



AMCHAM
MONTENEGRO

BUSINESS CLIMATE REPORT 2016



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Introduction





The 2016 Business Climate Report (BCR) is the fourth report prepared by AmCham Montenegro (AmCham) since its establishment in November 2008. The Report represents the overview of the opinions of AmCham member companies regarding the conditions for doing business in Montenegro.

As in the previous reports, AmCham issued a questionnaire to its members asking about the overall conditions for doing business and within specific areas, i.e. Rule of Law, Human Recourses, Taxation, Real Estate and Construction and Infrastructure. This year, AmCham introduced a new section of the questionnaire related to conditions for doing business in the area of Health Care. The Report is prepared every second year, mirroring the views and opinions of AmCham member companies, with no single member opinion specified in the Report. Likewise, this Report does not have the ambition to be a scientific study, so it does not elaborate in details the stated issues.

Within the questionnaire sent to our members, AmCham asked companies to rate specific issues or areas for doing business. Companies were asked to stress both positive and negative aspects of doing business in the country. Likewise, for the purpose of creating a clear picture through the timeframe we wanted to explore, members were asked to identify changes in the business climate in the previous 2 years. AmCham office then used the data to create an even wider picture by comparing data with the results of reports from previous years.

The Business Climate Report represents the most important document for AmCham advocacy priorities in a two-year period. Besides this report, AmCham advocacy committees are preparing specific documents that elaborate a single topic

in more details. We decided to recognize those activities in the 2016 BCR and conducted interviews with committee chairs in order to create a clear picture of broader AmCham advocacy efforts. In order to make a clear distinction between committee work and the survey findings, the interviews are published at the beginning of each chapter, followed by BCR 2016 survey results related to the specific chapter.

AmCham Business Climate Report will be presented to the main decision-makers in Montenegro, i.e. the Government and the Parliament of Montenegro. Other governments' representations, international organizations, business associations, present and potential investors will be presented with the findings of the 2016 BCR.

AmCham would like to thank the member companies who provided information and input for this project. Since the entire findings rely on opinions of our member companies, the feedback of our members is of utmost importance.

AmCham would also like to thank our partner in this project, DeFacto Consultancy for their support in the project. DeFacto prepared and distributed the questionnaire to our members and prepared the results for AmCham office.



Executive Summary



AmCham 2016 Business Climate Report represents the overview of the opinions of AmCham member companies regarding the conditions for doing business in Montenegro. AmCham members graded the state of the business climate for the following areas: overall conditions for doing business, Rule of Law, Human Recourses, Taxation, Real Estate and Construction, Health Care, Infrastructure and other conditions for doing business. Members were asked to identify both positive and negative aspects of doing business, hence indicating the priorities the Government of Montenegro should have in the following period.

Having in mind that the Report is issued in the same period a new Government of Montenegro is established, AmCham believes our members' opinions might be of assistance in creating Government's priorities for the next two years.

Based on the inputs from the business community, the findings AmCham made are as follows:

- »» Some of the most attractive elements for doing business in Montenegro are the expected membership in NATO and EU, the geographical position of the country, tax rates, and the Euro as the official currency.
- »» About a half of surveyed members believe the business climate has not been changed in the past two years.
- »» A vast majority of surveyed members support Montenegro's integration into the EU and NATO.
- »» The business community is positive about the Montenegrin business outlook in the following five-year period.
- »» The business community must be more involved in the process of drafting legislation. Companies are willing to share their knowledge and experiences from implementing the legislation on the daily basis. The Government should use this source of valuable information and create laws that mirror both the legal system of Montenegro and the overall state of the practice.
- »» Further improvements must be done in the area of the Rule of Law. The judicial procedures still last for a number of years and the effectiveness of the courts needs to be improved.
- »» The scope of the grey market is still at a worrying level. Further improvements of the law implementation and level playing field would contribute to reducing the grey economy in the country.
- »» The overall state of the labor market is seen as poor. The main challenges in this area remain the tax and contribution rates, the Labor Code of Montenegro and the lack of qualified labor force.
- »» The recent changes of the Law on Foreigners did ease the procedures for employing the scarce labor force in certain areas. Still, there is room for significant improvements in this area.
- »» The skills and qualifications of Montenegrin labor force must be improved, with placing an accent on the soft skills of Montenegrin youngsters. Knowledge of foreign languages must be supported and stimulated.



- »» Corporate income tax and the VAT are seen as favorable. Likewise, the recent reduction of VAT for hospitality services is seen as a positive step towards improving conditions for businesses in this area.
- »» Further improvements need to be undertaken in developing Montenegro's infrastructure. Rail infrastructure and waste treatment are the burning issues which must be improved in the following period.
- »» Improvements must be introduced in transparency and clarity of tax regulations, as well as their implementation. The communication between state bodies and the private companies must be improved, hence contributing to a better predictability of the tax system.
- »» The liquidity of SME's still remains on an unsatisfactory level.
- »» Improvements must be done in transparency and fairness of the public procurement process.
- »» The Tax Authority should continue the good path of improving the collection of debts and make further improvements in this area.
- »» Investors in the area of real estate and construction still face serious issues with property rights, as well as the effectiveness of the administration servicing their projects. Communal fees must be abolished in the forthcoming period.
- »» The Spatial Plan of Coastal Area should be revised, with the accent on the provision which defines the reduction of construction land.
- »» Further improvements are necessary in the transparency of decision-making in the area of health care.
- »» The Government should stimulate a level playing field in the area of health care, by removing any favorable institution in the supply of patients with medicines.



Business Climate Overview





The 2016 was in many aspects a very important year for Montenegro. The country celebrated the first decade of its independence and a thousand years of statehood. With the invitation to join NATO received in December 2015, member states are constantly ratifying the agreements, enabling Montenegro to join the Alliance. With parliamentary elections held in October 2016, we can close the vivid picture of crucial events for the small Balkans state. All of these events, though in essence political, significantly influenced the business climate.

Beside Montenegro's expected membership in the two most important international organizations to date, the EU and NATO, there are other conditions which are perceived as favorable for businesses.

When talking about the positive sides of investing in Montenegro, private entities perceive tax rates, the Euro as the official currency and the growing market as one of the most attractive elements for doing business. Also, Montenegro's geographical position remains to be one of the most mentioned strengths of the country.

In order to measure the real satisfaction of the business sector with the climate in Montenegro, we asked our members to rate the business climate in their industry sector on a scale from 1 to 10. The overall grade that the Montenegrin business climate received is 5.57, indicating that there are still significant improvements that must be done to achieve a favorable business environment.



THE OVERALL GRADE OF THE BUSINESS CLIMATE IN MONTENEGRO



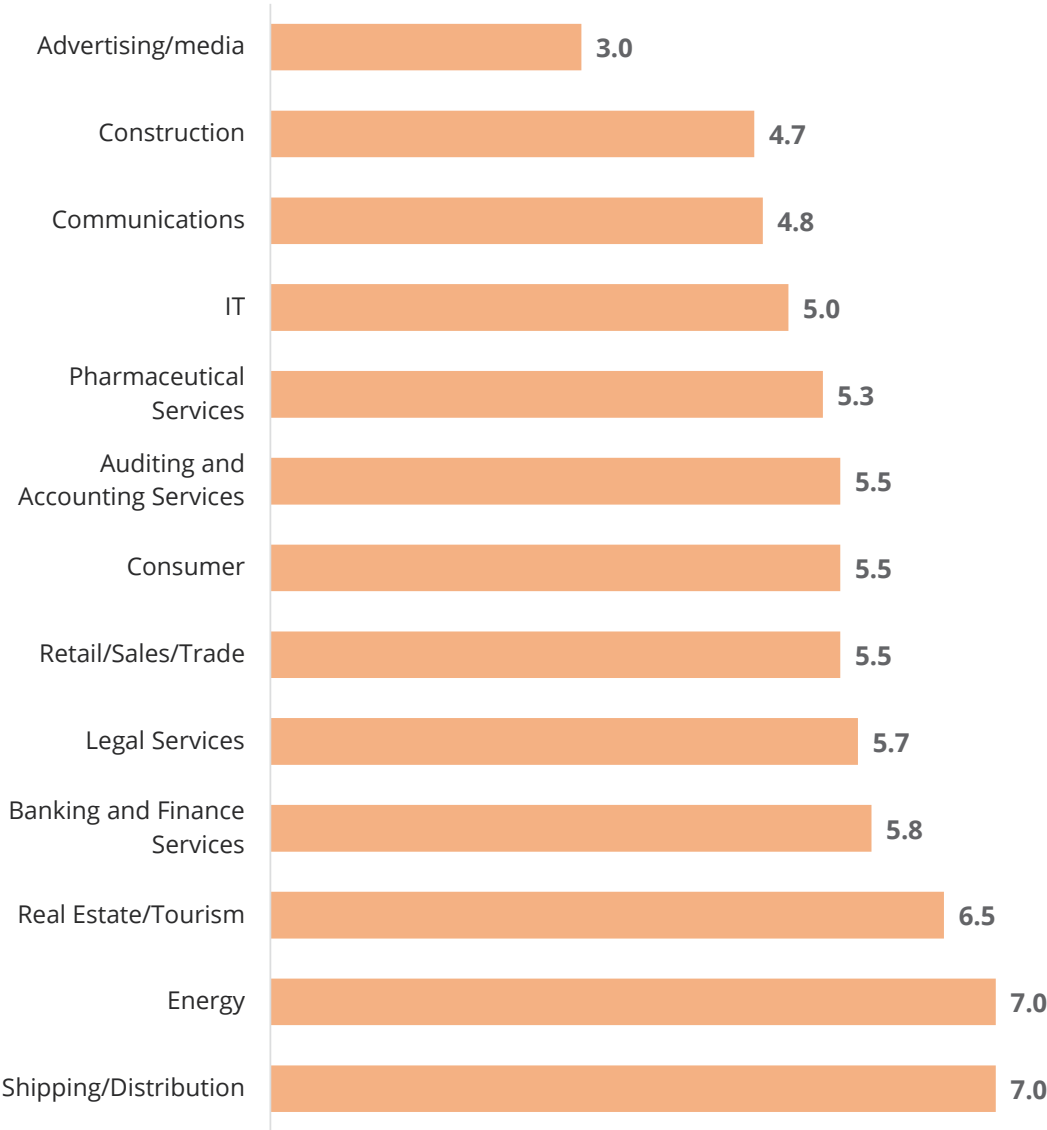


It is interesting to see that Energy and Distribution and Shipping are marked as the industry sectors with the most favorable business environments,

receiving the grade 7. On the other side, it is troubling to see that Advertising and Media are rated with the lowest grade, i.e. 3.



BUSINESS CLIMATE IN MONTENEGRO - INDUSTRY OVERVIEW



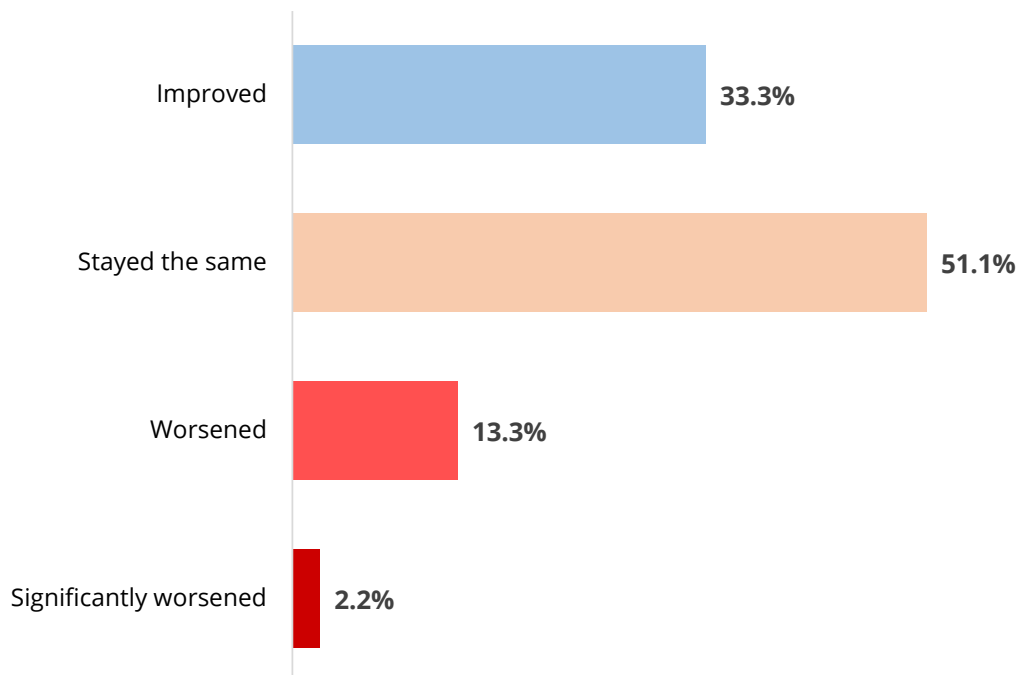


When taking into consideration a two-year period in measuring the state of the business climate, around a half of surveyed members do not perceive changes in the business climate. However, one

third of our members do see improvements in the business climate. About 15% state that the business climate in their industry sector has worsened or significantly worsened.



TWO-YEAR OVERVIEW OF THE BUSINESS CLIMATE





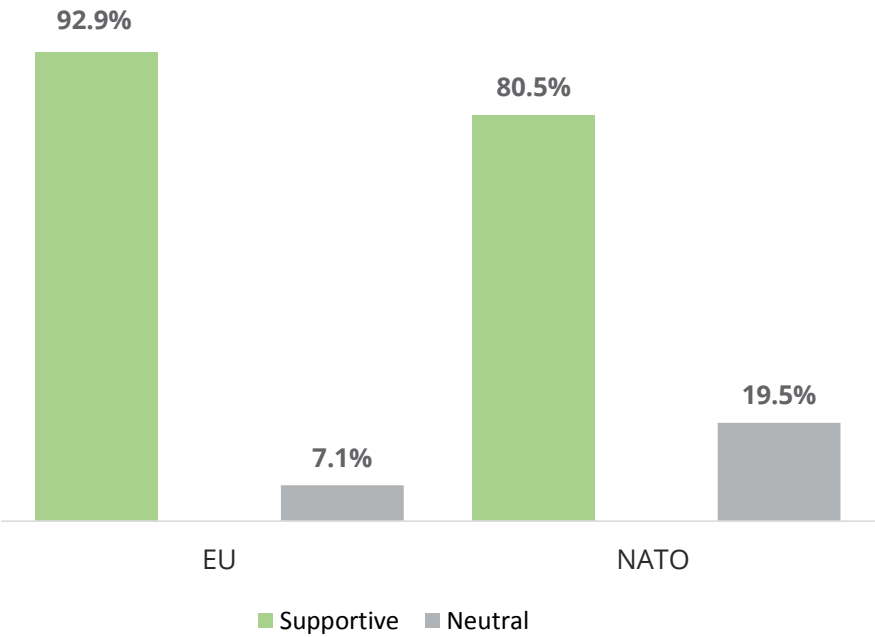
As said, Montenegrin membership in the EU and NATO are the courses the country has taken since its independence. These two memberships are perceived as very influential for attracting new investors. From the survey conducted with AmCham members, we can see that the business community

present in Montenegro does support Montenegro joining the EU (92.9%) and NATO (80.5%).

Likewise, similar percentage of members supporting the memberships, believe these events would improve the business climate in the country.

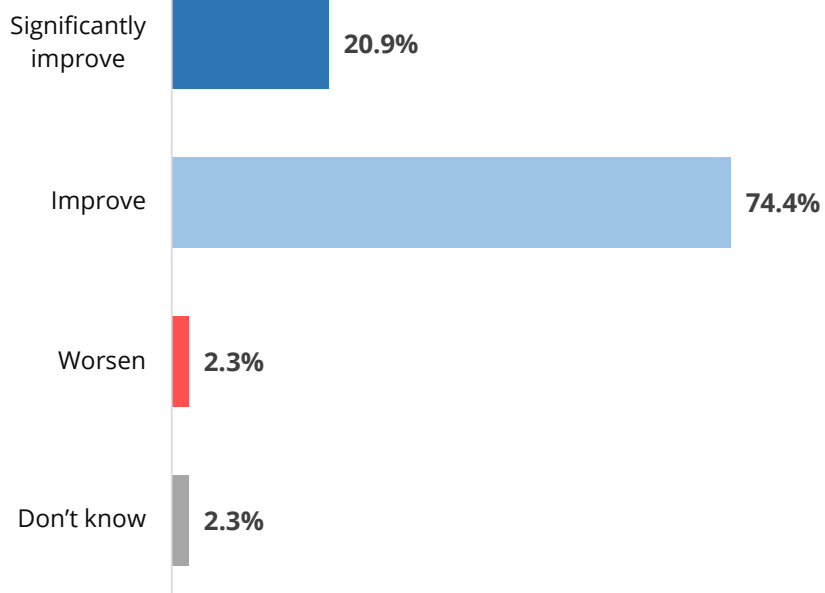


AMCHAM MEMBERS' POSITION REGARDING
EU AND NATO MEMBERSHIPS

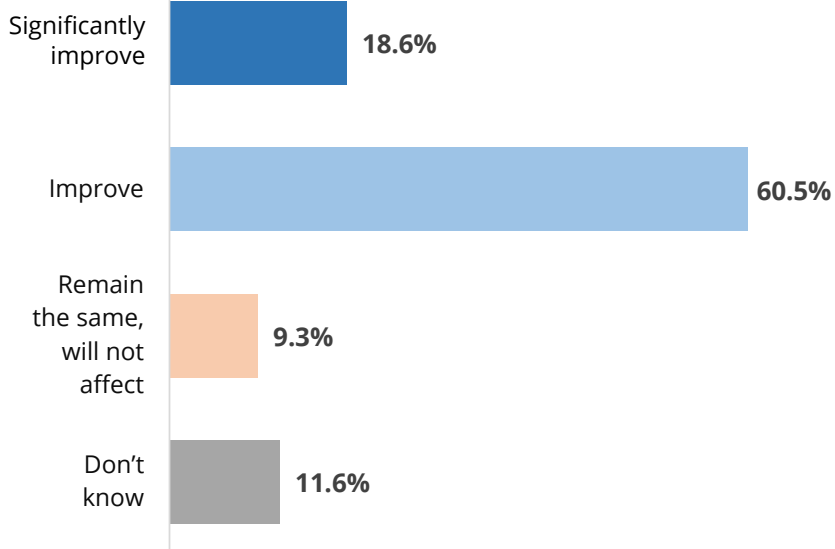




THE IMPACT OF EU MEMBERSHIP ON THE BUSINESS CLIMATE



THE IMPACT OF NATO MEMBERSHIP ON THE BUSINESS CLIMATE



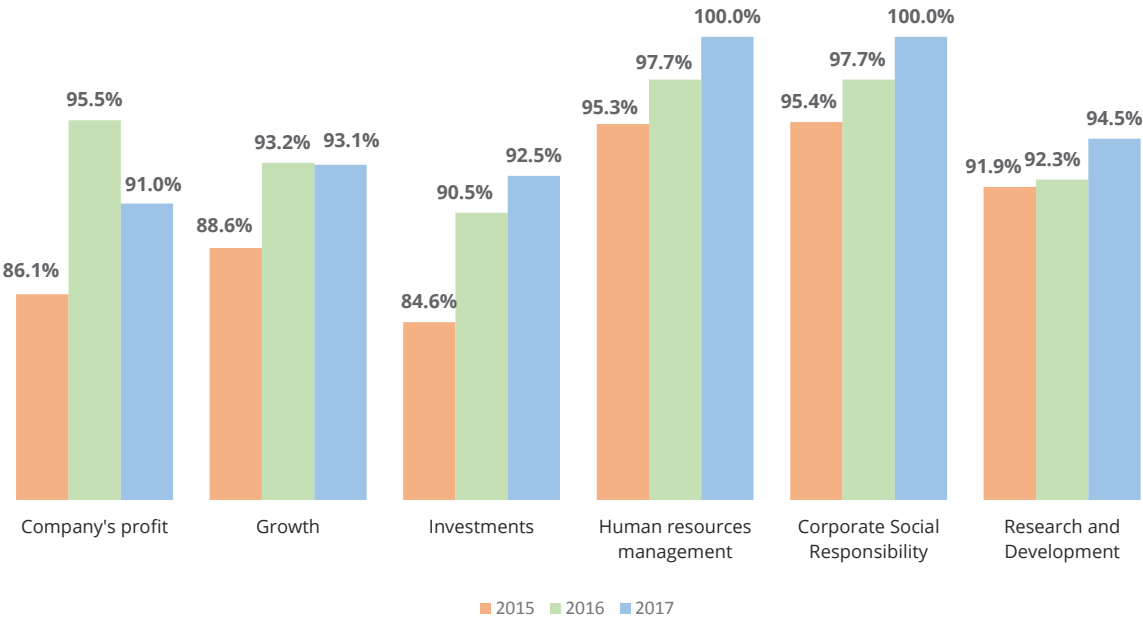


Besides describing the current state of the business climate, AmCham asked members to assess their company's results in the previous, current and the forthcoming year. It is encouraging to see that the assessments show a positive trend. When assessing company's profit, about 86% of members marked it as good or very good in 2015, and 95.5% stated the same for the current year. Likewise, 91% believe that the profits will be good or very good in 2017. About 89% of companies rated their growth as good or very good in the previous

year. We perceive a growth trend, with about 93% of companies marking their growth in this year as good. About the same number of companies expect similar results in growth for 2017. It is encouraging to see that more companies plan investments in the forthcoming period. Each year more surveyed companies have marked their human resources management and corporate social responsibility as good or very good. Likewise, the data show slight growth for each year when it comes to research and development.

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COMPANY'S RESULTS EVALUATION FOR YEARS 2015/2016/2017





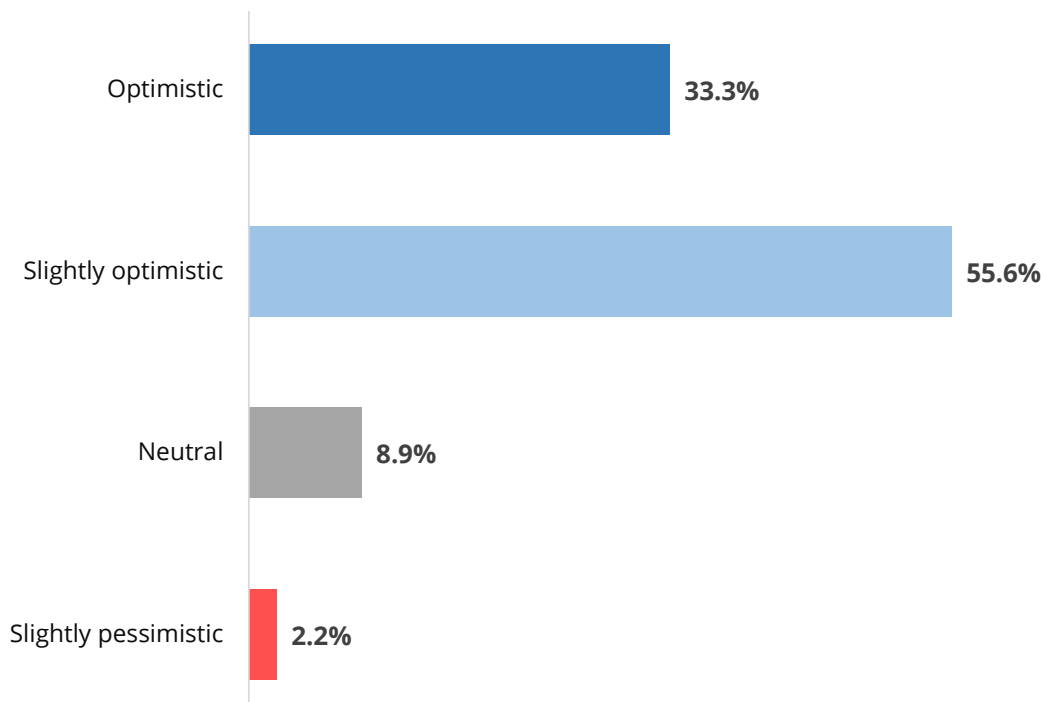
Along with this data, members were asked to describe their five-year business outlook for Montenegro. It is encouraging to see the optimism of the business community, with about 89% of surveyed members stating their outlook as optimistic or slightly optimistic. On the other side, only 2.2% of surveyed members are slightly pessimistic about their company's future.

The main reasons members state for their optimism are the forthcoming integrations of the country, the prognosis for economic growth, as well as

infrastructure development and the potential the country has for IT development. On the other side, the pessimists state the lack of transparency in decision making and the lack of dialogue between the business and the public sectors, as hindering the business environment in the future. Likewise, the rigid procurement system, as well as the lack of level playing field are reasons for concern. Another important issue to be improved in the near future is the treatment of the present investors and resolving delays in planned investments.



COMPANY'S FIVE-YEAR BUSINESS OUTLOOK





Rule of Law





INTERVIEW WITH THE GREY ECONOMY COMMITTEE PRESIDENT, MR. VIDAĆ STANIĆ

Corporate and Commercial Affairs Specialist, Corporate Affairs Area - Legal Directorate and Company Secretariat, Crnogorski Telekom

AmCham: How would you describe the current state of the grey market or grey economy in Montenegro?

Mr. Stanić: The grey market is a very complex term, within which we can diversify different industries in which companies are mostly influenced by the unfair competition and consequently weaker competitiveness. For example, those industries are: intellectual property, labor market, gambling, hospitality, production, import and trade with excise products, etc.

If we discuss the intellectual property as one of the drastic examples and activities of the Committee, we can say that the piracy rate in Montenegro is very high in comparison to rates in the EU.

AmCham: Which activities did AmCham Grey Economy Committee undertake in the last two years in order to improve the conditions for doing business in this area?

Mr. Stanić: AmCham Grey Economy Committee (GEC) tried to provide its contribution to reducing the grey market by commenting on legislation which in our opinion consist of problematic norms. Likewise, in the area of protecting the intellectual property rights we worked on educating those who implement the law and finally, the citizens themselves.

This year, GEC presented the Ministry of Economy with a position document providing suggestions for amending the Law on Enterprises, for which we believe that would contribute to a safer and efficient framework for doing business in Montenegro. Likewise, last year we organized workshops for public administration, i.e. Tax Authority and Market Inspection. The topic of the workshop was the illegal use of software and new technical solutions in this area. In April, this year, together with the Tax Authority and our member company Microsoft, we organized a press conference aiming at raising awareness about the illicit use of software in Montenegro.

AmCham: Where do you see improvements in reducing the grey economy in the last two years?

Mr. Stanić: It is evident that the public administration did undertake activities in this respect, in particular with including the business community in solving this problem. Likewise, the improvements are seen through education of those who are in charge with inspection and whose powers are one of the most important tools for reducing the grey economy. This is also the result of the GEC and its members directly interested in this issue.

AmCham: Which areas or issues do you still perceive



as important to tackle in order to reduce the scope of grey economy in Montenegro?

Mr. Stanić: Surely that is the clear and nonselective implementation of regulation. We are all aware that the current legislation is in accordance with the recommendations of the EU, but the implementation of the existing regulatory framework is an area which requires further efforts. Thereby I do not talk about definite activities with their beginning and their end, but about a constant process which must include all stakeholders with strong cooperation of the state and the business community. With this synergy and consulting the best EU practice, I believe that we can expect results in reducing the scope of grey economy. We could even eliminate this negative phenomenon which equally hinders companies which do business in accordance with the law, but also the state (through inefficient collection of debts which negatively affects the budget), as well as citizens as final users of the budget.

AmCham: How do you evaluate the functioning of judicial system in Montenegro in the sense of efficiency of courts and implementation of court decisions?

Mr. Stanić: The overall grade of the court system is determined by a number of factors, but I would say that in the last 5-year-period it was significantly improved. When I say factors, I mean the ones that determine the type and complexity of disputes, where some of them (for example in the area of real estate, property, etc.) still last for very long time. The case overload in some courts in comparison to others is also evident (central and south region courts in comparison to the northern courts). This difference significantly influences the time scope for resolving legal disputes. Likewise, in the last years, there were a number of rotations

in judicial positions, whether due to transfers to a higher instance or abandoning the judicial position. According to the law, this leads to the renewal of the entire procedure. What I would also say that additionally burdens the procedure is the competence and the approach of legal experts, in particular when in some areas there are multiple expertise or their interference in legal matters.

It is necessary to further improve and speed the resolution of disputes which can, in case of untimely resolution, cause damages for one of the parties. With regards to the implementation of court decisions, unfortunately the validity of the decision does not mean that the party who wins the dispute will obtain its right. This in particular, because the institute of temporary prohibition of asset disposal is not implemented in practice, as it should be. This means that the person winning the dispute will not necessarily obtain his/hers legal right.

AmCham: How do you evaluate the efficiency of debt collection in the past two years?

Mr. Stanić: The efficiency of debt collection was improved by introducing public executors, which, on a certain level, have reduced the burden from the courts in the area of preliminary decisions and implementation of execution decisions. Beside visible improvements, it is still noticeable that a number of debtors make pleas against execution decisions, without legal basis and proofs. The courts accept these pleas and turn them into disputes. On the other hand, with introduction of the public executors some of the mechanisms that exist for some time were more effectively implemented (such as blocking one's income, bank accounts, etc.). These measures were particularly effective with citizens, whose awareness was raised with respect to the importance of paying their bills on time and avoiding significant and unnecessary costs.



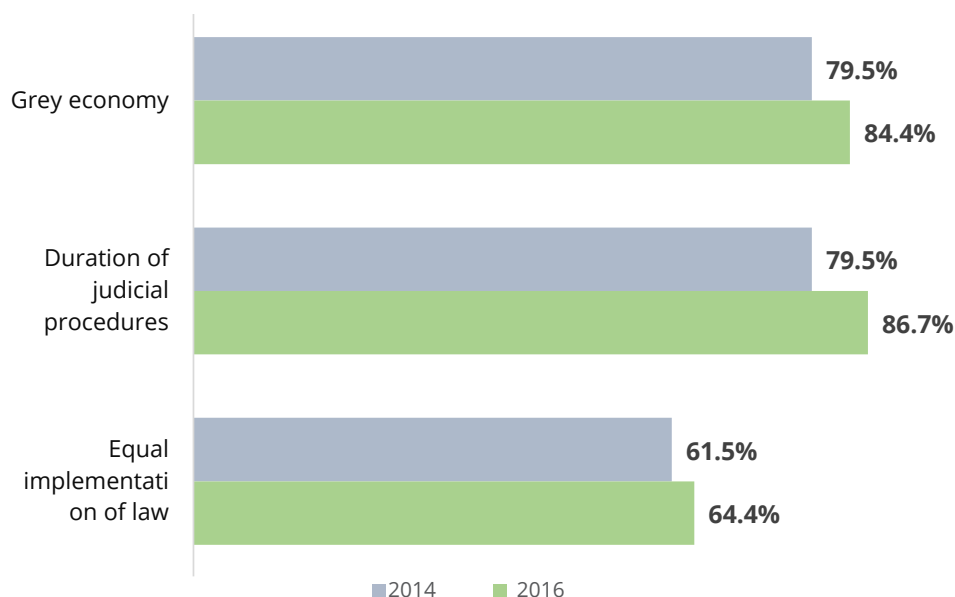
>>> RULE OF LAW – AMCHAM BUSINESS CLIMATE SURVEY RESULTS

In the area of the Rule of Law the duration of judicial procedures and the scope of the grey economy still remain the issues which concern the most our member companies. The judicial procedures still last for a number of years, impeding investors to terminate their projects in time and augmenting the

losses. Member companies report active court cases that date from 5 or more years ago. These two issues were also a subject of concern in the AmCham BCR published in 2014. In both surveys, a very high number of member companies rated these areas as poor or very poor, with the numbers increasing in 2016.



STATE IN THE AREAS RATED AS POOR OR VERY POOR



In percentages, about 87% of surveyed members rated the duration of judicial procedures as poor or very poor. Moreover, about 62% of our members state that the conditions have not changed in the previous two years. Similar trends are valid for the grey economy. About 84% of surveyed members has rated the grey economy as a serious problem. In addition to that, just a little less than 50%

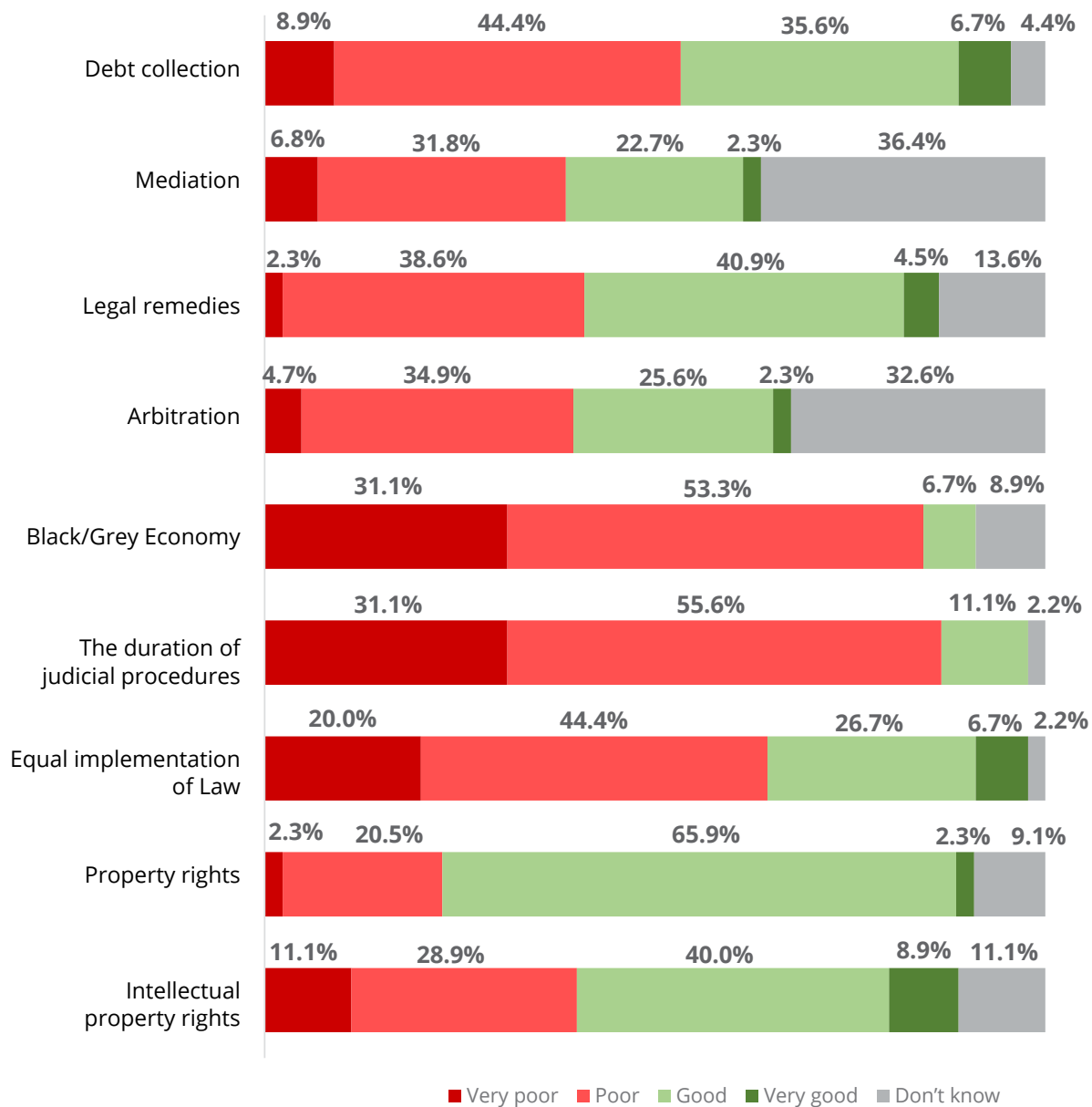
of members state that the conditions have not changed in the last two years. About 64% of surveyed members stated that the equal implementation of laws is poor or very poor, and 60% of members do not see changes in this area in the past two years.

On a more positive side, about 68% of members saw the issue of property rights as being good or very good.



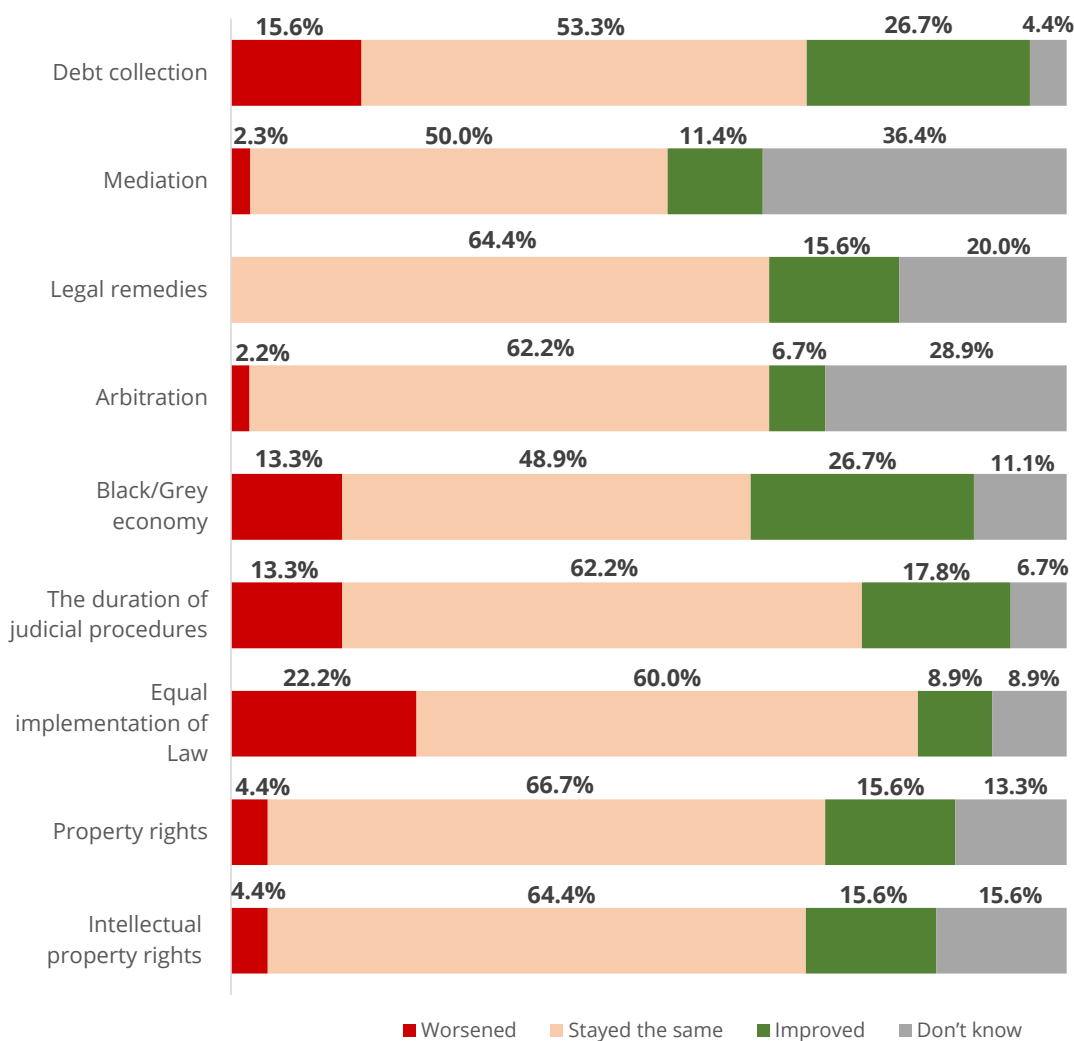
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RULE OF LAW – CONDITIONS FOR BUSINESS





RULE OF LAW - CHANGES IN CONDITIONS FOR BUSINESS



What surveyed members stress as important is to enhance the efficiency of courts, educate judges about the market economy, but also to assure the implementation of court decisions. With regards to the grey market, members stressed the equal

implementation of laws and the level playing field as the most important issues to be provided by the institutions in Montenegro, in order to improve the business climate.



Human Resources



INTERVIEW WITH THE LABOR RELATIONS COMMITTEE PRESIDENT, MS. DRAGANA STOJKOVIĆ

Labor Relations and Internal Regulation Expert, Human Resources Directorate, Chief Executive Officer Area, Crnogorski Telekom

AmCham: How would you describe the current state of the labor market and labor regulations in Montenegro?

Ms. Stojković: The current state of the labor market and labor regulations in particular does not differ significantly from the period behind us. We do notice a more intensive competition between employers in the IT sector for hiring employees with specific qualifications, which are scarce on the market. On the other hand, the interest for the area of human resources management is on the rise, meaning that we are developing as a society and recognizing the importance of a developed HR and ready to invest in this area.

AmCham: Which activities did AmCham Labor Relations Committee (LRC) undertake in the previous 2 years, in order to improve the business environment in the area of labor relations?

Ms. Stojković: During the last two years, AmCham Labor Relations Committee focused on the legislation in the area of labor relations, cooperation with other relevant business associations, as well as sharing experiences in the area of human resources management. Having in mind the importance of a quality and

predictable legal framework, in the end of 2015, members of AmCham LRC were involved in the expert working group for drafting the Labor Law of Montenegro. Hence, we were given the chance to propose solutions and comment the new Labor Law, which is currently being prepared. The basis for our work is the position document from April 2014, which represents a consistent starting point for the positions we are advocating for.

The Committee was also active in the area of employment of foreigners, by participating in an initiative of the Montenegrin Foreign Investors Council, which resulted in signing the position document on the Law on Foreigners in September 2015. This initiative contributed to improving the state in this area, when in March 2016 the Government renounced some solutions that were seen as limiting and detrimental for the business environment. Today, we have still an imperfect Law in place, but it is a fact that the most deteriorating clauses were removed, hence some of our and other business associations' opinions were respected.

The first two quarters in 2016 LRC focused on the Proposal for Amending the Labor Law, which was to come into force on July 1, 2016. This time the most prominent business associations acted persistently and with specific arguments in raising the awareness about the problematic issues that



were integrated in this text. We are glad that our efforts had positive results.

Likewise, we are very proud of our regular thematic meetings of the HR community which are organized on a quarterly basis aiming at exchanging experiences and connecting professionals who deal with human resources management. Hence, we stepped over the boundaries of the Committee work and encourage colleagues from HR community to talk and exchange experiences in this area. The meetings are well attended and prepared in a manner that member companies host the meetings. I believe that these meetings represent an efficient manner of development and connection of HR professionals and those who would like to become HR professionals.

I believe it is important to mention the AmCham Internship Program, even though it is not directly related to the work of this Committee. The Program is organized for six years already and it is a good practice and a chance for promoting the professional engagement of youngsters, who have a chance to try in real business the skills they learned in college.

AmCham: Where do you see improvements in the business climate in the area of labor in the last two years?

Ms. Stojković: The improvements of the business climate are seen in the enhanced transparency of the decision-making process and the much present inclusion of the business in the process preceding the adoption of the legislation in this area. Likewise, the Government showed a more liberal approach to the issue of labor relations with the proposal of the Labor Law provided by the Ministry of Labor and Social Welfare. We hope that the future activities will be channeled in the same direction. The improvement of the business environment

is also visible in the area of human resources management, in particular those related to professional development and motivation of employees. These efforts make our market closer to the global trends in this area.

AmCham: Which areas or issues do you still perceive as important to tackle in order to improve the business environment in Montenegro?

Ms. Stojković: I believe that special focus should be placed on assuring that all employers respect the law. In contrary, the employers who do respect the law are in placed in an unfavorable position of unfair competition, which should not occur. On the other hand, the employees should be reminded from time to time that there cannot be employees without successful employers. This is the task of both the Government and the business associations – to promote legality of doing business.

The second segment is the stabile, clear and liberal regulation, which is in line with the European standards. In this respect, it is important to talk about the new Labor Law, since the expectations are high regarding this Law. Likewise, the norms of the Law on Foreigners must be further improved. I see further improvement possibilities in the Law on Voluntary Work, having in mind the impression that this Law is not adequately integrated in our system.

The cooperation with the authorities in the process preceding the adaptation of laws and regulation should be stronger and more productive. Hence, there cannot be cooperation just for the sake of cooperating, but a true understanding of problems of the business on one side and understanding the future development directions of the country on the other.



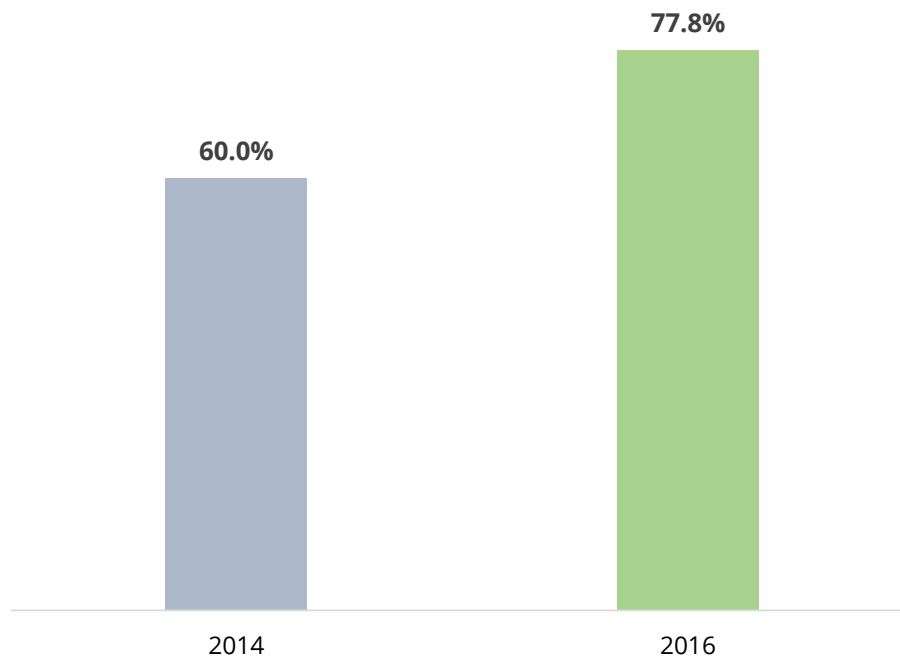
>> HUMAN RESOURCES – AMCHAM BUSINESS CLIMATE SURVEY RESULTS

Very little has changed in the area of human resources since the issuing of the last Business Climate Report in 2014. The overall state of the business climate in this area is still

perceived as poor. About 78% of members rate the state of the labor market as poor or very poor in this year's survey, compared to 60% in 2014.



STATE OF THE LABOR MARKET RATED POOR OR VERY POOR



The main challenges businesses state in this area are the tax and contribution rates, the Labor Code of Montenegro, as well as the lack of qualified labor force.

The tax and contribution rates were indeed reduced in 2016, with the Government making a decision on reducing the so called “crisis tax”, which was imposed on the personal income tax. The personal



income tax rate is 9%, and the additional tax was reduced from 4% in 2015 to 2% in 2016. Still, about 67% of surveyed members perceive tax and contribution rates as high.

The Labor Code of Montenegro consisting of the Labor Law and various levels of collective bargaining agreements is perceived as outdated and not in line with the functioning of the labor market. Reforms must be done in the area of making the regulation more simple and flexible. One of the most important improvements in this area would be the changes of the current procedure for dismissing workers and a simpler definition of salaries. AmCham firmly believes that the Labor Law of Montenegro needs to be the principal legal act which defines the employee – employer relationship. All collective agreements should be in line with the Law.

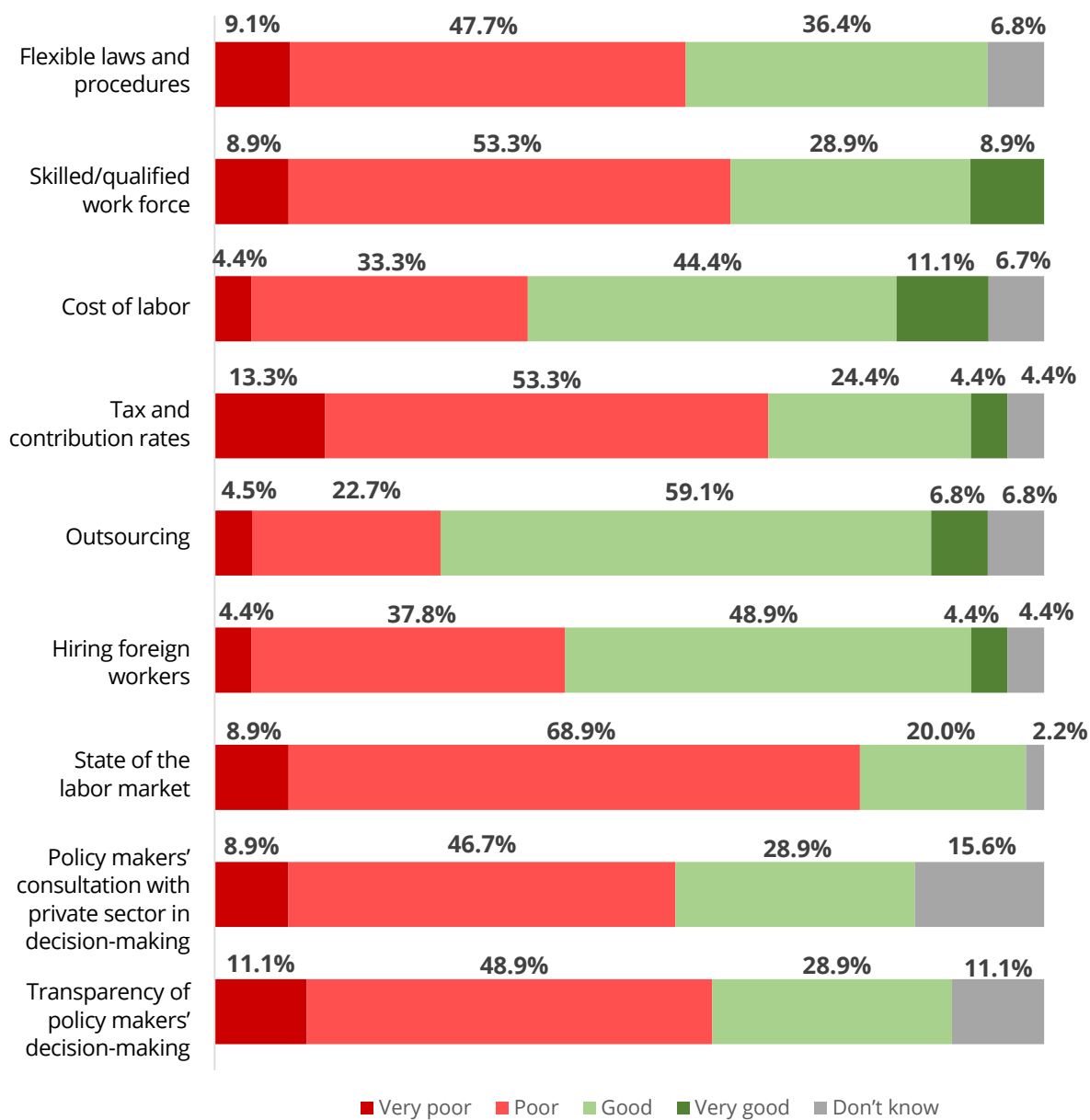
On a more positive note, outsourcing and hiring foreign workers are well graded. Hiring foreign workers was eased in 2016 with the amendments of the Law on Foreigners. The business community strongly advocated for the changes of the provision which stated that in order to hire a foreigner, a company must obtain a proof that there are no unemployed Montenegrin citizens with the same degree and qualifications. During 2016, this provision was changed, allowing the employers to choose their workforce based on criteria important for individual companies.

Member companies were asked to rate the policy maker's consultation with the private sector in the decision-making process. 55,6% of members rated their involvement in decision-making as poor or very poor, indicating that the private sector expects to be more involved in creating policies that strongly affect their businesses.

Another very important issue to be constantly dealt with are the skills and qualifications of Montenegrin labor force. Companies have trouble finding qualified middle managers, but also some industry specific knowledge. Lately, beside Government programs, employers have initiated various internship programs in order to train the labor force. Another issue employers are faced with is the willingness of the youngsters to work for the Government instead of private companies. This trend has to be changed with strong cooperation between the Government and private entities in informing and educating youngsters about the needs of the market and making private companies a more attractive employment option.



HUMAN RESOURCES - CONDITIONS FOR BUSINESS



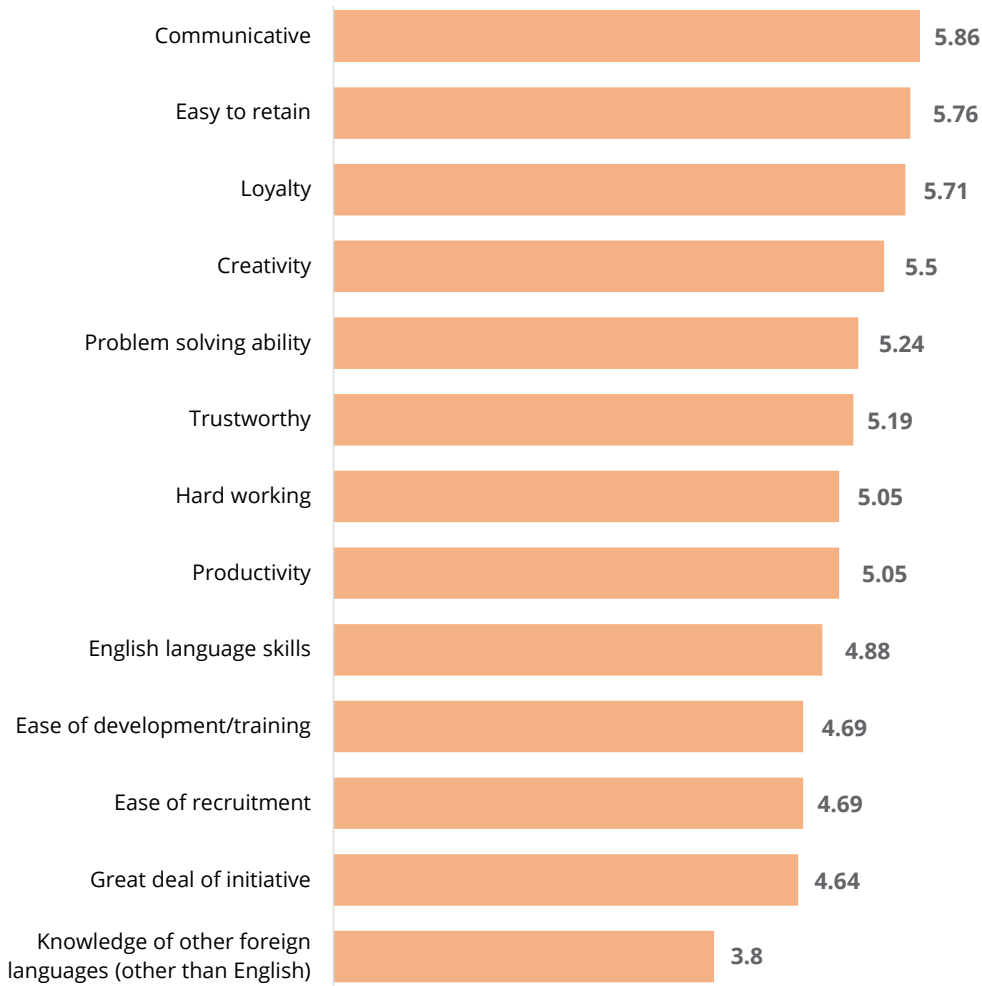


Within the survey, we asked member companies to rate the human capital in Montenegro on a scale from 1 to 10. The average grade obtained is around 5. Montenegrins were graded well in communication, ease of retention, loyalty and creativity. On the other note, they are not very good

with self-initiative, and have the poorest grade when it comes to knowledge of languages other than English. Moreover, English language skills are graded with less than 5 and need to be seriously improved.



HUMAN CAPITAL IN MONTENEGRO ON A 1-10 SCALE





Taxation





INTERVIEW WITH THE TAX COMMITTEE VICE - PRESIDENT, MS. SVETLANA VUKSANOVIĆ

Executive Director, Philip Morris Montenegro

AmCham: How would you describe the current state in the area of taxation in Montenegro?

Ms. Vuksanović: The Ministry of Finance has recently undertaken activities to improve the taxation system in Montenegro, with particular focus on debt collection. I see this as a very important step in creating an adequate business environment. However, the businesses expect further engagement which will result in transparent and predictable business environment, promoting the rule of law on all levels.

AmCham: Which activities has the AmCham Tax Committee undertaken in the past two years in order to improve the business environment in this area?

Ms. Vuksanović: The activities of AmCham Tax Committee in the last two years were mostly addressed to advocating for improving the predictability and transparency of the tax system. In this regard, we presented the Ministry of Finance with the document which stresses the areas for improvement and gave specific recommendations for improving the tax policy. Our recommendations are mostly focused on sustaining the continuity of the tax policy, improving the transparency and implementation of adopted regulation. Likewise, we focused on eliminating retroactive implementation

of regulation and different interpretations of legislation by the institutions implementing the regulation. Further communication with the Ministry of Finance was related to specific comments on pieces of legislation. This year we provided our comments to the Law on Value Added Tax. We plan to continue being a reliable source of constructive recommendations to the Ministry of Finance and the Tax Authority, aimed at improving the taxation policy and the overall business environment as well.

AmCham: In which areas do you perceive improvements of the business environment in taxation policy in the last 2 years?

Ms. Vuksanović: The efforts of the Ministry of Finance in finding measures to improve the tax debt collection are visible, in particular regarding the very high debts of particular tax payers. In that respect, the introduction of measures such as those defined by the Rulebook on Collecting the Debts with the Property of Debtors should be further improved in order to have visible impact on the budget of Montenegro.

We believe that further tax reductions for specific areas of importance for Montenegro on long term can contribute to greater budget influx and improved competitiveness of our country on the global market. Hence, we see as an improvement



the amendments of the Law on VAT which reduce the tax rate for hospitality services for the four-star hotels in the northern and five-star hotels in the southern and central part of the country.

AmCham: How do you rate the work and efficiency of the Tax Authority in the last two years?

Ms. Vuksanović: The official statistics of the Tax Authority says that the collection of tax debts was improved in the previous period. This is a result of coordinated activities of all the services of the Tax Authority and the disciplined tax payers. Besides this, the Tax Authority has visible results in the area of automatizing and modernizing the delivery of tax reports, which significantly eases the work of tax payers.

AmCham: Which areas or issues do you still perceive as important to tackle in order to improve the business environment in the area of taxation in Montenegro?

Ms. Vuksanović: We believe that keeping the continuity of the tax system is of utmost importance. The corporate income tax rate of 9% is very attractive. Likewise, the VAT rate is competitive. We would not recommend any hasty decisions with regards to changing these rates. The amendments of tax regulation must be transparent and further efforts are needed in eliminating the retroactive implementation of regulation in the tax system. In that respect, discretion and lack of transparency in the implementation must be eliminated. We believe that these are the basic norms whose stronger enforcement would significantly improve the tax system and the overall business environment in Montenegro. AmCham Tax Committee stands ready to be the support to the decision-makers in Montenegro in these efforts.





>>> TAXATION – AMCHAM BUSINESS CLIMATE SURVEY RESULTS

A significant majority of surveyed members stated that there were no changes in the taxation in the previous two years.

As previously noted, the personal income tax remained the same, but the additional tax imposed on salaries above €720 gross was reduced from 4 to 2%. Still, companies believe that further reductions need to be done in order to improve the business environment.

Corporate income tax (9%) still remains an attractive element for doing business in Montenegro, and VAT has remained unchanged, at the level of 19%. The Parliament of Montenegro however did adopt amendments to the VAT Law in August 2016, defining a lower VAT rate on hospitality services in four-star hotels in the north and five-star hotels in the central and southern regions of the country. The VAT rate for hospitality services is 7% and will be implemented from January 1, 2018.

However, improvements must be introduced in transparency and clarity of regulations, as well as the implementation of the regulation. Companies still perceive a miscommunication between the most important policy-makers in the area of taxation. Laws and regulations are often not aligned and clear, and their implementation is subject to personal judgement of inspectors. This does not contribute to a transparent and predictive business environment.

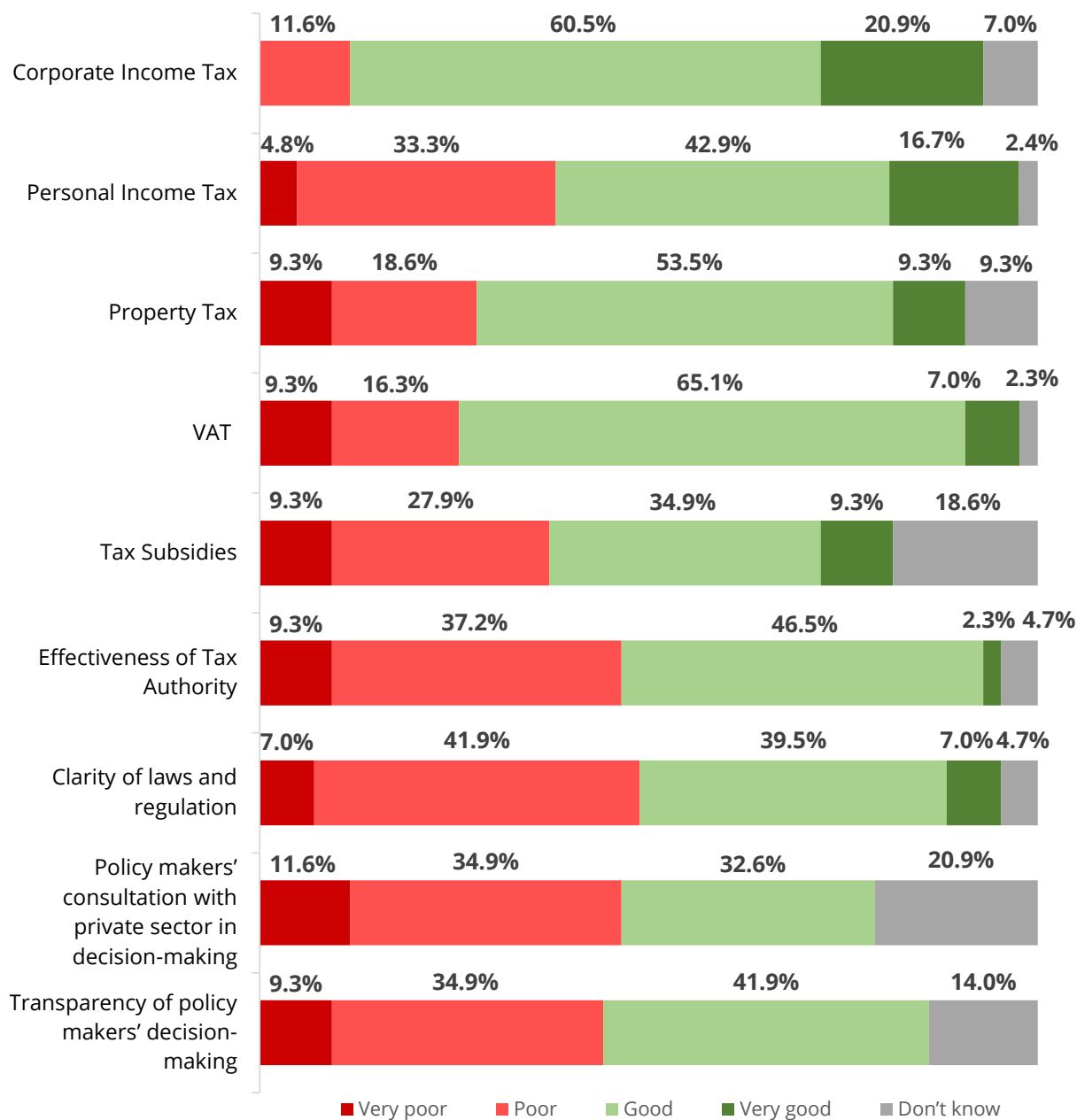
Likewise, the business sector believes there needs to be improvements in the communication with

the Ministry of Finance when adopting decisions and amending regulation. Private sector should be involved in creating the regulation which will influence business, but also aid in providing information and best practice examples for the decision-makers.

There is however a noticeable improvement in the effectiveness of the Tax Authority. Still, there needs to be improvements in collecting tax debts.



TAXATION - CONDITIONS FOR BUSINESS





Real Estate and Construction





INTERVIEW WITH THE REAL ESTATE COMMITTEE PRESIDENT, MR. SAVO ĐUROVIĆ

Legal Director, Adriatic Marinas

AmCham: How would you describe the current state in the area of construction and real estate in Montenegro?

Mr. Đurović: In spite of significant challenges at both domestic and foreign markets, we do have a significant amount of investments in the area of construction and real estate, especially in the coastal area and the central part of the state. Unfortunately, this trend is not present when it comes to the northern part of the state, but we expect a significant increase of investments in this area too. At the legislative level, we expect amendments to legislation on construction and spatial planning, aiming at achieving greater flexibility in this area. In this manner, professional requirements and market conditions on which this branch very much depends would be met.

AmCham: Which activities did the AmCham Real Estate Committee undertake during the past two years in order to improve the business environment in this area?

Mr. Đurović: The Real Estate Committee, together with other business associations in Montenegro, has delivered several initiatives to decision-makers for amending the Law on Construction and Spatial Planning. Likewise, a Committee member

participated in the working group for drafting the Law in order to remove the existing dilemmas regarding the implementation of this and accompanying regulations. We also wanted to contribute to enabling a more rapid procedure for issuing the construction permits and more importantly, resolving property rights on the urban land. We are aware that this issue led to stopping a number of investments in Montenegro, which did harm to us all.

We also submitted proposals for amendments of the Law on Tourism and accompanying regulation in order to resolve problems in practice created by specific provisions of these regulations. This in particular regarding the new types of hotels that are present in the Montenegrin tourism industry. The Committee made comments to the Spatial Plan of Coastal Area due to the fact that many of our members raised doubts about the solutions that are presented in this document, especially regarding the issue of urban zones on the coast that would lose their status.

Likewise, we submitted comments on the adopted amendments to the Law on Property Tax. Many members of the Committee were negatively surprised by the solution that investors with multimillion projects who lease the state-owned land, beside the rent should also pay the property tax as if they were the owners of the land. It is barely



impossible to find such an example in international practice. Another issue of interest for construction companies regarding the Law on Property Tax is the treatment of unsold apartments and office spaces.

AmCham: In which areas do you perceive improvements of the business climate in the last 2 years?

Mr. Đurović: The Ministry has significantly accelerated procedures for issuing the construction permits. Still, the issuing of documentation required for obtaining the permission itself is a process that must be further improved.

AmCham: Which areas or issues do you still perceive as important to tackle in order to improve the business climate in the area of construction and real estate in Montenegro?

Mr. Đurović: I believe that further efforts must be done on speeding up the process of issuing construction permits, which requires better cooperation between all stakeholders involved in this process. Likewise, the introduction of regulation that will enable efficient resolution of property rights in the area of urbanized land. Further, we need greater flexibility in the area of new hotel forms in Montenegro with regards to the situation on the tourism market in Montenegro. I would also recommend the reduction or abolition of communal fees for equipping the construction land, which are paid to municipalities and the transfer of communal liabilities to investors. As noted in one of the previous answers, taxes for state-owned land lease must be abolished, since the investors are currently treated as the owners of this land and not as the ones that leased the land.





>>> REAL ESTATE AND CONSTRUCTION – AMCHAM BUSINESS CLIMATE SURVEY RESULTS

Tourism and Real Estate remain one of the most important industries of interest for foreign and domestic investors. Major touristic projects are being developed, mostly in the southern region of the country, with north slowly getting on the track for attracting investments.

Still, investors face issues with procedures and the effectiveness of the administration when serving their projects. Some of the main issues which were stressed in our 2014 BCR still remain important. Property rights, as one of the main obstacles in the process of obtaining a construction permit are still not resolved. Another issue are the costs of utilities, which are still not abolished, even though this was announced by the Government in the previous period.

The Ministry of Sustainable Development and Tourism undertook the effort of drafting a new Law on Construction and Spatial Planning. It was expected that this regulation would further ease procedures for obtaining construction permits and remove barriers which impede investors to finalize their projects, inter alia property rights. The Law which was planned to be adopted in the fourth quarter of 2016 is still in procedure in the Ministry.

AmCham took a very active role in the process of drafting the new Law on Construction and Spatial Planning. AmCham Real Estate Committee members were actively involved in providing additional comments and best practices in order to help in drafting a high-quality regulation. However, as seen from the survey results, 100% of surveyed members

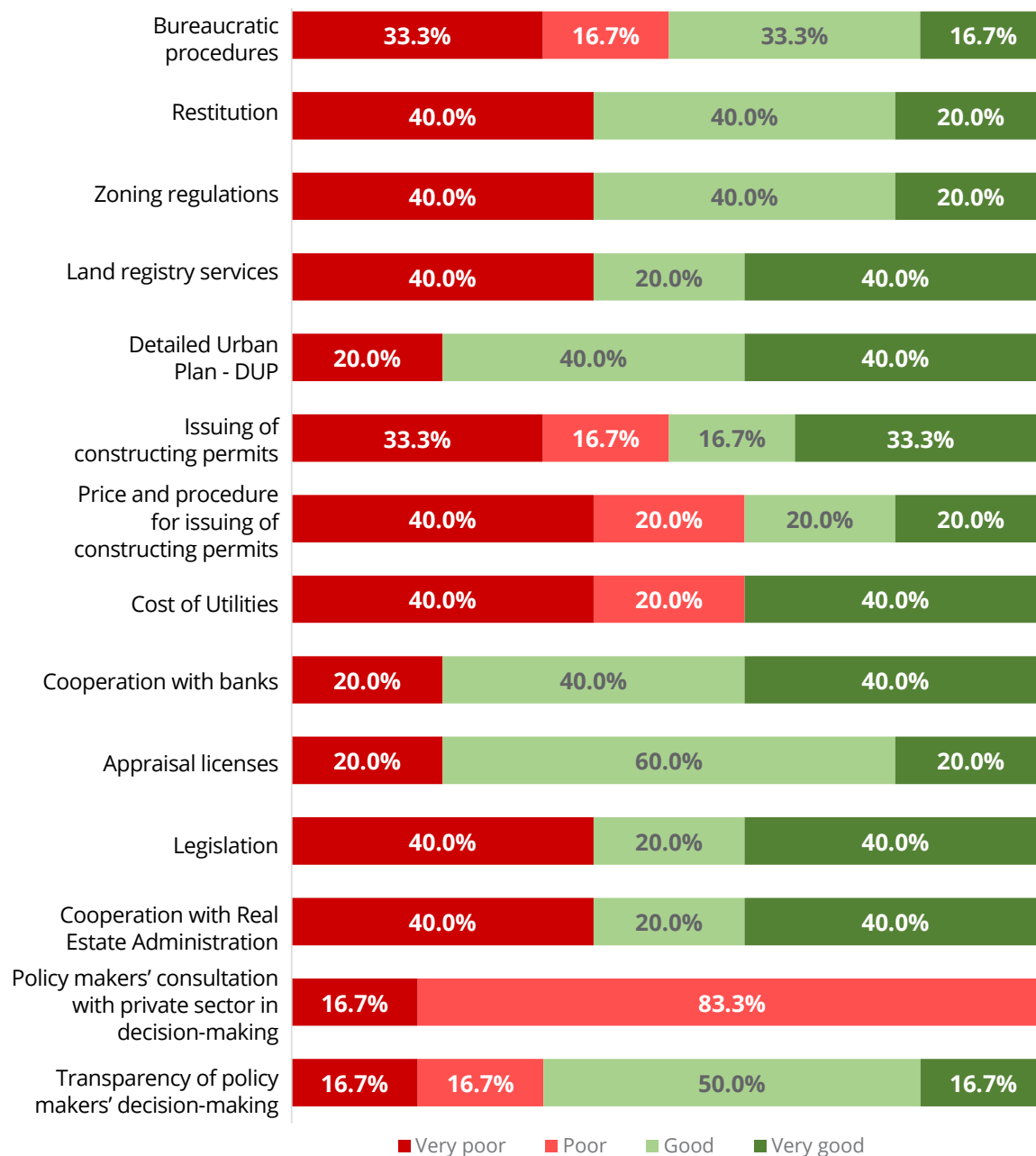
are not satisfied with the communication and consultation with the private sector in this process.

Another issue that investors faced during 2016 is the Spatial Plan of Coastal Area, which was proposed by the Ministry of Sustainable Development and Tourism in the beginning of the year. One of the most questionable policies the Ministry proposed with this document is the reduction of the construction land from the scope of 15.5% to 9%. This change will mean that 6.5% of the land which was intended for construction will be repurposed to green areas or similar, hence lose initial value. Since no refund is planned by the Government for the owners of this land, it remains a question how this repurposing will be done and what will be the scope of negative effects, not only on construction industry, but also banking and other sectors.

In our 2014 BCR, AmCham announced the adoption of the Law on Accounting, which should introduce International Valuation Standards into Montenegrin appraisal system. This Law has been passed by the Parliament of Montenegro and came into force in August 2016. By introducing the International Valuation Standards, the assessment of the value or property is done in accordance with the internationally recognized practice, which significantly improved the competitiveness of the country in this area.



REAL ESTATE - CONDITIONS FOR BUSINESS





Health Care





INTERVIEW WITH THE HEALTH CARE COMMITTEE PRESIDENT, MR. BOGDAN VUČENIĆ

Country Chair Montenegro/General Manager GEM & DCV, Sanofi

AmCham: How would you describe the current state in the area of pharma policy and health in Montenegro?

Mr. Vučenić: The Health Care System in Montenegro is undergoing a transition period from an old model with healthcare expenses fully covered by the state, funded by the obligatory salary contribution and Government budget support. Still no other model of financing is implemented, like private health insurance or other funding sources. The private sector, not yet integrated in the health care system, comprises a larger number of medical centers, dental centers and pharmacies. That is why international companies are committed to ensure better patient's access to treatment and fully support state owned strong and effective mechanisms leading to the reformation of the healthcare system. Only thus the transformation would be implemented with effective rules and measures in order to guarantee the quality and efficiency of the health services and the broader access to effective therapy for the patients.

AmCham: What were the activities of AmCham Health Care Committee in the last two years in improving the state in this area?

Mr. Vučenić: The healthcare expenditure has been

increasing for several years now. The core reasons are the ageing population, the unmet needs and implementation of new medical technologies. In this aspect, we can see that last year a number of legislative changes were introduced, affecting all stakeholders in the healthcare system.

Our main goal is to work in partnership with all healthcare stakeholders towards creating a more efficient healthcare system. We are working together with the Ministry of Health on different topics where one of the most important is the Rulebook for Placement of Drugs on Reimbursement List. This document will introduce the mechanism and a more transparent process for placement of new innovative drugs on the List through risk or cost sharing agreements as new innovative mechanism, like in the EU countries. New Reimbursement List will allow for new co-payment mechanism in reimbursement system, which will bring possibilities to patients and doctors to choose which brand to take and to pay additionally if they decide themselves for good quality medication.

AmCham: Where do you see improvements of the business environment in the area of health care in the last two years?

Mr. Vučenić: The implementation of the Rulebook for maximum reimbursed prices was the first



challenge in this year for stakeholders and pharma companies in Montenegro. The Health Care Committee within AmCham fully supports the reference pricing system as methodology used by almost all EU countries in regulating the prices of medicines within their border. Especially when this mechanism will safeguard healthcare budgets and ensures prices on the market are balanced between countries in the region. However, while the reference system is a useful cost containment tool in determining the maximum prices a country will pay for medicines, there are certain criteria which need to be considered to ensure international companies register new innovative drugs in small market like Montenegro. These criteria are Country Selection and the reference price rate. It is recommendable as a good practice coming from the EU countries that the reference model should cluster countries with a comparable GDP per capita and similar healthcare systems. The current reference countries for building the pricing model in Montenegro are Croatia, Slovenia and Serbia.

AmCham: Which areas or issues do you still perceive as important to tackle in order to further improve the business environment in health care in Montenegro?

Mr. Vučenić: Currently there are many unmet needs, especially in the field of modern therapeutic solutions and drugs because the state healthcare system is not covering them. In the new Health Insurance Law, it is included that Health Insurance Fund will cover rare disease treatments which will be financed by the special fund for rare diseases. The Ministry of Health's strategy for this special fund is to be financed from excises on unhealthy lifestyles. It also provides an opportunity for discussing and negotiating different reimbursement mechanisms and models.

There are many other important topics to be discussed like further contribution of private sector on pharmacies level in reimbursement system, anti-counterfeiting medicines, and educational programs for health care professionals (HCPs) regarding differentiation of generics and biosimilar drugs, innovation partnerships through Risk or Cost Sharing Agreements for innovative products and promotion ethical behavior among HCP and fight corruption.

AmCham Health Care Committee is ready to further demonstrate our commitment to help stakeholders safeguard budgets while ensuring patients get access to innovative, life-extending medicines. This must be achieved through expertise and face to face discussion on many different topics and working together to find sustainable solutions for the benefit of all parties and the patients who depend on our medicines.



>>> HEALTH CARE - AMCHAM BUSINESS CLIMATE SURVEY RESULTS

Health Care is the area which attracted significant international investors to Montenegro. AmCham's Business Climate Report leans on the impressions of pharmaceutical companies, members of AmCham who joined forces during the second part of 2014 in order to improve the business climate in this area.

Ministry of Health of Montenegro introduced a number of laws and rulebooks that regulate the pharmaceutical policy and the distribution of drugs and medicines to patients in Montenegro. Member companies were asked to discuss several aspects that influence the business climate.

It is evident that the quality of regulation has been improved in the previous 2 years. However, further improvements need to be introduced. About 86% of surveyed members are not satisfied with the transparency of decision-making and about 71% are not satisfied with policy makers' consultation with the private sector in decision-making, although they perceive improvements in this area compared to past years.

It is encouraging to see that about 86% of surveyed members stated their satisfaction with the availability of information regarding tenders and other calls made by the institutions in this area.

Members qualified the pricing policy as poor. Although the Government adopted the Rulebook on Maximum Prices of Drugs, this document lacks to reflect some of the specifics of the Montenegrin system.

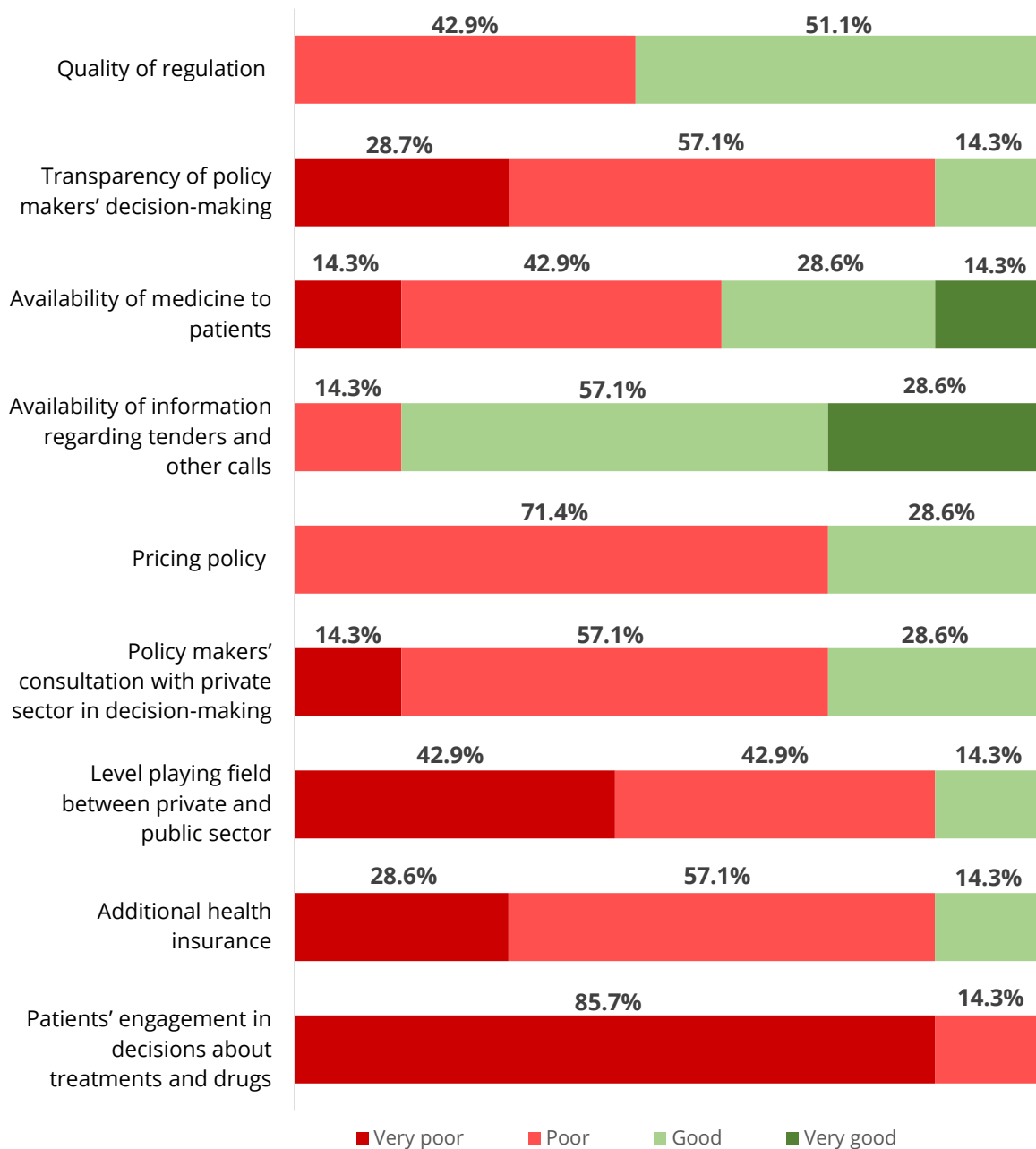
Montenegrin institutions need to allow for the level playing field between the public and private sectors in the health care industry. Montefarm, as the state's main supplier of drugs and medicines must lose its favorable position in order to create a system which is similar to those of developed EU and global markets. This issue will certainly be one of the questions on the agenda in the process of negotiations with the EU. Surveyed members confirm this statement, with about 85% of them marking this issue as poor and about 43% of them stating that the situation worsened in the previous 2 years, while the rest see no changes in the last two years.

Patients in Montenegro do not have an additional health insurance, leaning only on the state insurance to cover their needs. By stimulating additional health insurance options, the Government would remove significant burden from the national system.

Likewise, patients in Montenegro are not engaged in decision-making process regarding the drugs and medicines the Government supplies them with. Strong and active civil society organizations would contribute to a high quality, fruitful discussion about the availability of drugs and medications in Montenegro.



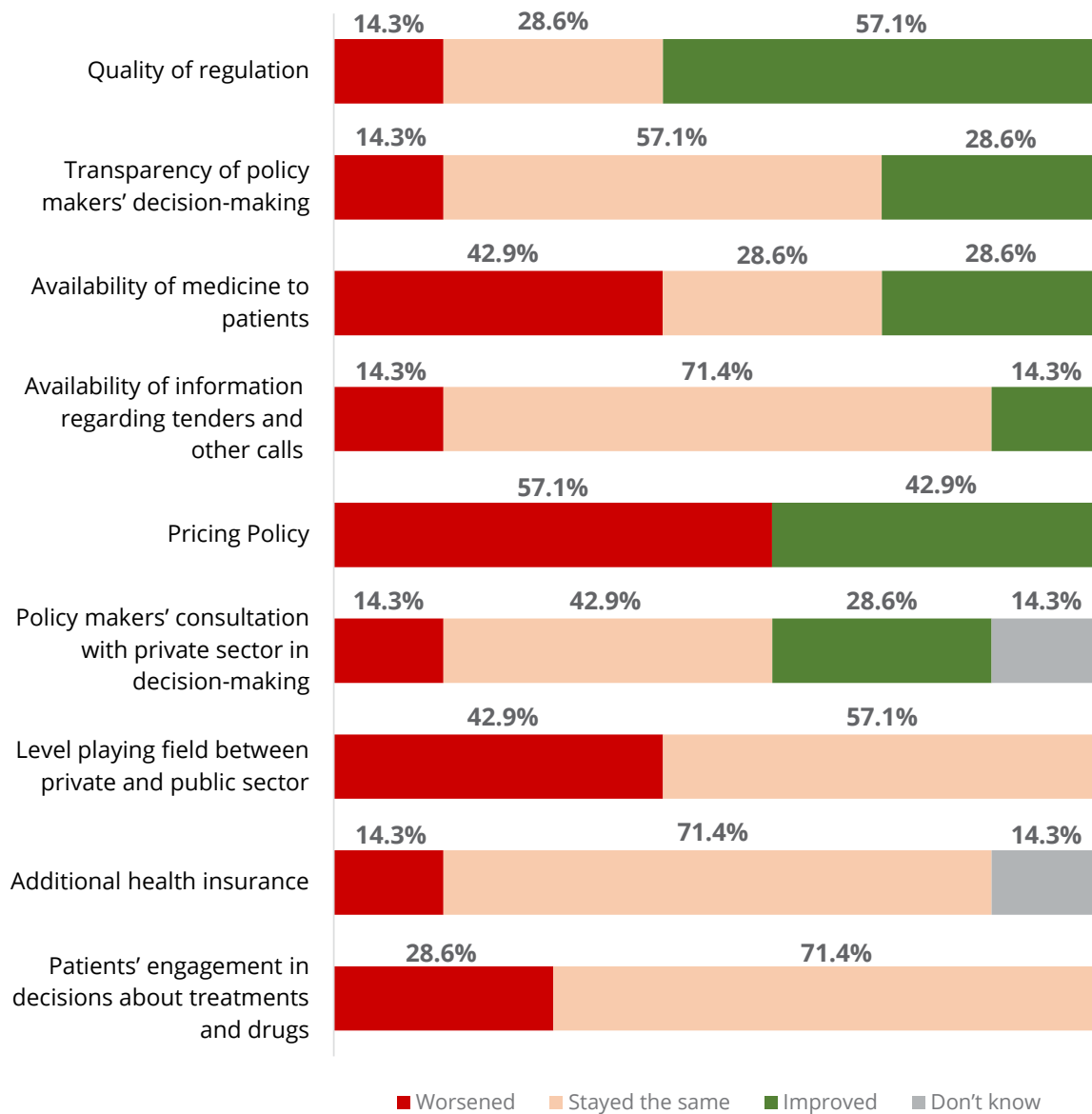
HEALTH CARE - CONDITIONS FOR BUSINESS





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HEALTH CARE - CHANGES IN CONDITIONS FOR BUSINESS





Infrastructure





One of the key issues when making an investment decision is the infrastructure in the country. Montenegro has both strengths and weaknesses in this area. Improvements were done in the road infrastructure in the previous period, with the construction of the highway undergoing. Other infrastructure, such as rail, ports and airports need to undergo improvements.

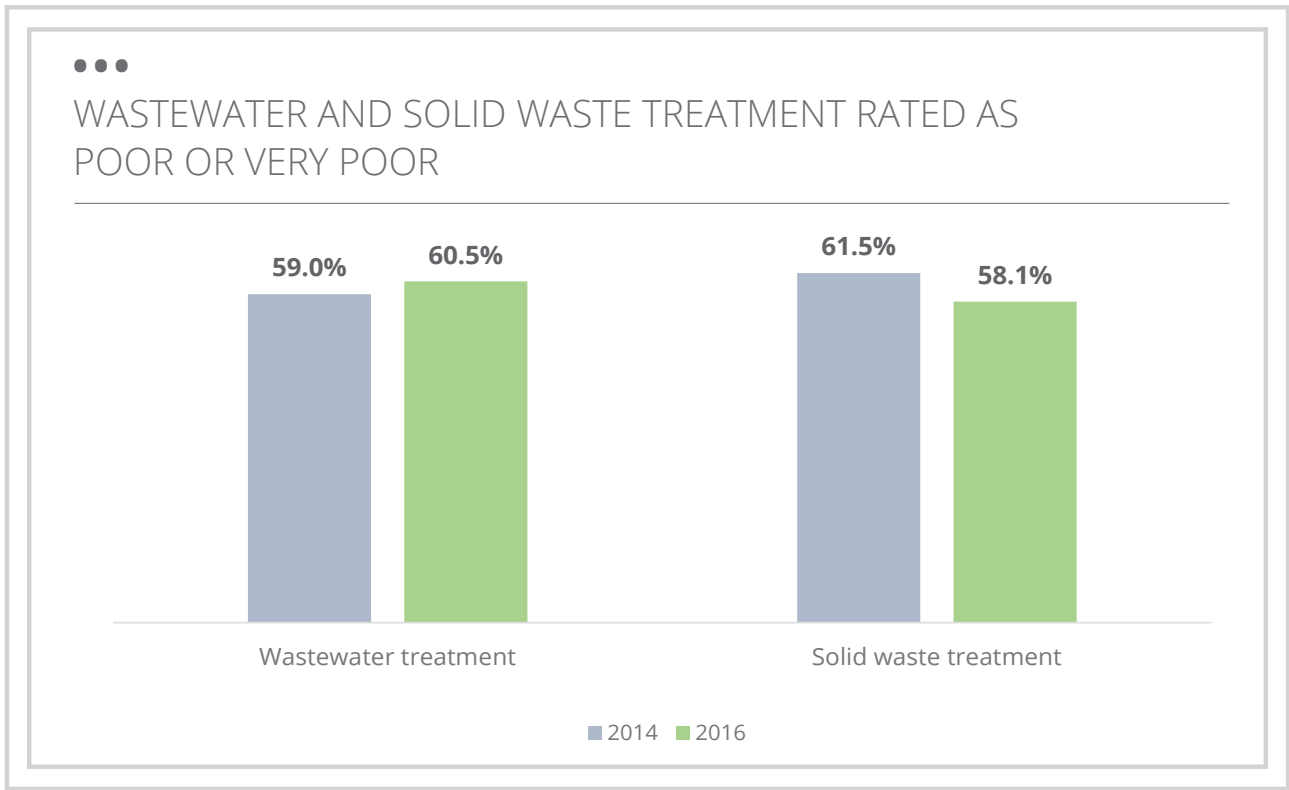
Member companies are very satisfied with the telecommunication infrastructure in the country, with about 93% of members rating it as good or very good. Similar trend was present in the AmCham BCR in 2014.

Other positive areas in infrastructure development are the transportation, the access to major roads,

ports and airports. Likewise, members feel that Montenegro is well supplied with energy and water.

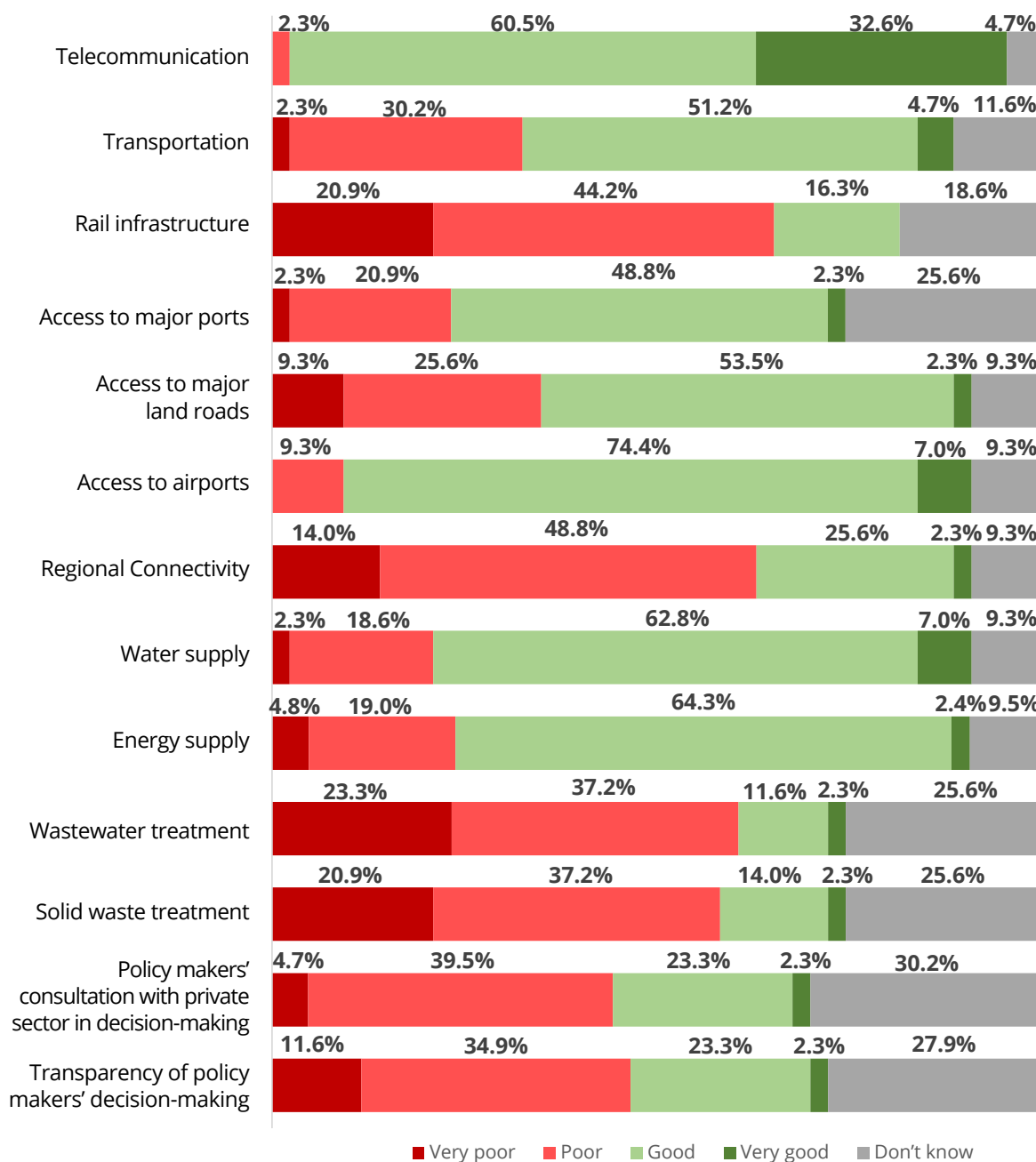
On the other hand, railway infrastructure is seen as poor by about 65% of surveyed members. Somewhat less than 63% of members marked the regional connectivity as poor.

Another issue which is very important to be dealt with is the wastewater treatment and the solid waste treatment. The issue of environmental protection and waste treatment was stressed in all AmCham BCR's, since the first report was published in 2010. This year around 60% of surveyed members rated this area as poor. Members also believe that little changes were done in this area in the previous two-year period.





INFRASTRUCTURE - CONDITIONS FOR BUSINESS





Other Areas of
Importance for Business



AmCham members remain concerned about the liquidity of small and medium enterprises, with about 62% of surveyed members being unsatisfied with this issue. It is widely perceived that SME's lack financial sources, as there are high collaterals defined for obtaining loans. Not much has changed in this respect since the last BCR has been published in 2014.

Better financing should be available for SME's, either deriving from bank loans or other forms of financing. Likewise, the companies themselves need to be trained to make realistic plans and sustainable ideas which will trigger interest within investor's circles.

When talking about the public procurements, little has been changed in the previous two-year period. About 55% of members stated that they are

unsatisfied with the public procurement procedure and 50% of surveyed members stating their dissatisfaction with the fairness of the process. Members believe that more has to be done in order to improve the regulatory framework and practice in this area. Also, introduction of e-procurements would significantly improve the transparency of the procedure, as would ease the procurement process itself.

The use of information technology in public administration should be improved. Likewise, the regulatory environment should recognize and follow global trends in digitalization. Montenegro as a small market should be more flexible and introduce new business models in the field of cloud services and security on the internet. These issues represent the future not only of private companies, but also of civil services.



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OTHER AREAS OF IMPORTANCE FOR BUSINESS





Final Recommendations



AmCham member companies have a positive attitude towards their business outlook in Montenegro. Still, there are many issues to be tackled in order to improve the business environment and make Montenegro more competitive and attractive for further investments. AmCham stands ready to provide assistance in this process. Based on the findings of the 2016 survey, AmCham recommends the following priorities to the newly established Government of Montenegro:

1

Enhance the efficiency of Montenegrin courts and assure that court decisions are respected. Further trainings and education of judges and court personnel should be organized in order to raise their skills and knowledge about the market economy. Reduce the scope of the grey market in the country, by ensuring the equal implementation of laws and regulation and level playing field for all participants present in the market.

2

Further reduce the tax and contribution rates imposed on the salaries of employees. The so called “crisis tax” should be completely abolished. The Labor Code of Montenegro should be further reformed. The Labor Law should be the principal act that defines the employer-employee relations in Montenegro. Likewise, the main reforms expected from the new Labor Law are a clearer definition of salary and the amendments of the current procedure for establishing violation of work order. The Government, the universities and the private sector together need to work on programs and projects that will contribute to further developing qualified labor force in Montenegro.

3

The business environment in the area of taxation needs to be predictable and transparent. Retroactive implementation of regulation should be prevented. Further training of inspectors should contribute to equal interpretation and implementation of tax regulation. The Tax Administration should continue with their efforts in improving the collection of debt.

4

Improve the effectiveness of the administration servicing major tourism projects under development in Montenegro. The new Law on Construction and spatial planning should further ease the business environment in this area. The new Law should provide for the solution the issue of unsettled property rights on the urban lot and speed the process of obtaining construction permits. Cost of utilities should be abolished and the municipalities prepared to find more effective manners to improve their financials. The Law on Property Tax should be amended and abolish the taxes for state-owned land lease.

5

Further improve the quality of regulation and the transparency of decision-making in the area of health care. The pricing policy needs to be aligned with the state of the Montenegrin market. Allow for level playing field between the public and private sector on the market. Patients and patient organizations should be more involved in the decision-making in this area.

**6**

Continue improving the infrastructure in the country, roads, airport access, and rail in particular. Likewise, a very important segment to be dealt with in the forthcoming period is the wastewater and solid waste treatment. The environment and nature, as one of the main assets of Montenegro must be adequately preserved.

7

Further improvements and support for SME's needs to be provided. Restructuring of the financial requirements, or further finance opportunities would improve the liquidity and functioning of SME's.

8

Reform of the public procurement procedures must be undertaken, the transparency of the process improved and the fairness of the process as well. Members believe that the introduction of e-procurement will help in this process.

9

Montenegro should use the potential for flexibility that the small market can have and further adopt new IT solutions in the administration, but also follow global development trends in this area.

10

The private sector is ready and willing to provide information, best practices and ideas for improving the business environment in any of the mentioned segments. Global private companies are a source of valuable know-how that should be used by the Government of Montenegro in order to ease their efforts in improving the competitiveness of the country and implement reforms that will render the business climate more attractive for new investors. Thus, policy makers should make further efforts to consult the private sector in a timely manner during the decision-making process related to drafting and/or amending the legislation.





Patron members



