



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

Country: Montenegro

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants (if possible on 1 January 2011)

620 029

2) Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €) - (If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP)

	Amount
State level	1 465 410 000
Regional / federal entity level (total for all regions / federal entities)	NAP

3) Per capita GDP (in €)

5 006

4) Average gross annual salary (in €)

8 580

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2011

National currency in Montenegro is Euro.

A.1

Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

1. The figure shows number on the date March 31st 2011. (Census of population, households and apartments was made in 2011.). Source: Statistical Office of Montenegro (Monstat)
2. Ministry of Finance
3. Source: Statistical Office of Montenegro (Monstat)
4. Source on data on earnings is existing financial-bookkeeping documentation, as well as documentation of the HR services which is being kept by reporting units, in accordance with The Law on records in the area of labor and employment ("Official Gazette of RME", no.69/03). Source: Statistical Office of Montenegro (Monstat)

1. 2. Budgetary data concerning judicial system

1. 2. 1. Budget (courts, public prosecution, legal aid, fees)

6) Annual approved public budget allocated to the functioning of all courts, in € (if possible without the budget of the public prosecution services and without the budget of legal aid):

TOTAL annual approved budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input checked="" type="checkbox"/> Yes	19 943 898
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	13 968 319
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	430 535
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.	<input checked="" type="checkbox"/> Yes	2 918 231
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	69 750
5. Annual public budget allocated to		NAP

investments in new (court) buildings

6. Annual public budget allocated to training and education

NAP

7. Other (please specify):

Yes

2 557 061

7) If you cannot separate the budget of the public prosecution services and the budget of legal aid from the budget allocated to all courts, please indicate it clearly. If "other", please specify:

Category "7. Other" includes the payments for: other personal incomes /868.781 eus), and meal allowances and reimbursements, fees for renting an apartment of judges, compensation for the including judges in other courts, compensations to judges for fulfilling a double scores, compensations to officials and judges to help in health treatments and in cases of the death of a member of the family, rewards to officials for the achievements in work, payments to commercial court for expenses in liquidation procedures, purchase of office material, small inventory, hygienic goods, business trips, representation, payment of electricity, fuel for official vehicles, heating of court rooms, telephones, mail services, payment of the agreed services and lease of the premises.

"Other" includes also the expenses for material, business trips, representation, energy, phone services, postal and comunal taxes, renting of objects): 1.688.279,69

Note: Having in mind the Montenegro being devoted to EU Accession, numerous activities of strengthening capacities of Justice authorities is being constantly performing. Also, area of Justice is being supported by EU and many other International partners, which provide donor support in both training and supplying equipment for the judiciary authorities.

8) Are litigants in general required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

for criminal cases?

for other than criminal cases?

If yes, are there exceptions to the rule to pay court a tax or fee? Please provide comments on those exceptions:

Law on Court Fees („Official Gazette of RME", no 76/2005 and 40/2010) defines releases from paying fees to: The State, State authorities and public institutions; local government, humanitarian organizations, persons who are in a proceeding of realization of the right from labour or official relation, supported persons in the proceeding of legal support, prosecutors in court proceeding for acknowledging parenthood, prosecutors in cases on keeping and raising of children, as well as marriage partner, child or parent of the missing person in the proceeding of proclamation of missing person as ded and proving of death. Foreign state and foreign nationals are released from paying taxes only if it is foreseen by international agreement or under the conditions of reciprocity.

Law defines that the Court may release the person from paying court fees if such payment would severely diminish the funds for supporting such person or members of his family. On such release, rules of The Law on civil procedure are applied. Release from paying taxes in civil, extra-judicial or criminal proceeding upon private complaint, as in administrative proceeding applies in proceeding of enforcement of decisions brought in that proceedings, if the proposal for enforcement is filed within three months from the time of decision becoming final. Release from paying taxes given in extra-judicial and enforcement proceeding also applies for civil proceeding, which derives during or after these proceedings.

The Court may abolish the decision on release from taxes during the proceeding, in case it determines that the Party is able to pay the taxes. If in civil, enforcement, criminal or a procedure upon private lawsuit, party released from paying taxes succeeds in a procedure, taxes will be payed by other side in ration in which the other side succeeded in a proceeding. In case the Court determines that other side which is not released from paying court taxes is not able to pay the taxes, it can decide that total or part of taxes should be payed by the party which was released from paying taxes, from what is given to it upon the decision.

Un criminal procedure taxes are payed only by person filin private suit.

9) Annual income of court taxes or fees received by the State (in €)

6 239 721

10) Annual approved public budget allocated to the whole justice system, in € (this global budget does not include only the court system as defined under question 6, but also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.)

NA

38 236 480

11) Please indicate the budgetary elements that are included in the whole justice system. If "other", please specify in the "comment" box below.

Court system	Yes
Legal aid	Yes
Public prosecution services	Yes
Prison system	Yes
Probation services	NAP
Council of the judiciary	No
Judicial protection of juveniles	No
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	Yes

Comment :

Court system: 20.497.283,05 eur

State Prosecution Office: 5.176.984,74 eur

The Prison Administration: 8.214.810,15 eur

Ministry of Justice: 1.385.793,76 eur

Other - Misdemeanour authorities: 2.961.609,13 eur.

In total: 38.236.480,83 eur

Comment: Probation service did not exist in 2010.

The court system budget includes the budget of the Constitutional Court

12) Annual approved public budget allocated to legal aid, in €- If one or several data are not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total annual approved public budget allocated to legal aid (12.1 + 12.2)	12.1 Annual public budget allocated to legal aid in criminal law cases	12.2 Annual public budget allocated to legal aid in non criminal law cases
Amount (in €)	169921	NA	NA

13) Total annual approved public budget allocated to the public prosecution services (in €). Please indicate in the "comment" box below any useful information to explain the figures provided.

. Amount 5 176 984

Comment :

14) Authorities formally responsible for the budgets allocated to the courts (multiple options possible) :

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	No	No	No	No
Other ministry	No	No	No	No
Parliament	No	Yes	No	No
Supreme Court	No	No	No	No
Judicial Council	Yes	No	Yes	No
Courts	No	No	No	No
Inspection body	No	No	No	No
Other	No	No	No	Yes

15) If any other Ministry and/or inspection body and/or other, please specify (considering question 14):

Other- State Audit Institution.

A.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your budgetary system and the main reforms that have been implemented over the last two years
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

Please indicate the sources for answering the questions 6, 9, 10, 11, 12 and 13.

6,9,10,11,13 - MInistry of Finance

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

16) Does legal aid apply to:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	Yes	Yes

17) Does legal aid include the coverage of or the exemption from court fees?

Yes

No

If yes, please specify:

Law on free legal aid ("Official Gazette of MNE", No.20/2011) adopted by the Parliament of Montenegro in April 2011., defines that free legal aid encompasses providing necessary funds for total or partial covering of expenses of legal advise, creating documents, representation in the proceedings before court, State Prosecutor's Office and Constitutional court of Montenegro, and in proceeding for extrajudicial resolution of disputes, as well as exemption from expenses of court proceeding.

Law on court fees ("Official Gazette of RMNE", No.76/2005) prescribes that the court may exempt a person from payment of taxes, if paying taxes would significantly reduce means and funds for sustenance of such person and members of his family .

18) Can legal aid be granted for the fees that are related to the enforcement of judicial decisions (e.g. fees of an enforcement agent)?

Yes

No

If yes, please specify:

19) Can legal aid be granted for other costs (different from questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc ? If yes, please specify it in the "comment" box below).

	Criminal cases	Other than criminal cases
	No	No

Comment :

Please see explanation of answer to Q17.

20) Number of cases referred to the court and for which legal aid has been granted. Please specify in the "comment" box below, when appropriate. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[This question concerns only the annual number of cases for which legal aid has been granted to those referring a case to a court. It does not concern legal advice provided for cases that are not brought before the court.]

	Number
Total	NA
in criminal cases	NA
other than criminal cases	NA

Comment :

21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer? Please specify in the "comment" box below.

Accused individuals	Yes
Victims	No

Comment :

The Constitution of Montenegro guarantees equal protection of human rights and freedoms. Everybody has a right to a legal aid, which is provided by lawyer profession as independent service and other services. Legal aid can be free, in accordance with the law.

Criminal procedure is defined by Criminal Procedure Code ("Official Gazette of MNE, No.57/09 and 49/10) which prescribes Appointment of Defense Attorney Due to Adverse Financial Situation, in sense that when conditions for mandatory defense are not met, but it is required so by the interests of fairness, at the request of the accused persons, they may be appointed a defense attorney if they are not able to bear the costs of defense under their financial situation. The decision on the request shall be rendered by the competent State Prosecutor in the preliminary investigation and in the investigation and after the indictment is brought, the President of the Court in accordance with the order on the list of the Bar Association.

22) If yes, are individuals free to choose their lawyer within the framework of the legal aid system

Yes

No

23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? Please provide in the "comment" box below any information to explain the figures provided. If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	NA	NA
for other than criminal cases?	NA	NA

Comment :

Right to a free legal aid, in accordance with the law can be given to:

- 1) citizen of Montenegro;
- 2) person without citizenship who is legally staying in Montenegro and asylum seeker in Montenegro;
- 3) foreigner with permanent residence or approved temporary staying or other person legally staying in Montenegro;
- 4) other person in accordance with ratified and published international treaties.

These persons have the right to free legal aid if they are:

1. users of material security of the family or some other right of social protection in accordance with the law regulating social and child protection;
2. children without parental care;
3. persons with special needs;
4. victims of criminal offences Violence in the family or in the family community and Trafficking of human beings;
5. persons of poor material status (considered person who does not have property, and his monthly income and total monthly income of the family is not over 30% of average salary in Montenegro for one member and 15% of the average income for every following member). In the proceeding of deciding upon request for allowing free legal aid, Law on administrative procedure is being applied.

24) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action or no chance of success)?

Yes

No

If yes, please explain the exact criteria for denying legal aid:

25) Is the decision to grant or refuse legal aid taken by :

- the court?
- an authority external to the court?
- a mixed decision-making authority (court and external bodies)?

26) Is there a private system of legal expense insurance enabling individuals (this does not concern companies or other legal persons) to finance court proceedings?

- Yes
- No

If appropriate, please inform about the current development of such insurances in your country; is it a growing phenomenon?

27) Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared, in:

criminal cases?	Yes
other than criminal cases?	Yes

B.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

Please indicate the sources for answering the questions 20 and 23

2. 2. Users of the courts and victims

2. 2. 1. Rights of the users and victims

28) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for which the general public may have free of charge access to the following:

The websites mentioned could appear in particular on the internet website of the CEPEJ. Please specify in the "comment" box below what documents and information the addresses for "other documents" include:

- legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): Yes
 - Parliament of Montenegro
www.skupstina.me
 - Government of Montenegro
www.gov.me
 - Ministry of Justice
www.pravda.gov.me
 - Official Gazette
www.sllistcg.me
 - The Constitutional Court of Montenegro
www.ustavnisudcg.co.me
 - Courts of Montenegro
www.sudovi.me
 - Courts of Montenegro
www.sudovi.me
 - The Supreme State Prosecution Office
www.tuzilastvocg.co.me
 - Bar Association of Montenegro
www.advokatskakomora.me
 - Judicial Training Center
www.coscg.org
 - Courts of Montenegro
www.sudovi.me
- case-law of the higher court/s? Internet address(es): Yes

other documents (e.g. downloadable forms, online registration)? Yes

The Secretariat of The
Judicial Council
www.sudskisavjet.gov.me
Ombudsman of Montenegro
www.ombudsman.co.me
Bar Association of
Montenegro
www.advokatskakomora.me
Center for Mediation
www.posredovanje.me
Judicial Training Center
www.coscg.org
Central Registry of The
Commercial Court
www.crps.me

Comment :

29) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?

Yes
 No

If yes, please specify:

Parties can be informed on the average length of proceedings.

30) Is there a public and free-of-charge specific information system to inform and to help victims of crime?

Yes
 No

If yes, please specify:

31) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons. If "other vulnerable person" and/or "other special arrangements", please specify it in the "comment" box below.

[This question does not concern the police investigation phase of the procedure and does not concern compensation mechanisms for victims of criminal offences, which are addressed under questions 32 to 34.]

	Information mechanism	Special arrangements in court hearings	Other
Victims of rape	No	Yes	No
Victims of terrorism	No	Yes	No
Children (witnesses or victims)	No	Yes	No
Victims of domestic violence	No	Yes	No
Ethnic minorities	No	Yes	No
Disabled persons	No	Yes	No
Juvenile offenders	No	Yes	No
Other (e.g. victims of human trafficking)	No	Yes	No

Comment :

Criminal Procedure Code ("Official Gazette of MNE", No. 57/09 and 47/10) defines protection of "wunerable persons, relevant articles are layed down:

"Official Language in Criminal Proceedings

Article 7

(1) In criminal proceedings, the official language shall be the Montenegrin language.

(2) In courts having jurisdiction over the territory in which members of minority nations and other minority ethnic communities (hereinafter: minorities) constitute a substantial part of inhabitants, their respective language shall be in the

official use in criminal proceedings in accordance with law.

Right to Use One's Own Language in Criminal Proceedings Article 8

- (1) The criminal proceedings shall be conducted in the Montenegrin language.
- (2) Parties, witnesses and other persons participating in the proceedings shall have the right to use their own language or the language they understand in the proceedings. If proceedings are not conducted in a language those persons understand, interpretation of statements and translation of documents and other written evidence shall be provided.
- (3) Persons referred to in paragraph 2 of this Article shall be instructed of their right to interpretation, and they may waive that right if they understand the language in which the proceedings are being conducted. A note shall be made in the record that the participants of the proceedings have been so instructed, and their statement thereto shall also be recorded.
- (4) Interpretation shall be entrusted to an interpreter.

Language Used for Presenting Submissions to Courts and for Remitting Submissions by Courts Article 9

- (1) Complaints, appeals and other submissions shall be filed to the court in the Montenegrin language.
- (2) Persons deprived of liberty may file submissions to the court in their language or in the language they understand.
- (3) Court shall issue summonses, decisions and other writs in the Montenegrin language.
- (4) If the language of a minority is also in the official use in the court, the court shall deliver writs in that language to persons belonging to the respective national minority if they have used that language in the course of the proceedings. Those persons may request that writs be delivered to them in the Montenegrin language.
- (5) An accused person in detention, a person serving a sentence or a person against whom a security measure in a medical institution is being enforced, shall also receive a translation of the writs referred to in paras. 1 and 3 of this Article in the language used by this person during the proceedings.

:::::

Art 113 par 4

- "(4) When a minor is heard, especially if a minor was injured by the criminal offence, special care shall be taken in order to ensure that the hearing would not have an adverse effect on the minor's mental condition. When necessary, the minor shall be heard with assistance of a psychologist or another expert.
- (5) Injured parties who are victims of a criminal offence against sexual liberty, as well as children being examined as witnesses, shall be entitled to testify in separate premises before a judge and a court reporter, whereas the Prosecutor, accused person and defense attorney shall be given the possibility to view the course of hearing from other premises and to put questions to the witness, after having been duly instructed by the court thereon. The instruction shall be entered in the record.
- (6) The court may decide that the provision of paragraph 5 of this Article be also applied to the testimony of the injured party who is the victim of discrimination."

"Persons Forbidden to Take an Oath Article 118

The following persons shall not take an oath:

- 1) who are not of age at the time of hearing;
- 2) for whom it has been proved or grounded suspicion exists that they have committed or participated in the commission of an offence for which they are being heard;
- 3) who due to their mental conditions are unable to comprehend the importance of the oath.

:::::

Protection of Witnesses from Intimidation Article 120

- (1) If reasonable concern exists that by giving a statement or answering certain questions witnesses would put in danger their, their spouse's, close relative's or a close person's life, health, physical integrity, freedom or property of great value, witnesses may withhold from giving the data referred to in Article 113, paragraph 3 of the present Code, answering certain questions or giving the statement altogether until their protection is secured. If it finds that the refusal to give a statement is manifestly ill-founded, the authority conducting the proceedings shall caution witnesses that fines specified in Article 119 of the present Code may be imposed on them.
- (2) Witness protection shall consist of special ways of participating and hearing witnesses in the criminal procedure.
- (3) Protection of witnesses and other persons referred to in paragraph 1 of this Article may be secured beyond the criminal procedure as well, in line with the law regulating witness protection.
- (4) The court shall inform the witness on the rights referred to in paragraphs 1, 2 and 3 of this Article.

Special Ways of Participating and Hearing Protected Witnesses Article 121

- (1) Special ways of participating and hearing witnesses in the criminal procedure are: hearing of witnesses under pseudonym, hearing with assistance of technical devices (protective wall, voice simulators, devices for transmission of image and sound) and alike.
- (2) If special way of hearing of witnesses in the procedure consists only of withholding data referred to in Article 113, paragraph 3 of the present Code, the hearing shall be done under pseudonym, while in other part of the procedure, the hearing shall be done in accordance with general provisions of the present Code on the hearing of witnesses.
- (3) If special ways of participating and hearing witnesses in the procedure consists of withholding data referred to in Article

113, paragraph 3 of the present Code as well as of hiding the face of the witness, hearing shall be done through technical devices for transmission of image and sound. The specialist referred to in Article 282, paragraph 8 of the present Code shall operate a technical device. During the hearing, face and voice of the witness shall be changed. During the hearing, witnesses shall be in the room other than the one where the investigating judge and other persons present at the hearing are. The investigating judge shall ban all the questions which could lead to revealing the identity of witnesses.

(4) After the hearing has been completed, witnesses shall sign the record using pseudonym only in the presence of the investigative judge and court reporter.

(5) Persons who in whatever capacity, learn the details about the witness referred to in paragraphs 2 and 3 of this Article shall keep them secret.

Deciding on Special Ways of Participating and Hearing Witnesses and Protection of Data

Article 122

(1) The ruling on the special manner of participation and hearing of the protected witness in investigation shall be issued by the investigative judge at the motion of witnesses, the accused person, the defence counsel or the State Prosecutor, whereas at the main hearing it shall be issued by the Panel. The motion shall contain a statement of reasons.

(2) The investigating judge shall, prior to issuing the ruling, ascertain as to whether the testimony of the witness is of such a relevance to be given the status of a protected witness. For the purpose of ascertaining these facts, the investigating judge may fix a hearing for the State Prosecutor and the witness to appear in court.

(3) Details of the witness who is to participate in a special way in the procedure shall be sealed in a special cover and kept by the investigative judge. A note shall be put on the cover saying "Protected Witness – Secret". The cover envelope may be opened only by the panel adjudicating at the main hearing and the second instance court in the appellate procedure, but the opening thereof shall be entered into the record together with the names of the members of the panel who came to the knowledge of its contents. After this the cover shall be sealed again and returned to the investigative judge.

...

Protection of the Injured Party while Giving a Statement

Article 124

Provisions of Articles 120 to 123 of the present Code shall be applied accordingly to participation and hearing of the injured party in the criminal proceedings as well.

32) Does your country allocate compensation for victims of crime?

Yes

No

If yes, for which kind of offences

For all criminal offences.

33) If yes, does this compensation consist in:

a public fund?

damages to be paid by the responsible person (decided by a court decision)?

a private fund?

34) Are there studies that evaluate the recovery rate of the damages awarded by courts to victims?

Yes

No

If yes, please inform about the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

35) Do public prosecutors have a specific role with respect to the victims (protection and assistance)?

Yes

No

If yes, please specify:

In accordance with art. 58 of The Law on State Prosecution office, damaged person-victim of criminal offence has the right to, during the investigation, provide with all the facts and propose evidence important to criminal issue and his request for compensation.

On main hearing, the damaged person has the right to propose evidence, ask questions to the defendant, witnesses and court experts, to object and give explanations on their statements and to give other statements and proposals, and to examine documents and see files which serve as the evidence.

The damaged person who is a victim of criminal offence against sexual liberty, has the right to hear, and the procedure is run by the judge of the same sex, if it is possible by the staff structure of the court.

The State prosecutor and the president of the court panel are obliged to inform the damaged person about his rights.

36) Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a case?

Please verify the consistency of your answer with that of question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a judicial decision".

- Yes
 No
 NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A judicial decision is needed).

If necessary, please specify:

In terms of art. 59 of The Criminal Procedure Code, when the state prosecutor finds that there is no base to initiate criminal prosecution for the criminal offence for which the prosecution is initiated upon official duty, or that there are no grounds to initiate proceeding against some of the registered participants, he is obliged to, in period of 8 days, inform the damaged person accordingly, and inform him that he can initiate prosecution by himself and deliver to him the decision on rejecting the criminal application, except in the cases of postponing of criminal prosecution in accordance with art.272, for which consent of the damaged person is necessary, and of rejecting of criminal application from the reasons of equity in accordance with art. 273.

If the criminal procedure is initiated against certain person for criminal offence prosecuted on official duty, the damaged person has the right in each phase of the proceeding to take over prosecution before the court, if the State Prosecutor abandons the prosecution.

2. 2. 2. Confidence of citizens in their justice system

37) Is there a system for compensating users in the following circumstances:

- excessive length of proceedings?
 non execution of court decisions?
 wrongful arrest?
 wrongful condemnation?

Where appropriate, please give details on the compensation procedure, the number of cases, the result of the procedures and the existing mechanism for calculating the compensation (e.g. the amount per day for unjustified detentions or convictions):

1. In december the Law on Protection of the Right to Court Trial in Reasonable Time ("Official Gazette of MNE", No. 11/2007) was adopted . This Law defines the protection of the right to trial in reasonable time, and just compensation for breach of this right. Right to court protection for breach of right to a trial in a reasonable time have the party, and a third party in a civil proceeding, party and interested person in administrative proceeding, accused and damaged person in a criminal proceeding if the proceedings are referring to protection of their rights in sense of European Convention of Human Rights and Fundamental Freedoms.

The Law defines two legal means: Request to Accelerate the Proceedings and the Claim for Fair Redress.

Request to Accelerate the Proceedings is filed to the court in which the case is in procedure and the president of the court decides upon the Request.

Claim for Fair Redress is filed to The Supreme Court of Montenegro which decides upon it in panel of three judges.

Fair Redress for breach of the right to a trial in a reasonable time can be achieved:

- by payment of money sum for caused damaged from breach of right to a trial in a reasonable time and/or
- publishing a verdict that the right of a party to a trial in a reasonable time has been violated.

Sum of money is between 300 and 5.000 euros.

When defining sum of money, the following elements are especially being taken into consideration:

- the factual and legal complexity of the subject,
- behaviour of the person filing a legal mean,
- behavior of the court and other state authorities, local self-government, public services and other holders of public authorities,
- the interest of the person filing the legal mean.

U 2010. there were 13 Claims for Fair Redress.

2. The Crminal Procedure Code lays down the right to compensation of damages, rehabilitation and execution of other rights of persons unfairly sentenced and unmeritedly apprehended. These provisions regulate the liability for the damages based exclusively on objective circumstances, i.e. on unfair sentence and unmerited apprehension – which is a consequence of striving to protect human rights and assets, his/her physical integrity and personal freedom. In order to proclaim detention unmerited, the proceedings should be stayed by an enforceable decision or completed by an enforceable verdict of release or by a verdict which dismisses the charges. As a consequence of unmerited apprehension i.e. unfair sentence, tangible or intangible damages might occur. The court of justice assesses the amount of compensation for both tangible and intangible damages, and the legal position is that 3,000 to 4,000 euros per month of unmerited detention should be paid for mental anguish caused by unmerited limitation of freedom (apprehension), depending on the circumstances in the case concerned as laid down by the Obligations Act.

In accordance with The Criminal Procedure Code, in the Ministry of Justice agreement is being concluded, on existence of damage, sort and amount of compensation for wrongfull arrest. Funds for payment of compensation for these damages are earmarked to the Ministry of Justice in a separate budgetary item, in accordance with which the amount of up to 2,000 euros is paid for a month, depending on the circumstances in a case concerned.

Accordance with court practice, for a month of injustice staying in detention, the amount of 3000-4000 euros is determined. What amount will be determined depends from severeness and type of criminal offence for which the person was accused, earlier life of the accused person (convicted or not convicted), how much the arrest of the accused person and the criminal proceeding against him was under attention of the media.

"Before initiating the procedure, it is obligatory to try to conclude with party concerned the Agreement on compensation for damages". (cf.13/7)

38) Does your country have surveys aimed at legal professionals and court users to measure their trust and/or satisfaction with the services delivered by the judicial system? (multiple options possible)

- (Satisfaction) surveys aimed at judges
- (Satisfaction) surveys aimed at court staff
- (Satisfaction) surveys aimed at public prosecutors
- (Satisfaction) surveys aimed at lawyers
- (Satisfaction) surveys aimed at the parties
- (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)

(Satisfaction) surveys aimed at victims

If possible, please specify their titles, object and websites where they can be consulted:

39) If possible, please specify:

	Surveys at a regular interval (for example annual)	Occasional surveys
Surveys at national level	No	No
Surveys at court level	No	No

40) Is there a national or local procedure for making complaints about the functioning of the judicial system (for example the treatment of a case by a judge or the duration of a proceeding)?

Yes

No

41) Please specify which authority is responsible for dealing with such complaints and inform whether there is or not a time limit to respond and/or a time limit for dealing with the complaint (multiple options possible). Please give information concerning the efficiency of this complaint procedure in the "comment" box below.

	Time limit to respond (e.g. to acknowledge receipt of the complaint, to provide information on the follow-up to be given to the complaint, etc.)	Time limit for dealing with the complaint	No time limits
Court concerned	Yes	No	No
Higher court	Yes	No	No
Ministry of Justice	Yes	No	No
High Council of the Judiciary	Yes	No	No
Other external bodies (e.g. Ombudsman)	Yes	No	No

Comment :

Q40.

Complaint on the work of the judge can be filed to president of the court in which judge performs his function. Acting upon this complaint, the president of the court, in accordance with the art.93 par 1 of The Law on Courts ("Official Gazette of MNE" no. 5/02,49/04 and 22/08) can bring decision to take the referred case from the judge or panel and assign it to other judge or panel. The time frame in which the president of the court is obliged to decide is not defined by the law, and if he does not decide upon petition or complaint, this is a reason for responsibility of the president of the court (art. 95 of The Law on Courts).

Complaint on a work of the judge can be filed also to a president of the court of higher instance.

Complaint on a work of the judge can be filed also to The Judicial Council.

In accordance with the art. 128 of The Constitution of Montenegro ("Official Gazzete of MNE", no. 1/07) one of the competences of the Judicial Council is to analyse petitions and complaints on the work of the judges, and defines stands upon these.

In The Supreme Court of Montenegro there is a Office for reception and complaints of the citizens. Every citizen can file a complaint to this Office.

In terms of the means provided by Law on Trial in a reasonable time, these are Request to accelerate proceedings (control request) and Claim for Fair Redress.

The Control request is filed to the president of the refered court and he is obliged to decide upon the request in 60 days. If the president of the court rejects the Control request or omits to decide in the due time, the complaint can be filed to the president of the court of higher instance in 8 days. The president of the court of higher instance is obliged to decide upon complaint in 60 days since the receipt.

The decision upon Claim for Fair Redress is competence of the Supreme court, which is obliged to decide upon claim in 4 months since the receipt of the complaint.

The Stae Prosecution Office

In accordance with The Rules of Procedure of The State Prosecution Office, complaints on the work is filed to the state prosecutor for deputy prosecutor or officer, and to the directly higher state prosecutor for lower state prosecutor. On the complaint or statement the state prosecutor is obliged to inform the person filing a complaint in the timeframe of 15 days.

Ministry of Justice

Complaints on the work of the court administration can be applied to the authorised officials of The Ministry of Justice. In accordance with The Law on Courts, The Ministry of Justice is acting upon these complaints without delay. The procedure is such that the complaint is being put into the procedure, the authorised official is seeking for the information from the court in question of the complaint. The courts will, at the request of The Ministry of Justice, submit all the data and informations needed for the follow up of the organization and work of the courts. After receiving all the informations, these are being forwarder to the person that filed a complaint.

Also, in accordance with the art. 101 of the Law in State Prosecutor, Ministry of Justice through authorised officer performs supervision over the work of the state prosecutors office in terms of the handling of complaints or notes.

In the 2010. Ministry of Justice received 139 complaints and acted upon all of them.

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

42) Number of courts considered as legal entities (administrative structures) and geographic locations. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total number
42.1 First instance courts of general jurisdiction (legal entities)	17
42.2 First instance specialised Courts (legal entities)	3
42.3 All the Courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	22

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If "other specialised 1st instance courts", please specify it in the "comment" box below. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Total (must be the same as the data given under question 42.2)	3
Commercial courts	2
Labour courts	NAP
Family courts	NAP
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	NAP
Administrative courts	1
Insurance and / or social welfare courts	NAP
Military courts	NAP
Other specialised 1st instance courts	NAP

Comment :

44) Is there a foreseen change in the structure of courts [for example a reduction of the number of courts (geographic locations) or a change in the powers of courts]?

Yes

No

If yes, please specify:

With aim to strengthen efficiency of the judiciary, Innovated Action plan for the implementation of the Strategy for the Reform of the Judiciary 2007 - 2012 defines rationalization of courts and prosecution network.

45) Number of first instance courts (geographic locations) competent for the following cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number of courts
a debt collection for small claims	17
a dismissal	15

a robbery

17

Please give the definition for small claims and indicate the monetary value of a small claim:

Cases of small value are cases where request of the plaintiff is related to money claim not exceeding 500 €. Cases of small value are also disputes where complaining request is related to money claim, but the plaintiff stated that he accepts that, instead of fulfilling certain request, takes certain money value not exceeding 500 €. Cases of small claims are also disputes in which the subject of the plaintiff's request is not money, but giving movable asset whose value is not exceeding 500 €. Cases on immovable property, labor cases and cases for disturbing possession are not considered as cases of small value.

In the proceeding in commercial disputes, cases of small value are cases in which the plaintiff's request is related to money claim not exceeding 5.000 €. Cases of small claims are also disputes in which the subject of the plaintiff's request is not money, but but the plaintiff stated that he accepts that, instead of fulfilling certain request, takes certain money value not exceeding 5.000€. Cases of small claims are also disputes in which the subject of the plaintiff's request is not money, but giving movable asset whose value is not exceeding 5.000 €.

Cases of small value between national and foreign companies, other legal persons and entrepreneurs (commercial subjects) form their commercial-legal relations and disputes in which parties are not commercial subjects, but they are in material co-competitors are in the competence of the commercial courts. Therefore, as there are 15 basic and 2 commercial courts in Montenegro, the answer to the question „Number of first instance courts competent for the cases of collecting claims in small claim cases“ is 17.

Criminal offence Robbery is defined in the art. 242 of The Criminal Code. For the criminal offence from the art. 242 par.1 the prescribed punishment is imprisonment from two to ten years., and for criminal offence from the art. 242 par.1 in relation to par. 1 is imprisonment sentence to three years, so the trial is under competence of the Basic courts; when for the other forms of the criminal offence punishment is over 10 years, these cases are under the competence of the High courts. Therefore, the answer to question "Number of first instance cases competent for criminal offence of Robbery is 17 (15 basic and 2 high courts.)

Please indicate the sources for answering questions 42, 43 and 45:

Law on Courts ("Official Gazette of RMN", no. 5/2002, 49/2004, and "Official Gazette of MNE" no. 22/2008)
Criminal Code("Official Gazette of RMN", no. 70/03, 13/04, and "Official Gazette of MNE" no.47/06, 48/08, 25/10 and 32/11).

3. 1. 2. Judges and non-judge staff

46) Number of professional judges sitting in courts (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Please provide in the "comment" box below any useful comment for interpreting the data above.

[Please make sure that public prosecutors and their staff are excluded from the following figures (they will be part of questions 55-60). If a distinction between staff attached to judges and staff attached to prosecutors cannot be made, please indicate it clearly.

Please indicate the number of posts that are actually filled at the date of reference and not the theoretical budgetary posts.]

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	260	117 (45%)	143 (55%)
1. Number of first instance professional judges	207	91	116
2. Number of second instance (court of appeal) professional judges	35	17	18
3. Number of supreme court professional judges	18	9	9

Comment :

In the second instance proceeding judges of Appellate court and high courts decide. Therefore, answer to the question „Number of second instance (court of appeal) professional judges“ encompasses also judges of high courts who work in departments of second instance.

47) Number of court presidents (professional judges). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total	Males	Females
Total number of court presidents (1 + 2 + 3)	22	17	5
1. Number of first instance court presidents	20	16	4
2. Number of second instance (court of appeal) court presidents	1	1	0
3. Number of supreme court presidents	1	0	1

48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December 2010). If necessary, please provide in the "comment" box below any information to explain the answer under question 48.

Gross figure Yes 25
 If possible, in full-time equivalent NA

Comment :

For 25 people, gross figure 409.241,84 euro.

In accordance with Article 42 of the Law on Judicial Council, Judicial Council may permanently or temporarily sent judge with his consent to another court of the same, lower or higher level. During the 2010., according to Article 43 of the same Law, the Judicial Council adopted 13 decisions on sending judges to other courts, and earnings have been paid to the judges who meet the norm in the Court in which they were elected, as in the court to which they were sent. 12 decisions were also brought on the termination of the work of judges in the courts where they were temporarily sent, at their request.

49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2010) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury).

Gross figure Yes 2

50) Does your judicial system include trial by jury with the participation of citizens?

Yes
 No

If yes, for which type of case(s)?

During the 2010th The jury has participated in the first instance criminal cases except for cases of criminal offenses of organized crime, corruption, terrorism and war crimes. Namely, the Code of Criminal Procedure ("Official Gazette of RM" no. 71/03 and 47/06), stipulated jury participation in the first instance criminal proceedings, except for offenses that carry a fine or imprisonment up to three years .

The Criminal Procedure Code ("Official Gazette of Montenegro",no. 57/09 and 49/2010) does not define participation of juries in criminal cases. This Code has begun to be applied in criminal proceedings for criminal offenses of organized crime, corruption, terrorism and war crimes in September of 2010. year. For other offenses the Code started full application in September 2011th.

51) Number of citizens who were involved in such juries for the year of reference:

148

52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled). If "other non-judge staff", please specify it in the "comment" box below.

Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5) Yes 1065

1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions Yes 1

could be subject to appeal

2. Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars	<input checked="" type="checkbox"/> Yes	111
3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	<input checked="" type="checkbox"/> Yes	62
4. Technical staff	<input checked="" type="checkbox"/> Yes	691
5. Other non-judge staff	<input checked="" type="checkbox"/> Yes	200

Comment :

5. Other non-judge staff are judicial trainees.

53) If there are Rechtspfleger (or similar bodies) in your judicial system, please describe briefly their status and duties:

Registrar of The Commercial Court in accordance with The Law on Business entities ("Official Gazette of RMN", no. 6/02, 17/2007, 80/2008 i 40/2010) is a person employed in the Commercial court which can, but not mandatory, be a judge and who is performing duties without authorisation of a judge. His duties are strictly administrative and his actions are not considered as actions of the judge.

Duties of the registrar are to perform supervision over registration of forms of commercial activities, issue confirmation of registration, confirmation on expiration of registration and extract from the register. Registrar can have additional tasks related to registration that he received from the President of The Commercial Court. In accordance with Law on changes and amendments of The Law on Business entities new paragraph was introduced, stating that acts of the registrar are final and administrative proceeding can be filed against these decisions.

54) Have the courts delegated certain services, which fall within their powers, to private providers (e.g. IT services, training of staff, security, archives, cleaning)?

Yes

No

If yes, please specify:

C.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your judicial system and the main reforms that have been implemented over the last two years

Q.49

Section 101 of the Law on Courts ("Official Gazette of RM" no.5/02, 49/04 and 22/08), provides that the president may hire a person who has expertise, or form a team of experts or an expert working party for clarification of certain technical issues that arise in the work of the court, as well as to clarify the issues and attitudes within the scope of court classes and sessions of judges, to assist judges in the professional preparation of cases for trial and judgment making, research and studying of case law and other issues are of importance for the efficient operation of courts and judges. The persons referred to are entitled to compensation in the amount fixed by the court president.

Based on these statutory provisions the President of the Supreme Court of Montenegro during the 2010th hired one person (retired judge) to assist judges in making judgments, and President of the Administrative Court one person (retired judge).

Please indicate the sources for answering questions 46, 47, 48, 49 and 52

Supreme Court of Montenegro.

[3. 1. 3. Public prosecutors and staff](#)

55) Number of public prosecutors (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting

the data.

	Total	Males	Females
Total number of prosecutors (1 + 2 + 3)	129	61	68
1. Number of prosecutors at first instance level	111	57	54
2. Number of prosecutors at second instance (court of appeal) level	9	2	7
3. Number of prosecutors at supreme court level	9	2	7

Comment :

56) Number of heads of prosecution offices. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of heads of prosecution offices (1 + 2 + 3)	17	11	6
1. Number of heads of prosecution offices at first instance level	16	11	5
2. Number of heads of prosecution offices at second instance (court of appeal) level	1	0	1
3. Number of heads of prosecution offices at supreme court level	1	0	1

Comment :

57) Do other persons have similar duties to public prosecutors?

 Yes No

Number (full-time equivalent)

58) If yes, please specify their title and function:

59) If yes, is their number included in the number of public prosecutors that you have indicated under question 55?

 Yes No

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2010) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number

 Yes

134

C.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your judicial system and the main reforms that have been implemented over the last two years

Q.60

From 134 persons, 10 are professional associates, 27 trainees, 10 volunteers-graduated lawyers, and 87 employees.

Please indicate the sources for answering questions 55, 56 and 60

The Supreme State Prosecutor's Office.

3. 1. 4. Court budget and new technologies

61) Who is entrusted with responsibilities related to the budget within the court? If "other", please specify it in the "comment" box below.

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	No	No	No	No
Court President	No	No	Yes	No
Court administrative director	No	No	No	No
Head of the court clerk office	No	No	No	No
Other	Yes	Yes	No	Yes

Comment :

Bureau of Finance Secretariat of the Judicial Council is preparing the draft budget of spending unit JUDICIARY on the basis of the processed data on the costs of all courts, which were submitted by the presidents of the courts for the previous year. According to the expressed needs of the budget shall be allocated to all courts - 22, Secretariat and the Judicial Training Center.

Court presidents manage the allocated budget.

Control of the use of budget spending of this unit is performed by the State Audit Institution and in the future Internal audit formed within The Secretary pursuant to Art.3 of The Regulation on the establishment of internal audit in the public sector.

62) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?

Word processing	100% of courts
Electronic data base of jurisprudence	-50% of courts
Electronic files	0 % of courts
E-mail	100% of courts
Internet connection	100% of courts

63) For administration and management, what are the computer facilities used within the courts?

Case registration system	100% of courts
Court management information system	100% of courts
Financial information system	100% of courts
Videoconferencing	-10% of courts

64) For the electronic communication and exchange of information between the courts and their environment, what are the computer facilities used by the courts?

Electronic web forms	-10% of courts
Website	100% of courts
Follow-up of cases online	+50% of courts
Electronic registers	-10% of courts
Electronic processing of small claims	0 % of courts
Electronic processing of undisputed debt recovery	0 % of courts
Electronic submission of claims	0 % of courts
Videoconferencing	0 % of courts
Other electronic communication facilities	-10% of courts

65) The use of videoconferencing in the courts (details on question 65). Please indicate in the "comment" box below any clarification on the legal framework and the development of videoconferencing in your country.

	65.1 In criminal cases, do courts or prosecution offices use videoconferencing for hearings in the presence of defendants or witnesses?	65.2 Can such court hearing be held in the police station and/or in the prison?	65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	65.4 Is videoconferencing used in other than criminal cases?
	Yes	No	Yes	Yes

Comment :

Article 112, paragraph 1 of the Criminal Procedure Code provides for the possibility of questioning witnesses located in another state, as well as of a person who because of age and illness are not able to give their statements in court premises. The witness statements can be made using the equipment for the transmission of sound and picture (videoconferencing devices), with the possibility of answering questions of other participants in the proceedings.

C.3

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your judicial system and the main reforms that has been implemented over the last two years

Q.64

The availability of informations was provided by publishing news and press releases, decisions and legal opinions on the websites, and some courts have established an electronic bulletin board, which contain information on trial schedules. Competent serices are currently working on establishing a web portal of the judiciary that will allow the publishing of statements, decisions, case law and informations to all courts in Montenegro.

Q64 : (cf. 13/7) : The box "If there are "other electronic communication facilities", please specify" should be filled with the following text:

"Access to information is enabled trough the publication of news and press releases, decisions taken and legal views on the web pages, and some courts have placed electronic message boards, with information about hearing schedules. We are currently working on establishing a web portal of judiciary that will provide publication of statements, decisions, case law and information to all courts in Montenegro."

3. 2. Performance and evaluation

3. 2. 1. Performance and evaluation

66) Is there a centralised institution that is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

Yes

No

If yes, please indicate the name and the address of this institution:

The Judicial Council provides annual report on work of each court during year. Address of The Judicial Council is Podgorica - Miljana Vukova b.b e-mail:

sudski.savjet@sudstvo.me

Statistical office of Montenegro-MONSTAT; IV Proleterske 2, 81 000 Podgorica, Montenegro.

67) Are individual courts required to prepare an annual activity report (that includes, for example, data on the number of cases processed or pending cases, the number of judges and administrative staff, targets and assessment of the activity)?

Yes

No

68) Do you have, within the courts, a regular monitoring system of court activities concerning:

The monitoring system aims to assess the day-to-day activity of the courts (namely, what the courts produce) thanks in particular to data collections and statistical analysis (see also questions 80 and 81).

number of incoming cases?

- number of decisions delivered?
- number of postponed cases?
- length of proceedings (timeframes)?
- other?

If other, please specify:

Each court constitutes a monthly report on the work of the previous month (the number of unresolved cases at the beginning of the month, the number of cases received during the month, the number of cases completed during the month, the number of unresolved cases at the end of the month).

69) Do you have a system to evaluate regularly the activity (in terms of performance and output) of each court?

The evaluation system refers to the performance of the court systems with prospective concerns, using indicators and targets. The evaluation may be of more qualitative nature (see questions 69-77). It does not refer to the evaluation of the overall (good) functioning of the court (see question 82).

- Yes
- No

Please specify:

Each month the President of The Supreme court organizes meetings with presidents of all courts during which the work of every court in the previous month is being analyzed, deficiencies are detected and the president of the court is obliging to bring the program for overcoming of perceived problems.

70) Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 72)

- Yes
- No

71) Please select the 4 main performance and quality indicators that have been defined:

- incoming cases
- length of proceedings (timeframes)
- closed cases
- pending cases and backlogs
- productivity of judges and court staff
- percentage of cases that are processed by a single sitting judge
- enforcement of penal decisions
- satisfaction of court staff
- satisfaction of users (regarding the services delivered by the courts)
- judicial quality and organisational quality of the courts
- costs of the judicial procedures
- other:

If other, please specify:

72) Are there quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge?

- Yes
- No

73) Who is responsible for setting the targets for each judge?

- executive power (for example the ministry of Justice)?

- legislative power
- judicial power (for example a High Judicial Council or a Higher Court)
- other

If other, please specify:

Orientation benchmarks are brought by the Ministry of Justice upon the proposition of The Judicial Council.

74) Are there performance targets defined at the level of the court (if no please skip to question 77)?

- Yes
- No

75) Who is responsible for setting the targets for the courts?:

- executive power (for example the ministry of Justice)?
- legislative power
- judicial power (for example a High Judicial Council, Higher Court)
- other

If other, please specify:

The president of the court.

76) Please specify the main targets applied to the courts:

Promptness of the court, and thus reducing the length of the proceedings, quality of decisions.

77) Who is responsible for evaluating the performance of the courts (see questions 69 to 76)? (multiple options possible)

- High Council of judiciary
- Ministry of justice
- inspection authority
- Supreme Court
- external audit body
- other

If other, please specify:

78) Are quality standards determined for the whole judicial system (are there quality systems for the judiciary and/or judicial quality policies)?

- Yes
- No

If yes, please specify:

Promptness of the court, quality of court decisions.

79) Do you have specialised court staff that is entrusted with these quality standards?

- Yes
- No

80) Do you monitor backlogs and cases that are not processed within a reasonable timeframe for:

- in civil law cases
- in criminal law cases
- in administrative law cases

81) Do you monitor waiting time during court procedures? Yes No

If yes, please specify:

Court Rules of Procedure provide following: Where the annual report indicates that a court or any of its divisions has a backlog bigger than the three month new caseload, the chief judge shall enact a program for elimination of backlog ("Program") by not later than 31 January of the next business year. The Program shall specify the steps to be introduced to secure timely performance of court functions including the following: making changes in the internal court organization; introducing extra work hours; making temporary changes in the organization of work hours; organizing business meetings, and other steps as may be set by law and the Rules. In designing and enforcing the Program, the chief judge may propose that judges be assigned to other courts and that amendments to the annual assignment schedule be enacted. The chief judge shall submit the draft Program to the meeting of judges for their consideration. The chief judge shall notify the chief judge of an immediately superior court and the chief judge of the Supreme Court of the Program enacted. The chief judge shall monitor and oversee on a monthly basis the status of Program implementation and decide on any modifications and amendments to the Program or termination of its implementation. (cf.NC 12/7)

82) Is there a system to evaluate the overall (smooth) functioning of courts on the basis of an evaluation plan (plan of visits) agreed beforehand?

This question does not concern the specific evaluation of performance indicators. Yes No

Please specify the frequency of the evaluation:

Each year the Judicial Council forms a committee with the task to visit all courts for the evaluation of each individual judge and the court as a whole. The decision of establishing the commission determines its composition (judges of the Supreme, Appellate and high courts), commission tasks and schedule of the visits.

83) Is there a system for monitoring and evaluating the performance of the public prosecution service? Yes No

If yes, please give further details:

Monitoring and evaluation of performance is done through the regular submission of all decisions of state prosecutors directly to senior state prosecutor's office in order to control, through a three-month, six month and annual reports on the work of state prosecutors and through annual review of the comprehensive work of basic and high state prosecutions by the Supreme State Prosecution Office. At the end of the year Supreme State Prosecutor of Montenegro is filing to the Parliament of Montenegro annual report on the State Prosecutor's Office work that contains a description and analysis of the State Prosecutor's Office, detailed information for each prosecution relating to the number of received and resolved cases during the year for which the report is made, as the problems and shortcomings in the work. Annual report on the work is published on the website of the Supreme State Prosecutor of Montenegro.

C.4**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your court monitoring and evaluation systems

4. Fair trial

4. 1. Principles

4. 1. 1. General information

84) Percentage of first instance criminal in absentia judgments (cases in which the suspect is not attending the hearing in person nor represented by a legal professional)?

6

85) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?

Yes

No

If possible, number of successful challenges (in a year):

104

86) Number of cases regarding Article 6 of the European Convention of Human Rights on duration and non-execution. If data is not available, please indicate NA.

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	4	0	2	0
Civil proceedings - Article 6§1 (non-execution)	1	0	0	0
Criminal proceedings - Article 6§1 (duration)	3	0	1	1

Please indicate the sources:

The Supreme Court of Montenegro.

D.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter

Q.84

During the 2010. in the criminal matters in the first instance 6.567 judgment was issued. In 406 cases the defendant was tried in absence.

During the 2010. in the first instance criminal cases 6.19% of the judgments was issued with the defendant who was tried in absence.

A defensor is posted to the defendant, on trial in the absence at the moment of bringing the decision on trial in absence, because article 69 paragraph 4 of the Code of Criminal Procedure ("Official Gazette of RM" no. 71/03 and 47/06) stipulated that defendant who is being tried in absence must have a lawyer as soon as the court issues a decision on the trial in absence.

And now the current Code of Criminal Procedure ("Official Gazette of Montenegro", no. 57/09 and 49/2010) in article 69 paragraph 4 contains an identical provision.

Q.86

The data relating to Claims for fair satisfaction.

As stated in the previous response during 2010 there were 13 such legal suits filed, and the table above indicated total of 12 cases. This is for the reason that in one case the complaint was lodged for violation of right to trial within a reasonable time in an administrative proceeding.

Data are given on the basis of records of the Supreme Court which has jurisdiction to rule on these complaints.

In an earlier response it was indicated that in accordance with the Law on Protection of right to trial within a reasonable time the party has the right to file a request for accelerated procedure (control request).

There were 95 such requests during the 2010.

Deciding upon them the following decisions were rendered:

- 16 applications rejected because of sloppiness,
- 4 requests rejected as manifestly unfounded,
- 34 requests have been rejected as unfounded
- 40 applications were adopted,
- 1 request remains unresolved.

4. 2. Timeframes of proceedings

4. 2. 1. General information

87) Are there specific procedures for urgent matters as regards:

- civil cases?
- criminal cases?
- administrative cases?
- there is no specific procedure

If yes, please specify:

In civil cases the law requires urgency in resolving labor disputes- Article 434 Code of Civil Procedure, in lawsuits for trespassing- Article 440 of The Code of Civil Procedure, in proceedings relating to family relations in case of a child or parent who exercises parental rights - Article 317 § . 1 of the Law on family Relations.

In criminal cases proceedings against minors are urgent - Article 476 of the Criminal Procedure Code; proceedings for offenses committed in an organized manner - Article 507 of the Criminal Procedure Code and detention cases -Article 147 of the Criminal Procedure Code.

88) Are there simplified procedures for:

- civil cases (small disputes)?
- criminal cases (small offences)?
- administrative cases?
- there is no simplified procedure

If yes, please specify:

The Law on Civil Proceedings ("Official Gazette of RM" no. 22/2004, 28/05 and 76/06) provides special provisions of the proceedings in disputes of minor value (Chapter XXX).

Also in an administrative dispute procedures can be simplified, in accordance with The Law on Administrative Disputes ("Official Gazette of RM" no. 60/2003):

"If Administrative court does not reject the suit in accordance with the law, and finds that the contested administrative or other act contains such deficiencies which prevent from evaluation of legality of the act, the court may annul the act by a verdict even without submitting suit in order to receive reply.

If more suits were filed to the Administrative court against acts in which rights and obligations are referring to similar factual state and same legal basis, the court may, after receiving replies to suits, do a procedure based on one suit, and stop the other proceedings until the final decision in selected case (procedure upon sample). Before bringing conclusion to stop the procedure, the Administrative court must allow to the prosecutor to give statement about answer to a suit and interruption of the proceeding. Against conclusion on interruption of proceeding, the complaint is not allowed.

Administrative court shall, after the verdict becomes final, in selected case, without verbal session, although the parties requested it, decide in cases in which proceeding was stopped, if they do not have factual or legal specifics."

For minor criminal offences Criminal Procedure Code ("Official Gazette of RMN", no. 71/03, 47/06) defines shortened procedure and punishment without main hearing, in accordance with the law. Criminal Procedure Code ("Fig. Gazette of RM" no. 57/08 and 49/10) provides a procedure of Agreement on the Admission of Guilt.

89) Do courts and lawyers have the possibility to conclude agreements on arrangements for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?

- Yes
- No

If yes, please specify:

At the main trial, main hearing, courts and lawyers can agree on the appointment of a new trial, or hearing, and on the timeframe in which the lawyer is obliged to submit his filings.

4. 2. 2. Caseload management and timeframes of judicial proceedings

90) Comment:

The national correspondents are invited to pay special attention to the quality of the answers to questions

91 to 102 regarding case flow management and timeframes of judicial proceedings. The CEPEJ agreed that the subsequent data would be processed and published only if answers from a significant number of member states – taking into account the data presented in the previous report – are given, enabling a useful comparison between the systems.

91) First instance courts: number of other than criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note 1: cases mentioned in categories 3 to 5 (enforcement, land registry, business register) should be presented separately in the table. Cases mentioned in category 6 (administrative law) should also be separately mentioned for the countries which have specialised administrative courts or separate administrative law procedures or are able to distinguish in another way between administrative law cases and civil law cases.

Note 2: check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should reflect the total number of other than criminal law cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)*	28 010	78 683	78 097	28 407
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	12 122	20 168	18 530	13 760
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	2 737	7 413	7 523	2 627
3. Enforcement cases	11 498	28 070	29 229	10 339
4. Land registry cases**	131	162	252	41
5. Business register cases**	69	17 828	17 652	245
6. Administrative law cases (litigious and non-litigious)	1 151	3 637	3 610	1 179
7. Other cases (e.g. insolvency registry cases)	212	1 405	1 301	216

92) If courts deal with "civil (and commercial) non-litigious cases", please indicate the case categories included:

In non litigious proceedings the courts decide on the settlements of personal status (seizure and return of legal capacity, involuntary placement in a psychiatric institution, designating the disappeared person and dead and proving of death), setting of family relationships (extension and termination of prolonged parental rights, depriving and returning of parental rights, issuing a permit for marriage when required by law, designating a child as born in marriage), regulate property relations (deciding on inheritance; determination of compensation for expropriated real estate, structuring of management and use of common things, and division of assets, determination of land borders), prepare court testament and court deposit.

93) If "other cases", please indicate the case categories included:

In reply to Q.91 under "other" are cases of deciding upon insolvency and liquidation of commercial enterprises.

94) First instance courts: number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: please check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means that: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	4 033	6 856	7 541	3 306

8. Criminal cases (severe criminal offences)	520	487	685	280
9. Misdemeanour and / or minor offences cases	3 513	6 369	6 856	3 026

95) The classification of cases between severe criminal cases and misdemeanour and/or minor criminal cases may be difficult. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedures).

Please indicate, if feasible, what case categories are included under "severe criminal cases" and the cases included under "misdemeanour and /or minor criminal cases".

Note:

"Severe criminal offences" encompasses cases from the competence of high courts, which are competent for cases as stated in the art. 18 of The Law on Courts (Official Gazette of RMN", no. 5/02, 49/04 and 22/08):

"At first instance the High Courts shall:

1) judge in criminal proceedings for criminal offences for which imprisonment in excess of 10 years is prescribed by the law as the principal punishment, regardless of the character, profession and position of the person against whom the proceedings are instituted and regardless whether the criminal offence has been committed in peace, extraordinary circumstances, in a state of imminent war danger or in a state of war, and in criminal cases concerning:

- Manslaughter,
- Rape,
- Endangering the safety of the air traffic,
- Unauthorized manufacturing, possessing and putting on the market intoxicating drugs,
- Incitement to a violent abolition of the constitutional order,
- Disclosure of classified information,
- Provocation of national, racial and religious hatred, conflict or intolerance,
- Violation of territorial sovereignty,
- Associating for unconstitutional activities,
- Preparing actions against constitutional order and security of Montenegro,
- Money laundering;

2) judge in criminal proceedings for criminal offences of organized crime, regardless of the seriousness of the imposed sanction;

3) judge in criminal proceedings for criminal offences with elements of corruption, such as:

- Violation of equality in the conduct of business activities;
- Abuse of monopolistic position;
- Causing bankruptcy;
- Causing false bankruptcy;
- Trading in influence;
- False balance of accounts;
- Abuse of appraisal;
- Disclosure of business secret;
- Disclosure and usage of stock-exchange secret;
- Passive bribery;
- Active bribery;

4) judge in those criminal offences which are prescribed by special legislation to fall within the jurisdiction of the high court;

"Minor criminal offences" encompasses cases from competence of the basic courts, which try for other criminal offences (criminal offences which are not under the competence of the high court). The figure incorporates data of first instance criminal cases, witought investigations and investigative actions and preparatory proceeding against minor.

96) Comments on questions 91 to 95. You can indicate, for instance, the specific situation in your country, give explanations on NA or NAP answers or explain the calculation of the total number of other than criminal law cases or differences in horizontal consistency, etc.

Q.91 Note: "Land registry cases" (4) listed in the table are the cases under the jurisdiction of the Administrative Court and are included in the total number of cases of the Administrative Court. On January 1st 2010. The Administrative Court had a total backlog of 1283 cases, and of that number 131 were land registry cases., - During the Administrative Court received a total of 3799 complaint to initiate an administrative dispute, and of that number 162 were land registry cases. During the year 3862 cases were initiated, and of that number 252 were cadastral objects. At 31.12.2010 there were 1220 unresolved cases, out of which 41 are cadastral objects.

Register of commercial companies is in competence of Central Registry Office of The Commercial Court. Registrar of The Central Registry Office of The Commercial Court is an employee of the Commercial Court, which may or may not be the judge and the registrar performs duties without authorities of a judge. The duties of Registrar are purely administrative, and his actions are not considered as actions of the judge - Article 84 of the Law on Business Companies.

"Negative trend of clearance rate in 2010 compared to the previous period (2008) is made due to the increase of civil

and commercial litigious cases for 6480, while the number of judges remained same". (cf.NC 12/7)

97) Second instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal" cases includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	1 657	9 439	10 422	674
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	NA	NA	NA	NA
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NA	NA	NA	NA
3. Enforcement cases	NA	NA	NA	NA
4. Land registry cases	NAP	NAP	NAP	NAP
5. Business register cases	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	NAP	NAP	NAP	NAP
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

98) Second instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	1 274	4 690	5 641	323
8. Criminal cases (Severe criminal offences)	275	1 010	1 161	124
9. Misdemeanour and/or minor offences cases	999	3 680	4 480	199

Comment :

Category 8. - Severe criminal offences, contains cases under jurisdiction of Appellate court, which decides upon appeals on verdicts of high courts.

Category 9. - In minor criminal cases, number contains cases under jurisdiction of the high courts which decide upon appeals on decisions of basic courts.

99) Highest instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal law cases" includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	147	2 268	2 313	102
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	147	1 803	1 852	98
2. Civil (and	NAP	NAP	NAP	NAP

commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)				
3. Enforcement cases	NAP	NAP	NAP	NAP
4. Land registry cases	NAP	NAP	NAP	NAP
5. Business register cases	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	0	344	340	4
7. Other cases (e.g. insolvency registry cases)	0	121	121	0

100) Highest instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	0	421	421	0
8. Criminal cases (severe criminal offences)	0	421	421	0
9. Misdemeanour cases (minor offences)	NAP	NAP	NAP	NAP

Comment :

101) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and processed by first instance courts. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Jan. '10
Litigious divorce cases	249	1 107	1 067	289
Employment dismissal cases	117	293	209	201
Robbery cases	56	114	136	34
Intentional homicide	31	30	31	30

102) Average length of proceedings, in days (from the date the application for judicial review is lodged). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure. New: the question concerns first, second and third instance proceedings.]

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	5,13	0,37	125,14	55,45	NAP	180,60
Employment dismissal cases	89	0,49	210,58	77	73,25	361,06
Robbery cases	51,54	1,75	268,86	75,67	NAP	343,53
Intentional homicide	96,45	1,88	680	95,5	NAP	775,5

103) Where appropriate, please inform about the specific procedure as regards divorce cases (litigious and non-litigious):

Proceeding in cases of divorce of marriage is prescribed by The Family Law ("Official Gazette of RMN", no.1/2007) which was not changed or amended since the last evaluation.

Relevant articles of The Family law:

"Art. 322

The proceeding in matrimonial dispute shall be initiated by an action.

The proceedings for divorce by mutual consent shall be initiated by a joint proposal of spouses (proposal for divorce by mutual consent).

If one spouse brings an action for divorce of the marriage, and the other spouse at latest before the closure of the main hearing explicitly states that he/she does not dispute the merits of the statement of claim, it shall be considered that the spouses have submitted a proposal for divorce by mutual consent.

.....

Art. 326

In the disputes for divorce of marriage upon the action of one of the spouses, the procedure of mediation shall be conducted in accordance with the Law on Mediation and this Law. Upon receiving the action the court shall schedule hearing and ask the spouses to make statements immediately as for which mediator they want to approach for the purposes of the attempt at reconciliation or i.e. achieving agreement on regulation of the legal consequences of the divorce of their marriage. If spouses do not reach the agreement about the mediator, the mediator shall be appointed by the court.

Art. 327

The court shall without any delay forward the action to the mediator, together with the enactment of appointing him/her as mediator, the names and addresses of spouses and data on joint children, if any.

Art. 328

The mediator shall, within eight days from the day of receiving the enactment of appointment, invite the spouses, according to the rules of direct service, to attend the procedure of reconciliation without their legal representatives in which they will attempt to resolve the disturbed relations without conflicts and without divorce of marriage.

Art. 329

If spouses reconcile in the reconciliation hearing, it shall be considered that the action for divorce has been withdrawn.

Art. 330

If one or both spouses, although duly summoned, fail to respond to the mediator's invitation to reconciliation, and they do not justify their absence, it shall be considered that reconciliation was unsuccessful and the procedure of mediation shall continue in the aim of reaching the agreement of spouses on exercising parental rights after the divorce and agreement on settlement of joint property.

Both spouses and their legal representatives shall be invited to the meeting aimed at reaching the agreement.

Art. 331

The procedure of mediation aimed at attempting reconciliation of spouses must be conducted within a month from the day of forwarding the action to the mediator/ The procedure of mediation aimed at achieving agreement on consequences of the divorce must be conducted within 60 days from the day of termination of the reconciliation procedure.

Art. 332

Mediator shall be obliged to inform the court the action was brought to about the success of mediation and to deliver to the court the minutes on reconciliation and the minutes containing the agreement of the spouses about exercising of parental rights and about the settlement of joint property, i.e. the statements of spouses that the agreement was not achieved.

Art. 333

The agreement of spouses about the settlement of joint property shall be entered into the declaration of court judgment on divorce of the marriage.

The agreement of spouses about exercising parental rights shall be entered into the declaration of court judgment on divorce of the marriage if the court estimates that the agreement is in the best interest of the child.

Art. 334

If one or both spouses, although duly summoned, fail to appear upon the invitation of the mediator related to reaching the agreement on exercising parental rights or settlement of joint property, and they do not justify their absence, the mediation shall be considered unsuccessful and the proceedings upon the action for divorce of marriage shall continue.

Art. 335

Procedure of mediation for the purposes of reaching the agreement on exercising parental rights and agreement on settlement of joint property after annulment of the marriage shall be completed within 60 days after forwarding the court decision on annulment of the marriage to the mediator.

Art. 336

During the whole proceedings for divorce of marriage the court shall be obliged to cooperate with the custody agencies and other professional services which deal with the issues of marriage and family, especially when spouses have joint minor children.

Art. 337

The main hearing may not be scheduled before the expiry of the term of a month from the day of unsuccessful reconciliation or from the decision of the court not to attempt the reconciliation because it is impossible or it is connected to extreme difficulties.

.....

Art. 340

When the procedure is initiated by the proposal of the spouses for divorce of marriage by mutual consent the facts on which the proposal is based shall not be examined, but the court may decide to conduct the evidence procedure, as in the case of the action for divorce of marriage, if the court estimates that the justified interests of the joint minor children require for the marriage to survive.

If the proposers have children together the court may examine the facts and conduct the evidence procedure, related to the part of the proposal of the spouses which refers to exercising parental rights, if the court is of the opinion that the agreement of the parents about these issues cannot provide sufficient guarantees that the interests of their minor and incapable children shall be sufficiently protected by such an agreement.

.....

Art. 342

In the judgment on matrimonial dispute the court shall be obliged to decide on exercising parental rights.

In the judgment on matrimonial dispute the court may decide on limitation or deprivation of parental rights.

Art. 343

The judgment by which marriage is divorced upon the proposal of spouses for divorce by mutual consent, can be attacked in the part referring to the divorce of marriage, only due to significant violation of provisions of litigation procedure or due to the fact that the proposal was given in delusion, or under the influence of force or fraud.

Art. 344

If a marriage was divorced by a final verdict or annuled, extraordinary legal remedy can not change the decision on stopping of the marriage, regardless weather some of the parties concluded new marriage".

104) How is the length of proceedings calculated for the four case categories? Please give a description of the calculation method.

In civil cases (divorce and labor disputes for dismissal notice), the length of the proceedings is calculated from the date the lawsuit is filed to the court until the final verdict. The judgment becomes final when it can no longer be contested by an appeal if it decided upon request of claim or counterclaims - Article 352, Paragraph 1 of the Code of Administrative Procedure. The judgment can not be contested by an appeal when the deadline for appeal expires. If the appeal is filed, the judgment becomes final after deciding on appeal.

Judgement acts upon the parties from the the date of enactment or the date when it was delivered - Article 355 of the Code of Administrative Procedure.

For the purposes of answering questions from the table data had been given for the process of 3rd level (in the lawsuit for the review procedure when the same is allowed).

Length of criminal proceedings is counted from the date of initiation of criminal proceedings until the judgment becomes final.

105) Role and powers of the public prosecutor in the criminal procedure (multiple options possible):

- to conduct or supervise police investigation
- to conduct investigations
- when necessary, to demand investigation measures from the judge
- to charge
- to present the case in the court
- to propose a sentence to the judge
- to appeal
- to supervise enforcement procedure
- to discontinue a case without requiring a judicial decision (ensure consistency with question 36!)
- to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision
- other significant powers

If "other significant powers", please specify:

Issues a decision on detention of persons suspected; proposes to investigative judge ordering detention and other measures that provide a presence of the defendant, filing a request for provisional seizure of property or gain; by order initiates financial investigation or extended confiscation, proposes to court measures for secret surveillance of Article 157, paragraph 1 of the Criminal Procedure Code and defines measures of secret surveillance under Article 157, paragraph 2 of the Criminal Procedure Code.

106) Does the public prosecutor also have a role in civil and/or administrative cases?

- Yes
- No

If yes, please specify:

The State Prosecutor is authorized that as an independent state agency, in addition to the functions of prosecution of perpetrators of crimes and other offenses that are prosecuted ex officio, take other legal actions that fall within its jurisdiction by special provisions or special laws, namely: Law on Civil procedure; law on Extra-Judicial proceedings; Law on General administrative Procedure, Law on Administrative Disputes, Law on misdemeanors, the Law on State Property, the Law on borrowing and management of Public sector debt, Family Law, Law of Obligations and Law on the restitution of seized property rights and indemnification.

In particular we stress the authority of state prosecutors to raise an extraordinary legal remedy against the final judgments in civil, administrative and misdemeanor procedure, and the right to file a complaint to initiate an administrative dispute in the cases foreseen by the Law on Administrative Disputes, which is in accordance with the determination that the function of Public Prosecutor is done in the public interest, in order to assure the application of law, and to provide the fulfillment of human rights and freedoms.

107) Case proceedings managed by the public prosecutor: total number of 1st instance criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Received by the public prosecutor	Cases discontinued by the public prosecutor (see 108 below)	Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	13 039	2 815	382	

108) Total cases which were discontinued by the public prosecutor. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number
Total cases which were discontinued by the public prosecutor (1+2+3)	519
1. Discontinued by the public prosecutor because the offender could not be identified	NAP
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	NA
3. Discontinued by the public prosecutor for reasons of opportunity	NA

109) Do the figures include traffic offence cases?

Yes

No

D.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years

Note 1: In civil matters, second instance court for basic courts is high court, and for commercial courts is Appellate court. Numbers contain cases from column 1, 2 and 3 – because in first instance courts all are led under same code, therefore it is not possible to distinguish cases of non-litigious and execution. Land registry cases are in jurisdiction of the Administrative court, and appeal is not allowed against decision of the Administrative court. Extraordinary legal remedy is allowed against decisions of the Administrative Court – a request for extraordinary reconsidering of a court decision. The Supreme Court of Montenegro decides upon requests for extraordinary reconsidering of a court decision. Character of decisions of the business register cases is explained in comments in Q.96 Note 2: Reform of misdemeanor system In the previous period, until September 1st, 2010, jurisdiction for misdemeanor proceeding in a first instance did not in whole belong to the authorities for misdemeanors, namely these proceedings were mainly the jurisdiction of authorised officers for misdemeanor proceeding in the ministries, other state authorities and local government. In accordance with Law on misdemeanors applicable until September 1st, 2010 („Official Gazette of

RMN", No. 25/94 & 48/99), misdemeanor proceeding in first instance was under jurisdiction of authorities for misdemeanors, ministries, other state authorities and local self-government. This Law also prescribed that Authorities for misdemeanors dealt with proceedings for misdemeanors for misdemeanor offences for which imprisonment sentence is prescribed; imprisonment sentence and fine; imprisonment sentence or fine; proceedings against minor; and proceedings for which jurisdiction of other authority was not prescribed and in cases when they were competent for one perpetrator that they are competent for other perpetrators, in case the responsibility derives from that event. Having this in mind, as misdemeanors for which fine was prescribed were not in exclusive jurisdiction of authorities for misdemeanors (also to ministries, other state authorities and local self-government), and having in mind that in most misdemeanor offences from different legislation areas was prescribed by a fine, most of the cases were in a first instance jurisdiction of ministries, state authorities and local self-government. While authorities for misdemeanors were competent only for minor number of misdemeanors for which also imprisonment sentence was prescribed and cases against minor and procedure of replacing fine in imprisonment sentence in accordance with art 216 of the stated law. Having this in mind, it was a complex misdemeanor system which was mostly under competence of the ministries, other state authorities and local self-government. On September 1st, 2010, application of the new Law on misdemeanors („Official Gazette of MNE", No.1/2011) started, which transferred subject matter jurisdiction for deciding on misdemeanors in all legislation areas exclusively to courts. Due to this mixed system in 2010., it is not possible to give comprehensive and precise data on whole misdemeanor system in 2010. Note 3 – Regarding Q. 107: In 2010. The State Prosecution Office had in work criminal charges against 13.039 known adult perpetrators. Against 2.815 persons criminal charges were dropped because of absence of founded suspicion that criminal offence prosecuted ex officio was perpetrated. By application of the institute of Postponed criminal prosecution 382 cases were solved and on this basis 127.339, 00 eur were charged from the suspected, which were payed for the humanitarian organisations. Investigation was led against 2.923 persons. Number of prosecuted perpetrators of criminal offences is 5.588, out of which figure against 2.473 persons indictments were raised based on conducted investigation, and against 210 persons direct indictments were raised based on results of inquest (indictments without conducting investigation), while against 2.905 persons indict proposal was filed. Acting upon indictments of the State Prosecutor, courts brought decisions against 7.014 persons, out of which against 5.977 persons conviction verdicts, against 602 persons acquittal verdicts and against 435 persons rejecting verdicts. The State Prosecutor's Office, dissatisfied by the penal policy of the courts, filed complaints on first instance verdicts against 1.606 persons, and complaints from all reasons to appeal against acquittal verdicts against 721 persons. Note 4- Regarding Q.108 After investigation was finished, The State Prosecution Office quit from prosecution of 400 persons, so the court brought acts on discontinuation of the investigation, and after prosecution the court brought a verdict which drops charges against 119 persons, based on withdrawing from the prosecution by The State Prosecutor.

Please indicate the sources for answering the questions 91, 94, 97, 98, 99, 100, 101, 102, 107 and 108.

Q.91-102, The Supreme Court of Montenegro

Q. 107,108,The Supreme State Prosecutor's Office

5. Career of judges and public prosecutors

5. 1. Recrutement and promotion

5. 1. 1. Recrutement and promotion

110) How are judges recruited?

- Mainly through a competitive exam (for instance, following a university degree in law)
- Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
- A combination of both (competitive exam and working experience)
- Other

If other, please specify:

Judges are chosen on the basis of public advertising. A candidate for a judge must meet the general requirements:

- To be a citizen of Montenegro;
- To have a general health and capacity;
- To be a lawyer;
- That he passed the bar exam.

Besides the general requirements the special conditions prescribed by in terms of work experience as follows:

For the judge:

- Municipal Court five years;
- Commercial Court six years;
- A higher court eight years;
- Court of Appeal and Administrative Court of 10 years,
- Supreme Court 15 years.

Criteria that are taken into consideration when selecting judges are:

1. expertise, work experience and performance,
2. published scientific papers and other activities in the profession,
3. professional development,
4. ability to impartially, conscientiously, diligently, decisively and responsibly perform the function for which the person is applying;
5. communication skills;
6. relationships with colleagues, conduct out of work, professionalism, impartiality and reputation.

These criteria are determined in detailed manner, so that for the election judge who was firstly elected Professional knowledge is measured by:

- success of study performance, which is expressed through the length of study and the average score,
- The results of written tests that are performed during the election,
- Ability to use information and communication technologies,
- Knowledge of foreign languages,
- Assessment of the final exam given at the initial training organized by the Centre for Education holders of judicial offices,
- Promotion at work.

Working experience is valued on the basis of:

- Length of service and the place where the same is done (the court, prosecution, advocacy, administration, economy),

Operational results are evaluated on the basis of:

- Work in progress,
- Opinion of an institution in which the candidate has worked.

Published scientific papers and other activities are evaluated on the basis of:

- Filed papers at seminars at home and abroad,
- Participation in the commission for drafting laws and bylaws;
- Lectures at the Centre for Education and bearers of judicial functions organized by the Directorate for Human Resources,
- Mediation.

Professional training is valued on the basis of:

- Magistrate and a doctorate;
- The training organized by the Centre for Education bearers of judicial functions and organizations, has the international organizations,
- Presence of seminars and other forms of education

111) Authority(ies) in charge: are judges initially/at the beginning of their carrier recruited and nominated by:

[This question strictly concerns the authority entrusted with the decision to recruit (not the authority formally responsible for the nomination if different from the former)].

- An authority made up of judges only?
- An authority made up of non-judges only?
- An authority made up of judges and non-judges?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles:

Judges are elected by The Judicial Council. The Judicial Council has President and nine members.

The president of The Judicial Council is The President of The Supreme Court of Montenegro. Members of The Judicial Council are:

1. four judges elected and dismissed by Conference of Judges
2. two members of the Parliament elected and dismissed by the Parliament from amongst the parliamentary majority and the opposition;
3. two respectable lawyers elected and dismissed by the President of Montenegro;
4. the Minister of Justice.

112) Is the same authority competent for the promotion of judges?

- Yes
- No

If no, which authority is competent for the promotion of judges ?

113) Which procedures and criteria are used for promoting judges? Please specify.

Vacancies in judicial structure are publicly advertised. Length of work experience for judges of higher courts is set out in answer to previous question.

Criteria for the selection of judges to be elected to a higher court (the judge who progresses) are:

Work experience, which is priced based on length of service as judge ';

Work results, which are valued for:

- Number of completed cases (total number per year and percentage) in the last three years prior to application on the ad;
 - A way of resolving cases (number of cases resolved on the basis of contentious debate, or trial, settlement, mediation or otherwise);
 - Quality of work is expressed through the number of confirmed, modified and reversed the decision in the last three years;
 - Taking cases to the date of receipt of the Court
 - Compliance with statutory deadlines for action in the proceedings;
 - Compliance with statutory deadlines in making judicial decisions,
 - Respect of working time;
 - Number of control requirements which are assessed by the court president established pursuant to Article 18 of the Law on Protection of right to trial within a reasonable time;
 - Number of items seized pursuant to Article 19 of the Law on Protection of right to trial within a reasonable time;
 - Imposed disciplinary actions;
- Published papers and other activities in the profession, which are valued on the basis of:
- Participation in the commission for drafting laws and by-laws;
 - Mediation;
 - Lecture organized by The Judicial Training Centre,
 - Working at universities in the clinic;
 - Filed papers at seminars at home and abroad.
- Further education, which is based on the price.
- The training organized by The Judicial Training Centre and international organizations
 - Presence of seminars or other forms of education.

The selection procedure and criteria for selection during the 2010. were prescribed by the Law on Courts ("Official Gazette of RM" no. 5/02, 49/04 and 22/08), the Law on the Judicial Council ("Official Gazette of Montenegro", no. 13/07 and 13 / 08), the Judicial Council Rules of Procedure ("Official Gazette of Montenegro", no. 35/08 and 38/08).

114) Is there a system of qualitative individual assessment of the judges' activity?

- Yes
- No

115) Is the status of prosecution services:

- Indépendant?
- Under the authority of the Minister of justice ?
- Other?

Please specify:

The State Prosecution Office is a specific independent state authority, in accordance with the art. 134 - 138 of The Constitution of Montenegro and art. 3 and 6 of The Law on State Prosecutor's Office.

116) How are public prosecutors recruited?

- Mainly through a competitive exam (for instance, following a university degree in law)
- Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
- A combination of both (competitive exam and working experience)
- Other

If "other", please specify:

State prosecutors and deputies are appointed on the basis of public advertisement. The state prosecutor and deputy may be a person who is a citizen of Montenegro, with the medical and legal capacity, being a lawyer with the bar exam . Besides the general requirements, special conditions in terms of experience in the legal profession are also defined, and that for the Supreme Public Prosecutor and his deputies - 15 years, for senior state prosecutor and his deputy - 10 years, for basic state prosecutor - 6 years, and his deputy - 3 years.

Criteria for appointment of Public Prosecutor and Deputy are:

- Knowledge,
 - The ability to perform prosecutorial functions,
 - Suitability for the performance of prosecutorial functions,
- In addition to the criteria, for the appointment of state prosecutors, the candidate must have the capacity for leadership and organization of work in the state prosecutor's office, which includes the ability to organize work, knowledge of prosecutorial administration tasks, the reputation candidate has in the state prosecution, and efforts to preserve reputation in public.

Law on State Prosecutor defines closely these criteria, so for the first appointment of a deputy the following is assessed:

1. Acquired knowledge on the basis of subcriteria:
 - The average score and length of study,
 - Training, completed the initial training, seminars and workshops,
 - Master of science degree, master, doctorate,
 - Computer literacy and knowledge of foreign languages,
2. Ability to perform prosecutorial functions is assessed:
 - Based on the results of written tests,
 - Work experience (length of work that the candidate has previously served),
 - Length of work experience (results of work, career advancement, etc.)
 and based on communication skills and personal appearances;
3. Dignity to perform prosecutorial functions are valued on the basis of the facts:
 - That the candidate has not been convicted of criminal offenses or convicted of offenses which makes him unworthy of the prosecutorial function,
 - On the basis of reputation and proper behavior and relationships with colleagues and clients,

And for deputy who is progressing:

- Knowledge is valued on the basis of:
- Professional training-going training and other forms of training,
- Scientific title
- Published scientific papers and other activities in the profession,
- Computer literacy and knowledge of foreign languages.

Ability to perform prosecutorial functions are valued on the basis of:

- Experience in the public prosecutors and other work experience,
- Results of the last three years that the prices on the basis of the complexity of completed cases during the year,
- Ways of solving the case,
- Quality of work,
- Taking the items in order of receipt and compliance with statutory deadlines for taking action and implementing the procedure, as well as communication skills, and personal appearances.

Dignity to perform prosecutorial functions are valued on the basis of:

- Compliance with the Code of Ethics for Prosecutors,
- Relationships with colleagues and clients and
- Proper reputation and behavior.

117) Authority(ies) in charge: are public prosecutors initially/at the beginning of their carrier recruited by:

[This question concerns the authority entrusted with the responsibility to recruit only (not the authority formally responsible for the nomination if different from the former).]

- An authority composed of public prosecutors only?
- An authority composed of non-public prosecutors only?
- An authority composed of public prosecutors and non-public prosecutors?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles:

Prosecutorial Council which consists of a president and 10 members, from which six are state prosecutors and deputies, appoints, dismisses and determines the termination of a deputy prosecutor and the Deputy Special Prosecutor function, and determines the proposal for the appointment and dismissal of state prosecutor, when a decision in relation to State prosecutors is brought by the Parliament of Montenegro. The process of appointing a deputy prosecutor who was firstly appointed, shall be conducted on the basis of criteria and subcriteria prescribed by the Law on State prosecutor's Office and the Rules of work of The Prosecutorial Council, based on previous testing of candidates, assessment test, determining the list of candidates and an interview with the candidate.

118) Is the same authority formally responsible for the promotion of public prosecutors?

- Yes
- No

If no, please specify which authority is competent for promoting public prosecutors:

119) Which procedures and criteria are used for promoting public prosecutors? Please specify:

The procedure and criteria for promotion of state prosecutors are defined by art. 33b of The Law on State Prosecutor's Office, and the subcriteria are defined in Rulebook of Prosecutorial Council.

120) Is there a system of qualitative individual assessment of the public prosecutors' activity?

- Yes
- No

121) Are judges appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?

- Yes
- No

If yes, are there exceptions? (e.g. dismissal as a disciplinary sanction)? Please specify:

Article 121, paragraph 2 of the Constitution of Montenegro stipulates that judges shall cease to function when they ask, when they meet the requirements for of old-age pension and, if sentenced to unconditional imprisonment.

When the judge is sentenced to unconditional imprisonment Judicial Council finds the termination of function.

Article 121 para 3 of the Constitution of Montenegro stipulates that the judge is dismissed:

- If convicted of the offense that makes him unworthy to exercise judicial functions,
- If performs his duties improperly or carelessly,
- If he becomes permanently incapacitated for the performance of judicial functions.

The decision on dismissal is brought by the Judicial Council, nad the procedure is prescribed by the Law on Judicial Council.

122) If there is a probation period for judges (e.g. before being appointed "for life"), how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of probation period (in years)
	NAP

123) Are public prosecutors appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?

- Yes
 No

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify:

Deputy prosecutor is firstly being appointed for period of three years, after which the function of the deputy is permanent in accordance with art. 28 of The Law on State Prosecution Office.

124) If there is a probation period for public prosecutors, how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of the probation period (in years)

125) If the mandate for judges is not for an undetermined period (see question 121), is it renewable? What is the length of the mandate (in years)?

NAP

126) If the mandate for public prosecutors is not for an undetermined period (see question 123), is it renewable? What is the length of the mandate (in years)?

NAP

E.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years

5. 2. Training

5. 2. 1. Training

127) Training of judges

Initial training (e.g. attend a judicial school, traineeship in the court)	Optional
General in-service training	Compulsory
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Optional
In-service training for management functions of the court (e.g. court president)	Optional
In-service training for the use of computer facilities in courts	Optional

128) Frequency of the in-service training of judges:

General in-service training	Regular (e.g. every 3 months)
In-service training for specialised judicial functions (e.g. judge)	Regular (e.g. every 3 months)

for economic or administrative issues)	
In-service training for management functions of the court (e.g. court president)	Annual
In-service training for the use of computer facilities in courts	Occasional (e.g. at times)

129) Training of public prosecutors

Initial training	Optional
General in-service training	Compulsory
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Optional
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Optional
In-service training for the use of computer facilities in office	Optional

130) Frequency of the in-service training of public prosecutors

General in-service training	Regular (e.g. every 3 months)
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Annual
In-service training for the use of computer facilities in office	Occasional (e.g. at times)

131) Do you have public training institutions for judges and / or prosecutors? If yes, please indicate in the "comment" box below the budget of such institution(s).

If your judicial training institutions do not correspond to these criteria, please specify it.

	Initial training only	Continuous training only	Initial and continuous training
One institution for judges	NAP	NAP	NAP
One institution for prosecutors	NAP	NAP	NAP
One single institution for both judges and prosecutors	No	No	Yes

Comment :

Q.131

Education in the judicial authorities in Montenegro is done through the Judicial Training Center, which is the only institution responsible for training and qualifying of judges and prosecutors and of the persons who are preparing to perform these functions.

Since the Judicial Training Center was organized as a separate organizational unit of the Supreme Court of Montenegro, the funds for financing education are provided as a separate item in the budget of the Supreme Court of Montenegro. In addition, financial support and implementation of continuing education activities is greatly contributed through contributions to the Center of relevant international organizations through various types of projects.

E.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- comments regarding the attention given in the curricula to the European Convention on Human Rights

and the case law of the Court

- the characteristics of your training system for judges and prosecutors and the main reforms that has been implemented over the last two years

Q.127.

Basic preconditions for a person to become a judge are to have diploma of Faculty of Law, that he passed internship (2 years in judiciary authority, and 4 years in state authority), and that he/she passed Bar exam.

Initial training is not mandatory - but it is significant advantage in the proceeding for selecting judge or a prosecutor. Initial training is performed in The Judicial Training Center, aiming to prepare potential candidates - persons who met preconditions mentioned above - for a performing of judicial function.

Law on education of the judicial authorities specifies the manner and forms of education of judges and prosecutors, as well as persons who are preparing for the exercise of judicial functions, composition and jurisdiction of separate bodies, records and other issues relevant to education in the judicial authorities, which corresponds to the application of international and European standards and practices.

The law on education in the judicial authorities brought a new perspective when it comes to training personnel in the judiciary, and therefore the newspapers in the functioning of the Centre.

Basic features and innovations are introduced by the education of the judicial authorities are the following:

- The Center for education of judges extends to state prosecutors, their deputies and advisors. Center changes its name to the Judicial Training Center. Training of judges and prosecutors through a center is a practical solution (with respect to the total number of judges and prosecutors, and the population size and Montenegro).

- In accordance with the Law, education of judges and prosecutors is a right and obligation. The independence of the judicial function imposes an obligation, first and foremost, to perform their functions professionally. The introduction of this article is education as a right and obligation of judges (and prosecutors) is introduced at the level of the law.

- The Center is organized as a separate organizational unit of the Supreme Court of Montenegro. Locating the center in the framework of the Supreme Court is supposed to provide funding through the Centre in particular budget line aimed at the Supreme Court.

- To organize and conduct training of judicial authorities special bodies are formed within the Centre, namely: The Coordination Committee, Programme Committee and Examination Committee. The Coordination Committee has a chairman and six members elected by all relevant institutions in the field of Justice (representatives of the Supreme Court of Montenegro, Montenegrin Supreme State Prosecutor, Judicial Council, Prosecutorial Council, the Ministry of Justice, Law Faculty in Podgorica). Represents the body with the highest authority that adopts an annual training program (which includes the prediction of areas in which training is conducted, the dynamics and limits of realization of decisions will, structure and number of participants, the structure of teachers, the necessary means and method of evaluation) and elects the members of program committees and Examination Board. For their work Coordinating Board is responsible to Judicial and Prosecutorial Council. Program committees develop annual program and special education programs and establish a plan of its realization. Examination Commission is organizing an entrance and final exam for initial training.

- For the first time this Law introduces the initial training and therefore makes a clear distinction between the initial and continuing training of personnel in the judiciary.

- Keeping records of the Center of the participation of the judiciary in the activities of the Centre.

- Introduction to the issuance of certificates by the Centre when it comes to initial training.

When it comes to education in the field of European law and the jurisprudence of European courts, this area is specially treated in the annual work program of the Center and divided to the part that deals with the European Convention on Human Rights and the part that deals with the law of the European Union.

In recent years, particularly the emphasis placed on education in the field of EU law that is being continuously carried out.

In the field of human rights education and standards of the Council of Europe, the Centre works with organizations that are specialized for carrying out such programs. In his previous work, since 2003. year to date, the Centre has over 80 activities in the field of education in the field of human rights and the ECHR. Training for trainers was organized in the area of the European Convention on Human Rights of 10 prominent representatives of the Montenegrin judiciary – 5 judges and 5 prosecutors.

Among other things, the Centre has continuously ensured the participation of judges in the Schools of Human Rights, and regularly distributed to all courts and prosecutor's offices in the country selected judgments of the European Court of Human Rights.

5. 3. Practice of the profession

5. 3. 1. Practice of the profession

132) Salaries of judges and public prosecutors.

	Gross annual salary in €, on 31 December 2010	Net annual salary in €, on 31 December 2010
First instance professional judge at the beginning of his/her career	24 142	14 500
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level,	32 202	19 341

and not the salary of the Court President)		
Public prosecutor at the beginning of his/her career	19 947	13 364
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Public prosecutor General)	27 902	18 694

Comment :

Salary of judges is determined by the Law on earnings and other incomes of carriers of judiciary and constitutional court functions (Official Gazette of RMN" no. 36/07 and 53/07)

Source: Ministry of Finance and Judicial Council of Montenegro

133) Do judges and public prosecutors have the following additional benefits?

	Judges	Public prosecutors
Reduced taxation	No	No
Special pension	No	No
Housing	No	No
Other financial benefit	No	No

134) If other financial benefit, please specify:**135) Can judges combine their work with any of the following other functions ?**

	With remuneration	Without remuneration
Teaching	Yes	No
Research and publication	Yes	No
Arbitrator	Yes	No
Consultant	No	No
Cultural function	Yes	No
Political function	No	No
Other function	No	No

136) If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If "other function", please specify.

In accordance with Article 45 of the Law on Judicial Council ("Official Gazette of Montenegro", no. 13/08), Judge may seek the opinion whether certain activities are incompatible with the exercise of judicial function, upon which the Judicial Council decides.

137) Can public prosecutors combine their work with any of the following other functions ?

	With remuneration	Without remuneration
Teaching	Yes	Yes
Research and publication	Yes	Yes
Arbitrator	Yes	Yes
Consultant	No	No
Cultural function	No	No
Political function	No	No
Other function	No	No

138) Please specify existing rules (e.g. authorisation to perform the whole or a part of these activities). If "other function", please specify:

State prosecutors may participate, as local experts, in training of judicial personnel, in the Judicial Training Center, Police academy and other educational institutions, and as experts engaged by international organizations, or perform scientific and research work, as well as in arbitration - mediation in civil and criminal matters, with or without compensation.

139) Productivity bonuses: do judges receive bonuses based on the fulfilment of quantitative objectives in relation to the delivery of judgments (e.g. number of judgments delivered over a given period of time)?

- Yes
 No

If yes, please specify the conditions and possibly the amounts:

In order to accelerate the work of the courts in 2010., pursuant to the decision of the Judicial Council, 36 judges (Court of Appeal, the Administrative Court, High Court) has been working overtime and for this work provided if they have achieved a double standard they were payed by monthly basic salary (without the addition of the judge and fees on the basis of past work if you fill a double standard).

5. 4. Disciplinary procedures

5. 4. 1. Disciplinary procedures

140) Who is authorised to initiate disciplinary proceedings against judges (multiple options possible)?

- Citizens
 Relevant Court or hierarchical superior
 High Court / Supreme Court
 High Judicial Council
 Disciplinary court or body
 Ombudsman
 Parliament
 Executive power
 Other?
 This is not possible

If "executive power" and/or "other", please specify:

The proposal to establish disciplinary liability of judges can be applied by the court president, the president of directly higher court and the president of the Supreme Court. - Article 54 paragraph 2 of the Law on Judicial Council.
 Every natural or legal person is entitled to file a complaint on the operation and behavior of judge. When such a complaint reaches the Judicial Council it is submitted to the President of the Court in which the judge against whom a complaint is filed works, in order to be examined. If the President of the court after examining finds that there are grounds for initiating disciplinary proceedings, he submits whole file with proposal to initiate proceedings to the Disciplinary Commission of the Judicial Council.
 If the court president finds that there are no grounds for initiating disciplinary proceedings, he submits all case files to the Judicial Council to take a stand on the complaint and notify the appellant.

141) Who has been authorised to initiate disciplinary proceedings against public prosecutors: (multiple options possible):

- Citizens
 Head of the organisational unit or hierarchical superior public prosecutor
 Prosecutor General /State public prosecutor
 Public prosecutorial Council (and Judicial Council)
 Disciplinary court or body
 Ombudsman
 Professional body
 Executive power

- Other?
- This is not possible

If "executive power" and/or "other", please specify:

142) Which authority has disciplinary power on judges? (multiple options possible):

- Court
- Higher Court / Supreme Court
- Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power
- Other?

If "executive power" and/or "other", please specify:

143) Which authority has the disciplinary power on public prosecutors? (multiple options possible):

- Supreme Court
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power
- Other?

If "executive power" and/or "other", please specify:

Proposal for initiating disciplinary procedure can be filed by:

- Minister of Justice for Supreme State Prosecutor
- The Supreme State Prosecutor, High State Prosecutor and Basic State Prosecutor for his deputy

- The Supreme State Prosecutor for High State Prosecutor and Basic State Prosecutor
 The proposal for initiating disciplinary procedure is filed to The Prosecutorial Council. The Prosecutorial Council elaborates the timeframe and basis for filing such proposal, and the procedure of establishing responsibility is under the competence of the Disciplinary board.

144) Number of disciplinary proceedings initiated against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

	Judges	Public prosecutors
Total number (1+2+3+4)	3	0
1. Breach of professional ethics	0	0
2. Professional inadequacy	3	0
3. Criminal offence	0	0
4. Other	0	0

Comment :

145) Number of sanctions pronounced against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Judges	Public prosecutors
Total number (total 1 to 9)	1	0
1. Reprimand	0	0
2. Suspension	0	0
3. Removal of cases	0	0
4. Fine	1	0
5. Temporary reduction of salary	0	0
6. Position downgrade	0	0
7. Transfer to another geographical (court) location	0	0
8. Resignation	0	0
9. Other	2	0

Comment :

Over 2010, three three proposals to institute disciplinary proceedings were submitted. One proposal has been rejected as unfounded, and one was adopted and the judge was imposed by the disciplinary measure on reducing 20% of net profit for one month due to infringement-disorderly conduct of judicial functions under Article 33a), paragraph 1, item 2 of the Law on Courts. The third procedure was interrupted due to the elements for the resolution and documents were submitted to the Judicial Council. During the proceedings, the judge filed a request for termination of judicial function.

In 2010 one proposition for dismissal of judge was filed. In accordance with the provisions of Article 63, paragraph 1 of the Law on the Judicial Council, the Judicial Council found that there are grounds for the proceedings for the dismissal and submitted filed proposal to the Disciplinary Commission to investigate the reasons for dismissal. During the proceedings, the judge filed a request for termination of function.

E.3

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years

Please indicate the sources for answering questions 144 and 145

Judicial Council, Supreme State Prosecutor's Office

6. Lawyers

6. 1. Status of the profession and training

6. 1. 1. Status of the profession and training

146) Total number of lawyers practising in your country.

620

147) Does this figure include "legal advisors" who cannot represent their clients in court (for example, some solicitors or in-house counsellors)?

- Yes
 No

148) Number of legal advisors who cannot represent their clients in court:

NA

149) Do lawyers have a monopoly on legal representation in (multiple options are possible):

- Civil cases?
 Criminal cases - Defendant?
 Criminal cases - Victim?
 Administrative cases?
 There is no monopoly

If there is no monopoly, please specify the organisations or persons that may represent a client before a court (for example a NGO, a family member, a trade union, etc) and for which types of cases:

150) Is the lawyer profession organised through? (multiple options possible)

- a national bar?
 a regional bar?
 a local bar?

151) Is there a specific initial training and/or examination to enter the profession of lawyer?

- Yes
 No

If not, please indicate if there are other specific requirements as regards diplomas or university degrees :

152) Is there a mandatory general system for lawyers requiring in-service professional training?

- Yes
 No

153) Is the specialisation in some legal fields tied with specific training, levels of qualification, specific diploma or specific authorisations?

- Yes
 No

If yes, please specify:

F.1

Please indicate the sources for answering questions 146 and 148:

Comments for interpreting the data mentioned in this chapter:

Lawyers are registered in the List of lawyers of The Bar Association of Montenegro.

There is no register of legal advisors.

Source:Bar Association of Montenegro

6. 2. Practising the profession

6. 2. 1. Practising the profession

154) Can court users establish easily what the lawyers' fees will be (i.e. do users have easy access to prior information on the foreseeable amount of fees, is the information transparent and accountable)?

Yes

No

155) Are lawyers' fees freely negotiated?

Yes

No

156) Do laws or bar association standards provide any rules on lawyers' fees (including those freely negotiated)?

Yes laws provide rules

Yes standards of the bar association provide rules

No, neither laws nor bar association standards provide rules

F.2

Useful comments for interpreting the data mentioned in this chapter:

Q.154

Clients of lawyers can be informed about lawyer's tariff on web page of Bar Association of Montenegro or directly in the administration office of Bar Association.

Q.155

The art. 3 of The Tarrif of Lawyers prescribes that beside the reward prescribed by the tariff lawyer and the clients can negotiate tariff in a flat rate or in a percentage amount.

Q.156

Prescribed by Tariff of Lawyers.

6. 3. Quality standards and disciplinary proceedings

6. 3. 1. Quality standards and disciplinary proceedings

157) Have quality standards been determined for lawyers?

Yes

No

If yes, what are the quality criteria used?

The quality standards are defined by the Law of Advocacy and Codex of Professional Ethics of Attorneys-at-law.

Law on advocacy prescribes that the lawyer is obliged to perform his duty truly and conscientiously. The lawyer can perform lawyers profession as an exclusive occupation. The lawyer is obliged to conscientiously provide legal assistance to a party, in accordance with the law, Statute of The Bar Association and Codex. The lawyer is obliged to, in accordance with the law, keep as a secret all the information he came upon in providing legal assistance.

"Codex of professional ethics of attorneys-at-law (hereafter referred to as Codex) is a set of rules about duties and rights of attorneys-at-law based upon a special type and high degree of their professional and moral liability.

2. Codex refers to attorneys-at-law and in appropriate way to law trainees registered in the registers of attorneys-at-law and registers of law trainees of all the bar associations on the territory.

3. Before starting with the activity, attorney-at-law is obliged to inform himself about the Codex and articles of association of the bar association (hereafter referred to as Articles of Association).

4. Lack of familiarity with the Articles of Association and Codex is unjustifiable.

5. When he/she does his job abroad, attorney-at-law should respect international principles of ethics and principles of ethics of professional rights of attorneys-at-law in the country in which he acts.

6. The bar association monitors that the Codex is followed, prescribes whether the violation of Codex has as a consequence a disciplinary liability of attorney-at-law and establishes and sanctions such liability.

7. If there is no rule for a specific case with direct meaning, Codex should be interpreted according to analogy, or according to aim and sense of its general rules."

158) If yes, who is responsible for formulating these quality standards:

- the bar association?
 the Parliament?
 other?

If "other", please specify:

159) Is it possible to file a complaint about :

- the performance of lawyers?
 the amount of fees?

Please specify:

The complaint is filed in a form of disciplinary complaint, to a disciplinary prosecutor of The Bar Association of Montenegro. If the disciplinary prosecutor (based on delivered evidence and statement of the lawyer upon which the complaint was given), finds that the complaint is grounded, he indicts such lawyer, and this action is initiating disciplinary procedure. The decision is brought by Disciplinary court, composed of the president (lawyer) and two members - judges (also lawyers).

160) Which authority is responsible for disciplinary procedures?

- the judge
 the Ministry of justice
 a professional authority
 other

If other, please specify:

Please see answer to Q.159.

161) Disciplinary proceedings initiated against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings

only once and for the main mistake.]

	Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	1. Breach of professional ethics	2. Professional inadequacy	3. Criminal offence	4. Other
Number	49	NA	NA	NA	NA

Comment :

The classification of disciplinary complaints is not being kept in named parameter. Total number of complaints for 2010. was 49.

162) Sanctions pronounced against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Total number of sanctions (1 + 2 + 3 + 4 + 5)	1.Reprimand	2. Suspension	3. Removal	4. Fine	5. Other (e.g. disbarment)
Number	0	NA	NA	NA	NA	NA

Comment :

In 2010. there were no sanctions pronounced against lawyers. In previous period, sanctions pronounced were deletion from the list of Lawyers for non-paying membership fee, and not because of complains from third persons.

F.3

You can indicate below any useful comments for interpreting the data mentioned in this chapter

7. Alternative Dispute Resolution

7. 1. Alternative Dispute Resolution

7. 1. 1. Alternative Dispute Resolution

163) Does the legal system provide for mediation procedures? If no skip to question 168

[Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).]

- Yes
 No

164) Please specify, by type of cases, the organisation of judicial mediation:

	Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Civil and commercial cases	No	No	Yes	No	No
Family law cases (ex. Divorce)	No	No	Yes	No	No
Administrative cases	No	No	No	No	No
Employment dismissals	No	No	Yes	No	No
Criminal cases	No	No	Yes	No	No

165) Is there a possibility to receive legal aid for mediation procedures?

- Yes
 No

If yes, please specify:

The law prescribes that if parties in the course of court proceedings are directed to mediation procedure, the provisions of the Law on Civil Proceedings which address exemption from payment of costs of proceedings accordingly apply to mediation proceedings.

166) Number of accredited or registered mediators who practice judicial mediation:

91

167) Number of judicial mediation procedures.

Please indicate the source in the "comment" box below:

Total number of cases (total 1+2+3+4+5)	<input checked="" type="checkbox"/> Yes	1 577
1. civil cases	<input checked="" type="checkbox"/> Yes	87
2. family cases	<input checked="" type="checkbox"/> Yes	1 420
3. administrative cases		NAP
4. employment dismissals cases		NAP
5. criminal cases	<input checked="" type="checkbox"/> Yes	70

Comment :

Database of Center for mediation of Montenegro for the period 2008-2010.

168) Does the legal system provide for the following ADR.

If "other", please specify it in the "comment" box below:

| | |

Mediation other than judicial mediation?	Yes
Arbitration?	Yes
Conciliation?	Yes
Other alternative dispute resolution?	No

Comment :

G.1

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years

Q166 : In 2008 – 73 and in 2010 – 91 Mediators

This is the case due to the activities defined in the Action plan for the implementation of the Judicial Reform Strategy 2007-2012 which contains Chapter devoted to Promotion Alternative Dispute Resolution and many activities such as:

- Promote alternative manners of dispute resolution
- Analyze the current number of mediators and their work and consider the needs to revise the status of mediators.

So mediators are appointed in the period since the last evaluation.

Please indicate the source for answering question 166:

List of Mediators, Ministry of Justice.

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

169) Do you have enforcement agents in your judicial system?

- Yes
 No

170) Number of enforcement agents

54

171) Are enforcement agents (multiple options are possible):

- judges?
 bailiffs practising as private professionals under the authority (control) of public authorities?
 bailiff working in a public institution?
 other enforcement agents?

Please specify their status and powers:

Enforcement agents are employees of the court to comply with the decision of execution issued by the executing judge.

The enforcement agent shall submit to a executing judge a report on the completed or non completed enforcement action, accompanied by the minutes of the performing of enforcement actions and eventual confirmation of the amounts collected during the implementation of enforcement actions.

172) Is there a specific initial training or examination to become an enforcement agent?

- Yes
 No

173) Is the profession of enforcement agents organised by?

- a national body?
 a regional body?
 a local body?
 NAP (the profession is not organised)

174) Are enforcement fees easily established and transparent for the court users?

- Yes
 No

175) Are enforcement fees freely negotiated?

- Yes
 No

176) Do laws provide any rules on enforcement fees (including those freely negotiated)?

- Yes
 No

Please indicate the source for answering question 170:

Supreme Court of Montenegro.

8. 1. 2. Efficiency of enforcement services

177) Is there a body entrusted with supervising and monitoring the enforcement agents' activity?

- Yes
 No

178) Which authority is responsible for supervising and monitoring enforcement agents?

- a professional body?
 the judge?
 the Ministry of justice?
 the public prosecutor?
 other?

If other, please specify:

179) Have quality standards been determined for enforcement agents?

- Yes
 No

If yes, what are the quality criteria used?

180) If yes, who is responsible for establishing these quality standards?

- a professional body
 the judge
 the Ministry of Justice
 other

If "other", please specify:

181) Is there a specific mechanism for executing court decisions rendered against public authorities, including for supervising such execution?

- Yes
 No

if yes, please specify

182) Is there a system for monitoring the execution?

- Yes
 No

If yes, please specify

Control over the work of the enforcement agents is performed by the Enforcement judge, and control of his work is performed by the commission formed in order to control the work of all courts and judges.

**183) What are the main complaints made by users concerning the enforcement procedure?
Please indicate a maximum of 3.**

- no execution at all?
 non execution of court decisions against public authorities?
 lack of information?
 excessive length?
 unlawful practices?
 insufficient supervision?
 excessive cost?
 other?

If other, please specify:

The highest problem in the area of execution of court decisions is that the debtor does not have funds to pay debt, and when it comes to payment of debt by seizure and selling, there are no parties interested to buy such items, not even in cases in which the object is real estate.

184) Has your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?

- Yes
 No

If yes, please specify:

Please see Comments in H.1

185) Is there a system measuring the timeframes of the enforcement procedures:

- for civil cases?
 for administrative cases?

186) As regards a decision on debts collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits:

- between 1 and 5 days
 between 6 and 10 days
 between 11 and 30 days
 more

If more, please specify

187) Number of disciplinary proceedings initiated against enforcement agents. If other, please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

Total number of disciplinary proceedings (1+2+3+4)	<input checked="" type="checkbox"/> number:	2
1. for breach of professional ethics	<input checked="" type="checkbox"/> number:	0
2. for professional inadequacy	<input checked="" type="checkbox"/> number:	2
3. for criminal offence	<input checked="" type="checkbox"/> number:	0
4. Other	<input checked="" type="checkbox"/> number:	0

Comment :

188) Number of sanctions pronounced against enforcement agents.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

Total number of sanctions (1+2+3+4+5)	<input checked="" type="checkbox"/> number:	1
1. Reprimand	<input checked="" type="checkbox"/> number:	1
2. Suspension	<input checked="" type="checkbox"/> number:	0
3. Dismissal	<input checked="" type="checkbox"/> number:	0
4. Fine	<input checked="" type="checkbox"/> number:	0
5. Other	<input checked="" type="checkbox"/> number:	1

Comment :

In one case proceeding was suspended.

H.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your enforcement system of decisions in civil matters and the main reforms that has been implemented over the last two years

Within the reform of the procedure of execution of decisions in Montenegro, two new laws were adopted: Law on execution and security ("Official Gazette of MNE", no.36/11) and Law on public enforcement officers ("Official Gazette of MNE", no.66/11).

Law on public enforcement officers defines the organisation and actions of the public enforcement officer in enforcement procedure, and in transitional and concluding provisions it is defined that The Ministry of Justice is obliged to bring bylaws for implementation of the Law: Rulebook on determining number of positions and offices of public enforcement officers, Rulebook on official identity documents, Rulebook on work of public enforcement officers, Tariff of public enforcement officers and Rulebook on Programme and manner of testing on the exam for public enforcement officer, which will be brought in the time of 6 months. Also, changes will be made in terms of status, because the Law prescribes that public enforcement officers are public professional service, worthy of public trust, public enforcement officers to be graduated legal professionals with passed exam for public enforcement officers or bar exam. organizing of first exam for public enforcement officers is planned for September 2012., and their first appointment until the end of 2012. After appointing of first 10 public enforcement officers, forming of Association of public enforcement officers will be prescribed. Tariff for the work and paying for expenses of public enforcement officers will be brought by The Government. Supervision over the work of the public enforcement officers will be made by The Association and The Ministry of Justice.

Please indicate the source for answering the questions 186, 187 and 188:

Reports of the Presidents of the Basic courts which are authorised to execute verdicts in civil cases.

8. 2. Execution of decisions in criminal matters

8. 2. 1. Execution of decisions in criminal matters

189) Which authority is in charge of the enforcement of judgments in criminal matters? (multiple options possible)

- Judge
- Public prosecutor
- Prison and Probation Services
- Other authority

Please specify his/her functions and duties (initiative or monitoring functions). If "other authority", please specify:

The execution of the prison sentence is under competence of the basic court in which area the sentenced person has temporary or permanent residence. If the place of temporary permanent residence is not known, referring to execution of sentence is under competence of the basic court which brought a verdict in a first instance, and if the first instance decision was brought by the high court, the competence is of the basic court in the seat of the high court.

when the court competent for enforcement receives the final decision, it is obliged to perform actions to enforce the sentence immediately, and in 3 days the latest. in that deadline, the court is obliged to call sentenced person in order to deliver Order for execution of sentence. Such order contains the date on which the convicted person is obliged to report in to the execution of criminal sanctions. When determining the period, court is obliged to leave a period of time of 8 days minimum, but not later then 15 days. if the summoned convicted person does not call in for execution of sanctions, the court issues order to a police to take him under force to the execution of prison sentence. if the sentenced person is hiding or running, the competent court issues order for wanted circular and delivers it to the police.

The Prison administration is administration authority in the structure of The Ministry of Justice. Also, the Probation office is being introduced in Montenegro (Law on changes and amendments of Law on execution of criminal sanctions ("Official Gazette of MNE", no.32/2011), as Department of The Sector for execution of criminal sanctions of The Ministry of Justice.

190) Are the effective recovery rates of fines decided by a criminal court evaluated by studies?

Yes

No

191) If yes, what is the recovery rate?

80-100%

50-79%

less than 50%

it cannot be estimated

Please indicate the source for answering this question:

H.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your enforcement system of decisions in criminal matters and the main reforms that have been implemented over the last two years

Within the reform of the procedure of execution of decisions in Montenegro, two new laws were adopted: Law on execution and security ("Official Gazette of MNE", no.36/11) and Law on public enforcement officers ("Official Gazette of MNE", no.66/11).

Law on public enforcement officers defines the organisation and actions of the public enforcement officer in enforcement procedure, and in transitional and concluding provisions it is defined that The Ministry of Justice is obliged to bring bylaws for implementation of the Law: Rulebook on determining number of positions and offices of public enforcement officers, Rulebook on official identity documents, Rulebook on work of public enforcement officers, Tariff of public enforcement officers and Rulebook on Programme and manner of testing on the exam for public enforcement officer, which will be brought in the time of 6 months. Also, changes will be made in terms of status, because the Law prescribes that public enforcement officers are public professional service, worthy of public trust, public enforcement officers to be graduated legal professionals with passed exam for public enforcement officers or bar exam. organizing of first exam for public enforcement officers is planned for September 2012., and their first appointment until the end of 2012. After appointing of first 10 public enforcement officers, forming of Association of public enforcement officers will be prescribed. Tariff for the work and paying for expenses of public enforcement officers will be brought by The Government. Supervision over the work of the public enforcement officers will be made by The Association and The Ministry of Justice.

9. Notaries

9. 1. Notaries

9. 1. 1. Notaries

192) Do you have notaries in your country? If no go to question 197

- Yes
 No

193) Are notaries:

If other, please specify it in the "comment" box below.

private professionals (without control from public authorities)?		NAP
private professionals under the authority (control) of public authorities?	<input checked="" type="checkbox"/> number	34
public agents?		NAP
other?		NAP

Comment :

In accordance with the Law on Notaries, notary performs notary service as public service, professionally and as exclusive occupation. Notary is the person who is a holder of public trust.

194) Do notaries have duties (multiple options possible):

- within the framework of civil procedure?
 in the field of legal advice?
 to certify the authenticity of legal deeds and certificates?
 other?

If "other", please specify:

In accordance with Law on notaries ("Official Gazette of RMN" no.68/05 and "Official Gazette of MNE", no.49/08), Notary is authorized to perform the following actions:

1. makes notary acts;
2. takes into a deposit documents, money, securities and other objects;
3. upon the warrant of the court performs actions entrusted by Law on notaries (The court may delegate the notary the following tasks: 1) inventory and assessment of legacy; 2) keeping the probate documents, money, securities or valuables; 3) other activities determined by special laws)
4. performs other actions entrusted by special law.

195) Is there an authority entrusted with supervising and monitoring the the notaries' activity?

- Yes
 No

196) Which authority is responsible for supervising and monitoring notaries:

- a professional body?
 the judge?
 the Ministry of justice?
 the public prosecutor?
 other?

If other, please specify:

Professional body - The Notarial Chamber.

I.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system of notaries and the main reforms that have been implemented over the last two years

Ministry of Justice issues rules of procedure for notary service (hereinafter: the Rulebook), which in a closer manner defines the issues determined by the Law on notaries, as well as issues of importance to the organization and manner of internal business of notary office and notary work.

Notaries are appointed by the Minister of Justice, upon receiving opinion of The Notary Chamber. Notary shall take an oath before the Minister, not later than 30 days from the date of appointment.

Q.196.

Law on Notaries defines triple mechanism of supervision over the work of notaries:

1. Direct supervision over the work of notary is performed by Notary chamber.
2. Supervision over the legality in performing notary duties is entrusted to the Ministry of Justice.
3. Supervision over the legality in performing notary duties in subjects which are entrusted to notary by the court, is entrusted to the president of the court on whose area is seat of the notary.

1.

Direct supervision of the notaries is performed by The Notary Chamber.

Within the powers referred to, the Chamber may review files and records of the notary, business with documents taken into custody as well as operations related to the deposited documents, deposited money, securities and valuables, and to order to the notary to operate in accordance with the regulations, or to bring the documentations into the order.

2.

Supervision over the legality in performing notary duties is entrusted to the Ministry of Justice.

Within the powers referred to, the Ministry may: 1) review the operations of notary; 2) propose to conduct disciplinary proceedings against notaries; 3) conduct the review of operations of the Chamber bodies; 4) take other control measures in accordance with the law, especially in connection with the Regulation.

3.

Supervision over the legality of performing notary service by the court:

Supervision over the legality of performing notary service in connection with the matters entrusted to the notary by the court is entrusted to the president of the court in whose area is the seat of a notary.

President of the Court may: 1) determine the business overview of the notary or his deputy in the cases referred to; 2) proposed to the Ministry to review the entire business of notaries or their deputies; 3) propose the conducting of disciplinary proceedings against notaries, or deputies.

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Court interpreters

197) Is the title of court interpreters protected?

- Yes
 No

198) Is the function of court interpreters regulated by legal norms?

- Yes
 No

199) Number of accredited or registered court interpreters:

368

200) Are there binding provisions regarding the quality of court interpretation within judicial proceedings?

- Yes
 No

If yes, please specify (e.g. having passed a specific exam):

Rulebook on permanent court interpreters prescribes the quality standards that accredited court interpreters must fulfill, the procedure of checking the knowledge on The Constitution and organisation of judicial authorities, and appointment of court interpreters. These procedures are in jurisdiction of The Ministry of Justice, who is also appointing the court interpreters, upon passing an exam organised within the Ministry of Justice.

201) Are the courts responsible for selecting court interpreters? If no, please indicate in the "comment" box below which authority selects court interpreters.

- Yes for recruitment and/or appointment for a specific term of office
 Yes for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings
 - No

Comment :

The right to use own language or a language which a person understands in a court procedure is a category guaranteed by the Constitution of Montenegro. This right and procedural laws provide parties, witnesses and other persons involved in the proceedings but who do not understand the language in official use in the court. The law prescribes that interpretation/translation is entrusted with an interpreter.

The court interpreters are appointed by The Ministry of Justice after passing exam.

Court interpreters are summoned by a judge for the needs of a procedure, from the list delivered to all judicial authorities by the Ministry of Justice which keeps records thereof.

J.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter:

Please indicate the sources for answering question 199:

Ministry of Justice.

11. Judicial experts

11. 1. Judicial experts

11. 1. 1. Judicial experts

202) In your system, what type of experts can be requested to participate in judicial procedures (multiple choice possible):

- "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation
- "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal
- "law experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision)

203) Is the title of judicial experts protected?

- Yes
- No

204) Is the function of judicial experts regulated by legal norms?

- Yes
- No

205) Number of accredited or registered judicial experts (technical experts)

520

206) Are there binding provisions regarding the exercise of the function of judicial expert within judicial proceedings?

- Yes
- No

If yes, please specify, in particular the given time to provide a technical report to the judge:

In accordance with Article 117 of the Code of Criminal Procedure ("Official Gazette of RM" no. 71/03 and 47/06) which was in force in 2010., technical expertise is determined by the authority conducting the procedure. This command defines the facts on which the technical expertise will refer, to whom is it entrusted and what is the period in which the expert shall submit his report.

The expert is obliged to submit an expert opinion within the time he has by the order, as defined by the art. 118 of The Criminal Procedure Code.

If the expert does not submit his findings and opinion in a given time limit he may be punished by a fine of up to 1,000 euros.

The Code of Criminal Procedure ("Official Gazette of Montenegro", no. 57/2009 and 49/2010) stipulates that technical expertise shall be determined by the order, the obligation of expert to submit findings in the determined timeframe.

In the Civil procedure, producing evidence by technical expertise is determined by the court decision, which contains the name and surname, profession of expert, subject matter, scope and subject of his expertise and the deadline for submission of written findings and opinion -Article 249 of the Code of Civil Procedure. If an expert in a given time limit unreasonably fails to submit his findings and opinion, the court will punish him by a fine of up to 500 euros.

The same punishment shall be imposed on an expert who refuses to perform technical expertise without just cause - Article 182 of the Code of Civil Procedure.

207) Are the courts responsible for selecting judicial experts?

If no, please indicate in the "comment" box below which authority selects judicial experts?

- Yes for recruitment and/or appointment for a specific term of office
- Yes for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

No .

Comment :

K.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter:

Experts are selected by the Commission established by the President of the Supreme Court of Montenegro - Article 11 of the Law in court experts ("Official Gazette of RM" no. 79/04). This commission is consisted of five members:

- Two judges,
- Two from the Association of Court Experts
- One from the Ministry of Justice.

President of the Commission shall be appointed from the judges.

Members of the commission from among the judges are appointed on the proposal of General Session of the Supreme Court.

Please indicate the sources for answering question 205:

Secretariat of The Judicial Council.

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Reforms

208) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged. If possible, please observe the following categories:

1. (Comprehensive) reform plans

2. Budget

3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)

4. High Judicial Council

5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities

7. Enforcement of court decisions

8. Mediation and other ADR

9. Fight against crime and prison system

10. Other

1. (The overall) reform plan

The reform of Montenegrin judiciary is continuously ongoing in accordance with activities provided in the Strategy for the Reform of Judiciary 2007-2012 and the Action plan for implementation of the Strategy for the Reform of Judiciary 2007-2012. By monitoring the achieved results, analyses, practice and opinions of the relevant international stakeholders and the Progress Reports regarding accession of Montenegro to the EU, the Action Plan for implementation of Strategy for the Reform of Judiciary has been innovated in December 2011.

In the course of overall reform, legal system in Montenegro is aiming to harmonization with EU *acquis communautaire* and the best practice and international standards in all areas, including the judiciary. In this sense, set of legislation was adopted in 2010 and 2011:

1. The Law on Changes and Amendments to the Criminal Code ("Official Gazette of Montenegro", no. 25/10) adopted by the Parliament of Montenegro at its session convened on 22 April 2010. The same Law has been amended and supplemented in 2011, by means of the Law on Amendments to the Criminal Code ("Official Gazette of Montenegro", no. 32/11) adopted in the Parliament of Montenegro on 22 June 2011.
2. The Law on Protection against Domestic Violence ("Official Gazette of Montenegro", no. 46/2010) adopted by the Parliament at its session held on 27. July 2010.
3. The Law on Amendments to the Criminal Procedure Code ("Official Gazette of Montenegro", no. 49/2010) adopted by the Parliament at its session held on 27 July 2010.
4. The Law Confirming the European Convention on non-applicability of Statutory Limitation to War Crimes and Crimes against Humanity ("Official Gazette of Montenegro – International agreements", no. 11/2010) adopted by the Parliament at its session held on 9 July 2010.
5. The Law Confirming the European Convention on Exercise of Children's Rights ("Official Gazette of Montenegro – International agreements", no. 8/2010) adopted by the Parliament at its session held on 9 July 2010
6. The Law Confirming Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, adopted by the Parliament at its session held on 12 October 2010.
7. The Law Confirming the Agreement between Montenegro and Bosnia and Herzegovina on Legal Aid in Civil and Criminal matters ("Official Gazette of Montenegro – International agreements", no. 15/2010) adopted by the Parliament of Montenegro at its session held on 9 December 2010.
8. The Law Confirming the Agreement between Montenegro and Bosnia and Herzegovina on Mutual Enforcement of Court Decisions in Criminal Matters ("Official Gazette of Montenegro – International agreements", no. 15/2010) adopted by the Parliament of Montenegro at its session held on 9 December 2010.
9. The Law Confirming the Agreement between Montenegro and the Republic of Croatia on extradition (Official Gazette of Montenegro – International Agreements", no. 1/2011) – Agreement has been signed on 1 October 2010.
10. The Law on Free Legal Aid ("Official Gazette of Montenegro", no. 20/2011), adopted by the Parliament of Montenegro on 5 April 2011.
11. The Law on amendments to the Law on Enforcement of Criminal Sanctions ("Official Gazette of Montenegro", no. 32/11) adopted by the Parliament of Montenegro at its session held on 22 June 2011.
12. The Law on Enforcement and Security ("Official Gazette of Montenegro", no. 36/2011) adopted by the Parliament of Montenegro at its session held on 12 July 2011
13. The Law on Amendments to the Law on Courts ("Official Gazette of Montenegro", no. 39/11), adopted by the Parliament of Montenegro at its session held on 22 July 2011.
14. The Law on Amendments to the Law on Judicial Council ("Official Gazette of Montenegro", no. 39/11), adopted by the Parliament of Montenegro at its session held on 22 July 2011.
15. The Law on Amendments to the Law on the State Prosecutor, ("Sl. List CG", no. 39/11), adopted by the Parliament of Montenegro at its session held on 22 July 2011
16. The Law on Misdemeanor ("Official Gazette of Montenegro", no. 1/2011 and 6/2011) adopted by the Parliament at its session held on 22 December 2011.
17. The Law on Public Executors adopted by the Parliament of Montenegro in December 2011.
18. The Law on Treatment of Juveniles in the course of Criminal Procedure adopted by the Parliament of Montenegro in December 2011.
19. The Law Confirming the Agreement between Montenegro and the Republic of Serbia on amendments to the

Agreement between Montenegro and the Republic of Serbia on Extradition ("Official gazette of Montenegro - International agreements", no. 4/2011), adopted by the Parliament of Montenegro on 22 March 2011.

19. The Law Conforming Convention on the Taking of Evidence Abroad in Civil and Commercial Matters ("Official Gazette of Montenegro – International agreements", no. 7/2011), adopted by the Parliament of Montenegro on 26 May 2011.

20. The Law Confirming the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters ("Official Gazette of Montenegro – International agreements", no. 7/2011), adopted by the Parliament of Montenegro on 26 May 2011.

21. The Law Confirming the International Convention on the Protection of All Persons from Enforced Disappearance ("Official Gazette of Montenegro – International agreements", no. 8/2011), adopted by the Parliament of Montenegro on 22 June 2011.

22. The Law Conforming the Agreement between Montenegro and the Republic of Croatia on Mutual Enforcement Court Decisions on Criminal Matters ("Official Gazette of Montenegro – International agreements", no. 17/201) adopted by the Parliament at its session held on 9 December 2010.

23. The Law on Amnesty of persons convicted for criminal offences prescribed by the laws of Montenegro and persons convicted by foreign criminal verdict enforced in Montenegro – the aforementioned Law has been enacted in August 2010 (Official Gazette 45/10).

3. Courts and the State Prosecutor (e.g. authorizations and organizations, structural changes – e.g. reducing the number of courts – management and method of work, information technology, pending cases and efficiency, court compensations, renovating and construction of new buildings)

The Supreme State Prosecutor and the Prosecution Council have undertaken several activities regarding provision of human resources, material and other conditions for more efficient and more successful conduct of prosecutorial function. Especially taking into account entry into force of the new Criminal Procedure Code which significantly changes criminal procedural system, mostly through the introduction of the state prosecutor-led investigation. Implementation of the new Criminal Procedure Code has commenced on 26 August 2010, in cases of organized crime, corruption, terrorism and war crimes. It has commenced to be implemented in its entirety as of 1 September 2011. In Podgorica, a facility with audio and video equipment has been adapted and installed for the needs of special department and joint investigation team, having 110 m², for the Higher State Prosecutor having 85 m² and for the Basic State Prosecutor, having 60 m². In Bijelo Polje, for the needs of the Higher State Prosecutor and special department falling under jurisdiction of the Higher Court in Bijelo Polje and for the needs of Basic State Prosecutor, facility of 440 m² has been adapted and equipped.

4. Judicial council

- During 2010, the Judicial Council has convened 13 regular sessions, and since its establishment it has convened total 44 regular and one extraordinary session.

- In 2010, after expiry of one year term of office of Disciplinary Commission, the Judicial Council has elected a new one, with its term of office starting as of 28 April 2010 and having the same members.

-Improvement of election process

During 2010, seminars on strengthening judiciary and public access to judiciary saw exchange of experiences with representatives of Judiciary Councils from the region, related to the process of election of judges: criteria and procedure, written exams, personal interviews, transparent evaluation systems; election process, transparency for both candidates and general public, appointment of judges and authorizations of authority in charge of appointing judges, all aiming to set up criteria for election in order to provide for the most qualified candidates to take over the judiciary function. Therefore, as of 19 April 2010, anonymous testing of candidates has been introduced, and candidates are marking their tests only with numbers which they receive prior to taking the test, without stipulating their names thereon. Only during the interview of the candidates, based on the number, the Commission for election identifies the candidate who took the test and informs him of the result.

Situation as of 31 December 2010

Out of total 260 anticipated judges, according to the Decision amending the Decision on the Number of Judges in Courts in Montenegro as of 31 December 2010, 260 judge positions were fulfilled.

5. Legal professionals (judges, state prosecutors, attorneys at law, notaries, court executors, etc.): organization, education, etc.

- Notary Chamber of Montenegro has been established on 9 April 2011 in Podgorica.

- At the fifth Plenary session of the Network of Pilot Courts CEPEJ, held on 13 April 2010 in Geneva, president of the Basic Court in Bijelo Polje was present, since this is the court which represents Montenegro in the Network of Pilot Courts of the Council of Europe Commission for efficiency of judiciary CEPEJ, as well as the president of the Higher Court in Podgorica.

6. Reforms with regards to civil, criminal and administrative law, international conventions and cooperation activities

Criminal legislation

Since the last evaluation, the Criminal Code was subject to two amendments (2010 and 2011). Aiming to achieve the full compliance with international standards, amendments to the Criminal Code included significant number of changes in current institutes of criminal substantive law and criminal offences. One of the most significant novelties also includes amendments of the criminal code with regards to introducing confiscation of property whose legal origin has not been proved (the so called "Extended confiscation"). In accordance with amendments of the Criminal Code (Official Gazette of Montenegro, no. 25/2010), article 113 of the Criminal Code stipulates that subject of confiscation from criminal offender may also be the property for which a reasonable doubt exists that it was obtained from criminal activity, except when the offender makes it plausible that its origin is legal (extended confiscation). Extended confiscation may be applied if the perpetrator has been convicted with a final judgment for:

- 1) one of criminal offences committed within the criminal alliance (article 401a);
- 2) one of the following criminal offences:
 - against humanity and other goods protected by international law, committed for gain;
 - money laundering;
 - unlawful production, keeping and circulation of narcotics;
 - against trade and commerce and abuse of powers, committed for gain, for which imprisonment of eight or more years is prescribed.

Significant novelty compared to previous evaluation cycle, is enactment of the new Criminal Procedure Code („Official Gazette of Montenegro”, no. 57/2009 and 49/2010), which significantly changed criminal procedural system – mostly through the introduction of the prosecutor-led investigation, but also by implementation of other institutes, such as the Agreement on admission of guilt, extended confiscation of property whose legal origin has not been proved and thereby related reverse burden of prove. Implementation of the new Criminal Procedure Code has commenced on 26 August 2010, in cases of organized crime, corruption, terrorism and war crimes. It started to be implemented in its entirety as of 1 September 2011.

Reform of misdemeanors system

The first step in the process of reforming misdemeanor system, following the Strategy, was establishment of a legal framework and this has been achieved by adopting The Law on Misdemeanors in December 2010 (Official Gazette of Montenegro, number 01/11) and The Law amending the Law prescribing fines for misdemeanors (Official Gazette of Montenegro, number 40/11) in July 2011. This Law amended 184 laws, penalty policies and fines have been adjusted, while fines expressed in minimal wage have been provided in nominal amount, in accordance with the Law on Misdemeanors. Implementation of these laws commenced on 1 September 2011. New Law on Misdemeanors has set up a brand new and efficient procedure for processing misdemeanor cases in accordance with EKLJP and it anticipates introduction of a new system of collection of fines and keeping misdemeanors records - RNKiPE.

The new Law on Misdemeanors has introduced significant novelties, such as:

- misdemeanor order whose application leads to resolving many cases outside of the court;
- misdemeanor procedure has been simplified and it is completed in one hearing;
- agreement on accepting responsibility and sanctions, between the competent authority and accused, thereby simplifying and speeding-up the misdemeanor procedure;
- restitutio in integrum is introduced;
- subject matter jurisdiction for deciding in misdemeanor cases is transferred to courts. During the transitional period subject matter jurisdiction will be placed upon local authorities and Misdemeanor Council;
- New method of servicing the documents has been introduced;
- Fines can be collected: by passive collection through the Registry of Fines, enforcement and replacement of fine with imprisonment. Payment of fines at the spot has been eliminated and established the system of monitoring and securing the payment thereof.
- for the first time, community service, has been introduced, which can be ordered instead of fine or imprisonment, but with the consent of the injured person;
- instead of imprisonment, probation can be ordered.

7. Enforcement of court decisions

Within a framework of reforming enforcement process in Montenegro, two new laws have been adopted: Law on Enforcement and Security (adopted in August 2011) and Law on Public Executors (adopted in December 2011).

The Law on Public Executors regulates organization and acting of the public executors in the enforcement procedure, while final and transitional provisions stipulate obligation of the Ministry of Justice to adopt bylaws for implementation of the Law. Deadline is 6 months following enactment of the Law, i.e. until June 2012.

Organization of the first exam for public executors is planned to take place in September 2012 and until the end of 2012 they will be appointed. Following appointment of first ten public executors, the Chamber of Public Executors will be established.

9. Combating crime and penitentiary system

In accordance with bilateral agreements with Republic of Serbia and Republic of Croatia, it is possible to extradite own national for listed criminal offences of organised crime and corruption. In practice, this has shown as effective mechanism in combating organised crime and corruption, beside it further improved regional cooperation.

In line with overall reforming policy of Government of Montenegro and measures defined in national strategic documents, the Ministry of Justice is continuously implementing activities regarding improvement of the system for enforcement of criminal sanctions in Montenegro. Reforms are related to all the aspects of the system – from amending legal framework to strengthening mechanisms of exercising and protecting the rights of imprisoned persons.

In September 2011, the Government of Montenegro has adopted the Action Plan for improvement of penitentiary system. One of the goals defined in the Action plan is improvement of conditions in prisons. Among the measures for achieving this goal, activities on preparation, definition and implementation of curriculum plan and program for staff of the Institution for Enforcement of Criminal Sanctions, have been defined in accordance with conventions and recommendations of the Council of Europe, European penitentiary rules and standards of the European Committee for prevention of torture and inhuman and degrading treatment or punishment (CPT), aiming to provide for the respect of human rights and freedoms among imprisoned population; including organization of consistent training of penitentiary staff with regards to respect of human rights and activities focused on rehabilitation of convicted persons.

In June 2011, the Parliament of Montenegro adopted The Law amending the Law on Enforcement of Criminal

Sanctions („Official Gazette of Montenegro“, no. 32/11)Th. This Law introduces new standards into Montenegrin legal system, the most important being establishment of special organizational unit Department for probation release. Department for probation release will monitor convicted persons while being free, during their probation release, probation conviction, probation under protective supervision, community service and other measures as stipulated by the Law. Newly established Probation department is organised as structural unit of The Ministry of Justice.

10. Other

In 2010, European day of Civil Justice has been celebrated for the first time in Montenegro (25 October).