



*Media ltd, 81000 Podgorica, Njegoševa 6; tel/fax +381.(0)81.224.783  
e-mail: mediacon@cg.yu*

## **SERBIAN-MONTENEGRIN RELATIONS AND THE QUESTION OF PROPERTY ISSUES**

### **EXECUTIVE SUMMARY**

of a case study commissioned by ESI within its Serbia-Montenegro project

prepared by

**Media Consult**  
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*The views expressed in this report do not necessarily reflect those of ESI*

During and after the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) many former Yugoslav citizens have been deprived of their property. This is not only due to war and ethnic cleansing, but also to deliberately discriminatory policies of the successor states in the area of property legislation. While Serbian and Montenegrin citizens currently enjoy equal status regarding property issues in both republics, similar problems could arise in the event of the dissolution of the Federal Republic of Yugoslavia (FRY). This paper examines the current state of affairs in the area of property and ownership questions in Montenegro against the background of deteriorating relations between Serbia and Montenegro, points out potential problems in the event of the dissolution of the Federation and proposes solutions as to how these can be avoided.

#### **Property of physical and legal persons from Serbia**

Applicable Montenegrin property legislation treats Montenegrin and Serbian citizens equally with respect to acquiring property, taxation, and transfer of ownership rights.

Although political relations between Podgorica and Belgrade have deteriorated over the last three years, the equal status of Serbian citizens related to property rights in Montenegro has remained unaffected.

There is a considerable amount of Serbian-owned property in Montenegro. Given the lack of accurate official data, it is currently impossible to draw an exact picture of the ownership structure of property in Montenegro with respect to which property and which companies in Montenegro are owned by Serbian physical or legal persons. The following table gives an estimate of Serbian owned property in Montenegro in some specific sectors, based on available official statistical data and estimates published in various media.

<b>Property</b>	<b>Total number (Montenegro)</b>	<b>Owned by Montenegrins</b>	<b>Owned by Serbians</b>
Companies	16,280	95%	5%
Houses and flats	108,000	95%	5%
Weekend houses	22,350	55%	45%
Tourist facilities (number of beds)	35,028	80%	20%

*Source:* Statistical Yearbook 1999

### **State property**

Until two years ago Montenegro lacked a comprehensive legal basis for regulating the use of state property. The “Law on Property of the Republic of Montenegro”, adopted in November 1999, regulates the management and use of Montenegrin state property by republican and municipal institutions. According to this law Montenegrin state property includes natural resources (land, forest, water, the coastline, mineral resources, airspace, etc.), public property (roads, airports, railways, ports, cultural-historical sights, etc.), real estate financed through state resources, state capital in enterprises, property acquired through succession of the SFRY, etc.

This 1999 law clearly defined Montenegrin state property and opened ownership disputes in a number of specific cases (such as the ownership dispute between the Montenegrin government and the Serbian national airline “JAT” over the civilian airports in Podgorica and Tivat). To date, conflicts over state property between Montenegro and Serbia have been few.

In the event of Montenegrin independence, however, the question of the succession of infrastructure, land and buildings currently used by the Yugoslav Army in Montenegro might turn out to be difficult to resolve, especially as a disproportionate number of army facilities are located in Montenegro. In addition to military barracks, located in various Montenegrin municipalities including Podgorica, Niksic, Pljevlja, Cetinje, Bar, Zabljak and Kolasin, the complete Yugoslav navy is based on Montenegrin territory.

## **Recommendations**

Regardless of the final constitutional settlement, there is a need to address old and new ownership disputes related to state property, such as the dispute over the civil airports in Podgorica and Tivat, as well as questions related to state property which is currently used by federal institutions, most notably the Yugoslav army.

In the case of the dissolution of FRY, the question of succession of FRY property located in Montenegro (regulated by the federal Law on FRY property from 1993) will primarily relate to army property. While land used by federal institutions ought to become property of the republics, real estate and movable assets could be distributed according to the key used in the process of succession to SFRY assets – based on identified investments, share of GDP, number of inhabitants and similar indicators.

Regardless of the final constitutional settlement, the Montenegrin authorities should ensure through Montenegro's constitutional and legal framework that physical and legal persons from Serbia continue to have the same status and rights with regard to property and ownership as Montenegrin citizens (regardless of the regulations applied in Serbia to Montenegrin citizens). Any discrimination against Serbian property owners, be it in the form of unequal investment regulations, special taxation policies or special residency requirements, must be avoided.