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PART 2

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

HFII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans “DASHBOARD Western Balkans”

Data collection: 2020

Report prepared by the CEPEJ for the attention of the European Commission

Part 2 (A) - Beneficiary profile - Montenegro

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Executive Summary - Montenegro in 2020

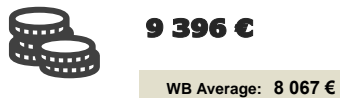
Population in 2020



GDP per capita in 2020



Average annual salary in 2020



The GDP per capita is for 2019, as the data for 2020 could not be provided. The provided figure for the population is given in accordance with the census from 2011.

Efficiency**

In the region, Montenegro has a **good capacity to deal with incoming cases. Indeed, all clearance rates for all type of cases in both first and second instance are above or equal to Western Balkans medians.** Montenegro only has a Clearance rate below 100% (creating backlog) for Criminal law cases in first instance (CR 96%).

Disposition time in first instance increased since 2018 for all types of cases but remain lower or equal to WB medians (aside for Administrative cases but it is to be noted that Administrative cases in first instance have the highest CR: 129%). In second instance, disposition times are significantly lower than WB medians. With a Disposition Time of approximately 10 days, the second instance total Criminal law cases were resolved faster than the other type of cases.

In Montenegro there are quality standards determined for the judicial system at national level. Monitoring of the pending cases and backlog is done for civil and commercial, administrative, and criminal cases. Monitoring of the waiting time in judicial proceedings is not done either within the Courts and within the Public prosecution services.

** The CEPEJ has developed two indicators to measure court's performance: clearance rate and disposition time.

Clearance Rate, obtained by dividing the number of resolved cases by the number of incoming cases, is used to assess the ability of a judicial system to handle the inflow of judicial cases. Its key value is 100%. A value below 100% means that the courts weren't able to solve all the cases they received and, as a consequence, the number of pending cases will increase, while CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of pending cases) and, as a consequence, the number of pending cases will decrease.

Disposition Time is a proxy to estimate the lengths of proceedings in days. It is calculated as the ratio between the pending cases at the end of the period and the resolved cases (multiplied by 365). It estimates the time to resolve all pending cases based on the actual pace of work. This indicator is highly influenced by the number of pending cases: categories of cases with high backlog will have higher DT than categories of cases that do not have backlog. At the same time, it is affected by the number of resolved cases, and this is especially evident in 2020, when this number dropped.

Training

The total budget for training of justice professionals in Montenegro in 2020 was 99,6€ per 100 inhabitants, which is significantly above the Western Balkans (WB) median (44,7€ per 100 inhabitants). The number of training courses available or delivered is an indicator that has been influenced by the Covid-19 pandemic restrictions, which have sometimes excluded the possibility to deliver in-person training courses. In 2020, Montenegro was **able to transfer courses from in-person to online platform**: the number of delivered in-person training courses decreased from 455 to 79, while the online available courses increased from 2 to 34 (with 40 training days organised online). Due to the pandemic, 11 trainings planned by the Program for Continuous Training of Judges and State Prosecutors were not implemented.

ECHR

In 2020, there were 37 applications pending before an ECHR decision body for Montenegro (-62,6% less than the previous year). 10 judgments found at least one violation (against 2 in 2019) and 8 cases were considered closed after a judgment of the ECHR (against 3 in 2019).

In Montenegro there is a monitoring system for violations related to Article 6 of the European Convention on Human Rights for civil procedures (non-enforcement and timeframe) and for criminal procedures (timeframe). There is also a possibility to review a case after a decision on violation of human rights by the ECHR.

Budget

In 2020, Montenegro spent 39 695 301€ as implemented judicial system budget, i.e **64€ per inhabitant, which is more than the Western Balkans median (thereafter WB median) of 37,8€.**

75,7% was spent for all courts, 23,9% for prosecution services, 0,4% for legal aid. Compared to 2019, Montenegro has spent -7% less for courts, 0,9% more for prosecution services, and -27,9% less for legal aid. It was indicated that in 2020 a smaller number of requests for free legal aid were adopted, thus less money was spent.

The budgets spent for courts and public prosecution services per inhabitant are well above the WB Medians (48,5€ per inhabitant spent for courts with WB median at 21,1€; 15,3€ spent on public prosecution services per inhabitant with WB Median at 7,2€). The budget per inhabitant spent for legal aid (0,24€) is slightly above the WB Median (0,2 €).

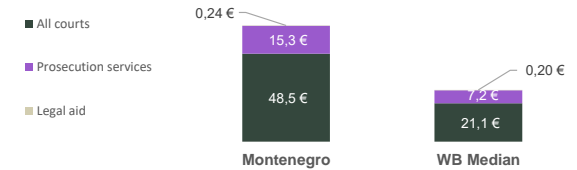
The amount of budget coming from **external donors** is difficult to calculate, because funds are often allocated on projects that usually last longer than one year and involve not only the justice system but also other areas. Furthermore, it is difficult to identify how much is directly or indirectly allocated to courts, prosecutor offices and legal aid. Montenegro was not able to provide data. However, **information on projects funded by external donors and currently implemented in Montenegro was provided** (see financial aspect – budget received from external donors).

Legal aid

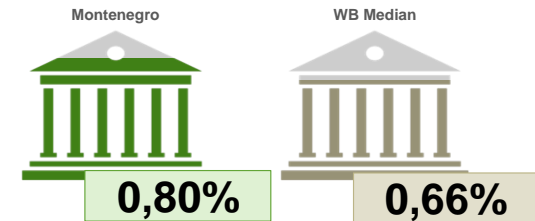
In 2020, the implemented budget for legal aid spent by Montenegro was **0,24€ per inhabitant** (slightly above the WB median of 0,2€). Montenegro was not able to provide data on the number of cases for which legal aid had been granted in 2020.

Budget of the Judiciary

Implemented Judicial System Budget per inhabitant in 2020



Implemented Judicial System Budget as % of GDP in 2020

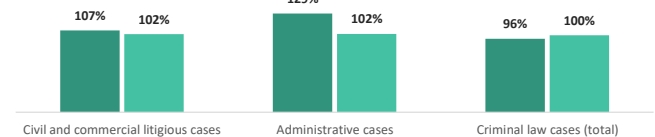


Efficiency

■ 1st instance ■ 2nd instance

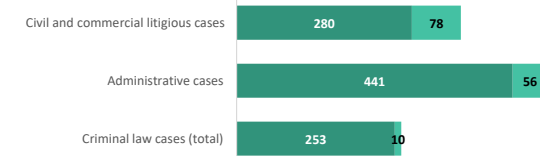
Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases. A CR of 100% or higher does not generate backlog.



Disposition time in 2020 (in days)

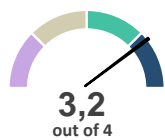
The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.



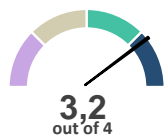
CMS index (scale 0-4) Civil and/or commercial

Case management system (CMS) Index is an index 0 to 4 points calculated based on several questions on the features and deployment rate of the of the case management system of the courts of the respective beneficiary.

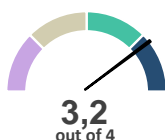
The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points for the 4 of the 5 questions apart of the deployment rate question are summarized and the deployment rate is multiplied as a weight. In this way if the system is not fully deployed the value is decreased even if all features are included to provide adequate evaluation.



Criminal



Administrative



Electronic case management system and court activity statistics

In Montenegro, the **case management system (CMS)**, eg software used for registering judicial proceedings and their management, has been **developed more than 10 years ago**. It is developed in all courts (100% deployment rate) and the data is stored on a database consolidated at national level. The **development of the new system is in progress** (ISP (abbreviation for information system of Judiciary - in Montenegrin Informacioni Sistem Pravosuda)). The full implementation is planned in the new ICT Judiciary Development Program 2021-2023 for the fourth quarter of 2022.

In Montenegro, there is a **centralised national database of court decisions** in which all judgments for all instances are collected, with anonymised data. This case-law database is available for free online and in open data. There is no links with ECHR case law (hyperlinks which reference to the ECHR judgments in HUDOC database) in this database.

ADR (Alternative Dispute Resolution)

Generally speaking, ADR and mediation in particular are not well developed in the Western Balkans region. However, in Montenegro there was a **new Law on ADR and Amendments to the Civil Procedure Code, adopted in July 2020**. This new law foresees mandatory mediation before going to court with both parties obliged to attend the first meeting with a mediator in the following cases: the disputes stipulated as small value claims according to the law governing civil proceedings; the disputes for damages arising from insurance contracts if one of the parties is an insurance company; the disputes for which special law stipulates the obligation to do so. A mandatory first meeting with a mediator must also be ordered by the judge according to the Law on Civil Procedure: 1) if one of the parties is Montenegro, Capital, Historic Capital, i.e. municipality; 2) in commercial disputes, except in disputes with international element, in disputes regarding relations to which the status (company) law is applied and in disputes where a party in bankruptcy procedure is referred to civil procedure; 3) in other cases required by special law (family disputes, labour disputes).

Legal aid can be provided for court-related mediation, and it can as well be provided free of charge.

Following the implementation of the new law, there was an **increase of the number of mediation procedures and therefore of the number of mediators**. In 2020, there was an increase of 75,9% of the number of mediators compared to 2019 (139 mediators in 2020). This represents 22,4 mediators per 100 000 inhabitants which is significantly more than the WB median of 5,4. Most of the mediators were women (69,8%).

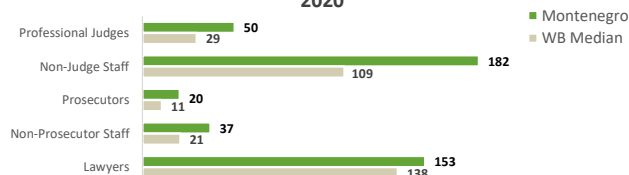
There were in total **2617 cases for which the parties agreed to start mediation and 1269 mediation procedures which ended with a settlement agreement**, which are amongst the highest numbers in the region. Court related mediation was most used for Labour cases (including employment dismissals) and Civil and commercial cases (1492 and 921 cases, respectively, in which parties agreed to start mediation).

However, according to the Centre for Mediation, there is still a need for additional mediators in some municipalities and the number of cases resolved by mediation is still

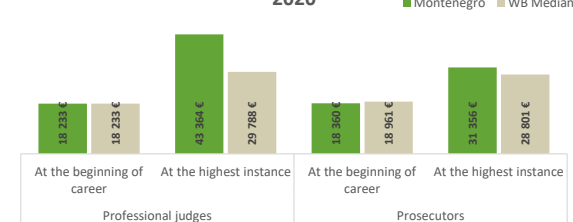
not considered at a satisfactory level.

Professionals of Justice

Total number of professionals per 100 000 inhabitants in 2020



Salaries of professional judges and prosecutors in 2020



Kosovo* is not included in the calculation of summary statistics

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Gender Balance

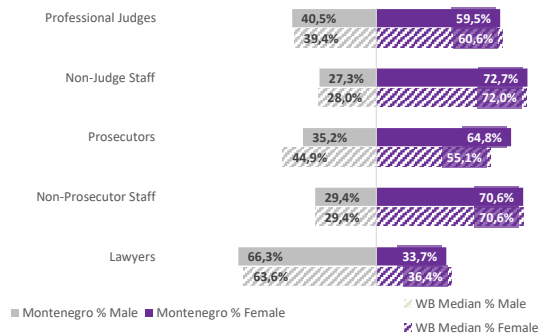
60% female judges (total)



65% female prosecutors (total)



Gender Balance in 2020



Conciliation, mediation (other than court related mediation), arbitration and early neutral evaluation of dispute are also available in Montenegro.

Professional and Gender Balance

Eastern European countries traditionally have a very high number of professionals per 100 000 inhabitants. In 2020, Montenegro had **49,8 judges and 20,2 prosecutors per 100 000 inhabitants** which is higher than the WB medians (respectively 30,4 and 10,5).

There was no significant change of the number of judges and prosecutors in Montenegro from the numbers in 2019 (decrease of -0,3% for judges, increase of 1,6% for prosecutors).

The numbers of non-judge staff per professional judge were similar to the WB medians for all instances, except for the third instance where this ratio was lower than the WB median (2,3 non-judge staff per judge vs 3,4).

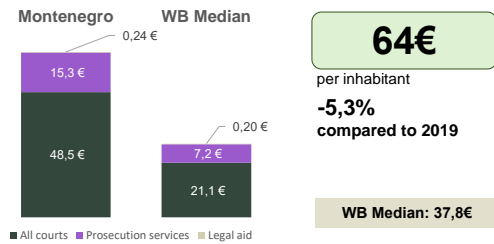
The gross annual salaries of judges and prosecutors at the beginning of their career correspond to the WB medians. They are however higher than the WB median at the highest instance.

Regarding the **gender balance**, in 2020 59,5% of judges; 72,7% of non-judge staff; 64,8% of prosecutors; 70,6% of non-prosecutor staff and 33,7% of lawyers were female. All those percentages are higher or equal to the WB medians except for judges and lawyers (WB medians at 60,6% for judges and 36,4% for lawyers). Lawyers is the only category where less than 50% of professionals were female.

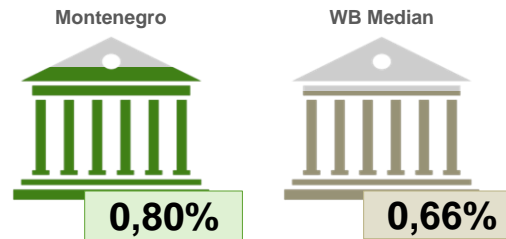
Montenegro has no national programme or orientation document to promote gender equality but has **specific provisions for facilitating gender equality in the recruitment and promotion of judges and prosecutors** and compiles data on the distribution males/females amongst judges and prosecutors.

Budget of the judiciary in Montenegro in 2020 (Indicator 1)

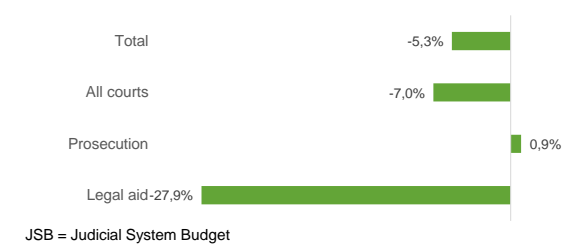
Implemented Judicial System Budget per inhabitant



Implemented Judicial System Budget as % of GDP



% Variation of Implemented JSB between 2019 and 2020



The Judicial System Budget (JSB) is composed by the budget for all courts, public prosecution services and legal aid. In 2020, the implemented JBS for Montenegro was 64€ per inhabitant. This was higher than the Western Balkans (WB) median (37,8). It represented 0,80% of the GDP of Montenegro while the WB median was 0,66% and it decreased by -5,3% since 2019.

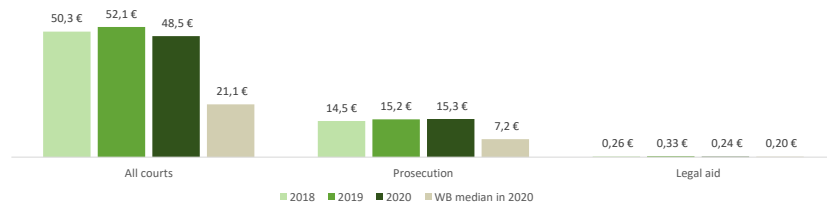
Budget allocated to the judicial system (courts, prosecution services and legal aid)

In 2020, Montenegro spent 39 695 301€ as implemented judicial system budget. This means that Montenegro spent 64€ per inhabitant, which is more than the Western Balkans median of 37,8€. 75,7% was spent for all courts, 23,9% for prosecution services, 0,4% for legal aid. Compared to 2019, Montenegro has spent -7% less for courts, 0,9% more for prosecution services, and -27,9% less for legal aid. It was indicated that in 2020 a smaller number of requests for free legal aid were adopted, thus less money was spent. The difference between the approved and implemented budget for public prosecution services was due to the budget rebalance, all pursuant to the Law on Amendments to the Budget Law (Official Gazette of Montenegro 61/2020 as of 24 June 2020).

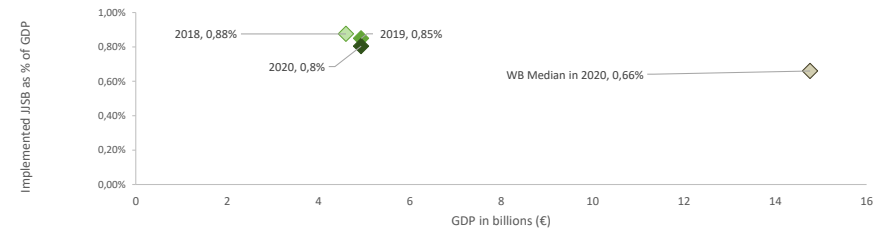
Judicial System Budget	Judicial System Budget in 2020		Implemented Judicial System Budget per inhabitant				Implemented Judicial System Budget as % of GDP			
	Approved	Implemented	Per inhabitant	WB Median	% Variation 2018 - 2020	% Variation 2019 - 2020	As % of GDP	WB Median	Variation (in ppt) 2018 - 2020	Variation (in ppt) 2019 - 2020
Total	NA	39 695 301 €	64,0 €	37,8 €	-1,5%	-5,3%	0,80%	0,66%	-0,07	-0,05
All courts	31 567 667 €	30 058 506 €	48,5 €	21,1 €	-3,6%	-7,0%	0,61%	0,41%	-0,07	-0,05
Prosecution	9 636 314 €	9 490 312 €	15,3 €	7,2 €	5,9%	0,9%	0,19%	0,15%	0,00	0,00
Legal aid	NA	146 483 €	0,24 €	0,20 €	-10,7%	-27,9%	0,00%	0,003%	-0,001	-0,001

PPT = Percentage points

Implemented judicial system budget per inhabitant between 2018 and 2020 (€)



Implemented Judicial System Budget as % of GDP between 2018 and 2020



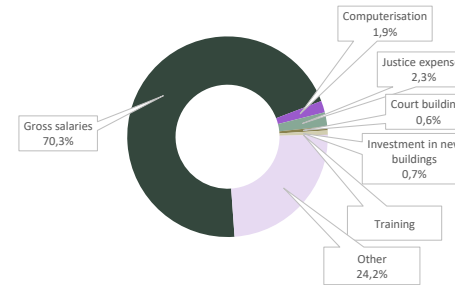
Budget allocated to the functioning of all courts

In 2020, Montenegro spent 30 058 506€ as implemented budget for courts. 70,3% was spent for gross salaries, 1,9% for computerisation, 2,3% for justice expenses, 0,6% for court buildings, 0,7% for investments in new buildings, 0% for training (0,007%), 24,2% for other. The category « other » includes: other personal income, jubilee awards, severance pay, assistance, separate life, administrative/office supplies, fuel, communication services, lawyer services, consulting services, banking services, licenses, insurance, employment contracts, utilities, technological redundancy-severance pay, etc. (Source: Judicial council)

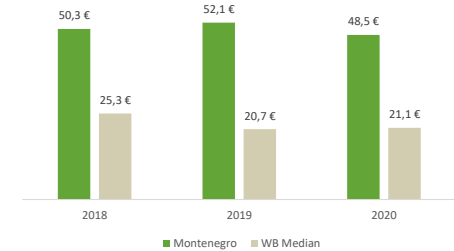
Compared to 2019, the total implemented budget for courts has decreased by -7%. There was an increase of the budget allocated to courts buildings due to the adaptation of official premises in several Montenegrin courts, as well as for the budget allocated to investments in new (court) buildings because construction works were carried out on the building of the Commercial Court of Montenegro for the adaptation of the building itself. There was a decrease of the annual budget allocated to training because in 2020 a smaller number of trainings was conducted due to the COVID-19 pandemic.

	2020		% Variation between 2018 and 2020		% Variation between 2019 and 2020	
	Approved budget	Implemented budget	Approved budget	Implemented budget	Approved budget	Implemented budget
Total	31 567 667 €	30 058 506 €	15,1%	-3,6%	0,6%	-7,0%
Gross salaries	21 459 152 €	21 135 928 €	-2,9%	-4,2%	-5,6%	-7,0%
Computerisation	587 052 €	563 299 €	-35,8%	-28,8%	-8,5%	-10,1%
Justice expenses	820 000 €	682 262 €	0,0%	-13,2%	3,5%	-13,5%
Court buildings	195 000 €	193 520 €	69,6%	134,1%	24,8%	24,1%
Investment in new buildings	225 001 €	210 880 €	NA	NA	227,9%	207,3%
Training	9 900 €	2 038 €	-78,9%	-88,5%	-63,2%	-91,5%
Other	8 271 561 €	7 270 576 €	141,6%	-2,0%	19,0%	-8,2%

Distribution of the Implemented budget allocated to all courts in 2020 (%)



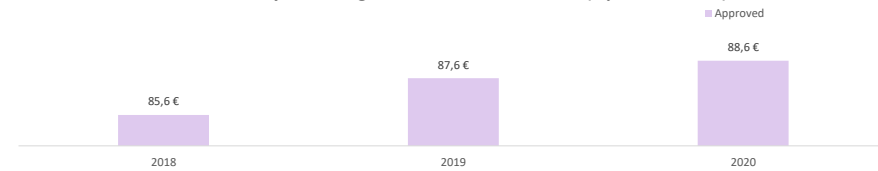
Implemented budget allocated to all courts per inhabitant between 2018 and 2020



• Budget allocated to the whole justice system

Whole Justice System	2020		% Variation of the Whole Justice System per inhabitant	
	Absolute number	Per inhabitant	2018 - 2020	2019 - 2020
Approved	54 906 637 €	88,6 €	3,4%	1,1%
Implemented	NA	-	NA	NA

Whole Judicial System Budget between 2018 and 2020 (€ per inhabitant)



The whole justice system budget includes the following elements in 2020:

Court budget	✓	Constitutional court	✓	Judicial protection of juveniles	✗
Legal aid budget	✓	Judicial management body	✗	Functioning of the Ministry of Justice	✓
Public prosecution services budget	✓	State advocacy	✗	Refugees and asylum seekers service	✗
Prison system	✓	Enforcement services	✗	Immigration services	✗
Probation services	✓	Notariat	✗	Some police services	✗
Council of the judiciary	✓	Forensic services	✗	Other services	✓

Montenegro has indicated that the whole justice system budget for 2020 was composed as follow: (Source: "Official gazette of MNE", no. 74/19, 61/20)

- Judiciary: 29.920.426,33 € (including Judicial Council: 1.654.281,32 €)
- State Prosecution Office: 9.636.314,04 € (including Prosecutorial Council: 669.704,92 €)
- Centre for Training in Judiciary and State Prosecution Office: 615.593,44 €
- Ministry of Justice: 2.584.149,05 €
- Institute for Enforcement of Criminal Sanctions: 10.404.468,57 €

« Other services » is the Centre for Training in Judiciary and State Prosecution Office

• Budget received from external donors

	Absolute value	Calculated as %	In percentage (%)
All courts	NA	NA	NA
Prosecution services	NA	NA	NA
Legal aid	NA	NA	NA
Whole justice system	NA	NA	NA

Montenegro could not provide data on budget received from external donors. However the information below on projects currently implemented in Montenegro were provided.

National IPA projects

1. IPA 2014 "EU Support to the Rule of Law II" – EU RoL II presents continuation of the EU RoL I Project. Overall objective: further strengthening of judiciary and law enforcement institutions in order to meet the criteria for accession of Montenegro to the EU. Purpose of the Project is increasing efficiency of judiciary, further strengthening institutional capacities and effective implementation of the law in fight against organized crime and corruption as well as strengthening capacities for programming and monitoring EU support to the Rule of Law Sector.

Duration: 36 months (Implementation of the Project officially began in April 2017).

Budget: 2,8 mil €

2. "Analysis of access to justice for citizens and companies in Montenegro aimed at results"

Overall objective: strengthening of the judiciary system in line with EU standards and providing analytical and advisory inputs to enable adjustment of the strategy framework for improving the performance of the justice system. Focus on updating of the Action Plan for Chapter 23 and the Action plan for the implementation of the national Justice Reform Strategy (2014-2018).

Duration: 10 months

Budget: 300.000 €

Multi-beneficiary IPA projects

1. WB20-MNE-SOC-01 Construction of prison in Mojkovac: Review of the Feasibility Study, preparation of Preliminary design, EIA Study, Main Design and Tender Dossiers" Overall objective: preparation of the technical documentation for the construction of one of the priority infrastructure projects in Justice Sector – prison in Mojkovac.

Budget: 1.2 mil €

2. EU/CoE "Horizontal facility for Western Balkans and Turkey" – Phase II

2.1. "Accountability and professionalism of the judicial system"

2.2. "Action against economic crime"

2.3. "Improved procedural safeguards in judicial proceedings"

2.4. "Further enhancing human rights protection for detained and sentenced persons"

2.5. "Enhancing penitentiaries capacities in addressing radicalization in prisons in Western Balkans"

2.6. "Dashboard Western Balkans"

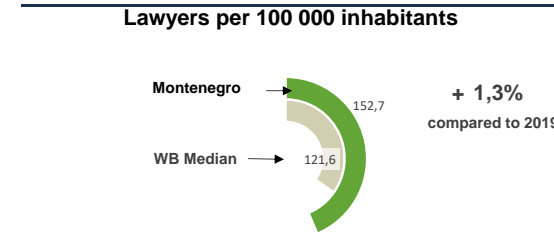
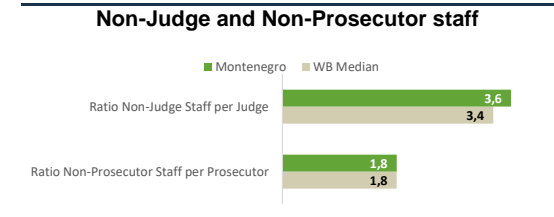
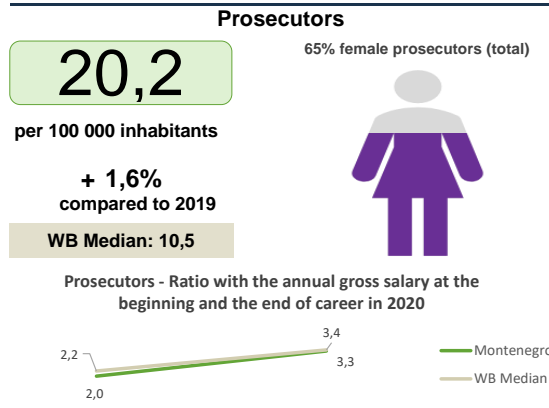
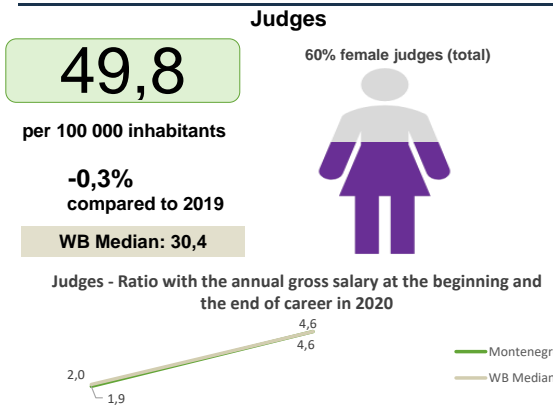
3. IPA 2017 Regional project "Fight against serious crime in the Western Balkans"

Overall objective: Increasing efficiency and cooperation between the regional and national institutions in fight against serious and organized crime. Duration: January 2018- March 2020

Given the complexity and importance of the Rule of Law system in the context of reform activities in Montenegro, a number of projects and activities are taking place with the support of the Kingdom of the Netherlands, The Kingdom of Norway, United Kingdom, United States, Federal Republic of Germany and other international partners.

Kosovo is not included in the calculation of summary statistics

Professionals and Gender Balance in judiciary in Montenegro in 2020 (Indicators 2 and 12)



In Montenegro in 2020, the number of judges per 100 000 inhabitants (49,8) and prosecutors per 100 000 inhabitants (20,2) were higher than the Western Balkans medians (respectively 30,4 and 10,5). More than half of professional judges and prosecutors in 2020 were women (60% and 65% while WB median were 60,6% and 55,1%).

Professional Judges

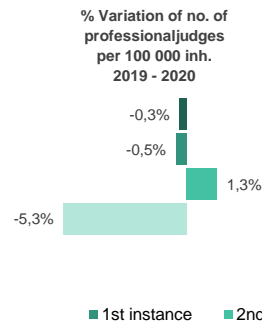
	Professional judges			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	309	100,0%	49,8	30,4
1st instance courts	214	69,3%	34,5	22,7
2nd instance courts	77	24,9%	12,4	6,0
Supreme Court	18	5,8%	2,9	1,6

For reference only: the 2019 EU median is 24,5 judges per 100 000 inhabitants.

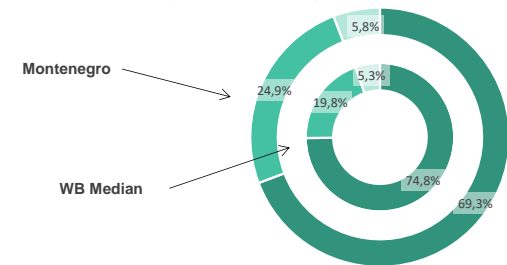
The absolute number of professional judges in Montenegro in 2020 was 309, which was 49,8 judges per 100 000 inhabitants, higher than WB median of 30,4.

Compared to 2019, there has been slight decrease of the number of judges (-0,3%).

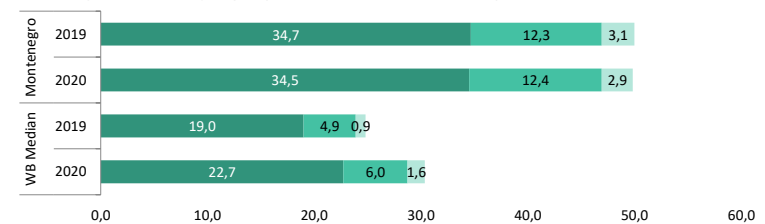
The figures show a difference of 5,6 percentage points between the percentage of judges in the first instance (69,3%) and the WB median (74,8%)



Distribution of professional judges by instance in 2020 (%)



Distribution of professional judges per 100 000 inhabitants by instance in 2019 and 2020



• Non-judge staff

The total number of non-judge staff in Montenegro in 2020 was 1 127 which is more by 3% than 2019 and represents 181,8 non judge staff per 100 000 inhabitants.

In 2020, there is no significant variation in the distribution of non-judge staff among instances compared to 2019.

The largest category of non-judge staff was non-judge staff assisting judges, which represented 63,1% of the total.

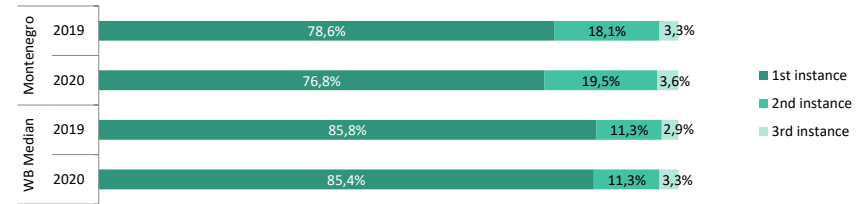
	Number of non-judge staff by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	1 127	100,0%	181,8	109,1
1st instance courts	866	77%	139,7	93,2
2nd instance courts	220	20%	35,5	12,4
Supreme Court	41	4%	6,61	3,56

For reference only: the 2019 EU median is 57,5 non-judge staff per 100 000 inhabitants.

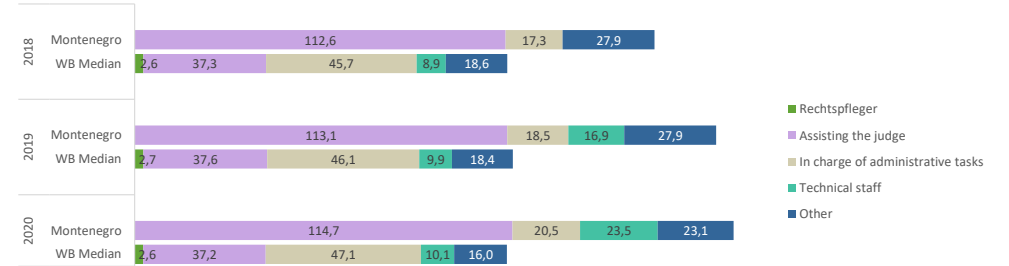
Source : official data submitted by presidents of courts related to the number of full-time employees on December 31, 2020.

	Number of non-judge staff by category			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	1 127	100,0%	181,8	109,1
Rechtspfleger	NAP	-	NAP	2,6
Assisting the judge	711	63,1%	114,7	37,2
In charge of administrative tasks	127	11,3%	20,5	47,1
Technical staff	146	13,0%	23,5	10,1
Other	143	12,7%	23,1	16,0

Distribution of non-judge staff by instance in 2019 and 2020



Number of non-judge staff per 100 000 inhabitants by category between 2018 and 2020



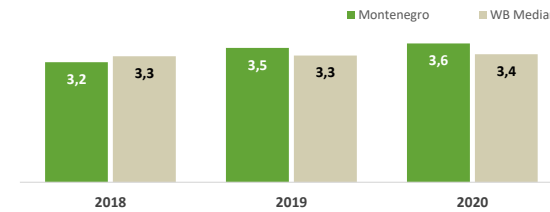
• Ratio between non-judge staff and professional judges

In Montenegro, in 2020 there were 3,6 non-judge staff per judge. This ratio is higher than the WB median of 3,4 and has been increasing since 2018.

	Ratio in 2020		% Variation between 2019 and 2020	
	Montenegro	WB Median	Montenegro	WB Median
Total	3,6	3,4	3,3%	1,0%
1st instance courts	4,0	3,8	1,2%	-0,9%
2nd instance courts	2,9	2,7	9,7%	14,9%
Supreme Court	2,3	3,4	20,2%	-1,7%

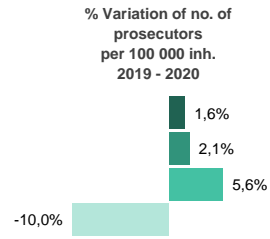
For reference only: the 2019 EU median ratio of non-judge staff per judge is 3,3 .

Ratio between non-judge staff and judges between 2018 and 2020

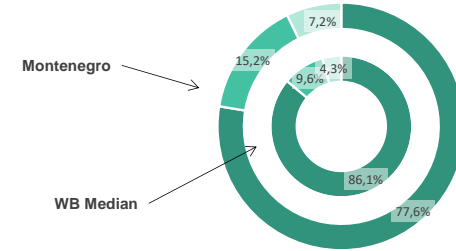


Prosecutors

	Number of prosecutors by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	125	100,0%	20,2	10,5
1st instance courts	97	77,6%	15,6	9,6
2nd instance courts	19	15,2%	3,1	1,1
Supreme Court	9	7,2%	1,5	0,5



Distribution of prosecutors by instance in 2020 (%)



In 2020, the absolute number of prosecutors in Montenegro was 125, which was 20,2 per 100 000 inhabitants.

This number is almost twice the WB median of 10,5 prosecutors per 100 000 inhabitants.

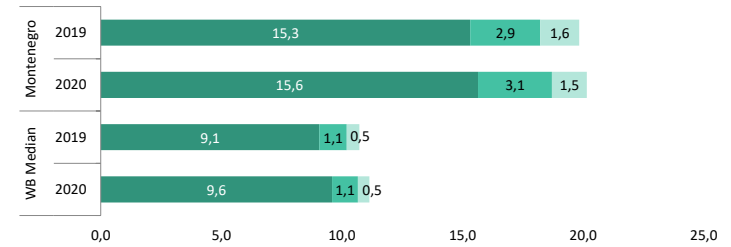
There was no significant change in the number of prosecutors with only a slight increase of 1,6% between 2019 and 2010.

The figures show a difference of -8,5 percentage points between the percentage of prosecutors in the first instance (77,6%) and the WB average (86,1%)

In the number of prosecutors at first instance level, in addition to the number of state prosecutors in the basic state prosecutor's offices, the number of special state prosecutors is included.

■ 1st instance ■ 2nd instance ■ 3rd instance

Distribution of prosecutors per 100 000 inhabitants by instance in 2019 and 2020



Non-prosecutor staff and Ratio between non-prosecutor staff and prosecutors

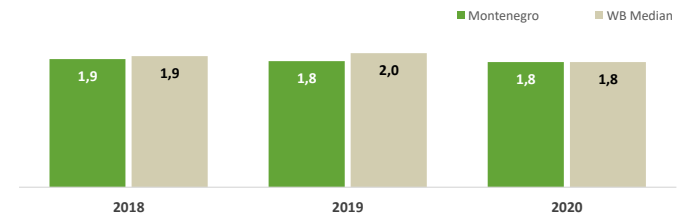
	Non-prosecutor staff in 2020			Ratio between non-prosecutor staff and prosecutors in 2020		% Variation of the ratio between 2019 and 2020	
	Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhab.	Montenegro	WB Median	Montenegro	WB Median
Total	228	36,8	20,5	1,8	1,8	-0,7%	-6,5%

In 2020, the total number of non-prosecutor staff in Montenegro was 228, which decreased by 0,7% compared to 2019.

This represents 36,8 non-prosecutor staff per 100 000 inhabitants which was above WB median of 20,5.

The number of non-prosecutor staff per prosecutor is 1,8, which corresponds to the WB median.

Ratio between non-prosecutor staff and prosecutors between 2018 and 2020



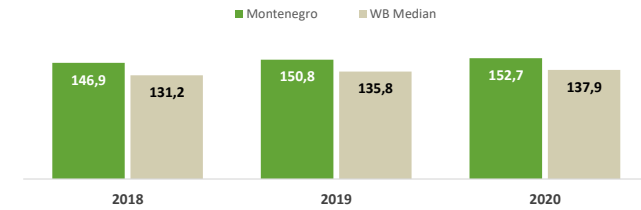
• Lawyers

	Number of lawyers			% Variation between 2019 and 2020	
	Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhabitants	Montenegro	WB Median
Total	947	152,7	137,9	1,3%	1,6%

For reference only: the 2019 EU median is 121,3 lawyers per 100 000 inhabitants.

In 2020, there was 152,7 lawyers per 100 000 inhabitants, which was higher than the WB median (137,9). The number of lawyers increased by 1,3% between 2019 and 2020 and the number of lawyers per 100 000 inhabitants has been increasing since 2018.

Number of lawyers per 100 000 inhabitants between 2018 and 2020



Salaries of professional judges and prosecutors

In 2020, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Montenegro was 1,9, which was slightly less than the WB median (2).

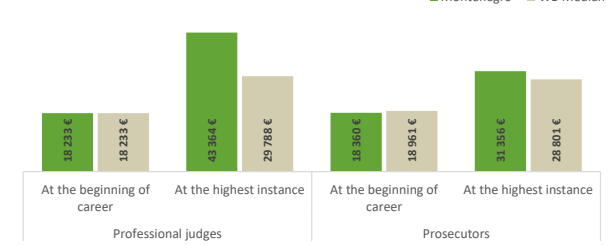
At the end of career, judges are paid more than at the beginning of career by 137,8%, which is more than the variation of the WB median (127%).

In 2020, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Montenegro was 2, which was less than the WB median (2,2).

At the end of career, prosecutors are paid more than at the beginning of career by 70,8%, which is more than the variation of the WB median (51,9%).

		Salaries in 2020				% Variation of Gross Salary between 2019 and 2020	
		Gross annual salary in €	Net annual salary in €	Ratio with the annual gross salary	WB Median Ratio with the annual gross salary	Montenegro	WB Median
Professional judge	At the beginning of his/her career	18 233	12 216	1,9	2,0	-5,0%	-5,0%
	Of the Supreme Court or the Highest Appellate Court	43 364	29 054	4,6	4,6	-3,7%	-27,1%
Public prosecutor	At the beginning of his/her career	18 360	12 300	2,0	2,2	-1,6%	-0,1%
	Of the Supreme Court or the Highest Appellate Court	31 356	21 008	3,3	3,4	-3,7%	-11,5%

Gross annual salaries of professional judges and prosecutors in 2020



For reference only: the 2019 EU median for the ratio of judges and prosecutors' salaries with average gross annual national salary is:

- professional judges' salary at the beginning of career: 2,02

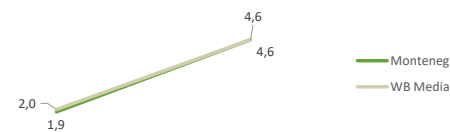
- prosecutors' salary at the beginning of career: 1,77

- professional judges' salary at the end of career: 4,1

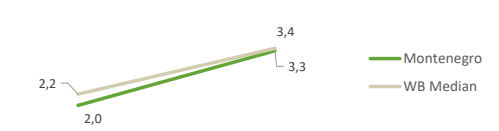
- prosecutors' salary at the end of career: 3,57

The calculation of the average salaries are affected by years of service. The decrease of gross annual salaries at highest instance are due to retirements and to current judges of prosecutors having less years of experience.

Judges - Ratio with the annual gross salary at the beginning and the end of career in 2020



Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2020



Additional benefits and bonuses for professional judges and prosecutors

	Reduced taxation	Special pension	Housing	Other financial benefit	Productivity bonuses for judges
Judges	✗	✗	✗	✓	✗
Prosecutors	✗	✗	✗	✓	

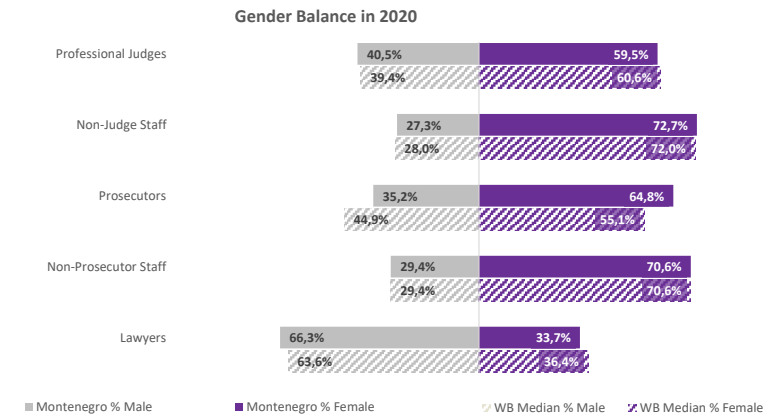
It was indicated that for judges other benefits are special allowance, salary supplements for work in commissions and other bodies.

For prosecutors they are:

- In the Supreme State Prosecutor's Office, the State prosecutor dealing with cases of organized crime, corruption, money laundering, terrorism and war crimes is entitled to a special allowance in the amount of 45% of the basic salary;
- In the Special State Prosecutor's Office, the Chief Special Prosecutor, special prosecutors, state prosecutor seconded to work at the Special State Prosecutor's Office are entitled to special allowance in the amount of 45% of the basic salary.

Gender Balance

	Total number per 100 000 inh.	% Female	WB Median	Variation of % females between 2019 and 2020 (percentage points)	
				Montenegro	WB Median
Professional Judges	49,8	59,5%	60,6%	-0,8	0,3
Non-Judge Staff	181,8	72,7%	72,0%	0,8	0,2
Prosecutors	20,2	64,8%	55,1%	0,6	1,9
Non-Prosecutor Staff	36,8	70,6%	70,6%	-2,4	-1,4
Lawyers	152,7	33,7%	36,4%	-0,4	1,3

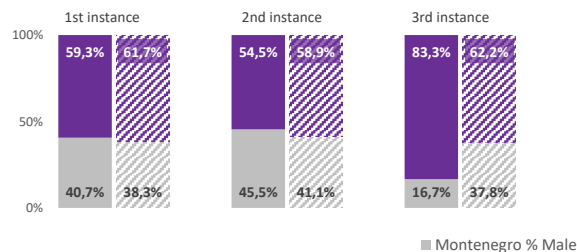


In 2020 59,5% of judges; 72,7% of non-judge staff; 64,8% of prosecutors; 70,6% of non-prosecutor staff and 33,7% of lawyers were female. All those percentages are higher or equal to the WB medians except for judges and lawyers (WB medians at 60,6% for judges and 36,4% for lawyers).

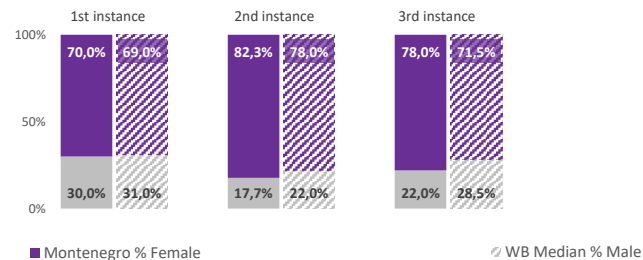
Lawyers was the only category where less than 50% of professionals were female.

	% Female Professional Judges		% Female Non-Judge Staff		% Female Prosecutors	
	Montenegro	WB Median	Montenegro	WB Median	Montenegro	WB Median
1st instance courts	59,3%	61,7%	70,0%	69,0%	66,0%	58,1%
2nd instance courts	54,5%	58,9%	82,3%	78,0%	63,2%	49,6%
Supreme Court	83,3%	62,2%	78,0%	71,5%	55,6%	49,4%

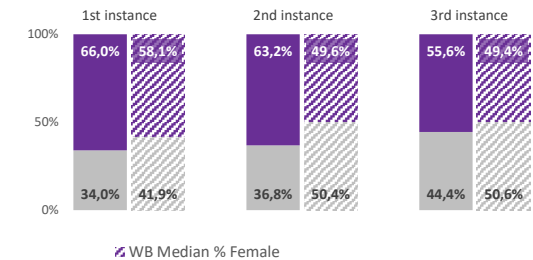
Professional Judges - Gender Balance by instance in 2020



Non-Judge Staff - Gender Balance by instance in 2020



Prosecutors - Gender Balance by instance in 2020



For prosecutors, a diminution of the percentage of female can be observed from first to third instance, but not for professional judges and non-judge staff.

• Gender Equality Policies

	Recruitment		Promotion		Surveys or reports on national level, related to the male / female distribution	Person / institution specifically dedicated to ensure the respect of gender equality on institution level
	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level		
Judges	✓	✗	✓	✗	✓	✗
Prosecutors	✓	✗	✓	✗	✓	✗
Non-judge staff	✗	✗	✗	✗	✗	✗
Lawyers	✗		✗		✗	
Notaries	✗		✗		✗	
Enforcement agents	✗		✗		✗	

In Montenegro there is no national programme or orientation document to promote gender equality.

There are however specific provisions for facilitating gender equality in the recruitment and promotion of judges and prosecutors. Indeed, according to the Law on Judicial Council and Judges, when making a decision on the appointment of judges and court presidents, the Judicial Council shall take into account the proportional representation of minorities and other minority communities and gender-balanced representation.

According to the Law on State Prosecution Service, in rendering its decisions on the election of the heads of the state prosecution offices and state prosecutors, the Prosecutorial Council shall take into account the proportionate representation of the members of minority nations and other minority national communities as well as gender balance.

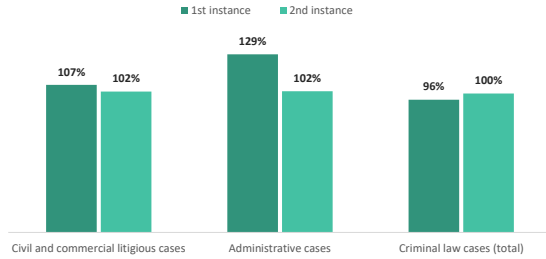
There is, at national level, one or more recent surveys or reports related to - wholly or partly - the distribution males/females within the judicial system concerning judges and prosecutors. Data on the gender and age structure of state prosecutors is published in the annual performance report of the Prosecutorial Council and the State Prosecution Office, by respective state prosecutor's offices. Data on the gender and age structure of Presidents of courts and judges is published in the Annual Reports on the Work of the Judicial Council and Total Balance in the Judiciary, which are public.

Kosovo is not included in the calculation of summary statistics

Efficiency in Montenegro in 2020 (Indicators 3.1 and 3.2)

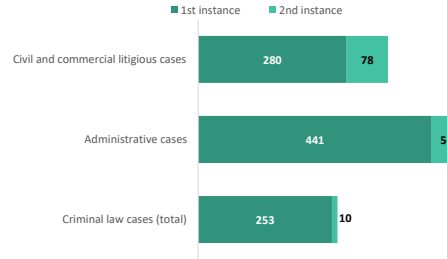
Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases. A CR of 100% or higher does not generate backlog.

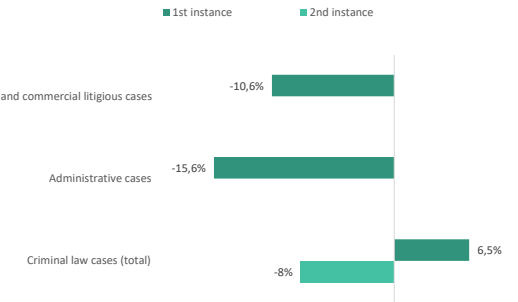


Disposition time in 2020 (in days)

The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.



Pending cases at the end of year - Variation between 2019 and 2020 (%)



In 2020, the highest Clearance rate (CR) for Montenegro is for the first instance Administrative cases, with a CR of 129%. However, it seems that Montenegro was not able to deal as efficiently with the first instance total Criminal law cases (CR of 96%). With a Disposition Time of approximately 10 days, the second instance total Criminal law cases were resolved faster than the other type of cases.

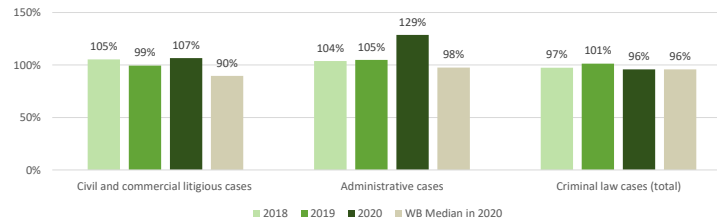
Compared to 2019, in first instance the Criminal Law cases pending at the end of year increased (6,5%), whereas they decreased for Administrative cases (-15,6%) and Civil and commercial litigious cases (-10,6%).

First instance cases

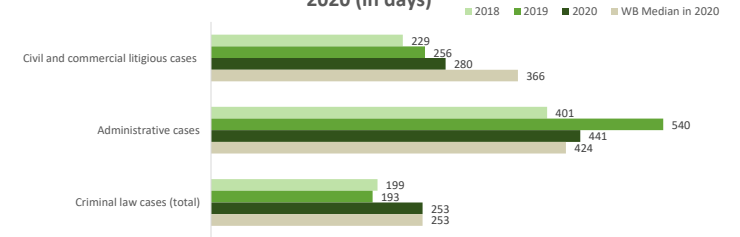
In the region, Montenegro has a good capacity to deal with incoming cases. Indeed, all clearance rates for all type of cases in both first and second instance are above or equal to Western Balkans medians. Montenegro only has a Clearance rate below 100% (creating backlog) for Criminal law cases in first instance.

Disposition time in first instance increased since 2018 for all types of cases but remain lower or equal to WB medians (aside for Administrative cases). In second instance, disposition times are significantly lower than WB medians.

Clearance rate for first instance cases between 2018 and 2020 (%)

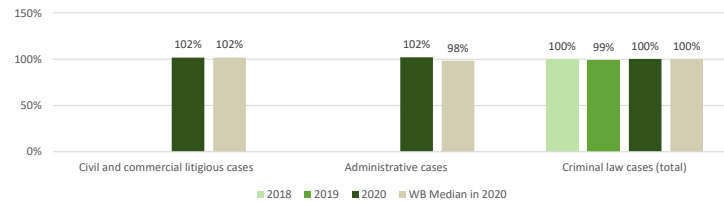


Disposition time for first instance cases between 2018 and 2020 (in days)

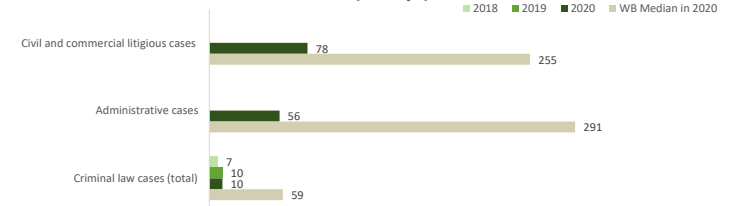


Second instance cases

Clearance rate for second instance cases between 2018 and 2020 (%)



Disposition time for second instance cases between 2018 and 2020 (in days)



First instance cases - Other than criminal law cases

1st instance	2020							Per 100 inhabitants in 2020				% Variation between 2019 and 2020						PPT = Percentage points
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	
Total of other than criminal law cases (1+2+3+4)	31 190	34 183	27 069	3 568	109,6%	104,4%	289	269	5,0	5,5	4,4	0,6	-21,9%	-15,2%	-11,9%	NA	8,7	3,9%
1 Civil and commercial litigious cases	21 023	22 395	17 189	3 328	106,5%	89,6%	280	366	3,4	3,6	2,8	0,5	-23,8%	-18,4%	-10,6%	NA	7,1	3,6%
2 Non-litigious cases**	3 036	3 037	1 134	196	100,0%	100,3%	136	161	0,5	0,5	0,2	0,03	-20,0%	-22,1%	-0,1%	NA	-2,7	-28,2%
3 Administrative cases	5 473	7 039	8 505	0	128,6%	97,6%	441	424	0,9	1,1	1,4	0,0	-15,7%	3,4%	-15,6%	NA	23,7	-18,3%
4 Other cases	1 658	1 712	241	44	103,3%	97,3%	51	195	0,3	0,3	0,04	0,01	-19,7%	-20,2%	-18,3%	NA	-0,7	2,4%

** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

For reference only: for the first instance Civil and Commercial litigious cases, the 2019 EU Median was as follows:

- Incoming cases per 100 inhabitants: 1,9;
- Clearance rate: 100,2% ;
- Disposition time: 213 days.

For reference only: for the first instance Administrative cases, the 2019 EU Median as follows:

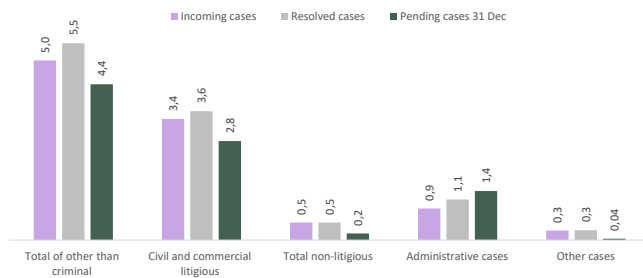
- incoming cases per 100 inhabitants was 0,2;
- Clearance rate: 102,1%;
- Disposition time: 284 days.

In 2020, there were 21 023 incoming civil and commercial litigious cases in first instance, which represented 3,4 cases per 100 inhabitants and -23,8% less than in 2019. 22 395 cases were resolved, which was 3,6 per 100 inhabitants and -18,4% less than in 2019. The number of resolved cases was higher than the incoming cases and as a consequence there were less pending civil and commercial litigious cases pending at the end of 2020 than at the end of 2019. The Clearance rate for this type of cases was 106,5%. This increased by 7,1 percentage points compared to 2019 and was above the WB median (89,6%).

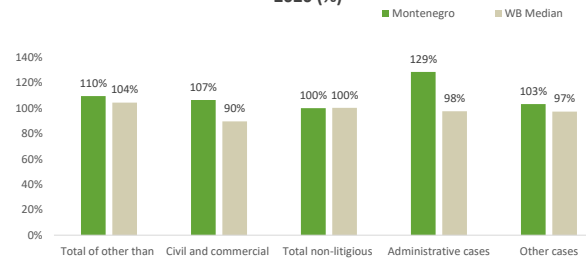
In 2020, the Disposition Time (DT) for civil and commercial litigious cases in first instance was 280days. This has increased by 9,6% compared to 2019 but it was still below the WB median (366 days).

In 2020, there were 5473 incoming administrative cases in first instance, which represented 0,9 case per 100 inhabitants and -15,7% less than in 2019. 7039 cases were resolved which was 1,1 per 100 inhabitants and 3,4% more than in 2019. As the number of resolved cases was higher than the incoming cases, there were less pending administrative cases at the end of 2020 than at the end of 2019. The Disposition Time for administrative cases was the longest in Montenegro with 441days (which is higher than the WB median of 441) but is a decrease of -18,3% compared to 2019. The Clearance rate for this type of cases was 128,6%. This increased by 23,7 percentage points compared to 2019 and was above the WB median (97,6%).

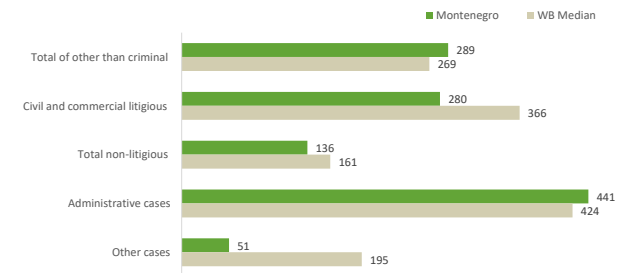
First instance Other than criminal cases per 100 inhabitants in 2020



Clearance Rate for first instance Other than criminal cases in 2020 (%)



Disposition Time for first instance Other than criminal cases in 2020 (in days)



The other than criminal law cases at first instance are dealt with by basic and commercial courts.

Based on the CEPEJ definitions of categories of cases, Montenegro has indicated that they include the following types of cases in each category. The category Civil (and commercial) litigious cases (including litigious enforcement cases if possible without administrative law cases) includes Civil cases (P) and Civil cases - small value (Mal). The category total non-litigious cases include General civil (and commercial) non-litigious cases (e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases)), Complex non-litigious cases (Rs), Other civil and non-litigious cases (R), Legacy cases (O). The category Administrative law cases includes Administrative cases - Administrative court (U). Finally, Other cases are Execution cases (I).

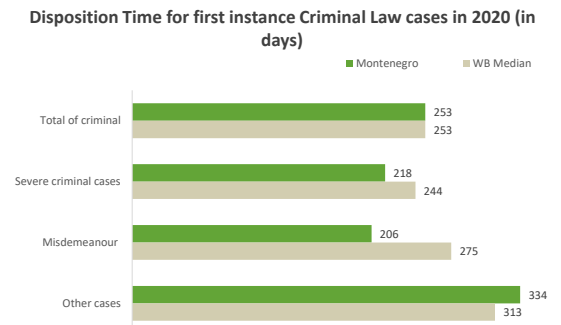
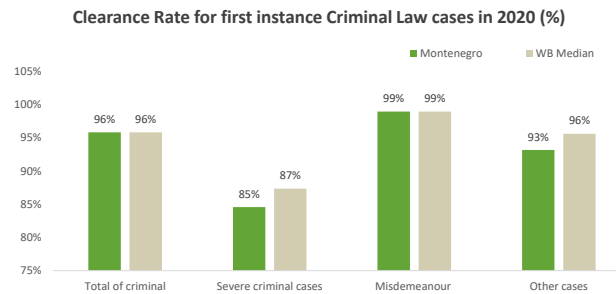
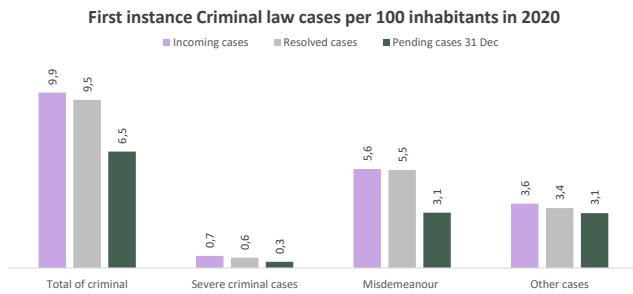
• First instance cases - Criminal law cases

1st instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	61 197	58 652	40 601	NA	95,8%	95,8%	253	253	9,9	9,5	6,5	NA	-14,1%	-18,7%	6,5%	NA	-5,4	30,9%
1 Severe criminal cases	4 237	3 583	2 140	115	84,6%	87,3%	218	244	0,7	0,6	0,3	0,02	-17,1%	-5,2%	36,8%	NA	-19,9	44,4%
2 Misdemeanour and / or minor criminal cases	34 534	34 171	19 314	NA	98,9%	98,9%	206	275	5,6	5,5	3,1	NA	-18,5%	-17,1%	1,9%	NA	1,6	23,0%
3 Other cases	22 426	20 898	19 147	NA	93,2%	95,6%	334	313	3,6	3,4	3,1	NA	-11,4%	-22,9%	8,7%	NA	-14,0	41,0%

PPT = Percentage points

In 2020, the incoming total criminal cases in first instance were 61 197, which was 9,9 per 100 inhabitants and -14,1% less than in 2019. There were 58 652 resolved cases, which was 9,5 cases per 100 inhabitants and -18,7% less than in 2019. As the number of resolved cases was lower than the incoming cases there were more pending cases at the end of 2020 than at the end of 2019. The Clearance rate for this type of cases was 95,8% which means that backlog was created. It decreased by -5,4 percentage points compared to 2019 but correspondent to the WB median.

Finally, the Disposition Time for total criminal cases in first instance was approximately 253 days in 2020. This has increased by 30,9% compared to 2019 and corresponds to the WB median.



Based on the CEPEJ definitions of categories of cases, Montenegro has indicated that they include the following types of cases in each category. The category severe criminal cases includes Criminal cases (K), Special criminal cases (Ks), Juvenile criminal cases (Km). They are dealt with by Basic and High Courts. The category Misdemeanour and / or minor criminal cases includes Misdemeanour cases (PP) dealt by Misdemeanour courts. The category Other cases includes Execution cases for misdemeanour (IPS).

• Second instance cases - Other than criminal law cases

2nd instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)	10 723	10 931	2 243	675	101,9%	108,7%	75	184	1,73	1,76	0,36	0,11	-3,0%	-4,1%	-20,4%	NA	-1,1	17,0%
1 Civil and commercial litigious cases	9 373	9 530	2 040	664	101,7%	101,7%	78	255	1,51	1,54	0,33	0,11	NA	NA	NA	NA	NA	NA
2 Non-litigious cases**	321	354	58	11	110,3%	103,9%	60	55	0,05	0,06	0,01	0,002	NA	NA	NA	NA	NA	NA
3 Administrative cases	910	928	142	0	102,0%	98,2%	56	291	0,15	0,15	0,02	0,00	NA	NA	NA	NA	NA	NA
4 Other cases	119	119	3	0	100,0%	100,0%	9	5	0,02	0,02	0,0005	0,00	NA	NA	NA	NA	NA	NA

** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

For reference only: for the first instance Civil and Commercial litigious cases, the 2019 EU Median was as follows:

- Clearance rate: 101,8% ;
- Disposition time: 175 days.

For reference only: for the first instance Administrative cases, the 2019 EU Median was as follows:

- Clearance rate: 96,9% ;
- Disposition time: 329 days.

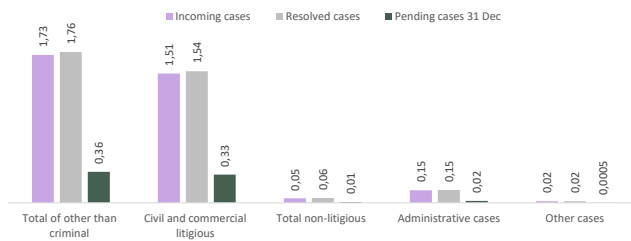
In 2020, there were 9 373 incoming civil and commercial litigious cases at second instance, which was 1,51 cases per 100 inhabitants. 9 530 cases were resolved, which was 1,54 cases per 100 inhabitants. The number of resolved cases was higher than the incoming cases and with a clearance rate at 101,7% no backlog was created.

Finally, the Disposition Time for civil and commercial litigious cases at second instance was approximately 78 days in 2020 and it was significantly below the WB median (255 days).

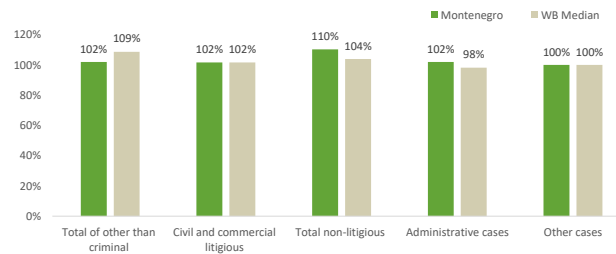
In 2020, there were 910 incoming administrative cases at second instance, which was 0,15 case per 100 inhabitants. 928 cases were resolved, which was 0,15 case per 100 inhabitants. Hence, the number of resolved cases was higher than the incoming cases.

Finally, the Disposition Time for administrative cases at second instance was approximately 56 days in 2020 and it was significantly below the WB median (291 days).

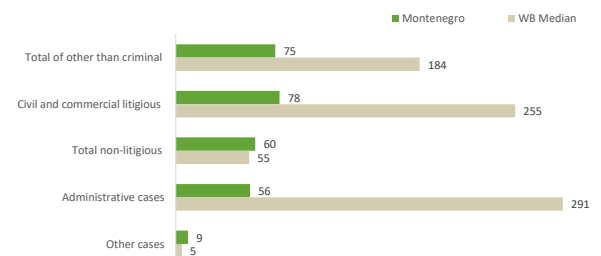
Second instance Other than criminal cases per 100 inhabitants in 2020



Clearance Rate for second instance Other than criminal cases in 2020 (%)



Disposition Time for second instance Other than criminal cases in 2020 (in days)



The total of other than criminal law cases are Civil appeals (GŽ and PŽ) (High and Appellate court).

Based on the CEPEJ definitions of categories of cases, Montenegro has indicated that they include the following types of cases in each category. The Civil (and commercial) litigious cases include Civil appeals (GŽ and PŽ) for Civil cases (P) and Civil cases – small value (Mal). The non-litigious cases include Civil appeals (GŽ and PŽ) for Complex non-litigious cases (Rs) and Other civil and non-litigious cases (R) ; Civil appeals (GŽ and PŽ) for Legacy cases (O). The Administrative law cases include Supreme court -Administrative appeal cases (Uvp). Other cases include Civil appeals (GŽ and PŽ) for ((O-n), (OP), (ST), (RP), (PSO), (I), (IP), (OS), (L),(PL)).

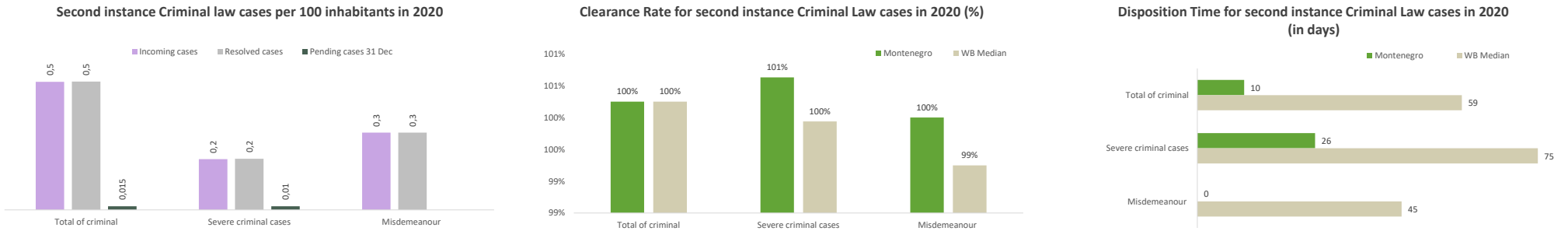
• Second instance cases - Criminal law cases

2nd instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	3 195	3 203	91	NA	100,3%	100,3%	10	59	0,5	0,5	0,015	NA	-8,3%	-7,2%	-8,1%	NA	1,1	-0,9%
1 Severe criminal cases	1 267	1 275	91	12	100,6%	99,9%	26	75	0,2	0,2	0,01	0,002	-17,6%	-15,3%	-8,1%	NA	2,6	8,6%
2 Misdemeanour and / or minor criminal cases	1 928	1 928	0	NA	100,0%	99,2%	0	45	0,3	0,3	0,0	NA	-1,0%	-1,0%	NA	NA	0,0	-
3 Other cases	NAP	NAP	NAP	NAP	NAP	100,2%	NAP	16	NAP	NAP	NAP	NAP	NA	NA	NA	NA	NAP	NAP

PPT = Percentage points

In 2020, the incoming total criminal cases at second instance were 3 195, which was 0,5 per 100 inhabitants and -8,3% less than in 2019. There were 3203 resolved cases, which was 0,5 per 100 inhabitants and -7,2% less than in 2019. Hence, the number of resolved cases was higher than the incoming cases. As a consequence, there were less criminal cases pending at the end of 2020 at second instance than at the end of 2019 and the Clearance rate for this type of cases was 100,3%. This increased by 1,1 percentage points compared to 2019 and corresponds to the WB median.

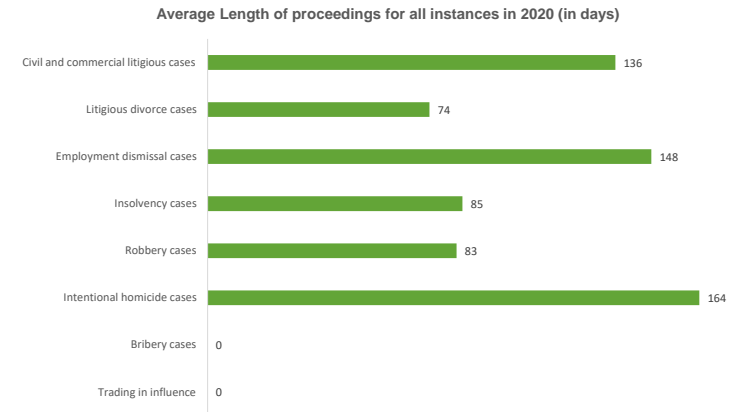
Finally, the Disposition Time for total criminal cases at second instance was approximately 10 days in 2020. This has decreased by -0,9% compared to 2019 and it was significantly below the WB median (59 days).



Based on the CEPEJ definitions of categories of cases, Montenegro has indicated that they include the following types of cases in each category. The several criminal cases at second instance are Criminal appeal case (Kž), Special criminal appeal case (Kžs), Juvenile criminal appeal case (Kžm) and are dealt by High courts and Appellate court. The Misdemeanour and / or minor criminal cases are Misdemeanor appeal cases (Pžp) and are dealt with by High misdemeanor court.

• Average length of proceedings for specific category cases (in days - from the date the application for judicial review is lodged)

	2020						% Variation between 2019 and 2020					
	Decisions subject to appeal (%)	Average length of proceedings (in days)				% of cases pending for more than 3 years for all instances	Decisions subject to appeal (PPT)	Average length of proceedings (in days)				Cases pending for more than 3 years for all instances (PPT)
		First instance	Second instance	Third instance	Total			First instance	Second instance	Third instance	Total	
Civil and commercial litigious cases	37%	288	62	57	136	87%	0,0	45%	-44%	NA	NA	NA
Litigious divorce cases	7%	117	31	73	74	NA	0,0	-45%	-39%	NA	NA	NA
Employment dismissal cases	37%	330	63	50	148	NA	-29,0	-37%	-17%	NA	NA	NA
Insolvency cases	6%	235	21	0	85	NA	2,0	52%	11%	NA	NA	NA
Robbery cases	87%	212	24	14	83	NA	54,0	3%	-48%	NA	NA	NA
Intentional homicide cases	98%	371	70	52	164	NA	11,0	-26%	-19%	NA	NA	NA
Bribery cases	0%	0	0	0	0	NA						
Trading in influence	0%	0	0	0	0	NA						



There are some variations between data of length of proceedings in 2019 and in 2020 which have not been explained (notably decrease of length of proceedings for litigious divorce cases and employment dismissal cases in first instance ; increase of length of proceedings for insolvency cases in first instance ; increase of length of proceedings in first instance and decrease in second instance for civil and commercial cases).

• Quality standards and performance indicators in the judicial system

In Montenegro there are quality standards determined for the judicial system at national level.

• Performance and quality indicators and regular assessment in courts and prosecution offices

In Montenegro performance and quality indicators are defined for both courts and prosecution offices as follows:

	Courts		Prosecution offices	
	Performance and quality indicators	Regular assessment	Performance and quality indicators	Regular assessment
Number of incoming cases	✓	✓	✓	✓
Length of proceedings (timeframes)	✓	✓	✓	✓
Number of resolved cases	✓	✓	✓	✓
Number of pending cases	✓	✓	✓	✓
Backlogs	✓	✓	✓	✓
Productivity of judges and court staff / prosecutors and prosecution staff	✓	✓	✗	✗
Satisfaction of court / prosecution staff	✗	✗	✗	✗
Satisfaction of users (regarding the services delivered by the courts / the public prosecutors)	✗	✗	✗	✗
Costs of the judicial procedures	✗	✓	✗	✗
Number of appeals	✓	✓		
Appeal ratio	✓	✗		
Clearance rate	✓	✓	✓	✓
Disposition time	✓	✓	✓	✓
Percentage of convictions and acquittals			✓	✓
Other	✗	✗	✗	✗

Monitoring of the number of pending cases and backlogs	
Civil law cases	Yes
Criminal law cases	Yes
Administrative law cases	Yes

Monitoring of the waiting time during judicial proceedings	
Within the courts	No
Within the public prosecution services	No

• Quantitative targets for each judge and prosecutor

In Montenegro there are quantitative targets only for judges but not for prosecutors

Responsible for setting up quantitative targets for judges	
Executive power (for example the Ministry of Justice)	✓
Legislative power	✗
Judicial power (for example the High Judicial Council, Supreme Court)	✓
President of the court	✗
Other	✗

Responsible for setting up quantitative targets for public prosecutors	
Executive power (for example the Ministry of Justice)	✗
Prosecutor General /State public prosecutor	✗
Public prosecutorial Council	✗
Head of the organisational unit or hierarchical superior public prosecutor	✗
Other	✗

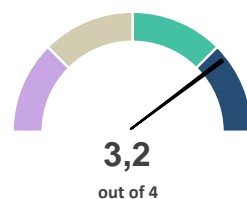
Consequences for not meeting the targets	Judges	Public prosecutors
Warning by court's president/ head of prosecution	✗	✗
Disciplinary procedure	✓	✗
Temporary salary reduction	✗	✗
Other	✗	✗
No consequences	✗	✗

Kosovo is not included in the calculation of summary statistics

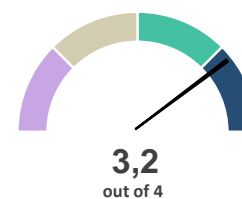
Electronic case management system and court activity statistics in Montenegro in 2020 (Indicator 3.3)

Case management system (CMS) Index is an index 0 to 4 points calculated based on several questions on the features and deployment rate of the of the case management system of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points for the 4 of the 5 questions apart of the deployment rate question are summarized and the deployment rate is multiplied as a weight. In this way if the system is not fully deployed the value is decreased even if all features are included to provide adequate evaluation.

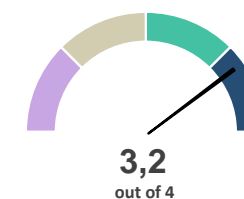
CMS index in Civil and/or commercial



CMS index for Criminal



CMS index for Administrative



Electronic case management system

In Montenegro, there is an IT Strategy for the judiciary (ICT Judiciary Development Program 2021-2023).

There is a case management system (CMS), eg software used for registering judicial proceedings and their management. It has been developed more than 10 years ago.

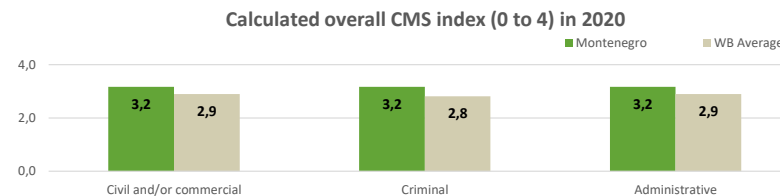
The CMS is developed in all courts (100% deployment rate) and the data is stored on a database consolidated at national level. The CMS index for Montenegro is higher than the WB average (3.2 for each type of cases versus 2.9 for civil and/or commercial cases and administrative cases, and 2.8 for criminal cases).

The development of the new system is in progress (ISP (abbreviation for information system of Judiciary - in Montenegrin Informacioni Sistem Pravosuda)). The full implementation is planned in the new ICT Judiciary Development Program 2021-2023 for the fourth quarter of 2022.

Case management system and its modalities					
	CMS deployment rate	Status of case online	Centralised or interoperable database	Early warning signals (for active case management)	Status of integration/ connection of a CMS with a statistical tool
Civil and/or commercial	100%	Publication of decision online	✓	✓	Integrated
Criminal	100%	Publication of decision online	✓	✓	Integrated
Administrative	100%	Publication of decision online	✓	✓	Integrated

Both: Accessible to parties
Publication of decision online

Overall CMS Index in 2020		
	Montenegro	WB Average
Civil and/or commercial	3,2	2,9
Criminal	3,2	2,8
Administrative	3,2	2,9



• Centralised national database of court decision

In Montenegro, there is a centralised national database of court decisions in which all judgments for all instances are collected, with anonymised data. This case-law database is available for free online and in open data. There is no links with ECHR case law (hyperlinks which reference to the ECHR judgments in HUDOC database) in this database.

	For 1st instance decisions	For 2nd instance decisions	For 3rd instance decisions	Link with ECHR case law	Data anonymised	Case-law database available free online	Case-law database available in open data
Civil and/or commercial	Yes all judgements	Yes all judgements	Yes all judgements	✘	✔	✔	✔
Criminal	Yes all judgements	Yes all judgements	Yes all judgements	✘	✔	✔	✔
Administrative	Yes all judgements	Yes all judgements	Yes all judgements	✘	✔	✔	✔

Kosovo is not included in the calculation of summary statistics

Legal Aid in Montenegro in 2020 (Indicator 4)

Total implemented budget for Legal Aid in 2020

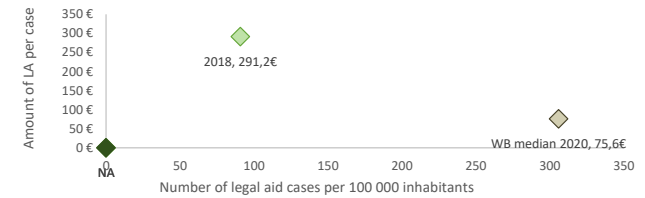


In 2020, the implemented budget for legal aid spent by Montenegro was 0,24€ per inhabitant (slightly above the WB median of 0,2€). This was equal to 0,003% of the GDP, which is the same as the WB median.

Number of LA cases



Amount of implemented legal aid per case (in €) and total no. of legal aid cases per 100 000 inh. between 2018 and 2020



This scatterplot shows the relation between the number of legal aid (LA) cases per 100 000 inh. and the amount of LA per case. A figure on the right (left) of the WB median means that the Beneficiary has more (less) number of LA cases per 100 000 inh. than the WB median. A figure above (below) the WB median shows that the Beneficiary has spent per LA case more (less) than the WB median. However, there are no figures on the graph for Montenegro for 2019 and 2020 as the total number of cases for which legal aid was granted was not available (NA). It was only available in 2018, which appears on the graph.

Implemented budget for legal aid and number of cases for which legal aid has been granted

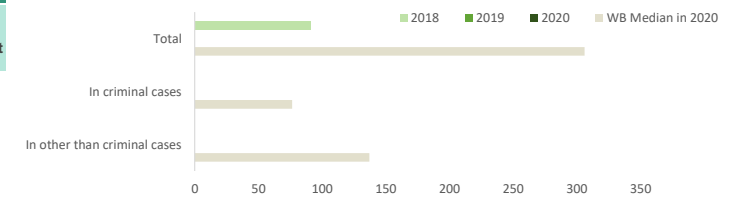
	Implemented budget for legal aid in €				Total implemented budget for legal aid Per inhabitant		Total implemented budget for legal aid as % of GDP	
	Total	% Variation (2019 - 2020)	Cases brought to court	Cases not brought to court	Montenegro	WB Median	Montenegro	WB Median
Total	146 483 €	-27,9%	NA	NA	0,24 €	0,20 €	0,003%	0,003%
In criminal cases	NA	NA	NA	NA				
In other than criminal cases	NA	NA	NA	NA				

In 2020, the total implemented budget for legal aid was 146 483€, which was -27,9% less compared to 2019. It was indicated that this decrease is due to a smaller number of requests for free legal aid being adopted in 2020. In total, Montenegro spent 0,24€ per inhabitant in legal aid (slightly above the WB median of 0,2€).

	Number of cases for which legal aid has been granted					Amount of LA granted per case (€)		
	Total			Cases brought to court	Cases not brought to court	Total	Cases brought to court	Cases not brought to court
	Absolute number	Per 100 000 inh.	% Variation (2019 - 2020)					
Total	NA	NA	NA	NA	NA	NA	NA	NA
In criminal cases	NA	NA	NA	NA	NA	NA	NA	NA
In other than criminal cases	NA	NA	NA	NA	NA	NA	NA	NA

The total number of filed requests for free legal aid in 2020 was 365, but Montenegro was not able to provide other data.

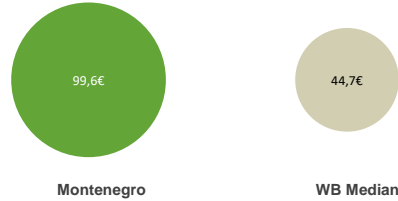
Total number of LA cases per 100 000 inh between 2018 and 2020



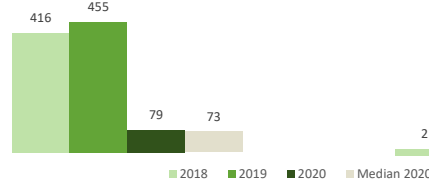
Kosovo is not included in the calculation of summary statistics

Training of judges and prosecutors in Montenegro in 2020 (Indicator 7)

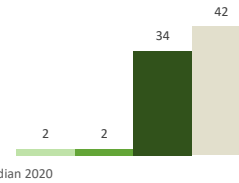
Total budget for Training per 100 inhabitants



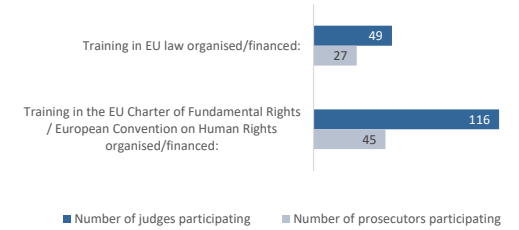
Delivered in-person training courses between 2018 and



Number of online training courses (e-learning) available between 2018 and 2020



Training in EU law (participants in 2020)



The total budget for training of justice professionals in Montenegro in 2020 was 99,6€ per 100 inhabitants, which is significantly above the Western Balkans (WB) median (44,7€ per 100 inhabitants). Because of the Covid-19, the number of delivered in-person training courses decreased between 2019 and 2020 (from 455 to 79). On the other hand, the online available courses increased to 34 in 2020 (from 2 in 2019).

Budget for Trainings

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Total (1)+(2)			
			Absolute Number	Per 100 inhabitants	% Variation 2019 - 2020	WB Median per 100 inhabitants
Total	615 593 €	2 038 €	617 631 €	99,6 €	-3,3%	44,7 €
Judges	NAP	2 038 €				
Prosecutors	NAP	NAP				
One single institution for both judges and prosecutors	615 593 €					

Budget - One single training institution budget for both judges and prosecutors					
Per 100 inhabitants		As % of Judicial System Budget		% Variation between 2019 and 2020	
Montenegro	WB Median	Montenegro	WB Median	Montenegro	WB Median
21,6 €	23,7 €	1,55%	1,69%	0,2%	-40,4%

Montenegro spent in total 617 631€ for training of justice professionals in 2020, which is 99,6€ per 100 inhabitants (above the WB median of 44,7€ per 100 inhabitants). In 2020, Montenegro spent for training justice professionals -3,3% less than in 2019.

According to the Law on the Centre for Training in Judiciary and State Prosecution, the funds for the work of the Centre shall be allocated in the special portion of the Budget of Montenegro in the amount of 2% of the allocated budget for judiciary and state prosecution service. (Article 53 of the Law on the Centre for Training in Judiciary and State Prosecution ("Official Gazette of Montenegro" no. 58/2015)). The budget allocated to the Centre for Training in Judiciary and State Prosecution still remains below this statutory minimum of 2%.

In addition to the amount allocated from the public budget for training activities, the Centre obtained financial support from international partners for implementation of training activities. The Centre does not have exact information, since a number of international partners did not submit the report on funds allocated for training activities which were implemented in cooperation with the Centre. However, upon the collected data, it is visible that financial support of the international partners in 2020 amounted to around 169,784.62 €.

• Type and frequency of trainings

	Judges		Prosecutors		
	Compulsory/ Optional or No training	Frequency	Compulsory/ Optional or No training	Frequency	
In-service training	Initial training				
	Compulsory		Compulsory		
	General	Compulsory	Regularly	Compulsory	Regularly
	Specialised judicial functions	Optional	Occasional	Optional	Occasional
	Management functions of the court	Optional	Occasional	Optional	Occasional
Use of computer facilities in courts	Optional	Occasional	Optional	Occasional	
On ethics	Optional	Occasional	Optional	Occasional	

The initial training for judges and prosecutors in Montenegro is compulsory. This means that completing it is a mandatory condition for appointment.

Regarding continuous training, judges and state prosecutors have the right and obligation to attend the training that they apply for upon their own interest, at least two working days per year (Article 45 paragraph 2 of the Law on the Centre for Training in Judiciary and State Prosecution ("Official Gazette of Montenegro" no. 58/2015)).

The training is not compulsory for judges of specialized courts, however, the Centre for Training in Judiciary and State Prosecution organizes regular training for judges of specialized courts at the annual level (judges of Commercial Court, Administrative Court). The only compulsory specialized training is the training for judges and state prosecutors in charge of juveniles (according to the Law on Treatment of Juveniles in Criminal Proceedings). All judges and state prosecutors in charge of juveniles went through the specialized training.

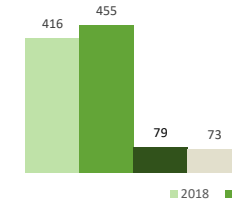
The trainings for management functions in courts and state prosecution offices are organized in accordance with needs and, thus, these are not compulsory. In 2020 these trainings were implemented upon a special Training Programme for Court Presidents and Heads of State Prosecutor's Offices in Montenegro, which was adopted in 2019.

When it comes to training activities for the use of computers in courts, these training activities are conducted by the other authorities such as the Judicial Council and Human Resource Management Authority.

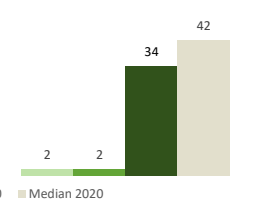
• Number of in-service trainings and participants

	In-person training courses				Online training courses (e-learning)		
	Available (number)	Delivered (in days)		Number of participants	Available (number)		Number of participants
		In 2020	% Variation 2019 - 2020		In 2020	% Variation 2019 - 2020	
Total	50	79	-83%	811	34	1600,0%	525
Judges	33	57	NA	286	25	NA	233
Prosecutors	30	56	NA	174	18	NA	105
Non-judge staff	31	46	NA	162	13	NA	61
Non-prosecutor staff	24	40	NA	56	9	NA	16
Other professionals	17	28	-	105	13	-	99

Delivered in-person training courses between 2018 and 2020 (in days)



Number of online training courses (e-learning) available between 2018 and 2020



From the number of 34 online available trainings, only 2 training activities were planned to be online (CE HELP program e-learning courses). The rest were planned to be in-person but were organized online due to the pandemic. Those trainings were adapted to the online format with shorter lecture time. In 2020, due to the situation caused by the corona virus, 11 trainings planned by the Program for Continuous Training of Judges and State Prosecutors were not implemented.

In total, 40 days of training were organized online (33 days for judges, 25 days for prosecutors, 18 days for non-judge staff, 15 days for non-prosecutor staff, 15 days for other professionals).

The Centre always organizes joint training activities for both judges and state prosecutors, with the exception of training activities in civil matters which are intended for judges dealing with civil matters (as well as bailiffs, notaries, ...). There were 10 training activities of this kind in 2020 and these lasted for 13 days.

Advisors from courts and State prosecution also have the right to participate in trainings intended for judges and state prosecutors (in case judges and state prosecutors are prevented to attend).

In these data are not counted trainees/interns in courts and State prosecution. The Centre for Training in Judiciary and State Prosecution implements theoretical part of professional training of trainees/interns in courts and state prosecution offices, in accordance with the Law on Trainees in Courts and State Prosecution Offices and Bar Examination ("Official Gazette of Montenegro", no.55/2016 and 57/2016) and upon the Training Programme for Trainees in Courts and State Prosecution Offices which was adopted in January 2018. In 2020, the Centre organized 24 trainings (15 online trainings - all together 57 days of training) for 141 trainees/ interns, 107 in courts and 34 in state prosecution offices.

When it comes to the theoretical part of initial training, through which both candidates for judges and candidates for state prosecutors are jointly trained, the Centre organized in total 192 days of initial training activities.

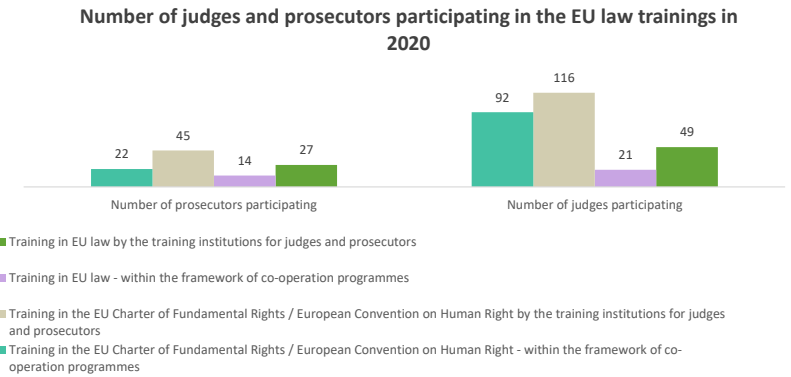
In Montenegro, no sanction is foreseen if judges and prosecutors do not attend the compulsory training sessions. The Law on the Centre for Training in Judiciary and State Prosecution does not stipulate penalties for judges and prosecutors who do not participate in training activities. However, when the work of judges and prosecutors is evaluated by the Judicial Council and by the Prosecutorial Council, one of the subcriteria is participation in training activities. Therefore, if judges and prosecutors do not participate in training activities, it may have a negative effect on the overall evaluation of their work.

Judges and public prosecutors do not have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. However, the Center does offer training on those topics to judges and state prosecutors in an annual program that lasts 2-3 days.

Prosecution offices do not have specially trained prosecutors in domestic violence and sexual violence. However, the Centre organizes trainings for judges and state prosecutors on these specific topics at least twice a year.

• Number of EU law training courses and participants

	Training in EU law organised/financed:		Training in the EU Charter of Fundamental Rights / European Convention on Human Rights organised/financed:	
	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes
Number of in-person training courses available	5	3	14	7
Number of delivered in-person training courses in days	9	6	19	9
Number of online training courses (e-learning) available	0	0	2	2
Number of judges participating	49	21	116	92
Number of prosecutors participating	27	14	45	22



In 2020, around two thirds of trainings on EU Law and around half of trainings on the EU Charter of Fundamental Rights and the European Convention on Human Rights available or delivered in Montenegro were co-organised or co-financed with International partners.

Between 2019 and 2020 there has been a decrease of the number of trainings in EU Law due to the Covid-19 pandemic and to the end of the EUROL II project (from 2018 until May 2020 - through this project there were a large number of trainings pertaining to EU law and European standards).

In 2020, the Center organized trainings in cooperation with the international partners and projects as follows:

- European Institute of Public Administration (EIPA) - EIPA's European Centre for Judges and Lawyers in Luxembourg (ECJL)- EIPA Institute from Luxembourg with the support of the Ministry of Foreign and European Affairs, through the Technical Support Program to strengthen the capacity of judicial bodies and the quality of justice in Montenegro;
- HELP Program for the Western Balkans and Turkey, Council of Europe (The European Programme for Human Rights Education for Legal Professionals);
- AIRE Center from London (Advice on Individual Rights in Europe) through the project "Strengthening the rule of law and supporting authorities in Montenegro";
- EU and Council of Europe project "Freedom of expression and freedom of the media in Southeast Europe – JUFREX 2- Montenegro".

Alternative Dispute Resolution in Montenegro in 2020 (Indicator 9)

Legal aid for court-related mediation or related mediation provided free of charge

Yes

Court-related mediation procedures

Yes

Mandatory informative sessions with a mediator

Yes

Mandatory mediation with a mediator

Yes

V

Before/instead of going to court

Ordered by the court, the judge, the public prosecutor or a public authority in the course of a judicial proceeding

Mediators

22,4

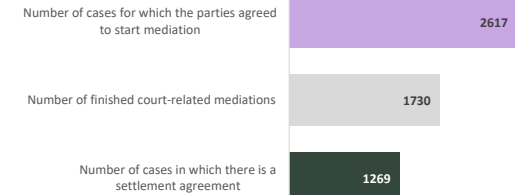
per 100 000 inhabitants

WB Median: 5,4

69,8% female mediators



Total number of court-related mediations



In Montenegro, court related mediation procedures are available and legal aid for court-related mediation or related mediation provided free of charge can be granted. The judicial system provides for mandatory mediation with a mediator before or instead of going to court and ordered by the court, the judge, the public prosecutor or a public authority in the course of a judicial proceeding. There are also mandatory informative sessions with a mediator. In 2020, the number of mediators per 100 000 inhabitants was 22,4, which was above the Western Balkans median (5,4 per 100 000 inhabitants). The majority of the mediators were women (69,8%). There were in total 2617 cases for which the parties agreed to start mediation and 1269 mediation procedures which ended with a settlement agreement, which are amongst the highest numbers in the region.

• ADR procedures and mandatory mediation

According to the new Law on ADR and Amendments to the Civil Procedure Code, adopted in July 2020, there are two situations :

1. mandatory mediation before going to the court (first meeting with mediator) – according to the Law on ADR (article 11) before initiating court proceedings the party that intends to initiate court proceedings shall apply to the Centre with an intention to try to solve the dispute in mediation procedure, while both parties in the dispute are obliged to attend the first meeting with mediators in following disputes: the disputes stipulated as small value claims according to the law governing civil proceedings; the disputes for damages arising from insurance contracts if one of the parties is an insurance company; the disputes for which special law stipulates the obligation to do so.
2. mandatory first meeting with mediator ordered by the judge – according to the Law on Civil Procedure (Art. 329), the court is obliged to render a special ruling referring the parties to the first meeting with mediator: 1) if one of the parties is Montenegro, Capital, Historic Capital, i.e. municipality; 2) in commercial disputes, except in disputes with international element, in disputes regarding relations to which the status (company) law is applied and in disputes where a party in bankruptcy procedure is referred to civil procedure; 3) in other cases required by special law (family disputes, labour disputes).

• ADR methods

Mediation other than court-related mediation



Arbitration



Conciliation (if different from mediation)



Other ADR



« Other ADR » refers to Early neutral evaluation of dispute, introduced with the new Law on ADR, adopted in July 2020.

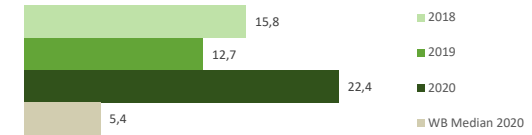
Mediators and court-related mediations

Accredited/registered mediators for court-related mediation			% Variation between 2019 and 2020	
Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhabitants	Montenegro	WB Median
139	22,4	5,4	75,9%	-40,0%

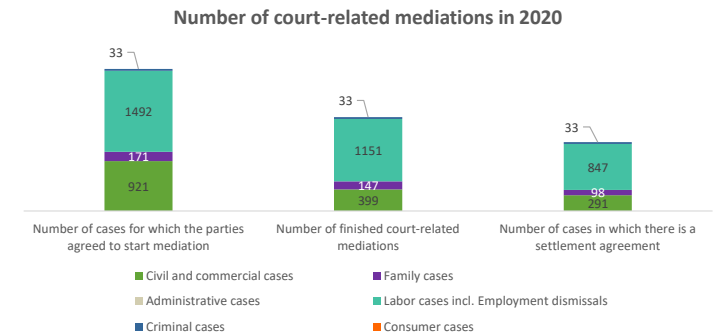
For reference only: the 2019 EU median is 14,3 mediators per 100 000 inhabitants.

In 2020, the total number of mediators in Montenegro was 139, which is 75,9% more than the previous year. This represents 22,4 mediators per 100 000 inhabitants which is significantly more than the WB median of 5,4. This increase is due to the adoption of the new Law on ADR, in 2020, which led to a significant increase of the number of cases referred to the Center for mediation procedure by courts and citizens and thus to the need for training of new mediators. According to the analysis done by the Centre for Mediation, there is still a need for additional mediators in some municipalities.

Accredited/registered mediators for court-related mediation per 100 000 inhabitants between 2018 and 2020



	Number of court-related mediations			Providers of court-related mediation services			
	Number of cases for which the parties agreed to start mediation	Number of finished court-related mediations	Number of cases in which there is a settlement agreement	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Total (1 + 2 + 3 + 4 + 5+ 6)	2617	1730	1269				
1. Civil and commercial cases	921	399	291	NAP	✓	✗	✗
2. Family cases	171	147	98	NAP	✓	✗	✗
3. Administrative cases	NAP	NAP	NAP	NAP	NAP	NAP	NAP
4. Labour cases incl. employment dismissals	1492	1151	847	NAP	✓	✗	✗
5. Criminal cases	33	33	33	NAP	✓	✗	✗
6. Consumer cases	0	0	0	NAP	✓	✗	✗



Court related mediations are provided by public authorities (other than the court). In 2020, mediation was most used for Labour cases (including employment dismissals) and Civil and commercial cases (1492 and 921 cases, respectively, in which parties agreed to start mediation).

The number of cases resolved in the mediation procedure in 2020 has increased mainly due to the adoption of new Law on ADR and raising of the public awareness on alternative dispute resolution methods, but it was indicated that this is still not considered on satisfactory level.

Source : Centre annual report for 2020 <https://centarzaars.me/izvjestaji/>

Kosovo is not included in the calculation of summary statistics

European Convention on Human Rights in Montenegro in 2020 (Indicator 10)

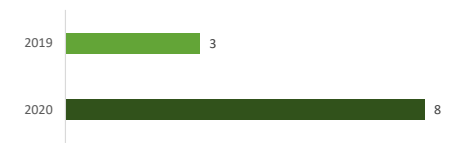
European Convention on Human Rights – Article 6 – Right to a fair trial:

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Number of judgements finding at least one violation of ECHR in 2019 and 2020



Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process in 2019 and 2020



ECHR

The Law on the Protection of the Right to Trial Within a Reasonable Time provides mechanisms for the protection of this right. The parties may file a request for control to the President of the court before which the proceeding is being active, i.e. an action for fair redress shall be brought before the Supreme Court. Statistical data on these cases and duration of any other case can be obtained through the Judicial Information System (PRIS).

Monitoring system for violations related to Article 6 of ECHR		
Civil procedures (non-enforcement)	Civil procedures (timeframe)	Criminal procedures (timeframe)
✔	✔	✔

Possibility to review a case after a decision on violation of human rights by the ECHR

Yes

The Law on Civil Procedure defines that when the European Court of Human Rights establishes a violation, the party may, within three months from the final judgment of the European Court of Human Rights, submit a request to the court which judged in the first instance in the case, to change the decision, if the committed violation cannot be removed in any other way except by reopening of procedure. In the reopening of procedure, the court is bound by the legal views expressed in the final judgment of the European Court of Human Rights by which is established the violation of basic human right or freedom.

Also, the Criminal Procedure Code defines the possibility that the criminal procedure finalized by a final verdict is repeated in favour of the accused person, if by the decision of the European Court of Human Rights or another court established by a ratified international treaty it was found that human rights and fundamental freedoms have been violated in the course of the criminal proceeding and that the judgment is based on such violation, provided that the reopening of the proceedings can remedy such violation.

Also, the Law on Administrative Dispute defines as one of the reasons for the repeating the proceeding finalized by final decision the contrast of the verdict of the Administrative court from the verdict of the European Court of Human Rights in the same matter. Proceeding is repeated upon the request of the party.

In 2020, there were 37 applications pending before an ECHR decision body for Montenegro (-62,6% less than the previous year). 10 judgments found at least one violation (against 2 in 2019) and 8 cases were considered closed after a judgment of the ECHR (against 3 in 2019).

	2019	2020	% Variation between 2019 and 2020
Number of applications pending before a ECHR decision body**	99	37	-62,6%
Judgements finding at least one violation**	2	10	400,0%

** Source: ECHR

	2019	2020	% Variation between 2019 and 2020
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	3	8	167%

*** Source: Department of Execution of sanctions of the Council of Europe

Kosovo is not included in the calculation of summary statistics



CEPEJ(2021)2

Part 2

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

HFII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans - “Dashboard Western Balkans”

Data collection 2020

Part 2 (B) - Beneficiary Profile – Montenegro

This analysis has been prepared on the basis of the replies from the beneficiary (Dashboard correspondent) to the CEPEJ Questionnaire for the Dashboard Western Balkans, and relevant GRECO reports.

Selection and recruitment of judges and prosecutors

Judges are elected and dismissed by the Judicial Council (JC) as per Law on Judicial Council and Judges (LJCJ).

A single nationwide recruitment system for judges and prosecutors has been introduced in 2014. For judges, recruitment procedure is initiated through the publication of a vacancy notice (published on the website of the JC, in one daily newspaper and in the Official Gazette of Montenegro), followed by a written test (80 points) and a personal interview (20 points) with the commission established by the JC (composed of three members of the JC) (articles 48 and 49, LJCJ). The selection process takes into account the professional merits and experience of the candidates defined in Articles 32, 32a and 32b of the LJCJ (results of bar exam, work experience, types of assignments and performance, motivation and attitude towards work, relations with colleagues, communication skills). Proof of clean criminal records is also required. On the basis of grades in the written test or the bar exam and interview evaluation, the ranking list of candidates for judges is made, according to the number of points achieved. If two candidates in the ranking list have the same number of points, the preference is given to a candidate who has scored more points on a written test or the bar exam, and if candidates have scored the same number of points on the written test or the bar exam, the preference is given to the candidate who is a member of a minority or other minority ethnic community.

The JC makes a decision on the appointment of as many candidates for judges as advertised vacancies for judges, according to the order from the ranking list sent to the JC by the commission, as well as on the assignment of candidates for judges to the initial training at the Basic Court in Podgorica (Article 51, LJCJ). A list of pre-selected candidates is not public. Non pre-selected candidates for a position of a judge have the possibility to initiate an administrative dispute against the decision of the JC (Article 52, LJCJ).

The candidate then follows a year and a half training period (6 months of theoretical courses organised by the Centre for Training in Courts and State Prosecution Office and 12 months of practical experience to be acquired through mentoring arrangements in court) which is remunerated at 70% of the monthly salary of a basic court judge. Following this training period, the candidate will receive either a satisfactory or a non-satisfactory grade by the JC, on the basis of a proposal of the grade made by the Training Centre. If a satisfactory grade is given, then the recruitee is granted permanent tenure.

Appointment decisions of the JC which are reasoned are published in the Official Gazette of Montenegro. The decisions are final and an administrative dispute can be initiated against them. The JC may only confirm the selected (proposed) candidates by the Training Centre.

Integrity of a candidate judge is not checked in the selection process as it is not prescribed by the LJCJ.


Judges have life-tenure (Article 121, Constitution), until they reach the retirement age of 67 or if another cause of termination of their office occurs, such as termination upon request or if they have been sentenced to an unconditional sentence. A judge can be dismissed only if convicted for a criminal offence which renders him/her unfit for performing judicial office, if s/he performs the office unprofessionally and unconscientiously or permanently loses the ability to perform judicial office.

No probation period is envisaged in the law for judges before being appointed “for life”.

Prosecutors are elected and dismissed by the Prosecutorial Council (PC) as per the Law on State Prosecution Service (LSPS).

The selection and appointment process for prosecutors of the basic state prosecution offices are the same as those for judges. The appointment procedure is preceded by an internal vacancy advertisement or, in case that the vacant post is not filled, by a public vacancy advertisement (advertised by the PC in the Official Gazette of Montenegro and in one daily newspaper – Article 57, LSPS), followed by a written examination, and interview before the PC and an initial training of 18-months (consists of a theoretical part - organised by the Centre for Training in Courts and State Prosecution Office, and a practical part - takes place at a basic state prosecution office in Podgorica).

The selection process takes into account the professional merits and experience of the candidates (results of bar exam, work experience, types of assignments and performance, motivation and attitude towards work, relations with colleagues, communication skills). Proof of clean criminal records is also required.



The PC makes a decision on the appointment of a prosecutor, according to the order from the ranking. A list of pre-selected candidates is not public. Non pre-selected candidates for a position of a prosecutor at a basic state prosecution office have the possibility to initiate an administrative dispute against the decision of the PC (Article 64, LSPS).

After completing the initial training and being awarded a satisfactory grade, the PC elects a candidate to a position at a basic state prosecution office based on the ranking list of all candidates taking part in the initial training (Article 62, LSPS).

Appointment decisions of the PC are final and an administrative dispute can be initiated against them (Article 40, LSPS). The PC may only confirm the selected (proposed) candidates by the Training Centre.

Following the appointment, those prosecutors who have been elected for the first time, are subject to a four-year probation period. During this period, prosecutors are subject to an interim appraisal (two years after the start of the contract) and a final evaluation at the end of the fourth year of the contract, following which, if satisfactorily assessed by the PC, the contract becomes indefinite. The prosecutors in the Special Prosecution Office also fall under the evaluation requirement, but the prosecutors working at the Supreme State Prosecution Office are exempted from the system. Those prosecutors who have not been satisfactorily assessed have the possibility to initiate an administrative dispute against a decision of the PC (Article 40, LSPS).

Integrity of a candidate prosecutor is verified by examining the documentation submitted by the candidate who applied to the advertisement and the documentation obtained *ex officio* in accordance with applicable legal regulations.

Prosecutors enjoy life tenure, with the exception of those elected for the first time in the basic PPO who are elected for a trial period of four years prior to their permanent appointment. In its [Evaluation Report from 2015](#) (see para. 115) GRECO pointed out some risks pertaining to this relatively long probationary period: insecurity about employment could encourage decisions that would be more influenced by employment continuity than the circumstances of the case. GRECO drew the attention of the authorities to the steps taken in other countries in the region to opt for a stricter selection process of prosecutors (as Montenegro itself was doing following the reform of the Law on the State Prosecution Service at the time of the adoption of the Evaluation Report) and the abolishment of trial periods for newly recruited prosecutors as a threat to their autonomy and independence.

The Supreme State Prosecutor and the heads of State Prosecutors' Offices are elected for a period of five years.

Prosecutors may be dismissed if they are sentenced for a criminal offence which renders them unfit for the exercise of office, if they exercise the office unprofessionally or in an unconscionable manner or have permanently lost the ability to exercise the office. The dismissed prosecutor can challenge the decision before the Administrative Court.

Promotion for judges and prosecutors

The JC is competent for deciding on the promotion of judges to a higher court or the Supreme Court according to Articles 72-75 of the Law on the Judicial Council and Judges (LJCJ).

Promotion procedures start with a public announcement of vacant positions, based on a plan of vacancies. Promotion is based on a grade being awarded to a candidate at a work appraisal (excellent grade - 80 points; or good grade - 60 points) as well as on fulfilling specific requirements (i.e. subjective criteria, e.g. integrity, reputation) for the appointment which are to be checked at an interview (20 points) carried out by the JC. A ranking list of candidates is then prepared and the JC decides on the appointment of a judge according to the order in the ranking list.

A system of periodic appraisal (every three years) has been introduced and follows both quantitative and qualitative criteria. The appraisal of judges is carried out by an Evaluation Committee of the JC (composed of four judge members of the JC and the President of the Supreme Court) on the basis of a proposal by an appraisal panel (composed of the president of the court in which the judge serves and four judges from higher instance courts). Promotion is based on merit and takes into account the results of periodic evaluations as well as seniority criteria. Judges of the Supreme Court are excluded from the evaluation system.

Against a decision on promotion a candidate for promotion has a possibility to initiate an administrative dispute at the administrative court.

The PC is competent for deciding on the promotion of prosecutors to a higher prosecutors office and the Supreme State Prosecutors Office according to the Law on State Prosecution Service (LSPS).

The promotion procedure for prosecutors is the same as for judges: it starts with a public announcement of vacant positions, based on a plan of vacancies. Decision on promotion is based on work appraisal and fulfilment of general competences for performing prosecutorial duties.

Work appraisal criteria are professional knowledge (i.e. quantity and quality of work; ability to plan and effectively conduct procedural actions; the skill of preparing and keeping case files; skills of using prosecutorial knowledge; the skill of proceeding/acting; and professional advancement) and general competences for performing the prosecutorial duties (i.e. communication skills; ability to adjust to changed circumstances; ability to organize and coordinate prosecutorial staff; and participating in various professional activities).

A system of triennial evaluation, identical to that of judges, is applied.

The non-selected candidate may initiate an administrative dispute at an administrative court (Article 40, LSPS).

Confidence and satisfaction of the public with their justice system

The legislation for protecting the right of citizens to seek compensation in case they have suffered pecuniary or non-pecuniary damage due to the violation of the right to a trial within reasonable time is in place (Law on the protection of the right to a trial within reasonable time). It falls within the competence of the Supreme Court of Montenegro to deal with requests. In 2019, the Supreme Court dealt with 78 requests and awarded a total of 50.000 EUR while in 2020 62 requests were submitted and the Court awarded a total of 38.100 EUR in 22 cases where a violation of the right to a trial within a reasonable time was found.

For wrongful conviction, compensation for damages may be sought and granted on the basis of the Criminal Procedure Code (Article 498). A person should submit his/her request to the Ministry of Justice where a settlement on the existence of damages and the type and the amount of compensation should be reached. If not possible, the person may file a claim with a court. In 2019, the Ministry of Justice reached settlements in 6 cases (out of 50 requests filed in total) and awarded a total of 5.238 EUR for unlawful deprivation of liberty.

Persons may file complaints about the functioning of the judicial system with several authorities, i.e. the court concerned, the Supreme Court of Montenegro, the Ministry of Justice, the High Judicial Council and others. Judicial bodies are to respect a time limit within which they have to deal with the complaint.

	2019			2020		
	Number of requests for compensation	Number of compensation	Total amount (in €)	Number of requests for compensation	Number of compensation	Total amount (in €)
Total	NA	NA	NA	NA	NA	NA
Excessive length of proceedings	78	71	50.000 €	62	22	38.100 €
Non-execution of court decisions	NA	NA	NA	NA	NA	NA
Wrongful arrest	NA	NA	NA	NA	NA	NA
Wrongful conviction	NA	NA	NA	NA	NA	NA
Other	NA	NA	NA	NA	NA	NA

	2019		2020	
	Number of complaints	Compensation amount granted	Number of complaints	Compensation amount granted
TOTAL			NA	NA
Court concerned	NA	NA	62	38.100 €
Higher court	73	NAP	0	NAP
Ministry of Justice	90	NAP	67	NAP
High Judicial Council	131	NAP	120	NAP
Other external bodies (e.g. Ombudsman)	NA	NA	NA	NA

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial. The authorities have reported that 99% of initiated procedures of challenges have been finalised in 2020.

No law or regulation exists that prevents specific instructions to prosecute or not to be issued to public prosecutors.

Promotion of integrity and prevention of corruption

According to the Constitution, the judiciary of Montenegro is an autonomous and independent body (Article 118). The Law on Courts enshrines the principle of judicial independence so that, in performing their duties, judges are bound to abide only by the Constitution, laws and international treaties. The key provisions regulating in detail the professional life of judges are contained in the Law on Courts (LC) and the Law on the Judicial Council and Judges (LJCJ), as adopted in March 2015. The latter enshrines the principle of judicial independence so that, in performing their duties, judges adjudicate and decide independently and autonomously, without influence of others, while independence, autonomy, accountability and professionalism of courts and judges is provided by the Judicial Council.

As regards external independence, the schedule of assignments and allocation of cases is designed to exclude external interference; the Ministry of Justice which is vested with supervisory responsibility regarding general court administration cannot take any action susceptible to influence decision-making by the court in court cases (Articles 28, 49 and 50, LC).

Concerning internal independence, in their decision making, judges should be independent and impartial and able to act without any restriction, improper influence, pressure, threat or interference, direct or indirect, from any authority, including authorities internal to the judiciary. Hierarchical judicial organisation should not undermine individual independence. As noted in the [GRECO Evaluation Report from 2015](#) (see para. 88), the authorities of Montenegro explained to GRECO that the principle of internal independence is respected in Montenegro: when it came to monitoring the work of courts, such monitoring related to the overall efficiency of the relevant court, but not the content of the decisions issued by a particular judge; the control of the legality and regularity of judicial decisions was only possibly through legal remedies procedures established by law. However, in reading the LC, GRECO had misgivings as to the degree of “supervision” performed by high level courts in Montenegro. More particularly, Article 62 of the LC on relations between courts established that, at a request of the higher instance court, a court should submit data and information to the higher instance court, and should enable it to directly “inspect” the work of the court, with a view to monitoring and studying the case-law and “controlling” the work of courts. GRECO could understand the need for consistency of legal interpretation and implementation, but it had misgivings as to the notions of “inspection” and “control” used in the law to describe the relation between higher instance and lower instance courts. This issue might prove to be controversial in practice as it could result in a chilling effect on the independence of the individual judge and called for close monitoring in its application.

The Constitution prescribes that everyone is entitled to fair and public trial within a reasonable time before an independent and impartial tribunal. The Constitution also establishes the principle of publicity of judicial proceedings, unless provided by law for justified reasons, e.g. for the sake of private life of parties, in marriage cases and in cases connected with custody and adoption.

Judges enjoy functional immunity (Article 122, Constitution), which implies that they cannot be held liable for the opinion and voting expressed upon passing judicial decisions, except if the judge commits a violation of the law which constitutes a crime. This means that judges are not protected by immunity if they commit a criminal offence. The Judicial Council (JC) is to be asked for the approval of the detention of a judge, only in case of criminal offences made in the performance of judicial duties.

With regard to judges, specific measure to prevent corruption exist, namely rules on gifts, specific training, internal controls and safe complaints mechanisms.

The independence of the State Prosecution is enshrined in the Constitution (Article 134) and further guaranteed by the Law on State Prosecution Service (LSPS, Articles 2 and 3) which establish that the State Prosecution Service is an independent public body which prosecutes the perpetrators of criminal offences and, in performing its duties, it proceeds according to the Constitution, laws and international treaties. The LSPS (as amended in February 2015) prescribes that the office of prosecutor must be exercised in an impartial and objective manner (Article 4).

Prosecutors enjoy identical functional immunity as that of judges (see above).

Specific measures to prevent corruption exist with regard to prosecutors, namely rules on gifts, specific trainings and safe complaints mechanisms.

Different breaches of integrity of judges, prosecutors and court staff are defined in the Law on Prevention of Corruption (LPC), i.e. Conflict of Interest (Article 7), Statement of Conflict of Interest (Article 8), Performance of Other Public Affairs (Article 9), Exercise of Public Functions in Public Companies and Public Institutions (Article 12), Prohibition of Receiving Gifts (Article 16), Sponsorships and Donations to Authorities (Article 21), Submitting the Report on Income and Assets (Article 23). Further breaches are criminalised in the Criminal Code, under chapter Criminal offences against official duty: Misuse of Office (Article 416), Malpractice in Office (Article 417), Trading in Influence (Article 422), Incitement to Trading in Influence (Article 422a), Passive Bribery (Article 423) and Active Bribery (424).

Specifically for judges, the LJCJ defines severe disciplinary offences (i.e. inappropriate behaviour while exercising judicial office or in a public place; inappropriate treatment of participants in court proceedings and court staff; disclosure of confidential information) and the most severe disciplinary offences (i.e. conviction for an offence that renders the judge unworthy to perform judicial office; incompetent or unconscientious performance of judicial office) as well as incompetent or unconscientious performance of judicial office (i.e. not achieving 50% of work results as determined by the JC; exercise of parliamentary or other public office or professional performance of other activities; two consecutive appraisals with a non satisfactory grade) (Article 108). Code of Ethics of Judges defines integrity principle which requires judges to preserve reputation, respect standards of conduct, reject any gift, loan or service for doing something which s/he is obliged to do while performing the judicial office (Article 7).

In July 2008, the Conference of Judges adopted the Code of Judicial Ethics; it was reviewed in 2014. It has not been updated since. The Code of Judicial Ethics also contains key provisions aimed at enshrining the independence and impartiality of the judicial function, e.g. gifts ban, confidentiality obligation, incompatibilities, financial interests, etc. The Code constitutes a guiding instrument for the JC as the latter takes decisions on conflict of interest and incompatibilities issues. The Code is publicly available.

Two institutions are giving opinions on ethical questions of the conduct of judges: 1) a Commission for the Code of Ethics; 2) Agency for Prevention of Corruption (Agency). The first was first set up in October 2011. It is composed of a president and two members. The president is elected by the Judicial Conference from among the non-judicial members of the JC, one judicial member is elected by the extended session of the Supreme Court and the other judicial member is the president of the Association of Judges of Montenegro. Members serve for a four-year term. The Commission is responsible for establishing whether there has been an infringement of the Code. Anyone is entitled to bring a complaint before the Commission. If the latter finds a violation which may tarnish the reputation of the judicial office, it terminates its procedure and passes on the file to the Disciplinary Commission for further disciplinary action. Its opinions are publicly available. The Agency provides opinions, at a requests of judges and prosecutors, on existence of conflict of interest and restrictions in the exercise of public function as well as decisions on the violation of provisions of the LPC regarding conflicts of interest, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and assets etc. (Article 4, LPC). Its opinions are not publicly available.

The Code of Ethics for Prosecutors was drafted and adopted by the profession itself in 2006; it was updated in May 2014 but not updated since. The Code recognises its aspirational and dynamic value, and foresees its review on a biannual basis, as necessary. It is publicly available.

As in case of judges, two institutions provide opinions on ethical questions of the conduct of prosecutors: 1) the Commission for the Code of Ethics of Prosecutors (Commission); 2) Agency for Prevention of Corruption (Agency). To supervise adherence to and interpretation of the Code of Ethics for Prosecutors the Commission was established in October 2011. It is composed of three members: two prosecutors (one elected by the extended session of the Supreme State Prosecution Office, and the other being the president of the Association of Prosecutors) and a non-prosecutor of the Prosecutorial Council, elected by the Conference of State Prosecutors, who is chairing the Commission. The Commission can act upon individual petition/complaint or on its own initiative. Opinions are publicly available. In case of a violation of the Code of Ethics, it is for the Prosecutorial Council to take over and proceed with the disciplinary proceedings on the basis of a proposal from the Commission.

In Montenegro, the JC is competent to inspect judges' complaints and take positions regarding threats to their independence and autonomy. Each judge may address to the JC and indicate whether any form of pressure, influence or any act of corruption exists that threatens his/her independence. Furthermore, the Law on Prevention of Corruption establishes a mechanism for reporting attempts on influence/corruption on judges and prosecutors (Articles 44, 45 and 51). A whistle-blower who has reasonable grounds to believe there is a threat to the public interest that indicates the existence of corruption may submit an application to an authority, company, other legal person or entrepreneur to

which the application relates, or to the Agency – to the latter also in case the whistle-blower who submitted his/her application to the authority, company, other legal person or entrepreneur has not been informed or is not satisfied with the notification or the measures taken. The application may be submitted in writing, orally, by mail or electronically.

The principle of random allocation of cases is developed within the Law on Courts and the Court Rules of Procedure and it is applied through the electronic allocation of cases by the Judicial Information System (PRIS). The reasons for reassigning a case are conflict of interest declared by the judge or by the parties; recusal of the judge or requested by the parties; physical unavailability (illness, longer absence). All reassignments of cases have to be reasoned and are processed through the computerised random distribution of cases and upon discretion of a court president. All interventions on the system are irreversibly registered.

The table below shows number (absolute and per 100 judges/prosecutors) of criminal cases initiated and completed against judges and prosecutors as well as number of sanctions pronounced:

	2019				2020			
	Judges		Prosecutors		Judges		Prosecutors	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
Number of initiated cases	0	0,00	0	0,00	0	0,00	0	0,00
Number of completed cases	0	0,00	0	0,00	0	0,00	0	0,00
Number of sanctions pronounced	0	0,00	0	0,00	0	0,00	0	0,00

Level of implementation of GRECO recommendations in December 2019 (adoption of GRECO Second Compliance Report on Montenegro):

	JUDGES	PROSECUTORS
Implemented	33,33%	100,00%
partially implemented	66,70%	0,00%
not implemented	0,00%	0,00%

Declaration of assets for judges and for prosecutors

The disclosure regime is laid out in the Law on Prevention of Corruption (LPC), Articles 23-27. It applies to public officials, thus both to judges and prosecutors.

Judges and prosecutors are required to declare assets, financial interests, liabilities, income from professional and non-professional activities and their sources. They are also required to declare the assets and income of their spouses and children (minor and adult), who live in the same household. The latter do not file separate declarations, but are part of the primary declarer's file.

Declarations are to be submitted on an annual basis every March for the previous year. The first submission must be made within 30 days of assuming the function. While in office, judges and prosecutors must also declare any significant change (in excess of € 5 000) to the value of their income and assets within 30 days once the change occurs. A submission is also to follow within 30 days of leaving office, and, finally, a last declaration is to be filed two years after leaving office.

Declarations are submitted to the Agency for Prevention of Corruption (Agency) electronically and in printed version. Data from the aforementioned reports are recorded in the Register of Income and Property kept by Agency. Since 2005, the Agency has its own database where all public officials are registered; it comprises details on individual officials' financial situation, decisions on violations of the LPC, gifts, notifications on court decisions, etc. This information is published on the Agency's website, except for data protected by law (www.antikorupcija.me).

Regarding financial disclosure verification competencies, the Agency can perform four types of checks: (i) technical (administrative) check; (ii) check upon notification; (iii) full check; and (iv) check determining reasons for disparity between an increase in the value of the property and the officials declared income. The Agency can verify timeliness, completeness, accuracy and unexplained financial discrepancies.

Infringement of the obligations emanating from the LPC (including the requirement to file financial declarations) constitutes a misdemeanour which is punishable with a warning, fines (between € 500 and € 2 000 – natural persons) and professional bans of up to one year. Where acts of corruption are suspected or revealed in the course of the Agency's action, it refers the case to the prosecution service. The Agency's decision is sent to the public authority where a judge/prosecutor works, for the purpose of initiating a procedure of dismissal, suspension or imposing a disciplinary measure. The public authority informs the Agency on results of the proceeding in 60 days.

Number (absolute and per 100 judges/prosecutors) of proceedings against judges and prosecutors for violations or non declaration of assets in 2019 and 2020:

Montenegro	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2019	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00
2020	13	4,21	13	4,21	5	1,62	6	4,80	6	4,80	2	1,60

Conflict of interest for judges and for prosecutors

The legal framework for the prevention and the resolution of conflicts of interest applicable to judges is provided by the relevant provisions of: 1) the Constitution, as regards incompatibilities and accessory activities; 2) the procedural laws, which contain rules on recusal and self-withdrawal in individual cases (the Criminal Procedure Code, Article 38; the Law on Civil Procedure, Article 69); 3) the Law on Judicial Council and Judges (LJCJ); 4) the Law on Prevention of Corruption (LPC), as regards *ad hoc* conflicts of interest (Article 7 and 8) and gifts (Article 16), incompatibilities and accessory activities (Articles 9 and 12) and sponsorships and donations (Article 21); and 5) the Code of Judicial Ethics.

The function of a judge (as laid out in the Constitution) is incompatible with a post or other public function or professional performance of other activity. At a request of a judge or a court president, the JC gives opinion on whether certain activities shall be considered as a professional performance of an activity incompatible with the performance of a judicial function. Scientific, educational and artistic activities as well as activities protected by copyright are not considered to be professionally performed activities.

The reasons for disqualification of judges are listed in the relevant procedural laws (the Criminal Procedure Code, Article 38; the Law on Civil Procedure – Article 69) and include *inter alia* conflicts of interest due to marital, extended family and other type of relationships with the parties, financial interests, earlier involvement of the adjudicating judge in that case, and existence of circumstances that raise suspicion of impartiality. Judges can be exempted from certain cases, at their own request or that of the parties. The President of the court is the one who decides on the exemption request.

For performing accessory activities (teaching, research and publication, mediation – with or without remuneration) a judge needs prior authorisation of the JC.

The rules on conflicts of interest of judges are set out in the LPC which applies to all public officials, including judges. Judges must declare any private interest they may have in a decision-making process (Article 8, LPC).

Judges are banned from receiving gifts or any other free service which may compromise the development of the judicial function. This prohibition extends to his/her family, court employees or anyone else who is subordinated to his/her authority (Article 16, LPC).

Proceedings for breaches of rules on conflict of interest in respect of judges are regulated in the LPC, the Code of Judicial Ethics and the LJCJ. LPC also regulates the procedure to sanction breaches of the rules on conflicts of interest in respect of judges, as well as the Law on Misdemeanours.

The legal framework for the prevention and the resolution of conflicts of interest applicable to prosecutors is provided by the relevant provisions of 1) the Constitution, as regards incompatibilities and accessory activities; 2) the procedural laws, which contain rules on recusal and self-withdrawal in individual cases (the Criminal Procedure Code, Article 43); 3) the Law on Prevention of Corruption (LPC), as regards *ad hoc* conflicts of interest (Article 7 and 8) and gifts (Article 16), incompatibilities and accessory activities (Articles 9 and 12) and sponsorships and donations (Article 21).

The function of a prosecutor (as laid out in the Constitution) is incompatible with parliamentary and other public office as well as with professional performance of any other activities. The PC provides an opinion on incompatibility of performing certain tasks with the performance of prosecutorial function.

Prosecutors must recuse themselves for the same reasons as judges. The reasons for disqualification are enumerated in procedural law (Articles 38 to 43, Criminal Procedure Code), including *inter alia* conflicts of interest due to marital, extended family and other type of relationships with the parties, financial interests, earlier involvement of the adjudicating judge in that case, and existence of circumstances that raise suspicion of impartiality. It is possible for an individual (an interested party in the case at stake) to call for a prosecutor's disqualification. It is the responsibility of the superior prosecutor to reassign the case to another prosecutor.

A prosecutor does not need prior authorisation regarding performance of accessory activities (teaching, research and publication, mediation – with or without remuneration) nor has to inform his/her hierarchy about these activities.

The rules on conflicts of interest of judges which are set out in the LPC also apply to prosecutors.

Prosecutors are banned from receiving gifts and free services which may compromise or raise doubts about their impartiality and objectivity. The provisions of the LPC apply in this respect.

Proceedings for breaches of rules on conflict of interest in respect of prosecutors are regulated in the LPC and the Code of Ethics for Prosecutors. LPC also regulates the procedure to sanction breaches of the rules on conflicts of interest in respect of prosecutors.

Judges and prosecutors may combine their work with the following other functions/activities:

		With remuneration		Without remuneration	
		Judges	Prosecutors	Judges	Prosecutors
Combine work with other functions/activities	Teaching	√	√	√	√
	Research and publication	√	√	√	√
	Arbitrator				
	Consultant				
	Cultural function				
	Political function				
	Mediator	√	√	√	√
	Other function				

Number (absolute and per 100 judges/prosecutors) of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2019 and 2020:

Montenegro	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2019	2	2,00	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00
2020	28	28,00	19	19,00	0	0,00	1	1,00	0	0,00	0	0,00

Discipline against judges and prosecutors

Disciplinary system for judges is regulated by the Law on the Judicial Council and Judges (LJCJ).

A judge is held disciplinarily responsible if s/he seriously misconducts or impedes judicial office. If there is reasonable suspicion that a judge committed a disciplinary offence, the motion for establishing disciplinary liability of the judge may be filed by: 1) the court president; 2) the president of the immediately higher court; and 3) the President of the Supreme Court; 4) or the Commission for Monitoring the Implementation of the Code of Ethics for Judges (Article 10, LJCJ).

Disciplinary proceedings against judges are initiated by a Disciplinary Prosecutor, who is elected by the JC for a two-year period from among judges with at least 15 years' experience, upon the proposal of the General Session of the Supreme Court. A Disciplinary Committee is responsible for adjudicating in minor and severe disciplinary infringements (e.g. absence, failure to attend mandatory training courses, repeated delays in judgements, acceptance of gifts, conflicts of interest, etc.). It is composed of two judges who are not members of the JC and one non-judicial member of the JC who acts as the Chairman of the committee; the members of the Disciplinary Committee are appointed by the JC, on a proposal from its President. The JC decides when the most serious disciplinary matters are concerned, e.g. upon criminal conviction, if receiving repeated underperformance assessments, if twice disciplined for committing a severe disciplinary offence, if discharging judicial office unprofessionally or unconscientiously (Article 121, Constitution).


A judge may present his/her argumentation in a disciplinary proceeding at a hearing or in writing.

Decisions on disciplinary measures against judges can be reviewed before the Supreme Court.

Disciplinary measures consist of reprimand, salary reduction for up to 20%-40% in a six month period, limitations to professional promotion, suspension and ultimately dismissal. Dismissal is the most severe punishment available and the process leading to this sanction is vested with a number of procedural guarantees (e.g. right of the concerned judge to be present and heard during the disciplinary proceeding, a proposal for dismissal must be justified and contain a legal remedy, etc.).

In its [Evaluation Report from 2015](#) (see para. 104-105) GRECO recalled that one of the corollaries of the independence of the judiciary was irremovability; the existence of exceptions to this principle, particularly those deriving from disciplinary sanctions, called for careful consideration of, not only the basis upon which, but also the body and method by which, judges may be disciplined. In this connection, GRECO considered that certain structural defects remained regarding the impartiality and independence of such a system, given that the initiation, investigation and adjudication of disciplinary cases all fell, in one way or another, under the competence of the JC. Moreover, the reworked appeal regime, before the Supreme Court, gave no room for a genuine external review. GRECO referred again to the misgivings it had regarding risks deriving from a concentration of powers in the hands of the Supreme Court and its President.

GRECO also acknowledged the channels in place for citizens to submit complaints regarding the work of the court to the president of the court where the judge serves, to the Judicial Council and to the Supreme Court. However, it noted that the information available to citizens regarding the internal accountability regime was rather limited and this had given rise to perceptions of judicial corporatism and had further bred public mistrust in the quality and effectiveness of the control performed over misconduct and conflicts of interest in the judiciary. There was a legal requirement to publish disciplinary decisions on the website of the JC, but there appeared to be no public record on complaints received, disciplinary action taken and sanctions applied. Moreover, GRECO noted, the dissemination of case law on matters of discipline could be a valuable tool for judicial practice. In order to further improve the existing disciplinary process, GRECO recommended (i) further developing the disciplinary framework for judges with a view to strengthening its objectivity, proportionality and effectiveness; and (ii) publishing information on complaints received, disciplinary action taken and sanctions applied against judges, including possible dissemination of the relevant case-law, while respecting the anonymity of the persons concerned. No progress has been made with regard to implementation of this recommendation (see [GRECO Compliance Report from 2017](#) – para. 42-46; and [GRECO Second Compliance Report from 2019](#) – para. 28-33).



A judge may be transferred to another court without his/her consent due to organisational reasons.

Disciplinary system for prosecutors is regulated by the Law on State Prosecution Service (LSPS).

If there is reasonable doubt that a prosecutor committed a disciplinary offence, the motion for establishing disciplinary liability of the prosecutor may be filed by: 1) the head of the state prosecution office; 2) head of an immediately higher state prosecution office; 3) the Supreme State Prosecutor; 4) the Minister of Justice; and 5) the Commission for Monitoring the Application of the Code of Prosecutorial Ethics (Article 110, LSPS).

The investigation is conducted by a Disciplinary Plaintiff and a Deputy, who are elected for a two-year term by the PC, upon the proposal of the session of the Supreme State Prosecutor's Office, from among prosecutors with at least ten years of experience.

Upon the motion to indict issued by the Disciplinary Plaintiff, the procedure for establishing and deciding disciplinary liability is conducted by either a Disciplinary Panel (for minor and severe disciplinary offences) or the PC (for most severe offences). The Disciplinary Panel is comprised of three members of the PC, two of them from among prosecutors and one from among eminent lawyers who is the president of the panel; the Supreme State Prosecutor may not be a member of the panel. Members of the Disciplinary Panel are appointed by the PC upon the proposal of the President of the PC (Article 114, LSPS).

A prosecutor has a possibility to present his/her argumentation at a hearing or in writing.

Decisions on disciplinary measures against prosecutors can be reviewed before the Supreme Court.

The authorities have provided statistical data (absolute number as well as number per 100 judges/prosecutors) on disciplinary proceedings initiated and completed as well as sanctions pronounced against judges and public prosecutors. With regard to prosecutors, the authorities have reported that in one case a disciplinary procedure was initiated on grounds of failure to declare property and income as per the Law on State Prosecution Service (Article 108, para. 2, item 8). No information have been provided with regard to judges.

		2019				2020			
		Judges		Prosecutors		Judges		Prosecutors	
		Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated during the reference year	Total number (1 to 5)	1	0,32	0	0,00	4	1,29	1	0,80
	1. Breach of professional ethics (including breach of integrity)	0	0,00	0	0,00	0	0,00	1	0,80
	2. Professional inadequacy	1	0,32	0	0,00	4	1,29	0	0,00
	3. Corruption	0	0,00	0	0,00	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00	0	0,00	0	0,00
	5. Other	0	0,00	0		0	0,00	0	0,00
Number of cases completed in the reference year against	Total number (1 to 5)	1	0,32	2		1	0,32	0	0,00
	1. Breach of professional ethics (including breach of integrity)	0	0,00	2		0	0,00	0	0,00
	2. Professional inadequacy	1	0,32	0	0,00	1	0,32	0	0,00
	3. Corruption	0	0,00	0	0,00	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00	0	0,00	0	0,00
	5. Other	0	0,00	0		0	0,00	0	0,00
Number of sanctions pronounced during the reference year	Total number (total 1 to 10)	1	0,32	2		1	0,32	0	0,00
	1. Reprimand	0	0,00	0	0,00	0	0,00	0	0,00
	2. Suspension	0	0,00	0	0,00	0	0,00	0	0,00
	3. Withdrawal from cases	0	0,00	0	0,00	0	0,00	0	0,00
	4. Fine	0	0,00	2		0	0,00	0	0,00
	5. Temporary reduction of salary	1	0,32	0		1	0,32	0	0,00
	6. Position downgrade	0	0,00	0	0,00	0	0,00	0	0,00
	7. Transfer to another geographical (court) location	0	0,00	0	0,00	0	0,00	0	0,00
	8. Resignation	0	0,00	0	0,00	0	0,00	0	0,00
	9. Other	0	0,00	0	0,00	0	0,00	0	0,00
10. Dismissal	0	0,00	0	0,00	0	0,00	0	0,00	

Council for the Judiciary/ Prosecutorial Council

The Judicial Council (JC) was first established in 2008 to assure the autonomy and independence of the judicial branch in Montenegro. Its composition and competences are defined in the Constitution and the Law on the Judicial Council and Judges (LJCJ) adopted in 2015.

The JC is composed of ten members: five judges (two judges from higher courts, two judges from basic courts and the President of the Supreme Court who is an *ex officio* member) who are elected and released from duty by the Conference of Judges (all judges and court presidents), by secret ballot, four non-judicial members (reputable lawyers with 15 years of experience in law, with personal and professional reputation, has not been convicted of a criminal offence that renders a judge unworthy for the exercise of the judicial office) who are elected and released from duty by Parliament upon public call, through a two-thirds majority (three-fifths majority in a second vote, if necessary), and the Minister of Justice who is also an *ex officio* member (Article 127, the Constitution). Members of the JC are elected for a four-year term and can be re-elected once after expiry of four years from the termination of the previous term in the JC.

In the [GRECO Evaluation Report from 2015](#) (see para. 70, 72 – 73) the President of the JC is elected from among its non-judicial members by a two-thirds majority. In the event of absence or inability of the President of the JC to perform his/her functions, and upon his/her proposal, the JC is to designate a substitute from among its non-judicial members; the Minister of Justice cannot be elected President of the JC. The authorities indicated that the mixed composition of the JC (judges and non-judges members) was aimed at bringing different expertise into the institution, as well as helping to avoid the perception of self-interest, self-protection and cronyism. The vote of the President of the JC is decisive in case of an equal number of votes. GRECO observed that the rules on the composition of the JC deviated from international standards in this domain, which called for a system where judges elected by their peers make up not less than half the members of councils for the judiciary and where the latter were presided by a judicial member.

GRECO expressed its reservations as to the *ex officio* participation of the Minister of Justice as a member of the JC; all the more given past claims of politicisation of the judiciary in Montenegro, and drew the attention of the authorities to Opinion No.10 (2007) of the European Council for European Judges, which explicitly stressed that members of the Judicial Council should not be active politicians, in particular members of the government.

GRECO also expressed concerns as to the selection of the non-judges members of the JC. The law requires them to have at least 15 years' experience on legal affairs, to enjoy personal and professional reputation and to have clean criminal records. GRECO was of the view that more could be done to specify objective and measurable criteria supporting the vague requirement of "enjoying personal and professional reputation". Moreover, there were no guarantees that the non-judicial members were not politically engaged in the absence of provisions prohibiting them to do so; this was all the more important given that the position of President (and substitute President) of the JC was reserved for a non-judicial member who would have a casting vote in the case of an equal number of votes. Although the authorities stressed that the latter issue had not posed a problem in practice since all decisions of the JC had been adopted by majority vote, GRECO again drew the attention of the authorities to Opinion No. 10(2007) of the Consultative Council of European Judges (CCJE) clearly stating that it was necessary to ensure that the Chair of the Council was held by an impartial person who was not close to political parties. This state of affairs called for further adjustments in the composition of the JC. GRECO recommended (i) taking additional measures to strengthen the Judicial Council's independence – both real and perceived – against undue political influence, including by abolishing the *ex officio* participation of the Minister of Justice in the Council, by providing for no less than half of the Council's membership to be composed of judges elected by their peers and by ensuring that the presiding function be given to one of those judicial members; (ii) establishing objective and measurable selection criteria for non-judicial members which would endorse their professional qualities and impartiality; and (iii) setting in place operational arrangements to avoid an over-concentration of powers in the same hands concerning the different functions to be performed by members of the Judicial Council.

In the [GRECO Compliance Report from 2017](#) (see para. 30-35) and [GRECO Second Compliance Report](#) (see para. 20-27) no changes have been made to the constitutional framework and the composition of the JC has not been modified.

The JC appoints, promotes and transfers judges and relieves them of judicial duty, as well as deciding on their disciplinary responsibility. It also holds a number of responsibilities concerning general management of the judiciary, e.g. gives opinions on draft legislation regarding the judiciary, proposes guiding measures for determining the number of judges and other court officials and employees, keeps and maintains records on judges, organises training, develops the information system in courts, etc.

All commissions and other working bodies of the JC are composed, according to the law, of at least one of the ten JC members, which implies that each member has a seat in various commissions. The conclusions, decisions of the commissions are always forwarded to the JC for a final decision.

In [the Evaluation Report GRECO](#) (see para. 74) noted that the JC was not only to safeguard the independence of the judicial system as a whole, but also of individual judges. In this connection it pointed out possible conflicts between the different responsibilities that the JC members were to perform, ranging from appointment to promotion, transfers and reassignments, ethics and discipline which could have an impact on the effective independence in the work of individual judges. At the end of the day, the same people in the JC (in different committee composition) had a say over the entire professional life of individual judges; in the GRECO's opinion this could well give rise to conflicts of interest for the members of the JC, who were to decide on the different matters that conform a judge's career and could well interfere in the work of individual judges. Opinion No. 10(2007) of the Consultative Council of European Judges (CCJE) on the Council for the Judiciary recognised the fact that there could be conflicts in the different functions performed by judicial councils, and that, therefore, it would be important to provide a proper separation of roles in such cases. Moreover, the law was not always clear as to where the dividing line between the competences of the JC and other bodies lied, e.g. regarding ethics (Judicial Council – Ethics Committee), or organisation and supervision of court administration (Judicial Council – Ministry of Justice). GRECO therefore made a recommendation to remedy this issue (see part iii of the recommendation above).

In the [GRECO Compliance Report from 2017](#) (see para. 30-35) and [GRECO Second Compliance Report](#) (see para. 20-27) no progress has been made with regard to this part of the recommendation.

Accountability measures in place regarding the activities of the JC include publication of the activity reports and decisions which are reasoned.


In case of an evident breach of the independence or the impartiality of a judge the JC is competent to provide independence, autonomy, accountability and professionalism of courts and judges.

The competences and composition of the Prosecutorial Council (PC) are defined in the Constitution as well as the Law on State Prosecution Service (LSPS).

The PC is composed of a president and ten members, including, the Supreme State Prosecutor (who is the president of the PC, except in disciplinary proceedings), five prosecutors (four from the Supreme State Prosecution Office, Special State Prosecution Office and high state prosecution offices, and one from basic prosecution offices, to be elected and released from duty, upon a proposal of candidates prepared by the Election Commission, by the Prosecutorial Conference, composed of all prosecutors and heads of state prosecution offices, by secret vote – Articles 20, 23-25, LSPS), four eminent lawyers (persons with at least 10 years of experience in law, with personal and professional reputation, have not been convicted of a criminal offence that makes him/her unworthy of discharging prosecutorial duties – Article 26, LSPS) who are elected and released from duty by Parliament upon public call, and a representative of the Minister of Justice (from among the administrative staff) (Article 18, LSPS). The term of office of the elected members of the PC is four years, renewable.

The PC is entrusted with key responsibilities regarding the career of the prosecutorial corps; these are enumerated in the Constitution (e.g. appointments, transfers, suspension and dismissal, proposal of annual budget to Government, submission of annual report concerning the work of the prosecution service to the Parliament, etc. - Article 136) and the LSPS (establishing proposal for dismissal of the Supreme State Prosecutor, issuing opinions on incompatibility of prosecutors, considering complaints regarding work of prosecutors and taking positions when their independence is jeopardised etc. - Article 37).

Regarding operational arrangements in place to avoid an over-concentration of powers in the same hands concerning different functions to be performed by members of the PC the LSPS (as amended in 2015) provides for different committees of the PC to be established in order to exercise the competencies of the PC in a more efficient manner as well as for the composition of certain committees (i.e. the Supreme State Prosecutor may only be a member of the Evaluation Committee). Moreover, certain committees are composed



only of prosecutors who are not members of the PC (i.e. Committee on Promotion). They act and decide on a particular issue within their jurisdiction and then submit their conclusions to the PC which makes the final decision. When forming the committees, even distribution of powers and avoidance of conflicts of interest is taken into account (i.e. members of the committee which determined prosecutor's accountability are different from those of a committee which assesses the prosecutor's work). The PC's key committees do not have the same members. Membership of different committees is published on the PC's website.

Accountability measures in place regarding the PC's activities are primarily ensured through ensuring transparency of the CP's work (activity reports and decisions which are reasoned are published on the PC's website, PC's sessions are announced as well as agendas, public advertisements).

In case of an evident pressure on a prosecutor the PC is competent.