



Montenegro

Population ¹	622,373
Area (km ²) ¹	13,810
GDP per capita (USD) ¹	7,784.07
TPES (Mtoe) ²	0.97
Energy intensity (toe/10 ³ 2010 USD) ²	0.21
CO ₂ emissions - energy (MtCO ₂) ²	2.10

Sources:

1. The World Bank 2017

2. ©IEA 2018, www.iea.org/statistics

Montenegro's overall risk level against the assessed areas is **low**.

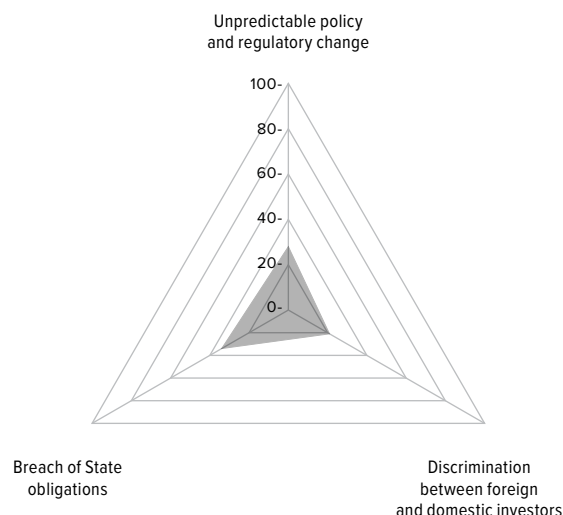
Among the three risk areas, *discrimination between foreign and domestic investors* and *unpredictable policy and regulatory change* continue to be lower compared to *breach of State obligations*.

Montenegro has a very good performance on two EIRA indicators, and a good performance on two indicators. It has obtained 90 points on *regulatory environment and investment conditions*. The country has improved its score by 4 points on *management of decision-making processes*, and it now stands at 87. *Regulatory environment and investment conditions* is at 85. *Rule of law* has the same score as in 2018 (66), while *foresight of policy and regulatory change* has decreased by 2 points, and it is now at 64.

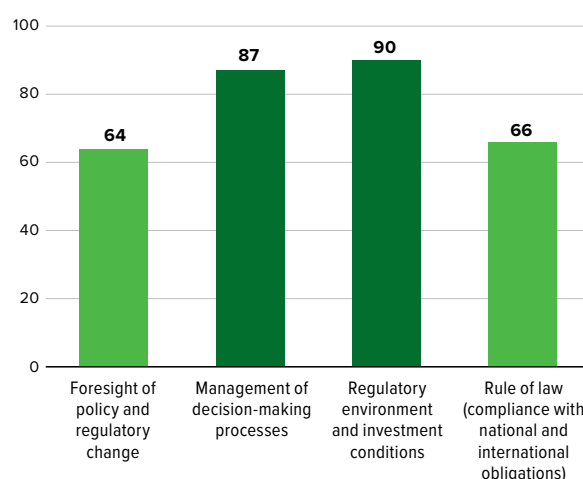
On a more detailed level, Montenegro's overall sub-indicator performance is good. The highest-scoring sub-indicator is again *regulatory effectiveness* (100) and is followed by *institutional governance* (94). The performance on *transparency* has improved by 9 points and now stands at 81. *Restrictions on FDI* and *robustness of policy goals and commitments* and are at 80 and 75, respectively. There have been no changes observed in *respect for property rights* (67) and *management and settlement of investor-State disputes* (65). The performance on *communication of vision and policies* has gone down from 58 to 53 points. It remains the lowest-scoring sub-indicator.

Montenegro provides attractive conditions for investors and is working in the right direction. Attention should be given to better communicating the country's vision and policies.

RISK LEVEL



INDICATOR PERFORMANCE

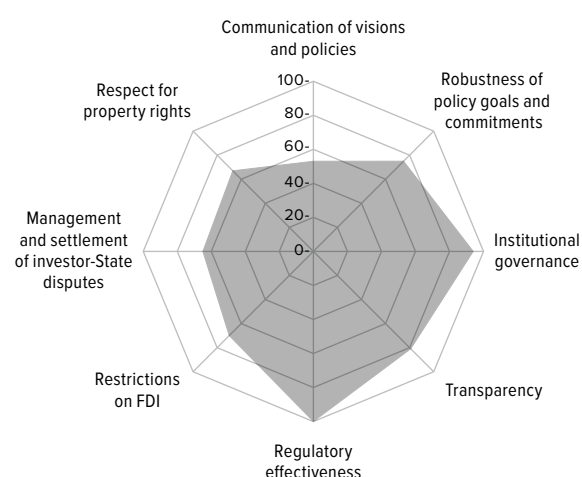


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	28	28
Discrimination between foreign and domestic investors	20	19
Breach of State obligations	34	34

INDICATORS	2018	2019
Foresight of policy and regulatory change	66	64
Management of decision-making processes	83	87
Regulatory environment and investment conditions	90	90
Rule of law	66	66

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Energy Policy 2030 (adopted in 2011) and the Action Plan 2016-2020 of the Energy Development Strategy 2030 outline the policies and objectives of Montenegro with respect to the energy sector.

Montenegro ratified the Paris Agreement in 2017 and submitted its first NDC.

STRENGTHS

In 2018, Montenegro took a significant step forward on its accession path by opening negotiations with the EU on environment and climate change. Security of supply, energy efficiency, infrastructure and promotion of renewables remain the key priorities of the country. To further pursue these objectives, the Government has launched ambitious projects such as the Energy Efficient Home Programme, aimed at cutting heating costs and reducing CO₂ emissions in the household sector. The anticipated interconnections with neighbouring countries will improve cross-border exchange and enhance power transmission efficiency. Montenegro has already met its 33 per cent target of energy from renewable sources in the gross final energy consumption by 2020 and is expected to switch from a feed-in tariff to an auction-based system. Moreover, the Decree on incentive fees has been amended to encourage production from renewables and high-efficient cogeneration.

Monitoring responsibilities are divided between the Ministry of Economy and the Ministry of Sustainable Development and Tourism. The Energy Regulatory Agency (REGAGEN), coordinating committees of the relevant ministries and local authorities are required to report the results of the implementation process. The participation of independent experts and NGOs is also envisaged, as in the case of the Working Group and the "Coalition of 27" established under the National Strategy with Action Plan for the Transposition, Implementation and Enforcement of the EU acquis on Environment and Climate Change 2016-2020.

AREAS FOR IMPROVEMENT

The Government should ensure that the Action Plan 2016-2020 is revised as soon as possible, and a new Energy Efficiency Action Plan replaces the outdated 2016-2018 version. The updated Plans must define national targets that are consistent with the EU energy and environmental acquis, as well as the country's long-term goals. Moreover, they should contain a list of activities, responsibilities, timelines and sources of funding. Outcome-oriented objectives for energy efficiency may also be included in the Energy Development Strategy 2030.

Efforts can be made to enhance the independence of the monitoring bodies. The establishment of the Department of Implementation of the Action Plan 2016-2020 will improve coordination between the development, execution and evaluation of the energy policy and ensure effective feedback.

Management of decision-making processes

QUICK FACTS

The Ministry of Economy is responsible for setting the country's energy policy.

Investment strategies are coordinated through the Directorate for Investment, SME Development and Management of EU Funds at the Ministry of Economy.

The Ministry of Sustainable Development and Tourism is in charge of environmental and climate mitigation issues.

The Montenegrin Investment Promotion Agency assists investors with starting and operating a business.

STRENGTHS

The line ministries collaborate with scientific institutions on energy projects run by international organisations. The new Law on Environmental Impact Assessment 2018 sets higher quality standards regarding the content of the study. It also mandates public awareness, transboundary consultations and cooperation among public authorities which have to issue a reasoned decision when approving or rejecting the study.

In November 2018, the National Action Plan for Implementing the Open Government Partnership in Montenegro (2018-2020) was adopted. It identifies actions for securing access to information, encouraging citizen participation, and promoting public integrity. Draft laws and regulations are required to undergo public consultation. For instance, since the beginning of 2019, the Government has already made two calls for public participation in the dialogue regarding the draft Law on Cross-Border Energy Infrastructure Project and the draft Conservation Plan for Detailed Geological Research and Exploitation of Mineral Raw Materials.

AREAS FOR IMPROVEMENT

Important steps have been taken towards guaranteeing transparency. To enhance information access for both national and foreign investors, the Government agencies and regulatory authorities should make sure that their websites are regularly updated and information is disseminated in a holistic and timely fashion. This includes the Ministry of Economy, the REGAGEN, as well as the Concession Commission and the Privatisation and Capital Investment Council, which currently publish limited data on their activities, types of concessions and contracts with investors.

Regulatory environment and investment conditions

QUICK FACTS

The Energy Law as amended in 2017 establishes the REGAGEN and states its competences. The REGAGEN joined the Cooperation of Energy Regulators (ACER) working groups in January 2018.

Montenegro is in the process of drafting a new Public-Private Partnership (PPP) legislation which will replace the current Law on Concessions, the Law on Participation of the Public Sector for the Delivery of Public Services, and other sectoral laws.

STRENGTHS

The REGAGEN continues to be an operationally and financially independent authority which supervises operations of energy undertakings and monitors the functioning of the energy market. It submits annual reports to the Parliament on its finances and on the market conditions. Its Work and Financial Plans for the year 2019 are posted on its official website. Conflict of interest provisions exist to restrict REGAGEN's Board members and staff from seeking outside employment or compensation from an energy undertaking during employment and for a certain period after the expiration of such person's term or dismissal.

The Government puts emphasis on maintaining favourable investment conditions. As of October 2018, the Montenegro Citizenship Investment Programme will offer to non-EU investors a permanent residence status within three weeks. There are no legal provisions that require investors to meet targets measured as a percentage of investment, local procurement, or job creation. Profits and capital can be repatriated without limitations or restrictions.

AREAS FOR IMPROVEMENT

As mentioned in EIRA 2018, the existence of annual quotas on the number of foreign workers in conjunction with the restrictions imposed by Law on Foreigners 2019 on intra-corporate transfers may be perceived by foreign investors as a restriction. The Government should ensure that work permits and investment incentives are allocated in a sound and transparent manner.

The adoption of the long-pending law on PPP will contribute to the creation of a comprehensive strategic and regulatory framework. It will also enable the Government to identify projects where State institutions would transfer responsibility to private investors.

Rule of law

QUICK FACTS

Montenegro ratified the Energy Charter Treaty in 2015.

Montenegro ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 2013.

Montenegro is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards since 2006.

STRENGTHS

No retroactive changes were introduced to laws in the last year. Investment disputes can be brought before domestic courts or an arbitral tribunal without prior exhaustion of local judicial remedies. National courts recognise and enforce foreign arbitral awards. They also enforce foreign court judgments upon their recognition as authoritative and final.

Under the Law on Foreign Investment 2011, investors are protected against expropriation, which can occur only for a compelling public purpose and against compensation at fair market value. The relevant procedure, including the determination of compensation, is administered by a designated body. Intellectual property rights are protected under multinational agreements, BITs and national legislation. In general, there are no statutory provisions in national laws or international investment agreements restricting the transfer of technology.

AREAS FOR IMPROVEMENT

In keeping with last year's assessment, the introduction of timeframes for the completion of proceedings and the delivery of judgments at all stages will guarantee the reasonableness of the case duration.

The Government should consider establishing additional alternative dispute resolution mechanisms, such as an investment ombudsman to process private parties' complaints against public administration. Similarly, the possibility of mediating disputes with State authorities should be extended to investors.

While there has not been a case of expropriation of foreign assets in Montenegro, the introduction of a clear definition of "public purpose" in the Law on Expropriation, instead of ad hoc determination by separate law or government decision, will further reduce the risk of legal uncertainty.