ICSID - Montenegro

(M. Kostic-Mandic, *Private International Law of Montenegro, International Encyclopaedia of Laws*, Kluwer Law International, 2020)

Recently, Montenegro has been a party to the several proceedings conducted under the ICSID Convention.[[1]](#footnote-1) In 2016 Montenegro prevailed in a dispute with MNSS BV and Recupero Credito Acciao,[[2]](#footnote-2) Netherlands-registered investors in a bankrupt steel plant. The Arbitral Tribunal dismissed the claim against Montenegro partly on jurisdiction and partly on the merits. The arbitral tribunal declined its jurisdiction over the contract and the investment law claims and rejected all BIT claims except for the breach of the full protection and security standard, while ruling that the investors had suffered no loss as a result of a violation of this treaty standard.[[3]](#footnote-3)

Montenegro was also successful in a claim brought by the Central European Aluminum Company (‘CEAC’).[[4]](#footnote-4) The main contentious issue was whether CAEC had its seat in Cyprus and accordingly whether CEAC was a protected investor within the meaning of the applicable Cyprus–Serbia and Montenegro Bilateral Investment Treaty of 2005. Montenegro argued that the claimant had no office in Cyprus, that the address provided was in fact an abandoned residence and the tribunal accepted the view that a certificate of tax residency was insufficient to establish a seat for the purposes of a BIT claim. The Arbitral Tribunal declined its jurisdiction on the ground that Claimant had failed to establish a seat, registered office or any premises of its own open to the public at the claimed address in Cyprus.

1. Information on ongoing cases where Montenegro is the respondent State available also at: <http://investmentpolicyhub.unctad.org/ISDS/CountryCases/140?partyRole=2> (accessed 16 April 2020). [↑](#footnote-ref-1)
2. *MNSS BV and Recupero Credito Acciaio NV v. Montenegro* (ICSID Case No. ARB(AF)/12/8). [↑](#footnote-ref-2)
3. <https://www.acerislaw.com/montenegro-icsid-arbitration-track-record/> (accessed 16 April 2020). [↑](#footnote-ref-3)
4. *CEAC Holdings Limited v. Montenegro* (ICSID Case No. ARB/14/8). *See* Inna Uchkunova et al., *The Requirement of ‘Effective Seat’ in CEAC Holdings Limited v. Montenegro: Are We Moving Towards a Double-Barreled Test for Protected ‘Investor’?* 8 Dec. 2016, <http://arbitrationblog.kluwerarbitration.com/2016/12/08/requirement-effective-seat-ceac-holdings-limited-v-montenegro-moving-towards-double-barreled-test-protected-investor/> (accessed 16 April 2020). [↑](#footnote-ref-4)