The Time Has Come: Montenegro Prepares to Screen Foreign Direct Investments

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Publisher: JPM | Partners
Delta House, 8a Vladimira Popovića street
www.jpm.law

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Design and prepress: JPM | Partners

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In July 2026, the Government of Montenegro adopted a proposal establishing the framework for the country's first mechanism for the screening of foreign direct investments. The document lays the groundwork for a future Law on the Screening of Foreign Direct Investments and marks a significant shift in a jurisdiction that has traditionally been among the most open economies in Europe, with foreign investment inflows consistently ranking among the highest in the region relative to GDP.

The move is neither surprising nor optional. As a candidate country in the final phase of EU accession negotiations, Montenegro is expected to align with Regulation (EU) 2019/452 and, more importantly, with the revised EU FDI Screening Regulation agreed in December 2025, which will make screening mechanisms mandatory in all Member States and prescribe a harmonised minimum sectoral scope. Montenegro is, in effect, building its regime against a moving target — and it has sensibly chosen to model its mechanism on the practice of Croatia and Slovenia, the two Member States closest to it in legal tradition and market size.

The Proposed Mechanism

According to the adopted framework, prior approval will be required where an investor from outside the European Union acquires control, significant influence, or at least a 10 percent ownership stake or voting rights in a company active in one of 14 strategic sectors. The list follows the emerging European standard: energy, transport infrastructure including ports and airports, telecommunications and digital infrastructure, water supply, healthcare, financial infrastructure and payment systems, media, defence and dual-use goods, artificial intelligence, semiconductors and quantum technologies, agricultural land and food production, and critical raw materials.

The Ministry of Economic Development is designated as the central authority, supported by a multi-agency Council for the Review of Foreign Investments, with the final decision resting with the Government. The initial screening phase is capped at 45 calendar days from the submission of complete documentation; where risks are identified, an in-depth review follows, with its duration to be defined by implementing regulations. The Government will be able to clear a transaction, clear it subject to mitigation conditions, or prohibit it. The enforcement toolkit is notably robust: fines, suspension of voting and management rights, mandatory divestment, and even unwinding of completed transactions.

What the EU Experience Teaches

Having advised on transactions across the region since national screening regimes began to proliferate, we would highlight several recurring problems that investors have faced in EU Member States — each of which is directly relevant to how the Montenegrin law will be drafted and applied.

Vague definitions generate more filings than genuine risks. Concepts such as "significant influence", "critical technologies" or effects on "public order" have proven notoriously elastic across Europe. In practice, cautious counsel file precautionary notifications, authorities become overloaded, and timelines slip. The single most valuable thing the Montenegrin legislator can do is define the trigger events and sectoral scope with precision, and publish practical guidance early.

The second phase is where deals go to wait. The 45-day first phase mirrors the emerging European standard and is unobjectionable. The real question — as Romanian practice has painfully demonstrated, with combined review periods exceeding 200 days — is the length and discipline of the in-depth review. Leaving phase two entirely to implementing regulations, as the Montenegrin framework currently does, postpones the answer investors care about most. Statutory maximum periods, and clear rules on when the clock stops, are essential.

What the EU Experience Teaches

A 10 percent threshold captures minority and portfolio investors. Austria, Slovenia and Slovakia apply comparable thresholds in sensitive sectors, and the consistent lesson is that passive financial investors, funds and lenders taking security over shares are caught more often than anyone initially expects. Carve-outs for portfolio investments and intra-group reorganisations should be built in from the outset, not retrofitted.

Standstill obligations and sanctions must be proportionate. Suspensory regimes freeze closings, and European sanction practice ranges up to criminal liability and fines in the tens of millions of euros. Severe sanctions coupled with unclear filing triggers are a toxic combination: they punish uncertainty that the legislator itself created.

An adopted law is not an operational law. Croatia's screening act entered into force in November 2025 but could not be applied until implementing regulations were adopted, leaving transactions in limbo. Montenegro should adopt the law and its bylaws as a package, together with realistic staffing of the new unit within the Ministry — 477 cases passed through the EU cooperation mechanism in 2024 alone, and even a fraction of that volume requires genuine administrative capacity.

Conditional clearances and judicial review. Outright prohibitions are rare in the EU — around 1 percent of decided cases — but conditions are not, and their predictability varies dramatically between jurisdictions. Reasoned decisions and effective judicial review will determine whether the Montenegrin mechanism is perceived as a legitimate security instrument or as a discretionary political filter.

Conclusion

Montenegro's decision to introduce FDI screening is a matter of when and how, not whether. Done well — with precise definitions, binding deadlines, proportionate sanctions and adequate capacity — the mechanism can strengthen legal certainty and reassure both Brussels and serious investors.

Done hastily, it risks adding months to transaction timelines in exactly those sectors where Montenegro most needs capital. Investors contemplating acquisitions in strategic sectors should already be factoring the future regime into deal structures, timetables and conditions precedent.

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