The employer is required to make social security contribution at a rate of 10.3% of an employee's salary. The contribution comprises pensions (5.5%), health (4.3%), and unemployment (0.5%). The maximum base for contributions in the calendar year is

approximately EUR50,000 (See Chapter 8.3). Benefits provided to employees in addition to the basic salary are exempt from social security contributions unless those benefits are paid as compensation for unpaid salary.

#### **Other information on corporate tax:**

- a) Tax year – Calendar year.
- b) Consolidated returns – Parent company submits a consolidated tax return for the group of companies while each company (member of the group) submits his tax return.
- c) Filing requirements – The tax return must be filed within three months after the year-end.
- d) Penalties – A penalty of 0.03% per day is imposed for late payment.
- e) Transfer pricing and thin capitalisation – All transactions (including interest paid to non-resident whether related or not) must be at arm's length.

## **7.2 Withholding Tax**

- **Dividends** – A 9% withholding tax is levied on dividends paid to a non-resident (unless the rate is reduced under a tax treaty) and on dividends paid to a resident.
- **Interest** – A 9% withholding tax is levied on interest paid to a non-resident entity (a 5% rate applies to interest paid to a non-resident individual), unless the rate is reduced under a tax treaty.
- **Royalties** – Royalties paid to a non-resident are subject to withholding tax of 9%, unless the rate is reduced under a tax treaty.
- **Technical service fees** – Service fees paid to a non-resident for market research, advisory and audit services are subject to a 9% withholding tax.

## 7.3 Personal Tax

- **Basis** – Resident individuals are taxed on worldwide income; non-residents are taxed only on Montenegro-source income.
- **Residence** – An individual is resident if he/she is in Montenegro for 183 days or more in a calendar year or if his/her centre of vital interests is in Montenegro.
- **Filing status** – Joint returns are not permitted.
- **Taxable income** - Taxable income comprises income from employment, business and professional income, investment income (dividends, interest, and royalties) and income from immovable property.
- **Capital gain** – Capital gains are taxable at a rate of 9%.
- **Deductions/allowances** – There are no deductions or allowances.
- **Rates** – A 9% income tax generally is levied on salaries and other types of personal income, such as dividends, interest and capital gains. Salary is subject to progressive tax at rates of 9% and 11%. Gross monthly salary up to the amount equivalent to the average salary in the previous year (approximately EUR765) is subject to the 9% tax rate; the portion of monthly gross salary exceeding this amount is subject to 11% tax. Certain income, such as income from personal services, is subject to tax at a rate of 9% on a tax base that is equivalent to 70% of income. Salary paid to an employee of a start-up company (except for businesses in agriculture, transport, shipbuilding, steel and fishery sectors) in an underdeveloped area is tax exempt for eight years. The total tax exemption during this period is limited to EUR200,000. A 9% withholding tax is levied on dividends and royalties paid to a non-resident individual; the rate on interest is 5%.
- **Inheritance/estate tax** – A 3% tax is levied on the inheritance of real estate. An exemption is available for the transfer of property as a gift or inheritance to children, parents or spouse.

- **Real property tax** – Property tax is levied on the owner/user of property at rates ranging from 0.25% to 1%. Deductions are available.
- **Social security** – Social security contributions due by an employee are levied at a rate of 24%. These include contributions for pensions (15%), health (8.5%) and unemployment (0.5%).

The employer also must make a contribution. The maximum base for contributions in the calendar year is EUR50,000. Benefits provided to employees in addition to the basic salary are exempt from social security contributions.

- **Filing and payment** – Employment income is taxed via withholding by the employer. Individuals that receive only employment income from one employer are not required to file an annual return. Individuals that receive income from several sources must file an annual tax return, with tax paid during the year deducted from the final tax due. The return is due by April 30 following the tax year-end. A non-resident with Montenegro-sourced income that is not subject to withholding tax must file a tax return to report such income.
- **Penalties** – A penalty of 0.03% per day is imposed for late payment.

## 7.4 Value Added Tax (VAT)

- **Taxable transactions** – VAT is levied on the supply of goods, the provision of services and on imports.
- **Rates** – the standard rate is 21%. A reduced rate of 7% is levied on the supply of certain goods and services. Exports are zero-rated, and exemptions exist for financial services, the sale of land, etc.
- **Registration** – Taxpayers with revenue in excess of EUR18,000 must register for VAT purposes.
- **Filing and payment** – A VAT return must be filed monthly, and tax must be paid by the 15th day of the month, for the previous month.

## 7.5 Customs Duties

Montenegro has a small but open economy that is generally based on free trade. Trade policy is characterised by a low level of customs duties and the absence of non-tariff trade barriers. The tariff system is prescribed by the Law on Customs Tariffs (Official Gazette Nos. 75/2005 and 17/2007).

Tariffs average 5.88% but range from 0 to 30%. A uniform tariff rate of 5% is applied on goods imported for non-commercial purposes. Customs tariffs are not calculated on exported goods. Customs Administration website offers other useful information on [www.upravarina.gov/me/uprava](http://www.upravarina.gov/me/uprava).

## 7.6 Excise Duties

Excise system is regulated by the Law on Excise (Official Gazette Nos. 65/2001, 12/2002, 76/2005, 76/2008, 50/2009, 78/2010, 40/2011, 61/2011, 28/2012, 38/2013, 45/2014, 8/2015, 1/2017 and 50/2017).

Excise duties are paid depending on the production and import of:

- Alcohol and alcohol beverages;
- Tobacco products, including non-combustible tobacco;
- Mineral oils, their derivatives and substitutes and coal;
- Carbonated (sparkling) water, and
- Liquids for charging electronic cigarettes.

There is no difference with respect to the origin of the product (local or imported) when it comes to the payment of the abovementioned excises.

There is separate Law on Coffee Tax (Official Gazette No. 8/2015) that prescribes tax obligation that has to be paid per kilogram of net coffee weight which on coffee placed in free circulation in the territory of Montenegro.



## **7.7 Transfer Tax**

A transfer tax of 3% is levied on the transfer of immovable property.

## **7.8 Local Taxes**

These are the following local taxes: a) the tax on firm or trade name, b) residence fees, c) local administrative fees and d) local communal fees.

Companies need to contact local municipalities for checking upon payments of the abovementioned tax categories. Municipalities may, according to their legal authorisations, introduce other following types of charges: a) charge for development of construction land, b) charge for use of construction land, and c) charge for use of municipal roads which represent types of other communal fees as well.

## **8. Employment**

The labour-based rights and obligations of employees, the method and the procedure of their implementation are subject to the Labour Law of Montenegro (Official Gazette Nos. 49/2008, 26/2009, 59/2011, 66/2012 and 031/2014). The Ministry of Labour and Social Welfare of Montenegro is responsible for setting national labour standards, as well as labour dispute mechanisms; overseeing the overall employment procedures and supporting the social welfare system.

### **8.1 Employment Regulations and Procedures**

The Labour Law applies to all employees working in the territory of Montenegro either with a local or a foreign employer and protects all types of workers unless their rights are governed by other special regulations, as in case of civil servants' employment.

Employees are engaged under labour agreements, in accordance with the law and the collective agreement and work contracts. A labour agreement may be negotiated for a definite period of time or as an open-ended labour agreement. An employee that entered into a labour agreement for a definite period of time has the same labour-based and labour-orientated rights, obligations and responsibilities as an employee that conducted an open-ended agreement.

A labour agreement for a definite (fixed-term) period of time can be negotiated in case of performance of certain jobs whose duration is predetermined for objective reasons or due to the occurrence of unforeseeable circumstances or events and when, in that case, an employer may not conclude one or more contracts of employment with the same employee if their duration, continuously or with interruptions, is no longer than 24 months. In this case, an interruption of less than 60 days shall not be considered as an interruption of work. Exceptionally, a fixed-term employment contract may last even longer than 24 months only if it is necessary for the purpose of substituting a temporarily-absent employee, performance of seasonal jobs or work on a specific project until the completion of the project, and all in accordance with the law and the collective agreement. An employee who has concluded a

fixed-term contract of employment shall have the same rights, obligations and responsibilities arising from and based on employment for the duration of the contract as an employee who has concluded a contract of employment for an indefinite period of time.

If the employee continued working for the employer after the expiry of the period of which the contract has originally been signed, the employee shall automatically be considered to have concluded a contract of employment for an indefinite period of time provided he/she accepts such an employment.

A labour agreement is concluded in a written form, and it basically includes.

- Name and headquarters of the employer,
- First and last name of the employer, place of residence, or stay of the employee,
- Employee's register number, or personal identification number in case of a foreign citizen,
- Type and degree of professional qualification of the employee, or the level of education and occupation,
- Type and description of jobs to be performed by the employee,
- The place of work,
- The duration of employment relationship (fixed-term or contract for an indefinite time period),
- Duration of a fixed-term employment contract,
- The date of commencement of work,
- Number of working hours, also whether it is full-time, part-time or reduced work contract,
- The amount of the basic salary, the level of coefficient and elements for determining of work performance, wage compensation, increased salary and other earnings of the employee,

- Time-frame of the salary and other benefits to which the employee is entitled,
- The definition of daily and weekly breaks, annual holidays, public holidays and other leave from work, and all in accordance with the law and the collective agreement.

A contract of employment may also entail other rights and obligations in accordance with the law and the collective agreement.

The full-time engagement consists of 40 hours in a workweek. Work between 10 pm and 6 am next morning is defined as a night work, and the night work is considered as the special requirement position. An employer that has implemented the shift system is obliged to provide regular shift changes, and all in accordance with the collective agreement. A labour agreement can be negotiated on a part-time based engagement, but not less than  $\frac{1}{4}$  (10 hours) of a full-time engagement. An employee working on a position extremely difficult, arduous and detrimental to health is to be given a short time engagement, proportionally to the detrimental effect to employee's health or working ability, but not shorter than 36 hours in a week. On the contrary, Article 50 of the Labour Law prescribes obligation for working extra hours in special cases like elementary disasters, fire, expositions, or epidemics or diseases threatening human lives.

As for the overtime work, the overtime work shall be introduced upon a written decision of the employer prior to the beginning of such work. If it is not possible to set overtime work for an employee by a written decision due to the nature of such work or due to the urgent matter(s), such work may also be set orally, and the employer shall subsequently deliver the written decision to the employee but not later than five days after the completion of the overtime work. Overtime work may only last for such a period and cannot last longer than 10 hours a week.

Furthermore, in case of a need for performing certain activities that do not require particular knowledge and skills and, by their nature are not likely to last more than 120 days in a calendar year (temporary and occasional activities), an employer can enter into a special labour agreement with the

correspondent individual, and this type of agreement is registered in the National Employment Agency or an intermediation agency.

### **Workers' compensation**

An employee has the right to earnings defined under the provisions of the Labour Law and the Collective Agreement.

Earnings, as defined by the Law, are earnings accumulated by an employee as a result of the work contribution and the time spent at work, incremented earnings, earnings compensation and other allowances defined by the collective agreement, paid in an amount that exceeds earnings prescribed by the general collective agreement. Earnings increase in accordance to the collective agreement due to: extra hours (40% hourly wage increase for extra hours of work), overnight work (40% hourly wage increase for overnight increase, as well) working during official and religious holidays defined by law as non-working days (see Sector b – Holidays), extent of service and in other cases defined by the collective agreement.

The work rate and other elements for calculation of the level of earnings are defined by the labour agreement in accordance with the Law and the collective agreement.

An employee has the right to guaranteed earnings amounting to the minimum wage rate defined in accordance with the need of employee and his/her family, the general level of wages in Montenegro, cost of living, economic factors and the productivity level.

An employer shall deliver the pay slip to an employee upon payment of the salary. An employer shall keep monthly records of salaries and wage compensations, and all in accordance with the law.

### **Holidays**

A work week consists of 5 working days. A full-time employee is entitled to a 30-minute daybreak. An employee who works longer than four and shorter than six hours per day shall be entitled to rest period of a minimum of 15

minutes every working day. Furthermore, an employee who works longer than full working hours, and at least 10 hours a day, shall be entitled to rest during the day for 45 minutes. The abovementioned breaks cannot be used at the beginning or at the end of working hours.

An employee is entitled to a recess of at least 12 successive hours between two consequent working days, and an employee cannot be deprived of his/her daily/weekly recess.

An employee shall have the right to a weekly rest of not less than 24 successive hours.

An employee shall have the right to an annual leave and duration of annual leave shall be determined in proportion to the time spent at work.

An employee shall be entitled to 1/12 of the annual leave for each month of work with the employer provided that his/her employment commences or terminates during that calendar year. Furthermore, for each calendar year, an employee shall have right of at least 20 working days of annual leave, at this is determined by the collective agreement.

An employee under the age of 18 shall be entitled to annual leave of at least 24 working days. Also, an employee working shorter working hours (due to harsh working conditions) shall be entitled to annual leave of at least 30 working days.

For the purpose of calculating an annual leave, a working week is counted as five working days. An annual leave can be available in two portions. If an employee uses an annual leave in two portions, the first part of the referred leave is to be used in portion of at least 10 concessive days during the calendar year and the second portion has to be utilised before June 30th of the following year.

An employee shall have the right to paid absence during the calendar year up to seven business days in case of: a) matrimony, b) moving, c) delivery of an immediate family member, d) passing of a professional examination, and in other cases defined in the Collective Agreement. In addition to the mentioned

cases, an employee shall have the right to seven days of paid absence in case of death of an immediate family member.

There are usually 12 days of public holidays in Montenegro. The number of public holidays varies depending on any overlap between holidays and weekends, as the case may be, between two holidays (e.g. Easter holiday and May Day in Montenegro can coincide and be celebrated on the same day). All state holidays are non-working days, and the religious holidays are non-working days for the specific religious communities. Hourly wage is increased by at least 150% for work on a state or a religious holiday.

## **8.2 Hiring and Firing Requirements**

Contract of employment may be signed by an individual fulfilling general conditions envisaged by the Law and special conditions envisaged by the law, other regulations and the systematisation act. General conditions mentioned above are: an individual is at least 15 years old and that he/she has general health ability to work. Contract of employment may be concluded with an individual who is under the age of 18, with a written consent from the parents, adoptive parents or guardians, and if such work does not compromise his/her health, moral and education and provided that such work is not prohibited by law.

Probation period, as a special condition for employment, may be defined by the systematisation act, unless otherwise stipulated by a special law. Probation period shall not exceed six months, except in case of a crew member of deep-sea merchant marine where a probation period may be negotiated for a longer period, i.e. until the return of the ship into the main harbour.

An employer is obliged to register an employee to mandatory social insurance (health, pension, disability and unemployment insurance) in accordance with the law, as of the day of commencement of employment.

An employer shall announce vacancies in the manner and according to the procedure established by a special law. The Employment Agency of

Montenegro ([www.zzzcg.me/](http://www.zzzcg.me/)) offers assistance in searching of vacant positions for job seekers, as well as of available workers for employers in need of workforce. An employer who has hired an employee for a fixed-term or part-time work and who has available vacancies for full-time jobs for indefinite time period may inform the employees of that on the notice board at the employer's headquarters, or in employer's organisation unit.

As for termination of employment, employment shall terminate:

1) **By virtue of law**

- a) When the employee reaches the age of 67 and minimum 15 years of pension insurance, unless otherwise agreed between an employer and an employee and as of the day of delivering a final decision to the employee,
- b) If it is determined in a manner set out by the law that an employee has suffered a loss of working ability, as of the date of delivery of the final decision determining of such a loss,
- c) If, pursuant to provisions of the law, i.e. a final court decision or a decision of another body, an employee is forbidden to perform particular jobs and he/she cannot be deployed to other jobs, as of the date of delivery of the final decision,
- d) If an employee is absent from work for more than six months due to serving a prison sentence, as of the date of commencement of serving the prison sentence,
- e) If a security, correctional or protective measures of more than six months has been pronounced to an employee and consequently he/she would be absent from work, as of the date of commencement of application of such measure(s),
- f) In case of bankruptcy or liquidation, or in all other cases to work, and all in accordance with the law.

An employee who has reached the age of 67 and has minimum 15 years of insurance service may continue to work if required so for the performance of



certain activities, based on a written decision of the relevant body of the employer. Furthermore, an employee can continue to work after the age of 67 if he/she has not accrued 15 years of insurance service if certain conditions are met. Also, an employee engaged in education and teaching activities in an educational institution, or scientific and teaching activities in higher education institution, who has met the condition for termination of work engagement with regards to legally envisaged age, may continue to work until the end of the school year, based on a decision of the employer's relevant managing body.

2) **By mutual agreement between the employer and employee – mutual agreement shall be concluded in written form.**

3) **By notice of cancellation of employment contract by an employer or an employee.**

a) Termination by employee – An employee shall deliver notice of termination of the contract of employment to the employer in written form, at least 15 days prior to the day stated as the day of termination of employment.

b) Termination by employer – An employer may terminate a contract of employment of an employee if there is a justified reason for such action, as follows:

- If an employee fails to meet the results of work defined by the collective agreement, employer's act or contract of employment, in a period of 30 days,
- If an employee's behaviour is such that he/she cannot continue employment with the employer,
- If an employee refuses to conclude an annex to the contract of employment,
- If an employee abuses the right to temporary inability to work,
- Due to economic problems in operations,

- In case of technical and technological or restructure changes causing cessation of the need for work of an employee.

An employer may pass a decision on termination of a contract of employment after giving a previous warning notice to the employee of the possible reasons for termination of employment. The warning notice shall be given in written form and shall contain the grounds for termination of employment, evidence pointing to realised conditions for termination and the time period to reply to the warning notice. The mentioned time period must not last less than five working days.

An employee may be transferred to work with a new employer upon his/her consent and based on an agreement between employers.

### **8.2.1 Redundancy plan**

A redundancy plan must be adopted, if an employer determines that, due to technological, economic and structural changes, in the period of 30 days the following number of redundant employees with permanent employment contracts must leave the organisation:

- 10 employees when an employer employs more than 20 and less than 100 employees with permanent contracts,
- 10% of employees when an employer employs between 100 and 300 workers with permanent employment contracts,
- 30 employees when an employer employs more than 300 employees with permanent employment contracts.

An employer shall immediately inform the trade union or the representatives of employees and the Employment Agency of Montenegro that the redundancy plan is going to take place in the organisation. A redundancy plan, apart from the work performance of each employee in the organisation, must estimate the social status of employees as well as give answers to other relevant questions that would provide an objective assessment of the workforce within the organisation.

In the event of termination of the employment contract due to redundancy, a severance payment must be paid, as follows:

- In case of a redundant employee the employer shall pay him/her a severance pay in the amount of at least 1/3 of his/her average monthly pay less the taxes and contributions in the previous six months for each year of employment with the employer, or 1/3 of the average monthly pay less the taxes and contributions in Montenegro, if the latter is more favourable for the employee.
- The severance pay altogether may not be lower than three times the average monthly pay less taxes and contributions with the employer in the last six months, or the average monthly pay less taxes and contributions in the last six months in Montenegro, if the latter is more favorable for the employee.
- In case of an employed person with disability who was considered a redundant employee, the employer shall pay him/her a severance pay:
  - of at least 24 times of the average monthly pay, if the disability was caused an injury outside work or an illness,
  - of at least 36 times of the average monthly pay, if the disability was caused by an injury at work or a professional disease.

The amount of the severance pay for an employed person with disability shall be determined based on the average salary with the employer, if that is more favourable for him/her.

On the other hand, there are no mandatory severance payments if the contract is terminated in other cases.

### **8.3 Social Security Contributions**

According to the Law and the General Collective Agreement, employers are required to finance the following:

- pension and disability insurance;

- health insurance;
- unemployment insurance.

Current rates at which contributions shall be calculated and paid are as follows:

- For mandatory pension and disability insurance: 20.5%
- For mandatory health insurance: 12.8%
- The unemployment insurance: 1%.

When the contributions are paid simultaneously, the calculation of the contribution shall be at the following rates:

- For mandatory pension and disability insurance: 15% on behalf of the employee, and 5.5% on behalf of the employer;
- For mandatory health insurance: 8.5% on behalf of the employee, and 4.3% on behalf of the employer;
- The unemployment insurance: 0.5% on behalf of the employee, and 0.5% on behalf of the employer.

Social security contributions are calculated and withheld by the employer, although contributions are payable both on behalf of employee and employer. Employers are obliged to pay social security contributions on gross salary (including fringe benefits) of employees. Social security contributions tax base is capped and for 2017 it amounted to EUR52,308.

## **8.4 Minimum Wage, Unions and Collective Agreements**

### **8.4.1 Minimum Wage**

The minimum wage rate in Montenegro is determined in a way and under the method defined in the General Collective Agreement. In 2017, the national minimum wage in Montenegro remained fixed at EUR193 net, or EUR288.1

gross amount per month and that is EUR3,457 per year, taking into account 12 payments per year. Accordingly, the national minimum wage has remained stable. More information on minimum wage in Montenegro can be obtained from the website – National Minimum Wage.

(<https://countryeconomy.com/national-minimum-wage>).

#### **8.4.2 Unions**

Under Collective Agreements, trade unions have an important role in negotiation processes with the Montenegrin government, especially when worker's earnings are in question.

A newly formed union organisation shall be registered in the Registry of union organisations maintained by the Ministry of Labour.

The union organisation is independent in enacting decisions on the method of its representation, and it can appoint or elect one representative. The employer shall have a duty to provide technical conditions and premises necessary for trade union activities.

The employer shall at least once a year advise union organisation on:

- Business results;
- Development plans within the business organisation; and
- Provisions for improvement of work conditions, occupational health and protection and other issues of importance for wealth and social status of employees.

The employer shall coordinate with the union organisation on:

- Provisions aimed for occupational health and protection;
- Introducing new technology and organisational changes;
- The work schedule, overnight and overtime engagement;
- The schedule and methods of earnings disbursement.

By the Law, the employer cannot put the union representative or employees' representative in a more or less favourable position due to their participation in union or while performing union activities.

In case of strike, by the Law on Strike (Official Gazette Nos. 43/2003, 61/2004 and 71/2005), the employer must be warned at least 5 days in advance or 24 hours in the case of a warning strike. A strike ends when the collective dispute is settled or when the majority of employees decide to discontinue the strike.

Employers are under no obligation to set up a work council, however, a work council can be formed if the employer has more than 20 employees and the details on the right and duties of such a council can be regulated under the company's Collective Agreement.

### **8.4.3 Collective agreements**

Collective agreements define work-related rights and obligations between employees and employers. There are three types of collective agreements: general, branch-level agreement and the employer collective agreement.

The general collective agreement is negotiated for the territory of Montenegro and applies to employees and employers in general.

The branch-level agreement is negotiated at the level of branches of economy, operational groups or subgroups and applies to employees and employers in certain branches of economy, operational groups or subgroups.

The employer collective agreement applies to employees of the employer. If the employer collective agreement is not negotiated, the correspondent Branch-level agreement applies directly to the organisation.

## **8.5 Discrimination and Harassment**

By provisions of the Labour Law, as well as of the Law on Prohibition of Discrimination (Official Gazette Nos. 46/2010, 40/2011 and 18/2014), any direct or indirect discrimination of a person seeking employment and an employed person, on the grounds of gender, birth, language, race, religion,

colour of skin, age, pregnancy, health condition or disability, nationality, marital status, family responsibilities, sexual orientation, political or other belief, social background, financial status, membership in political and trade union organisations or any other personal feature is strictly prohibited.

Harassment, (including sexual harassment) pursuant to this Law, includes any unwanted conduct as well as harassment through audio and video surveillance, intended to or actually undermining the dignity of a person is also strictly prohibited.

Any other form of abuse at workplace (mobbing, as well as hate speech) or any conduct towards an employee or a group of employees that undermines the dignity, reputation personal or professional integrity and creating an intimidating and hostile environment, aggravating terms of employment or leading isolation of an employee or inducing him/her to terminate the employment contract is strictly prohibited as well.

According to the law, no one shall suffer adverse consequences for reporting the case of discrimination, giving deposition before a competent authority or offering evidence in the proceeding investigating a case of discrimination. Persons are protected from any adverse treatment effect as a reaction to reporting or a proceeding conducted for violation of the principle of non-discrimination.

Anyone who is considered damaged by discriminatory treatment of an authority, business entity, other legal person, entrepreneur and individual shall be entitled to court protection, in accordance with the law. The proceeding shall be initiated by filing a lawsuit, and these proceedings are treated as “urgent matters”. In the dispute for protection from discrimination, the revision shall be always allowed.

## **8.6 Maternity Leave**

A woman employed during her pregnancy and an employed mother of a child under the age of three cannot assign to work overtime or overnight. During her pregnancy, child delivery and baby nourishment, an employed woman has

the right to a maternity leave of 365 days from the beginning of exercising the referred right. Based on a finding of a competent health institution, an employed woman can begin to exercise the right to a maternity leave 45 days before the delivery, but not later than 28 days before the childbirth.

If an employed woman ceases her maternity leave earlier, she has the right to utilise additional 60-minute break for baby nourishment in addition to the defined day break.

## **8.7 Safety Standards**

The supervision of the implementation of the Law on Safety and Health at Work (Official Gazette No. 34/2004) is conducted by the Labour inspection, and the Department of Labour Inspection is a constituent part of the Administration for Inspection Affairs of Montenegro. The inspection regularly checks the following:

- The company's preparation of the Risk Assessment Act with the proposed measures for risk elimination;
- Periodic inspection and testing of work equipment, electrical and other installations and facilities and equipment for personal safety;
- Examination of the working conditions (chemical, physical and biological hazards, lighting and microclimate);
- Audit (assessment) of technical documentation in terms of applicability of safety and health at work measures, technical regulations and standards, provisions of protection to employees in facilities for which technical documentation was developed and the work processes to be performed; and
- Training and capability test for employees for safe and healthy work.



## **8.8 Data Protection and Employees' Privacy**

The Montenegrin law governing data protection issues is the Law on Protection of Personal Data (Official Gazette Nos. 79/2008, 70/2009 and 44/2012 and 022/2017).

The DP Law defines personal data as any information relating to an identified or identifiable individual. The data subjects are individuals whose identity is or can be determined, directly or indirectly, in particular by reference to a personal identification number or to one or more factors specific to his/her physical, psychological, mental, economic, cultural or social identity.

Personal data may be handled only upon getting a prior consent of a person whose data are handled. Exceptionally, personal data may be handled for the purpose of execution of laws, protection of lives and vital interest of persons, protection of public interest, etc. without getting a prior consent.

In case a company is breaching provisions of the DP Law, it can be fined with money fine ranging between EUR500 and EUR20,000. The responsible person within such legal entity may be fined with money fine ranging between EUR150 and EUR2,000.

## 9. Visas and Immigration Issues

Visitors to Montenegro must obtain a valid visa from one of Montenegrin diplomatic missions and consulates unless they come from one of the visa exempt countries. Visa policy is regulated by Regulation on Visa Regime Act (Official Gazette Nos. 56/2014, 28/2015 and 16/2016). If there are no diplomatic or consular representative offices of Montenegro with certain countries, visa requiring foreigners may obtain them from diplomatic or consular representative offices of Serbia, Bulgaria or Croatia, depending on the host country.

Visa policy of Montenegro is similar to the visa policy of the Schengen Area. It grants 90-day visa-free entry to all Schengen Annex II nationalities, except for Kiribati, Marshall Islands, Micronesia, Palau, Solomon Islands, Tonga and Tuvalu. On the other hand, it also grants visa-free entry to several additional countries: Azerbaijan, Belarus, Cuba, Ecuador, Kosovo, Kuwait, Qatar, Russia and Turkey.

***Citizens and holders of ordinary passports of the following countries and territories can enter Montenegro without a visa up to 90 days:***

All EU citizens, Albania, Andorra, Antigua and Barbuda, Argentina, Australia, Azerbaijan, Bahamas, Barbados, Belarus (up to 30 days), Bosnia and Herzegovina, Brazil, Brunei, Canada, Chile, Colombia, Costa Rica, Cuba (up to 30 days), Dominica, Ecuador (up to 30 days), El Salvador, Georgia, Grenada, Guatemala, Hong Kong, Honduras, Iceland, Israel, Japan, Kosovo (up to 30 days), Kuwait, Liechtenstein, Macau, Macedonia, Malaysia, Mauritius, Mexico, Moldova, Monaco, Norway, New Zealand, Nicaragua, Panama, Paraguay, Peru (up to 30 days), Qatar, Russia (up to 30 days), Samoa, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Serbia, Seychelles, Singapore, Sovereign Military Order of Malta, South Korea, Switzerland, Taiwan, Timor-Leste, Trinidad and Tobago, turkey, Ukraine, United Arab Emirates, United States, Uruguay, Vanuatu, Vatican City and Venezuela.

***Nationals of the following countries can enter Montenegro without a visa if they are holders of diplomatic or service passports:***

Egypt, Zimbabwe, Armenia, China, Guinea, Indonesia, Iran, Kazakhstan, Kyrgyzstan, Mongolia, Morocco, North Korea, Pakistan, Tajikistan, Thailand and Vietnam.

*Furthermore, nationals of any country may visit Montenegro without a visa for up to 30 days if they hold a visa issued by: Ireland, a Schengen Area member state, the United Kingdom, or the United States, or if they are permanent residents of those countries.*

As mentioned above, the exemption from the visa requirement also applies to the holders of valid travel documents issued by the Hong Kong Special Administrative Region of the People's Republic of China, and the Macao Special Administrative Region of the People's Republic of China.

## **9.1 Entry Procedures and Visa Requirements**

The Law on Foreigners (Official Gazette No. 12/2018) prescribes the following types of visas:

- a) Airport transit visa (type A visa),
- b) Short stay visa (type C visa), and
- c) Long stay visa (type D visa).

**Airport transit visa (A)** may be issued to a foreigner for one or several transits through the airport international transit area, between international flights, and without the entry into the territory of Montenegro, with the additional validity period of 15 days. Normally, a foreigner who does not have an intention to leave the international transit area in between flights at a Montenegro airport does not require a visa. However, the Government of Montenegro may stipulate that for the national security nationals of certain countries need to obtain an airport-transit visa. This type of visa may be issued for several transit entries with a validity period of up to 6 months.

**Short stay visa (C)** may be issued for one, two or multiple entries into Montenegro for tourist, business, personal or other purposes. Continuous stay or total duration of consecutive stays may not exceed 90 days during the period of 6 months, counting from the date of first entry. This type of visa may be issued with the validity period even up to 5 years, in case the foreigner can prove his/her necessities for frequent travels and sufficient means to support himself/herself during the time spent in Montenegro.

**Long stay visa (D)** may be issued to a foreigner for one, two or multiple entries into Montenegro, intending to stay in the territory of Montenegro over 90 days, but no longer than six months in the period of one year, counting from the date of first entry. This type of visa may be granted to a foreigner:

- Intending to stay in Montenegro in order to perform business or other activities, provide advisory expert activities as agreed by the Agreement on business and technical co-operation, on a long-term production co-operation, and on transfer technologies and foreign investments;
- Employed as a member of foreign diplomatic and consular representative office in Montenegro or in international organisations accredited in Montenegro, member of economic and cultural representative office, or otherwise holder of a diplomatic or official passport.

In certain cases, a permission for temporary residence in Montenegro may be considered a long stay visa, which may be, in accordance with the Law on Foreigners, granted to a foreigner intending to stay longer than 90 days in Montenegro for the purpose of:

- Employment and work,
- Secondary education and studies,
- Participation in student exchange programs or other youth programs,
- Specialisation or professional training,
- Scientific-research work,
- Medical treatment,

- Family reunification,
- Humanitarian reasons, and/or
- Other justified reasons specified by law or international agreements.

## **9.2 Temporary Stay in Montenegro**

A foreigner can work in Montenegro based on a temporary residence and work permit or work registration certificate. A foreigner can perform in Montenegro only those activities that the temporary residence and work permit or work registration certificate was issued for, and for no other activities and purposes.

The temporary residence (and work) permit for an employee shall be issued to a foreigner who meets the following requirements:

- Has means of subsistence;
- Has provided accommodation;
- Has submitted evidence justifying of the application for a permit issuance;
- Has a valid foreign travel document or identity card issued by the competent authority of another state;
- Was not imposed a prohibition on entry and residence in Montenegro;
- Has not been legally sentenced to an imprisonment of more than six months for a criminal offence prosecuted ex officio, or the legal consequences of conviction ceased;
- There are no restrictions due to the reasons of national security, public order or public health;
- The evidence of justifying the application for a permit issuance has been duly submitted.

The request is filed with the Ministry of Interior, which has 40 days to decide, counting from the day all required documents are filled.

Temporary residence permit allows foreigners to stay in Montenegro for a period of one-year maximum. Request for renewal of the permit has to be filled at least 30 days prior to its expiration.

After 5 years, the foreigner can apply for a permanent residence permit, and a permanent residence permit is issued for a five-year period, followed by five more years. By obtaining of the permanent residence permit, a foreigner receives all the rights Montenegrins have, except the right to vote.

### **9.3 Working Permits**

According to the Law on Employment and Work of Foreigners (Official Gazette Nos. 22/2008 and 32/2011), a foreigner may be employed in Montenegro, provided he/she has: a work permit, temporary or permanent residence permit, and a work or a service agreement concluded in Montenegro. The work permit is issued by the Employment Bureau of Montenegro.

According to the Law, there are three different types of work permits:

- Work permit for employment (employment permit),
- Work permit for self-employment (personal work permit),
- Work permit for special cases (work permit).

Work permit for employment is a permit according to which an employer makes labour contract with a foreigner and is issued upon the request of the employer.

Work permit for self-employment is a licence that allows free access to foreigner labour market, regardless of the state and market relations.

A foreigner with a personal work permit has an equal status as a Montenegrin citizen in terms of unemployment and employment rights. This type of work permit can be issued to a foreigner with the permanent residence permit, or to a refugee, according to the Law on Asylum (Official Gazette No. 45/2006). This type of work permit is usually issued for an indefinite period of time, but in some cases it may be issued for a period up to one year.

This type of personal work permit can be issued to persons with special protection status (under the same Law on Asylum – 2017 amendments, Official Gazette No. 02/2017), as well as to expatriates from republics of the former Socialist Federal Republic of Yugoslavia and internally displaced persons from Kosovo, who, in accordance with the “Law on Foreigners” have valid residence permits.

Work permit for special cases or just a work permit is a permit with a pre-determined duration of work, and this permit could be: for seasonal work of foreigners, training and education of foreigners, cross-border services, movement of persons within a foreign company, etc.

All three types of work permits are issued for a limited time, for a period of three months to one year, extendable to two more years, depending on the type of permit.

The Government of Montenegro shall determine annually the number of work permits for foreigners (quota) in accordance with the migration policy, labour market status and trends. The quota shall be determined by the Government, at the proposal of the Ministry competent for labour-related affairs with previously obtained opinions of the ministers responsible for specific areas of activity for which quota is determined, and the opinion of the Social Council. The quota shall be determined not later than 31 October of the current year for the following year.

A quota shall not be determined for the work permits issued to a foreigner who:

- Holds a personal work permit,
- Enters into employment in Montenegro on the grounds of an international agreement, based on reciprocity,
- Teaches in an educational institution, in the language and alphabet of the persons belonging to minority nations and other minority national communities,

- Is a professional sportsman or sports worker, who works in Montenegro based on the concluded contract,
- Is a family member of the Montenegrin citizen (spouse and children under the age of 21),
- Is a family member of a foreigner who is permitted permanent residence in Montenegro (spouse and children under the age of 21),
- Is a family member of a refugee (spouse and children under the age of 21),
- Is a representative of a business organisation,
- Is attending additional training and professional improvement in Montenegro,
- Is a provider of contracted services.

A quota shall be determined for the following purposes:

- Employment of foreigners, and
- Cross-border services of foreigners

Special quota for seasonal work of foreigners is determined within the quota for employment of foreigners.

The quota determined by the Government for specific purposes shall be divided into:

- Valid work permits,
- Work permits issued based on the international agreements, encompassing already agreed quotas,
- New work permits.

Priority shall be granted to foreigners:



- Who are family members of the foreigner with the residence permit in Montenegro (spouse and children under the age of 21),
- Who have professional education in the areas of deficient occupations,
- Work migrants.

The Government, however, may limit or increase the number of work permits, or redistribute the number of work permits according to purpose, if this is caused by the changes in the demand and supply in the labour market during the year.

The procedure for obtaining a work permit usually takes 45 days, and the administrative fee amounts to approximately EUR100.

## **9.4 Other Useful Information on Immigration Issues**

### **Import of personal possessions**

There are no restrictions or duties to be paid on the temporary entry of materials and personal belongings. However, items that are temporarily imported have to be reported to customs officials at the point of entry by filing out a designated form.

### **Medical care**

All people living and working in Montenegro have the right on health care. EU travellers will be covered for most emergency medical care, except for emergency repatriation home. Citizen from other countries should find out if there is a reciprocal agreement for free medical care between their country and Montenegro. If not, obtaining a full coverage policy is highly recommendable.

### **Moving costs**

With regards to moving from one country to another, it is the best solution and it is strongly recommended for foreign citizens to hire a professional firm specialised in logistics or freight forwarding. Their charges will vary depending

on the quantity of possessions imported or exported, the accessibility of goods that needs to be packed, whether the goods needed to be stored for some time, etc.

### **Drivers' licenses**

For driving in Montenegro, one needs to have a valid driving license. The Ministry of Interior of Montenegro is the responsible authority for replacing foreign driving licenses and registration of foreign vehicles. Foreign cars must be registered in Montenegro within 30 days of clearing customs, and the foreign driver's license must be replaced within the same period of time.

### **Education**

Education in Montenegro is regulated by the Ministry of Education. Education starts in either pre-schools or primary schools. Children enrol in primary schools at the age of 6 and it lasts for nine years. Primary education is compulsory to all children age 6 to 15 years and is free of charge.

Good secondary education and high, university, education is also attainable in Montenegro.

### **Cost of living in Montenegro**

Average salaries in Montenegro are lower than those in EU countries and therefore the cost of living is higher from the perspective of Montenegrin citizens. The monthly net amount of the average salary in Montenegro is EUR512 (May 2018 data).

## **10. Sales Promotion**

### **10.1 Restrictions on the Different Types of Sales Promotions**

Factors and techniques of products selling that are crucial to success in Montenegro are the same as in most other countries: a product or service that has a good reputation, value of money, a seller who maintains close contact with buyers, a motivated and well-trained sales force, strong market promotion and, for technical products, having a professional and end-user-oriented customer service network in place.

The size of the Montenegrin market is a limiting factor for highly specialised products. For such products, it can be more challenging to find a local representative as the potential sales volume may not justify the costs of putting the product on the market. A regional distribution, that would cover the promotion on the local market, may provide better economic of scale.

Most Montenegrin companies engage in some form of sales promotion, and the available vehicles include: newspapers, magazines, television, radio, billboards and signs.

As per restrictions of sales promotions, the Government of Montenegro puts but a few of barriers with regards to advertising of certain products. Montenegrin regulations prohibit television advertising of tobacco, alcohol and spirits. Otherwise, the most widely advertised products are: mobile phone services, telecommunications, vehicles, financial institutions, beverages, newspapers, clothing and hygiene products.

### **10.2 Advertising**

Advertising, as a type of sales promotion is defined as the production of a representation which recommends the advertiser, its professional or business activity, in order to promote the supply of goods, services and immovable property. Nevertheless, the advertising of goods and services is becoming very profitable in Montenegro – tourism, real estate, yachts, beaches,

Montenegrin beauties, and other products and services are being advertised every day in most luxurious newspapers and magazines. All of these creates a positive connotation to advertising campaigns and is very welcome.

However, in April 2017 the Government of Montenegro introduces the new Law on Prohibited Advertising (Official Gazette No. 30/2017) and this Law represents a new piece of Montenegrin legislation deriving from the process of harmonising the local law with the EU Directive about misleading and comparative advertising. The aim of this Law is to protect traders and consumers from prohibited advertising. Since the consumers have already been protected from prohibited advertising through the Law on Consumer Protection (Official Gazette No. 2/2014) the focus of this Law is to provide traders with adequate protection in relation to their competitors (business to business).

The Law explicitly prohibits:

- Misleading advertising – any advertising, including the manner of presentation of the advertiser, which deceives, or is likely to deceive, or injures or is likely to injure the interests of their competitors,
- Comparative advertising – any advertising which directly or indirectly refers to a competitor or goods and services offered by a competitor, unless:
  - a) It is not misleading with regards to the Law,
  - b) It objectively compares material and features of the same goods, including the price,
  - c) It does not discredit the trademarks, trade names, goods, services, activities or relations between competitors,
  - d) It does not present goods or services as imitations of goods and services bearing a protected trademark or trade name, and
  - e) It does not create confusion among traders, between the advertiser and a competitor, or between the advertiser's trademarks, trade

names, other distinguishing marks, goods or services and those of a competitor.

The lawsuit for the cessation of prohibited advertising can be filed by chambers and interest trade associations.

When Montenegro enters the EU, authorised persons from the EU will be able to initiate the procedure for the protection from prohibited advertising which affects or is likely to affect the traders from EU member states.

### **10.3 Means of Trade Promotion**

Television is the most important sales promotion medium in Montenegro. Montenegro has three public service channels (TVCG1, TVCG2, and TVSG Sat) and more than 20 private TV stations.

Other important media are newspapers and magazines. The major daily newspapers in Montenegro are: Pobjeda ([www.pobjeda.co.me](http://www.pobjeda.co.me)), Dan ([www.dan.co.me](http://www.dan.co.me)), Vijesti ([www.vijesti.me](http://www.vijesti.me)) and Dnevne Novine ([www.dnovine.me](http://www.dnovine.me)). The major weekly in Montenegro is Monitor ([www.monitor.co.me](http://www.monitor.co.me)).

Outdoor signs and billboard advertising are also growing.

On the other hand, direct marketing is not that well developed in Montenegro. Mail order catalogues and the sale of mailing lists remain rare. Personal presentation marketing has been employed by such firms as Avon, Oriflame cosmetics, or Rainbow and Kirby vacuum cleaning products but with varying degree of success. Some business directories are available in hard copy and, in a few cases, on CD-ROM. Contact information for some Montenegrin companies can be found on the internet at the following websites: [www.t-com.me/](http://www.t-com.me/), [www.mipa.co.me/](http://www.mipa.co.me/), [www.visit-mba.org/](http://www.visit-mba.org/), or [www.poslodavci.org/](http://www.poslodavci.org/).

### **10.4 Internet – The Future of Trade Promotion**

Internet promotion increasingly gains popularity in Montenegro. According to the Internet World Stats, in 2006, only 7.9% of population in Montenegro used

the internet, but the number grew to 44.1 in 2010 and further to 65% in 2017. On the other hand, with regards to social networking and social media, the Montenegrin with the approximately 56% of social media users place themselves high above the European average of 49%. Furthermore, with regards to usage of mobile phone cards, again the Montenegrins with 161% of active mobile phone cards again place themselves above the European average (131%).

Apart from social media and with regards to advertising, the most popular sites are cars, boats, furniture and mobile phones advertising sites where Montenegrin can advertise and trade with their possessions.

Except for products, internet promotion is also used for promotion of political parties and activities, certain personalities or groups and for the purposes of election campaigns.

As for businesses, companies nowadays create their marketing strategies on internet promotions of their products and services. As mentioned above, companies and advertising agencies today use email marketing and social networking to promote companies and their products and services, especially Instagram, Twitter, YouTube, Facebook and Pinterest. LinkedIn is also widely used among various professionals for the purpose of exchanging information.

Internet promotion uses the benefit of blogs and forums as well, and extremely popular nowadays are companies which organise conferences, congresses, corporate events and team building events for their clients all over Montenegro.

# 11. Other Aspects

## 11.1 Investment Rules and Regulations

### Mergers and acquisitions

The Law on Protection of Competition or the Competition Act (Official Gazette No. 44/2012) and the Law Amending the Law on the Protection of Competition adopted by the 26th Parliamentary Session on 14 February 2018 regulates both market behaviour and merger control.

Montenegro considers its anti-trust legislation to be generally in line with the acquis. Procedural rules applicable to competition proceedings are included in several pieces of legislation. The Competition Act contains rules for initiating proceedings, inspections, the issue of Statements of Objections, regulates tasks of the Competition Agency (the authority responsible for anti-trust and mergers in Montenegro, [www.azsk.me](http://www.azsk.me)), regulates timeliness for issuing decisions, etc. The General Administrative Act (Official Gazette Nos. 60/2003, 32/2011 and 56/2014) sets out rules and conducting oral hearings, collecting statements, rights of parties and witnesses, evaluation of evidence, the use of experts, etc. The rules for the Leniency Application and Settlement Procedure, the Misdemeanor Act and the Law on Administrative Disputes include additional procedural rules.

A concentration must be notified to the Agency if either of the following thresholds is met:

- 1) The aggregate local annual turnover of at least two parties to the concentration exceeds EUR5 million, or
- 2) The aggregate worldwide annual turnover of the parties to the concentration exceeds EUR20 million, provided that at least one of the parties achieved a turnover of EUR1 million within the territory of Montenegro in the same year.

However, upon learning that a concentration has been carried out, the Agency can order the participants to notify the concentration if their joint market share on a relevant market in Montenegro is at least 60%.

A concentration must be notified within 15 days following:

- The conclusion of an agreement,
- Announcement of a public bid, offer, or closing of the public offer, or
- The acquisition of control (whichever occurs first).

The parties may notify a transaction to the Agency even before one of the abovementioned events occurs, if they demonstrate their serious intent to enter into an agreement, by signing a letter of intent, publicising their intent to make an offer, or in any other way which precedes any of the triggering events mentioned.

Upon submission of complete notification, the Agency must render a decision approving the concentration unconditionally within 105 working days or a decision approving the concentration subject to conditions within 125 working days. If the concentration creates or strengthens a dominant marketing position and consequently prevents, restricts or distorts competition, the Agency shall prohibit the concentration within 130 working days.

Under the Competition Act, if control over the whole or part of one or more undertakings is acquired by another undertaking, the notification has to be submitted by the undertaking acquiring control. In all other cases, the notification has to be submitted jointly by the undertakings concerned.

Clearance fees are regulated by the Tariff Schedule. Clearance fees for mergers cleared in Phase I (the Summary phase) are 0.03% of the combined annual turnover of the undertakings concerned, the amount is capped at EUR15,000, while fees for mergers cleared after a Phase II investigation are 0.07% of the combined annual turnover and capped at EUR20,000.

The Competition Act prescribes fines in the event parties fail to file a merger notification within a 15-day deadline. In that case, the parties to the



concentration may be subject to fines ranging from EUR4,000 to EUR40,000. The individuals in charge within the undertaking in breach may be fined from EUR1,000 to EUR4,000.

If an undertaking carries out a concentration without prior clearance from the Agency (in violation of the suspension obligation) or carries out a prohibited concentration, it may be fined from 1% to 10% of its total annual turnover in the financial year preceding the violation. The person in charge within the undertaking in breach may be fined from EUR1,000 to EUR4,000.

### **Public-private partnerships**

Legislative and institutional frameworks in the area of public-private partnership (PPP) are still not in place, despite the Government's plan to regulate this particular area. Montenegro still does not have a special law on PPP and, at the moment, the public consultation with regards to the Draft Law on Public-Private Partnership (PPP) and Draft Amendments to the Law on Concession is taking place in Montenegro.

The principal Laws covering PPP are the follows:

- Law on Concessions,
- Law on Private Sector Participation in Performance of Public Services,
- Public Procurement Law,
- Law on Foreign Investments,
- Law on Spatial Development and Construction of Structures, and
- Law on State Administration.

The existing Law on Concessions (Official Gazette No. 08/2009), and Law on Private Sector Participation in Performance of Public Services (Official Gazette Nos. 30/2002 and 8/2009), as well as several sectorial laws currently make up the legal framework for the implementation of PPP projects.

As per Law on Concessions, a concession shall be awarded based on a public notice and by:

- open procedure,
- two-stage procedure of public competition, and
- accelerated procedure of public competition.

In an open procedure, the competent authority shall publish a public notice in the Official Gazette, and the time-limit for submitting tenders may not be shorter than 30 days. The Tender Committee will do the evaluation of bids and deliver to the competent authority a ranking list of tenders within 30 days as of the day of the opening procedure.

The two-stage procedure shall be carried out in the following cases:

- 1) For granting a concession for projects which are complex from technical, technical and technological, legal, financial and other aspect, or
- 2) When a large number of tenders is expected,

A two-stage procedure shall include a pre-qualification procedure for contestants.

Accelerated procedure refers to concessions with the term of validity of the award of up to three years, and in which cases some conditions do not need to be fulfilled or required public debates to take place.

PPPs are mainly used for implementing projects at the local level or for valorisation of tourist locations. Ongoing PPP projects include “NTC Marina” and “Bigovo” localities in Kotor, “Dobra luka” in Herceg Novi, “Valdanos”, “Velika Plaza” and “Ada Bojana” in Ulcinj, etc.

Previous PPP projects implemented at the national level were: Wireless Montenegro Project in the IT sector in 2011, construction of student’s dormitory in Podgorica in 2012, two shopping malls in Podgorica, submarine cable with energy of 1,000 MW capacity between Italy and Montenegro, etc.

Main bodies in charge of the implementation of PPP projects are the Privatisation and Capital Investment Council and Concession Commission. The Concession Commission acts upon appeals, keeps registry of concession contracts and approves extension of terms or expansion of the location of concessionary activity. Major stakeholders at the central level of PPPs are the Government, the Parliament, public institutions, private domestic or foreign companies and the State Audit Institution, responsible for auditing the use of public budget.

The Government is responsible for the adoption of the annual plan on concessions to be awarded by the State in the following year and authorising the award concessions at the central level. The Parliament adopts decisions on awarding concessions that are longer than 30 years, but cannot be longer than 60 years. The Ministry of Economy is responsible for the energy sector and for geological exploration, and explorations of mineral resources. The Ministry of Transport and Maritime Affairs is in charge of rail, road, sea and air transportation and played the main role in the process of finding the partner for construction of Bar-Boljare highway. In addition, the Ministry also announced that there is an expressed interest for PPP case of state-owned company Airports of Montenegro.

Contracting authorities must report on the use of public funds for infrastructure projects among their regular reporting obligations to the Ministry of Finance. Also, prior to entering into PPP contracts which might have financial implications for the State budget, contracting authorities are required to obtain an approval or an opinion from the Ministry.

### **Privatisation Program**

The Government is the main institution responsible for the privatisation process in Montenegro. Each year the Government adopts the privatisation plan for that particular year and for companies, tourist sites, or other entities planned to be privatised.

At the session of 1 March 2018, The Government of Montenegro passed the Decision about the Privatisation Plan for 2018 which is published in the Official

Gazette No. 20/2018. The Decision on Privatisation Plan for 2018 sets out the goals and methods of privatisation, enterprises and capital for privatisation, the conditions for their implementation, as well as the locations that need to be valued and the social aspects of the privatisation process. The main goal of privatisation is to increase the competitiveness and efficiency of the functioning of the company, encourage foreign investments and entrepreneurship in all areas, increase employment and improve living standards.

The document provides preparation and implementation of public procurements for the privatisation of certain companies, also tourist sites or companies which will be valorised through the public-private partnership, and the sale of certain companies' shares through the stock exchange is envisaged.

### **Dispute Settlement**

Dispute resolution is under the authority of national courts, but it can also fall under the authority of international court if that is stipulated in a commercial contract, i.e., Montenegro allows the possibility of international arbitration.

With regards to dispute settlement, Montenegro adopted the following laws:

- In April 2013, Montenegro ratified the International Centre for Settlement of Investment Disputes (ICSID) Convention and became a member of the ICSID,
- In 2015, The Parliament adopted the Law on Arbitration (Official Gazette No. 47/2015). The adopted Law is fully in accordance with the United Nations Commission on International Trade Law (UNCITRAL) Model Law, and
- In 2012, the Parliament adopted new Law on Mediation (Official Gazette No. 29/2012).

With regards to Law on Mediation, unfortunately, the large number of disputes that come to the court show that the awareness of alternative dispute resolutions is still quite low, although increasing.

## 11.2 Participating in Public Tenders

Montenegro is moderately prepared to fully embrace the EU Procurement Directives, including concessions, which is an area particularly vulnerable to corruption. Several of the amendments to the Law on Public Procurement (Official Gazette Nos. 042/2011, 057/2014, 028/2015 and 042/2017) adopted in June 2017, have reduced the level of compliance with EU rules. Prepared by an ad-hoc task force, subject to public consultation, the amended law no longer applies to low-value procurement and procurements in the area of defence and security. While the implementation of the 2016-2020 strategy on public procurement is ongoing, several activities are delayed. Moreover, the strategy does not cover concessions in detail and lack information about financial planning and resource allocation.

The Law on Public procurement regulates the conditions, manner and procedure of procurement of goods and services and awarding work assignment, protection of rights in the public procurement procedures and other issues of relevant procurement.

This Law applies to state administration bodies, local self-government units, public services and other beneficiaries of the Budget of Montenegro, as well as to business organisations, legal entities, entrepreneurs and individuals performing procurement of goods and services and awarding work assignments that are funded by the Budget of Montenegro.

The public procurement procedure is conducted and the selection of bids is made according to a cost-effective manner with rational use of public funds. Other principles are as follows:

- Principle of ensuring competition among the bidders,
- Principle of transparency of public procurement procedure, and
- Principle of equality of bidders.

A contracting authority shall prepare tender documents and conduct the procedure in the Montenegrin language, as well as in other languages which

are in official use in Montenegro, in accordance with the Constitution and the Law.

A contracting authority may also prepare tender documents or certain parts in a foreign language commonly used in international trade, especially in the section regarding technical characteristics, quality and technical documentation.

Types of PPP are as follows:

- Open procedure,
- Restricted procedure,
- Negotiated procedure with prior publication of a contract notice,
- Negotiated procedure without prior publication of a contract notice, and
- Contest.

Above procedures are applied in cases when:

- a) the value of goods and services provided by the public procurement is equal or above EUR15,000 and
- b) the value of works provided by the public procurement is equal of above EUR30,000.
  - 1) Open public procurement procedure is a procedure wherein all interested individuals may submit bids according to requirements specified in the contract notice for the open procedure and tender documents.
  - 2) The restricted public procurement procedure is conducted in two phases. In the first phase, a contracting authority recognises applicants' qualifications on the basis of previously determined requirements in the invitation for prequalification, and in the second phase, the contracting authority invites the qualified candidates to submit their bids.

- 3) The negotiated procedure with prior publication of a contract notice may be conducted in cases when in open or restricted procedures no acceptable bids have been submitted and when it is not easy to estimate the total value of the public procure.
- 4) The negotiated procedure without prior publication of a contract notice may be conducted in cases when in at least two open or restricted public procurement procedures no acceptable (or correct) bids have been submitted, in cases of protection of exclusive rights, for some additional deliveries during performance of contractual obligations by the bidder to whom the contract has been already awarded, for the public procurement of goods offered and purchased on commodity exchanges, and other such cases.
- 5) A public procurement procedure by contest may be conducted for services in the field of urban planning, architecture, construction, engineering, science, culture, design and data processing.

When for reasons of extreme urgency with an aim of removal and prevention of danger brought about by unforeseen events, the removal of consequences of these unforeseen events, as well as due to other unforeseen events on which the contracting authority cannot or was not able to influence, the contracting party is in no obligation to meet any type of public procurement procedure.

The PPP is initiated by a Decision on initiating the procurement procedure which shall include:

- Details of the contracting authority,
- Reference number of the public procurement in the records,
- The subject, procedure type and time limit for carrying out the procurement procedure,
- Estimated value of the public contract,
- Source of funds allocated for the public contract and conditions and method of payment of the contracted obligations,

- The position in the public procurement plan (i.e. procurement plan submitted to the state authorities by 31 January for that fiscal year),
- Rationale, other data of relevance for that public contract.

Montenegro's public procurement market corresponded to approximately 10% of GDP in 2017, compared with 11.8% in the previous 2 years.

Contracting authorities' capacity to manage public procurement process continues to improve gradually, but is hampered by the ad-hoc changes to the public procurement law. Procurement planning needs to be more realistically aligned with the allocated resources. Furthermore, better internal audit with contracting authorities is required to improve monitoring and verification of contract implementation.

The Public Procurement Administration (PPA)'s capacity appears insufficient to implement the reforms needed to further improve the performance of the public procurement system effectively and in a timely manner. In September 2017, the PPA and the Anti-corruption Agency signed a co-operation agreement to improve the public procurement system and reduce conflict of interest and corruption risks.

The right to legal remedy is stipulated in the Constitution and the law on public procurement. The remedies system includes an administrative review by the State Commission for the Control of Public Procurement (PPC), an independent administrative body reporting directly to Parliament. In 2017, the PPC decided upon approximately 1,000 cases and upheld about 30% of the submitted appeals, which is slightly less than in the previous year.

### **11.3 Local Investment Incentives**

The Decree on fostering direct investment (Official Gazette No. 80/2015) along with the Decree on Business Zones, sets forth the financial incentives for new investments in Montenegro. The Decree seeks to attract new investors, increase employment, and in particular in the less developed areas, and balance out regional disparities.



The Government funds to incentivise investments are allocated following a public announcement. Eligible investment projects are:

- a) In the Capital City and the southern region that include those of minimum worth of EUR500,000 and which generate at least 20 jobs for newly employed persons over the course of three years from the date of signing the agreement on the use of funds with the Government of Montenegro; and
- b) In the northern and central regions (excluding the Capital City) that include those worth at least EUR250,000 and which generate at least 10 jobs for newly employed persons over the course of three years from the date of signing the agreement on the use of funds with the Government.

The amount on incentive is set according to the criteria included in the Decree and following the scoring procedure and it may range from EUR3,000 to EUR10,000 per a newly employed person. In addition, any capital investment in excess of EUR10 million and generating at least 50 jobs for newly employed persons within the timeline stipulated in the agreement on the use of funds is eligible for incentives of up to 17% of its worth, without any scoring procedures.

The stages of the procedure for allocation of the funds are as follows:

- Public announcement for awarding incentives for direct investment;
- Submitting of required documentation by the announced deadline;
- Evaluation of technically correct submitted applications;
- Decision on the incentives to be awarded; and
- Signing of the contract with the Government.

The funds are not to be used to finance the investment projects in the following sectors: primary agricultural production, manufacturing of synthetic fibers, transport, games of chance, retail sector, primary coal and steel production, electricity, oil and gas production, manufacturing of tobacco and tobacco

products, arms and ammunition, genetically modified organisms and hazardous wastes.

As for the business zones, there are two categories of business zones in Montenegro:

- 1) Business zones of strategic importance, managed by the Government of Montenegro, and
- 2) Business zones of local importance, managed by the local government.

Investors in both categories of business zones will be granted national and local level incentives in addition to the above described Government funding. Those incentives will foremost be directed to lower paying of taxes and contributions both for companies and employees.

According to the Decision of the Government dated 26 July 2018, Montenegro will offer an economic citizenship program, establishing the pathway for wealthy investors around the world (2,000 in total) to obtain a Montenegro passport in exchange for an investment into the country. Montenegro will require the foreign investor to make an investment of at least EUR 250,000 in an underdeveloped area or EUR 500,000 in a developed area. The program is planned to start on 1 October 2018.

## **11.4 Risk Portfolios**

### **11.4.1 Restrictions on profit repatriation**

Restrictions on profit repatriation are considered with regards to transfer pricing, and the transfer pricing in Montenegro is yet to be fully regulated. Article 38 of the Corporate Income Tax Law (Official Gazette No. 90/2017) only presents the relevant transfer pricing section reference. Paragraph 2 of Article 38 of the mentioned Law defines related party/associated enterprise.

Montenegro is not a member of the OECD. Its transfer price provisions are only loosely based on the OECD Guidelines and do not refer to their application.

### 11.4.2 Ease of doing business

Montenegro has a huge potential and the overall investment climate is more than positive with several multi-million projects finished or currently underway in the country.

Those large investment projects include:

- Bar-Boljare Motorway with design and construction of the initial section that will cost EUR809.6 million.
- Adriatic-Ionian Motorway and the project of the coastal expressway aims to improve connectivity within the region and between the region and the EU. The project is estimated at EUR880 million.
- Construction of the underwater cable between Montenegro and Italy. The project is worth EUR900 million. The cable is expected to be operational in late 2018 or early 2019.
- Pljevlja Thermal Power Plant Unit II – the building contract worth EUR324.5 million was signed on 29 September 2016 by the Electric Power Company of Montenegro and the Skoda Praha Company of Czech Republic.
- Porto Montenegro ([www.portomontenegro.com/](http://www.portomontenegro.com/)). The project included the construction of the yacht and mega yacht marina with 850 berths, with the surrounding village and 5\* hotel, luxury villas, a helipad, a museum, etc.

Other investment projects include: TAP-IAP-Ionian-Adriatic Pipeline; Lustica Bay ([www.lusticabay.com/](http://www.lusticabay.com/)), the project that includes construction of mixed-use resort with 8 hotels, golf courses, residences and 2 marinas; 44 small hydro-power plants, etc.

Although the strengths of the overall Montenegrin business climate include:

- Tourism potential (sea, mountain and climate),
- Hydroelectric potential,

- Use of the EURO,
- Negotiations for membership in the EU, and
- Good quality education and healthcare.

There are some weaknesses needed to be tackled:

- Small market,
- Still inadequate roads and electrical network,
- The long-term unemployment of 12% and the shortage of qualified workers, and
- Large black-market economy and low labour market participation rate.

According to the World Bank ranking for Ease of doing business in 2018, Montenegro ranks 42nd out of 190 countries analysed, with quite good performances shown in the previous period. Montenegro's ranking for individual factors considered in the World Bank study are:

- Starting a business: 60th place out of 190,
- Dealing with construction permits: 78th place out of 190,
- Getting Electricity: 127th place out of 190,
- Registering Property: 76th place out of 190,
- Getting Credit: 12th place out of 190,
- Protecting Minority Investors: 51st place out of 190,
- Paying Taxes: 70th place out of 190,
- Trading across Borders: 44th place out of 190,
- Enforcing Contracts: 42nd place out of 190, and
- Resolving Insolvency: 37th place out of 190.

([www.doingbusiness.org/data/exploreeconomies/montenegro](http://www.doingbusiness.org/data/exploreeconomies/montenegro)).

### **11.4.3 Complex taxation system**

The tax system of Montenegro is still large and complex. According to the World Bank ranking, when it comes to tax payments Montenegro holds 70th place out of 190, which is a better position than of some countries in the region, but still worse than the majority of EU countries. The American Chamber of Commerce in Montenegro puts the unbundling of taxation system in the country as one of the major business challenges for 2018.

### **11.4.4 Double Taxation Treaty (DTT)**

Montenegro has signed 43 bilateral tax treaties for the avoidance of double taxation and fiscal evasion. The treaties are now in force with: Austria, Albania, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, India, Iran, Ireland, Italy, Latvia, Korea, Kuwait, Macedonia, Malaysia, Moldova, the Netherlands, Norway, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, Sri Lanka, Sweden, Switzerland, Turkey, Ukraine, UAE, and United Kingdom. (For more information please refer to: [www.mvp.gov.me](http://www.mvp.gov.me)).

### **11.4.5 Investment Promotion and Protection Agreements (IPPAs)**

Montenegro has concluded investment promotion and protection agreements with the following countries: Austria, Slovakia, Serbia, Czech Republic, Finland, Denmark, Qatar, Belgium-Luxembourg Economic Union, Macedonia, Malta, France, Greece, the Netherlands, Israel, Cyprus, Romania, Ukraine, Hungary, Germany, Poland, Spain, Turkey, Switzerland, Azerbaijan, Moldova and UAE. (Please refer to [www.mvp.gov.me](http://www.mvp.gov.me))

### **11.4.6 Currency exchange controls**

There are no currency or payment restrictions related to the use of Euro in Montenegro.

#### **11.4.7 Sanctions for third countries**

Montenegro welcomes all investors, however as a future member of the EU, Montenegro has imposed sanctions to third countries following the recommendations of the EU. The whole list of countries can be downloaded from: <https://sanctionsmap.eu/#/main> .

As mentioned above, foreign investors are welcome to invest in any industry (with great opportunities in tourism and real estate) and are free to transfer funds, assets and other goods, including profit and dividends. The criminal rate is low, the costs of living are among the lowest in Europe and with the easy living among pristine beaches and good foods, Montenegro is very friendly to all investors and foreign citizens.

## 12. Useful Contacts

➤ **Montenegrin Embassy in the PR of China**

San li Tun, Diplomatic Compound 3-1-12

100600 Beijing, China

Tel: +86.10.6532-7610

Fax: +86.10.6532-7690

E-mail: china@mfa.gov.me

➤ **Chinese Embassy in Montenegro**

Radosava Burića 4a

81000 Podgorica, Crna Gora

Tel: +382.20.609-275

Fax: +382.20.609-296

E-mail: chinaemb\_@hotmail.com

➤ **Business Register of Montenegro**

Vaka Djurovića 20

81000 Podgorica, Crna Gora

Tel: +382.20.230-858

Website: [www.crps.me](http://www.crps.me)

➤ **Central Bank of Montenegro**

Bulevar Svetog Petra Cetinjskog 6

81000 Podgorica, Crna Gora

Tel: +382.20.480-298

Website: [www.cb-cg.org/eng](http://www.cb-cg.org/eng)

➤ **Customs Administration**

Oktobarske revolucije 128

81000 Podgorica, Crna Gora

Tel: +382.20.442-001

Website: [www.upravacarina.gov.me](http://www.upravacarina.gov.me)

➤ **Ministry of Economy**

Rimski trg 46

81000 Podgorica, Crna Gora

Tel: +382.20.482-255

Website: [www.mek.gov.me](http://www.mek.gov.me)

➤ **Ministry of Labour and Social Welfare**

Rimski trg 46

81000 Podgorica, Crna Gora

Tel: +382.20.482-443

Website: [www.minradiss.gov.me](http://www.minradiss.gov.me)

➤ **National Employment Agency (Podgorica Directorate Head-office)**

Bulevar revolucije 5

81000 Podgorica, Crna Gora

Tel: 382.20.405-272

Website: [www.zzzcg.me](http://www.zzzcg.me)

➤ **Ministry of Tourism and Sustainable Development**

IV proleterske brigade 19

81000 Podgorica, Crna Gora

Tel: +382.20.446-380

Website: [www.mrt.gov.me](http://www.mrt.gov.me)

➤ **Ministry of Interior**

Bulevar Svetog Petra Cetinjskog 22

81000 Podgorica, Crna Gora

Tel: +382.20.224-770

Website: [www.mup.gov.me](http://www.mup.gov.me)

➤ **Ministry of Interior – Foreign Citizens Directorate**

Bulevar Svetog Petra Cetinjskog 22

81000 Podgorica, Crna Gora

Tel: +382.20.224-806

➤ **Ministry of Foreign Affairs**

Stanka Dragojevića 2

81000 Podgorica, Crna Gora

Tel: +382.20.416-303



Website: [www.mvp.gov.me](http://www.mvp.gov.me)

➤ **Ministry of Finance**

Stanka Dragojevića 2  
81000 Podgorica, Crna Gora  
Tel: +382.20.224-581  
Website: [www.mf.gov.me](http://www.mf.gov.me)

➤ **Ministry of Agriculture and Rural Development**

Rimski trg 46  
81000 Podgorica, Crna Gora  
Tel: +382.20.482-175  
Website: [www.minpolj.gov.me](http://www.minpolj.gov.me)

➤ **Investment-Development Fund of Montenegro**

Bulevar revolucije 11  
81000 Podgorica, Crna Gora  
Tel: +382.20.416-605  
Website: [www.irfcg.me](http://www.irfcg.me)

➤ **Chamber of Commerce of Montenegro**

Novaka Miloševa 29/II  
81000 Podgorica, Crna Gora  
Tel: +382.20.230-545  
Website: [www.privrednakomora.me](http://www.privrednakomora.me)

➤ **Montenegrin Foreign Investors Council**

Novaka Miloševa 29/II  
81000 Podgorica, Crna Gora  
Tel: +382.20.408-606  
Website: [www.mfic.me](http://www.mfic.me)

➤ **Tax Administration of Montenegro (Head-office)**

Bulevar Šarla de Gola 2  
81000 Podgorica, Crna Gora  
Tel: 382.20.658-063  
Website: [www.poreskauprava.gov.me](http://www.poreskauprava.gov.me)

➤ **Public Procurement Administration of Montenegro**

Jovana Tomaševića 2  
81000 Podgorica, Crna Gora  
Tel: +382.20.245-798  
Website: [www.ujn.gov.me](http://www.ujn.gov.me)

➤ **Commercial Court of Montenegro**

IV proleterske brigade 2  
81000 Podgorica, Crna Gora  
Tel: +382.20.231-219  
Website: [www.sudovi.me](http://www.sudovi.me)

➤ **Montenegrin Official Gazette**

Novaka Miloševa 10/I  
81000 Podgorica, Crna Gora  
Tel: +382.20.230-525  
Website: [www.sluzbenilist.me](http://www.sluzbenilist.me)

## 13. Web Resources

- **Montenegrin Investment Promotion Agency** [www.mipa.co.me](http://www.mipa.co.me)
- **Company Formation Montenegro** [www.companyformationmontenegro.me](http://www.companyformationmontenegro.me)
- **Contracts and Applications** [www.cedis.me](http://www.cedis.me)
- **Language Regulations and Reports in English Language** [www.cges.me/eng](http://www.cges.me/eng)
- **Doing Business in Montenegro – World Bank Group** [www.doingbusiness.org/data/explor eeconomics/montenegro](http://www.doingbusiness.org/data/explor eeconomics/montenegro)
- **Doing Business in Montenegro** [www.export.gov/Montenegro](http://www.export.gov/Montenegro)
- **Secretariat for Development Projects – Investment Climate in Montenegro** [www.investmentlocations.me](http://www.investmentlocations.me)
- **Montenegrin Credit Bureau** [www.kbcg.me](http://www.kbcg.me)
- **2016/2017 White Book – Investment Climate in Montenegro** [www.mfic.me](http://www.mfic.me)
- **2018 Montenegro Report – European Commission** <https://ec.europa.eu/>