



Montenegro

| | |
|--|----------|
| Population ¹ | 622,227 |
| Area (km ²) ¹ | 13,810 |
| GDP per capita (USD) ¹ | 8,846.05 |
| TES (Mtoe) ² | 1.06 |
| Energy intensity (toe/10 ³ 2015 USD) ² | 0.23 |
| CO ₂ emissions - energy (MtCO ₂) ³ | 2.5 |

Data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2021⁴

| Target industry | Number of projects and deals | Project CapEx and deal value (million EUR) by source country |
|--|------------------------------|--|
| Electric power generation, transmission and distribution | 1 minority stake deal | Serbia: 1 TD deal of 13.8 mEUR |

Sources:

1. The World Bank 2018
2. ©IEA (2021), World Energy Balances (<https://www.iea.org/data-and-statistics>). All rights reserved.
3. ©IEA (2021), CO₂ Emissions from Fuel Combustion (<https://www.iea.org/data-and-statistics>). All rights reserved.
4. Orbis Crossborder Investment (2021), Bureau Van Dijk. Montenegro is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2021 (accessed on 1 July 2021). For more information see Annex II of this report.

TD: Transmission and distribution of electricity

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

Of the three risks assessed in EIRA, *discrimination between domestic and foreign investors* is lower compared to *unpredictable policy and regulatory change* and *breach of State obligations*.

Montenegro’s performance is very good on two indicators, and it is good on two indicators. For the fourth consecutive year, it has maintained a very good score on *regulatory environment and investment conditions* (90) and *management of decision-making processes* (86). On the indicators *rule of law* and *foresight of policy and regulatory change* it has a score of 66.

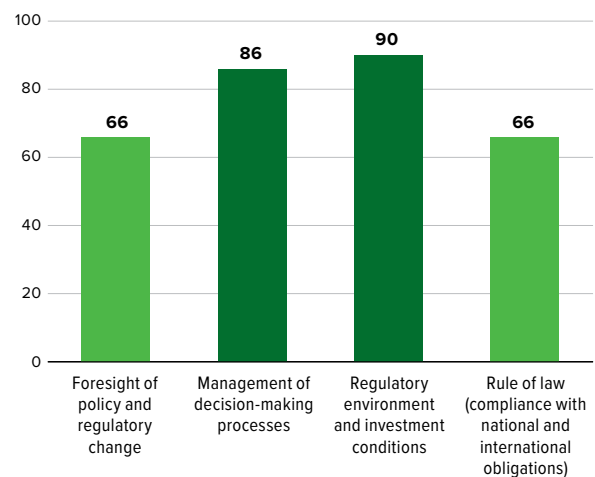
On a more detailed level, Montenegro’s overall sub-indicator performance is good. The highest-scoring sub-indicator is *regulatory effectiveness* (100), followed by *institutional governance* (94). Its score is 80 on *restrictions on FDI* and 79 on *transparency*. On *robustness of policy goals and commitments* it has scored 75. Compared to EIRA 2020, there have been no changes to its scores on *respect for property rights* (67) and *management and settlement of investor-State disputes* (65). *Communication of vision and policies* is the lowest-scoring sub-indicator at 56.

While Montenegro has the relevant policies and measures in place, there is potential for improvement. Attention should be given to better communicating the country’s vision and policies.

RISK LEVEL



INDICATOR PERFORMANCE

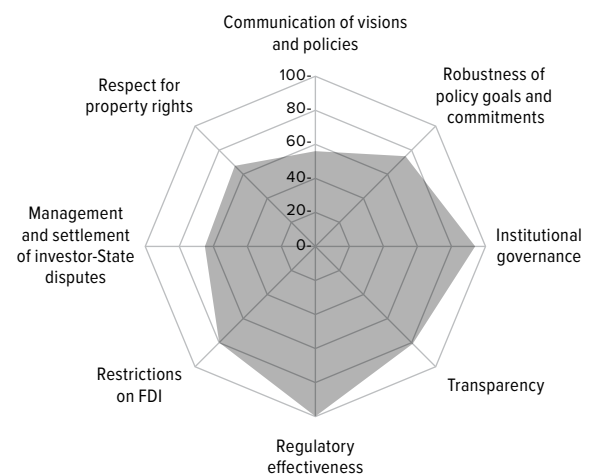


YEAR-ON-YEAR COMPARISON

| RISK AREAS | 2018 | 2019 | 2020 | 2021 |
|---|------|------|------|------|
| Unpredictable policy and regulatory change | 28 | 28 | 27 | 27 |
| Discrimination between domestic and foreign investors | 20 | 19 | 19 | 19 |
| Breach of State obligations | 34 | 34 | 34 | 34 |

| INDICATORS | 2018 | 2019 | 2020 | 2021 |
|--|------|------|------|------|
| Foresight of policy and regulatory change | 66 | 64 | 66 | 66 |
| Management of decision-making processes | 83 | 87 | 87 | 86 |
| Regulatory environment and investment conditions | 90 | 90 | 90 | 90 |
| Rule of law | 66 | 66 | 66 | 66 |

SUB-INDICATOR PERFORMANCE



Foresight of policy and regulatory change

QUICK FACTS

The Energy Policy 2030 (adopted in 2011) outlines the objectives for Montenegro's energy sector.

An amended version of the Law on Energy (OGM 005/16, 051/17, 082/20) entered into force in August 2020.

Montenegro ratified the Paris Agreement in 2017 and submitted its first NDC which covers the energy sector.

STRENGTHS

Montenegro has exceeded its overall 2020 renewables target (33%) as well as the sectorial targets for heating and cooling and electricity. The principal objective of the 2020 Law on Energy is to further enable the expansion of renewable power generation. To this end, it simplifies the procedure for connecting structures to the grid, introduces only one surcharge to be calculated according to the connection capacity and encourages prosumers. With international support, the Government is also drafting a new National Energy and Climate Plan (NECP) to replace the existing Energy Development Strategy until 2030. Between 2020 and 2021, interconnections with Serbia, BiH and Italy continued to progress. In terms of energy efficiency, the Government has pledged to allocate EUR 2 million in energy efficiency subsidies to the private sector. Moreover, by June 2020, ten new energy labelling and eco-design rulebooks were adopted.

The Eco Fund for Environmental Protection, a State-owned entity established through the National Energy Efficiency Action Plan 2019-2021, became operational in 2020. It is financed under the polluter pays principle, and its resources are to be utilised for environmental remediation and pollution prevention. Furthermore, the Law on Protection against Negative Impacts of Climate Change of 2020 envisages a national system for the monitoring, reporting and verification of GHG emissions. Electricity prices charged to industrial end-users and households and annual energy balances are collected by the Statistical Office of Montenegro and subsequently published by EUROSTAT.

AREAS FOR IMPROVEMENT

The adoption of the 2020 amendments to the Law on Energy aligns Montenegrin laws with the EU's acquis. However, the Government should take further measures in this respect, including the transposition and implementation of important regulations (e.g. Transparency, REMIT, CACM) and the enactment of missing legislation. The Parliament should enact the draft Law on Security of Supply of Oil Products, pending since 2016, the draft Law on Infrastructure, and the draft Law on Cross-Border Energy Infrastructural Projects.

The Government should establish the policy evaluation mechanisms and institutions prescribed in the law, such as the body responsible for monitoring the sustainability criteria of biofuels and bioliquids and the national authority for energy infrastructure.

Management of decision-making processes

QUICK FACTS

Following the 2020 election, the Ministry of Capital Investments is responsible for the energy portfolio and developing investment projects in the fields of energy and mining.

Since 2020, the Ministry of Ecology, Spatial Planning and Urbanism oversees environmental protection and climate change issues.

The Law on Free Access to Information, adopted in 2012, regulates the manner and procedure for exercising the right of free access to information. Currently, the process of revising the law is on hold due to the COVID-19 pandemic.

STRENGTHS

During the EIRA assessment period, reforms advanced under the Public Optimisation Plan 2018-2020. The implementation of the Law On Civil Servants and Public Employees of 2017, the adoption of the Law on Electronic Governance in 2020 and amendments to the Law on Electronic Identification and Signatures, aim to provide citizen-oriented administrative services. In October 2020, the Government submitted its Third National Communication on Climate Change that updates the GHG emissions inventory for the 2016-2017 period in line with the 2019 Refinement to the 2006 IPCC Guidelines for National GHG Inventories. The country is currently working on its third Biennial Update Report on Climate Change. The 2020 amendments to the Law on Energy require the digitalisation of several registers and records, including the licence and energy permits register, the register of guarantees of origin and privileged producers, as well as the distribution operator's records.

The latest amendments of the Law on Non-Governmental Organisations (NGO) in 2017 recognise the role of these organisations in implementing and monitoring public policies and clarify the rules on State funding of NGOs' activities. In April 2020, the Ministry of Public Administration launched a public consultation to assess the impact of this law and establish a working group with the participation of NGO representatives. Further steps taken to improve dialogue include the drafting of a new NGO Strategy for 2021-2023.

AREAS FOR IMPROVEMENT

The Government is making continual efforts to improve the administrative services and intensify cooperation with the public. To further its endeavours, the Government should finalise the draft Law on Free Access to Information that will guarantee proactive disclosure, timely exchange of information held by authorities, and users' access to data contained in registers. Also, the Government should sufficiently ensure in practice the genuine and systematic inclusion of relevant stakeholders.

Regulatory environment and investment conditions

QUICK FACTS

The 2020 amendments to the Law on Energy allow the Energy Regulatory Agency's (REGAGEN) management to decide on its internal organisation without governmental approval.

The 2019 legislation on PPP and public procurement are broadly aligned with the EU principles of transparency, equal treatment and non-discrimination.

STRENGTHS

The 2020 amendments to the Law on Energy have unbundled the transmission system operator. The distribution system operator is also unbundled in line with the EU acquis. The transposition of the EU Electricity Network Codes is a significant step towards ensuring transparent and non-discriminatory network access. Moreover, the amended law provides a legal basis for organising the day-ahead market and designating the market operator. It also aims to expand renewable electricity production further. To this end, it clarifies the provisions on electronic register and contents of guarantees of origin and self-generation of renewable electricity. Although the country is not yet connected to natural gas systems, the amended Law on Energy has created a favourable regulatory framework for small liquefied natural gas infrastructure. Since February 2021, REGAGEN has been working with the Ministry of Capital Investments to adopt regulations on renewable energy production and the calculation methods of shares for different renewables in the total energy production.

The Government continues to support investments in wind and solar power. In 2020, it successfully concluded auctions for one wind and one solar power project and signed the associated Power Purchase Agreements. The Brajići wind farm, for which the land lease agreement was signed in August 2020, is expected to generate around 220 GWh per year. Moreover, the State-owned power utility, Elektroprivreda Crne Gore (EPCG), along with other State-owned and private energy companies, recently presented an ambitious investment portfolio of EUR 1 billion, which includes the construction of the Gvozd wind farm, the Briska Gora solar power plant and the Komarnica hydropower plant. EPCG also intends to support electricity production by individuals and assist them in installing solar panels on private land.

AREAS FOR IMPROVEMENT

Given the relevance of the labour regime both as an investment condition and as a piece of legislation to be aligned with the EU acquis, the Government should consider eliminating the existing annual quotas on the number of foreign workers and the restrictions imposed by the Law on Foreigners of 2019 on intra-corporate transfers.

Rule of law

QUICK FACTS

Montenegro ratified the ECT 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

The Government is currently working to achieve the standards reflected in Chapter 23 and 24 of the EU accession negotiations. Amongst the key requirements therein is the need to strengthen the independence, accountability and efficiency of the judiciary. To this end, the Government has adopted the Strategy for the Reform of the Judiciary (2019-2022) and its accompanying Action Plan, and the Judiciary ICT Development Programme (2021-2023). Judicial and prosecutorial councils regularly assess the performance of judges and public prosecutors, while the Judicial Training Centre conducts professional training. Since 2019, a positive trend in alternative dispute resolution has been established with a number of cases being referred to the Mediation Centre and the Agency for Peaceful Settlement of Labour Disputes.

The Law on Foreign Investment as amended in 2014, guarantees protection from expropriation. The assets of foreign investors may not be subject to expropriation, except when a compelling "public interest" is determined based on law, in which case compensation at fair market value is due to the investor. The relevant procedure, including the determination of compensation, is administered by a designated body. Legislative alignment with the EU acquis continues on patents, trademarks and trade secrets and preparation of the new national IP strategy is ongoing. Furthermore, the IP rights coordination team meets regularly with the World Intellectual Property Organization officials. Together, they have organised joint actions to raise awareness and strengthen cooperation among IP authorities and rights holders.

AREAS FOR IMPROVEMENT

The Government should introduce timeframes for concluding judicial proceedings and the delivery of judgements to reduce case backlogs and congestion.

To further improve the efficiency of the judicial system, the Government should consider establishing an investment ombudsperson to process private parties' complaints against public administration. Also, the possibility of mediating disputes with State authorities should be extended to investors.

The definition of "public purpose" as grounds for alienation of private property should be stipulated in law.

IMPLEMENTATION STATUS



Montenegro

| PROPOSED IN | EIRA AREAS FOR IMPROVEMENT | IMPLEMENTATION STATUS AS OF 1 APRIL 2021 |
|--------------------|--|---|
| Indicator 1 | | |
| | Adopt national action plans that set long-term and outcome-oriented targets for the energy priorities. | Work ongoing. The 4th National Energy Efficiency Action Plan was adopted in 2019. |
| 2018 | Enhance the independence of the monitoring bodies and increase the capacities of certain agencies such as the Inspectorate for Energy Efficiency and the Eco Fund for Environmental Protection. | Work ongoing. The Eco Fund for Environmental Protection became fully operational in 2020. It is financed under the polluter pays principle, and its resources are to be utilised for environmental remediation and pollution prevention. Furthermore, the Law on Protection against Negative Impacts of Climate Change of 2020 envisages the establishment of the national system for the monitoring, reporting and verification of GHG emissions. |
| 2020 | Revise and adopt documents, such as the Action Plan on Compulsory Strategic Reserves of Oil and Petroleum Products, the draft Law on Security of Supply of Oil Products and the draft Infrastructure Law that will bring the country's legal framework in conformity with the EU acquis. | Work ongoing. In 2020, the Government amended the Law on Energy. |
| Indicator 2 | | |
| 2018 | Reinforce stakeholder engagement and ensure the practical implementation of laws on transparency in decision-making. | Work ongoing. In 2020, the Government invited comments on proposed amendments to the Law on Energy. Moreover, the Government is finalising the draft Law on Free Access to Information that will guarantee proactive disclosure and timely exchange of information held by public authorities. |
| Indicator 3 | | |
| 2018 | Relax annual quotas on the number of foreign workers that can be employed in the country. | Pending |
| Indicator 4 | | |
| | Set definitive timelines for the delivery of judgements on all levels (first instance and appeal) and by all courts (civil, administrative, and penal). | Pending |
| 2018 | Adopt alternative dispute resolution mechanisms such as mediation and establish a foreign investment ombudsperson authority. | Work ongoing. Since 2019, a positive trend in alternative dispute resolution has been established with a number of cases being referred to the Mediation Centre and the Agency for Peaceful Settlement of Labour Disputes. |
| | Establish criteria to determine which activities constitute "public purpose" in the context of expropriation. | Pending |