



Strasbourg, 30/06/2022

CEPEJ(2022)4
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: 2021

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

Part 2 (A) - Beneficiary fiche - Montenegro

Executive Summary - Montenegro in 2021

Population in 2021



GDP per capita in 2021



Average annual salary in 2021



Budget

In 2021, Montenegro spent **37 834 517 €** on the implemented judicial system budget. This means that Montenegro spent **61 € per inhabitant**, which was significantly more than the Western Balkans average of 36 €.

74,7% was spent for all courts, 25% for prosecution services, 0,3% for legal aid. Compared to 2020, Montenegro has spent, per inhabitant, -6% less for courts, -0,4% less for prosecution services, and -17,1% less for legal aid.

The **budgets spent for courts and public prosecution services per inhabitant are well above the WB Medians** (45,6 € per inhabitant spent for courts with WB Average at 27,3 €; 15,2 € spent on public prosecution services per inhabitant with WB Average at 8,2 €). The budget per inhabitant spent for legal aid (0,2 €) is slightly below the WB Average (0,5 €).

In general, 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. However, Montenegro was able to provide **information on projects funded by external donors and currently being implemented** (see financial aspect – budget received from external donors).

Legal Aid

In 2021, the implemented budget for legal aid spent by Montenegro was **0,2 € per inhabitant** (below the WB Average of 0,52 €).

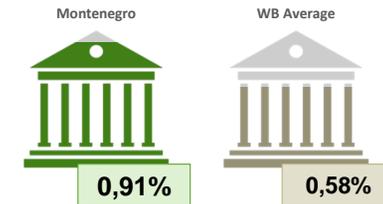
In 2021, **legal aid was granted for 317 cases**. On average, Montenegro spent 383 € per case for which legal aid was granted, which is above the WB Average of 199 €.

Budget of the Judiciary

Implemented Judicial System Budget per inhabitant in 2021



Implemented Judicial System Budget as % of GDP in 2021



Efficiency*

In 2021, the judiciary in Montenegro was less efficient than in 2020 with an increase of all Disposition Times and of most Clearance Rates. The authorities reported that in 2021 the work of the judiciary was impacted by a lawyers' strike, the decision of the Bar Association to suspend the provision of legal aid, the Covid-19 pandemic and the termination of judicial office for 54 judges. Most Clearance Rates decreased in 2021 and dropped below 100% (creating backlog). The exceptions were criminal law cases in first instance which had the lowest CR in 2020 (96%) but one of the highest in 2021 (101%); and civil and commercial litigious cases in second instance (CR increased from 102 to 103%).

The **second instance in Montenegro in 2021 was significantly faster than the first one** with shorter Disposition Times, which were also significantly shorter than the WB averages. **Montenegro dealt less efficiently with administrative cases than with other types of cases**. Indeed, administrative cases had the smallest CR in both first and second instance (92%) as well as the longest Dispositions Times (544 days in first instance and 89 days in second instance).

*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 court 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 the 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

Montenegro spent in total **422 455 € for training for judges and prosecutors in 2021** (budget of the training institution and budget of courts spent on training). This represents 0,68 € per inhabitant which is more than the WB average of 0,56 €.

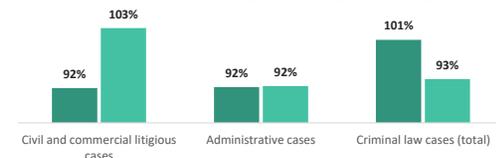
The tendencies noted regarding trainings following the pandemic in 2020 (decrease of the number of delivered in-person training courses and increase of the number of available online trainings) were confirmed in 2021 although they were less significant. Indeed between 2020 and 2021 the number of delivered in person trainings decreased from 79 to 64 days and the number of online available trainings increased from 34 to 40 days.

Efficiency

■ 1st instance ■ 2nd instance

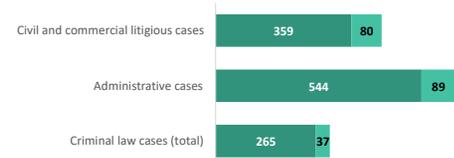
Clearance rate in 2021 (%)

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.



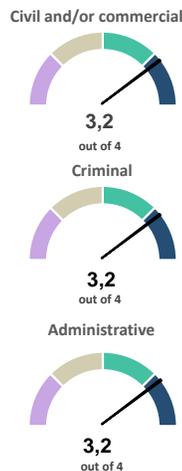
Disposition time in 2021 (in days)

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)

The Case Management System (CMS) Index is an index from 0 to 4 points calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the five questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarized while 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 an adequate evaluation.



Electronic case management system and court activity statistics

In Montenegro, the case management system (CMS), e.g. 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. However, the authorities have reported that the full implementation of the new CMS system, with user training, will most likely be completed by the end of 2023.

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.

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 which foresees situations where mediation is mandatory (see mediation procedures within ADR Indicator). Legal aid can be provided for court-related mediations.

In 2021, the number of mediators per 100 000 inhabitants was 22,4, which was above the Western Balkans average (11,7 per 100 000 inhabitants) and stable compared to 2020. The majority of the mediators were women (69,8%). There were in total 3 073 cases for which the parties agreed to start mediation and 1 315 mediation procedures which ended with a settlement agreement which were the highest numbers in the region.

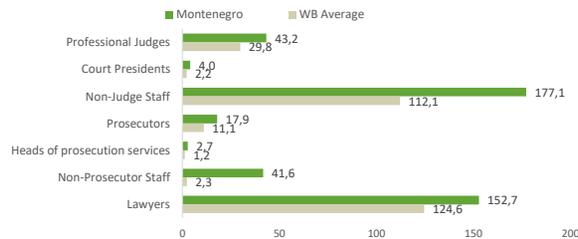
ECHR

In 2021 for Montenegro there were 381 applications allocated to a judicial formation of the ECHR (163 more than the previous year). 4 judgements found at least one violation (against 10 in 2020) and 13 cases were considered closed (against 8 in 2020).

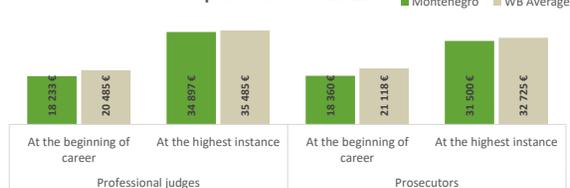
In Montenegro there is a monitoring system for violations related to Article 6 of the European Convention on Human Rights for civil procedures (non-enforcement and timeframe) and for criminal procedures (timeframe). There is also a possibility to review a case after a decision on violation of human rights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

Professionals of Justice

Total number of professionals per 100 000 inhabitants in 2021



Gross annual salaries of professional judges and prosecutors in 2021



Kosovo* is not included in the calculation of summary statistics

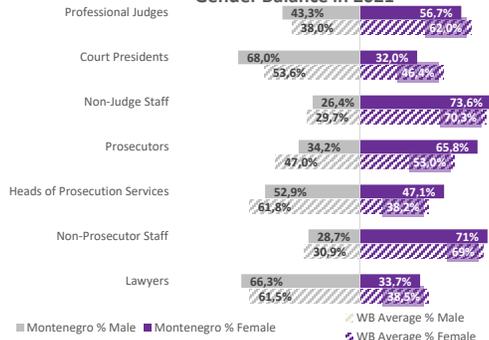
* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Gender Balance

57% female judges (total) 66% female prosecutors (total)



Gender Balance in 2021



Professionals and Gender Balance

Eastern European countries traditionally have a very high number of professionals per 100 000 inhabitants. In 2021, Montenegro had 43,2 professional judges and 17,9 prosecutors per 100 000 inhabitants. Both figures were significantly above the Western Balkans (WB) averages of 29,8 and 11,1, respectively.

In 2021, the ratio of non-judge staff per professional judge was 4,1. It was above the WB average of 3,7 and it has been steadily increasing since 2018. The ratio of non-prosecutor staff per prosecutor was 2,3, which corresponded to the WB average.

Regarding the gender balance, in 2021 Montenegro had 56,7% of female professional judges (lower than the WB average of 62%) and 65,8% of female prosecutors (higher than the WB average of 53%).

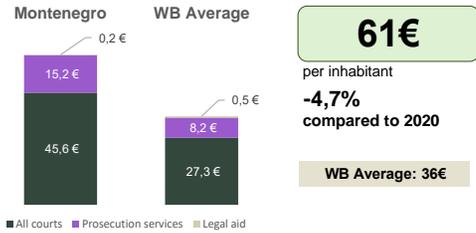
Courts presidents (32%), heads of prosecution services (47,1%) and lawyers (33,7%) were the judicial professionals with less than 50% of women in 2021. This highlights an issue called "glass ceiling", meaning that the higher the hierarchical level, the more the number of women (and thus the percentage) decreases.

For court presidents and heads of prosecution offices, there was a decrease of the percentage of female staff between the first and the second instance (35% female court presidents in first instance against 0% in second instance; 46,2% female heads of prosecution offices in first instance, against 33,3% in second).

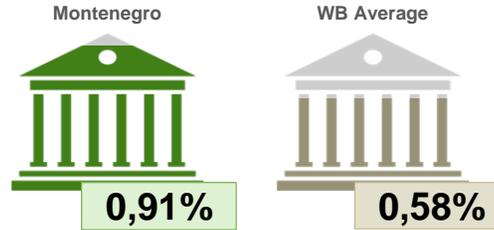
Nevertheless, regarding the third instance, both the president of the Supreme Court and the head of the highest prosecution office were women in 2021.

Budget of the judiciary in Montenegro in 2021 (Indicator 1)

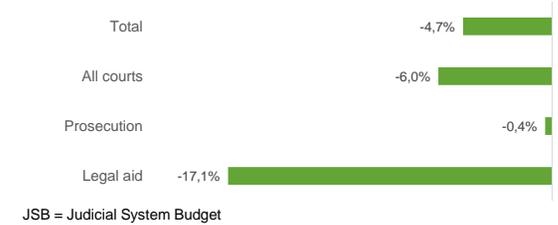
Implemented Judicial System Budget per inhabitant



Implemented Judicial System Budget as % of GDP



% Variation of Implemented JSB per inhabitant between 2020 and 2021



The Judicial System Budget (JSB) is composed of the budgets for all courts, public prosecution services and legal aid. In 2021, the implemented JSB for Montenegro was 61€ per inhabitant. It decreased by -4,7% since 2020 but it remained significantly higher than the Western Balkans (WB) average (36€). It represented 0,91% of the GDP of Montenegro (the WB average was 0,58%).

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

In 2021, Montenegro spent 37 834 517€ on the implemented judicial system budget. This means that Montenegro spent 61€ per inhabitant, which was significantly more than the Western Balkans average of 36€.

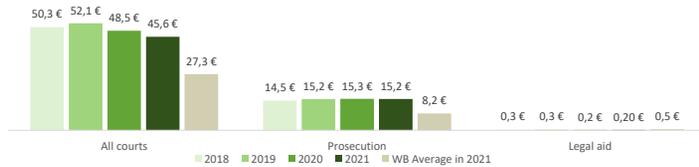
74,7% was spent for all courts, 25% for prosecution services, 0,3% for legal aid.

Compared to 2020, Montenegro has spent, per inhabitant, -6% less for courts, -0,4% less for prosecution services, and -17,1% less for legal aid.

Judicial System Budget	Judicial System Budget in 2021		Implemented Judicial System Budget per inhabitant				Implemented Judicial System Budget as % of GDP			
	Approved	Implemented	Per inhabitant in 2021	WB Average in 2021	% Variation of the values per inhabitant 2019 - 2021	% Variation of the values per inhabitant 2020 - 2021	As % of GDP	WB Average	Variation (in ppt) 2019 - 2021	Variation (in ppt) 2020 - 2021
Total	NA	37 834 517 €	61,0 €	36,0 €	-9,7%	-4,7%	0,91%	0,58%	0,06	0,10
All courts	25 974 916 €	28 257 865 €	45,6 €	27,3 €	-12,6%	-6,0%	0,68%	0,44%	0,02	0,07
Prosecution	9 190 892 €	9 455 152 €	15,2 €	8,2 €	0,6%	-0,4%	0,23%	0,14%	0,04	0,03
Legal aid	NA	121 500 €	0,2 €	0,5 €	-40,2%	-17,1%	0,003%	0,010%	-0,001	0,000

PPT = Percentage points

Implemented judicial system budget per inhabitant between 2018 and 2021 (€)



Implemented Judicial System Budget as % of GDP in 2020 and 2021



This scatterplot shows the relation between the GDP in billions and the Implemented Judicial System Budget as % of GDP. A figure on the right (left) of the WB average means that the Beneficiary has a higher (lower) GDP than the WB average. A figure above (below) the WB average shows that the Beneficiary has a higher (lower) ratio of Implemented Judicial System Budget as % of GDP than the WB average.

Budget allocated to the functioning of all courts

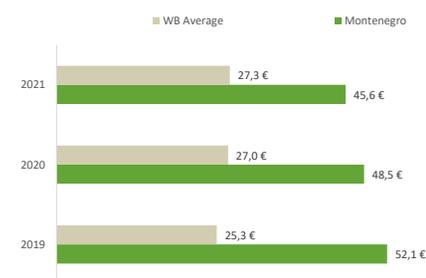
In 2021, Montenegro spent 28 257 865€ on the implemented budget of courts. 74% was spent for gross salaries, 0,6% for computerisation, 0,3% for court buildings, 0,2% for investment in new buildings and 0,01% on trainings.

There was no data available for the category "other" but the authorities have indicated that it 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... (Source: Judicial council)

Compared to 2020, the implemented budget of courts has decreased by -6%.

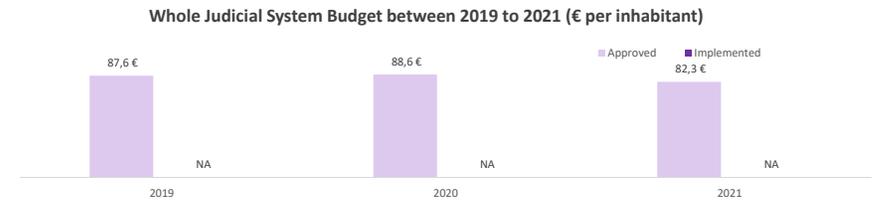
	2021		% Variation between 2019 and 2021		% Variation between 2020 and 2021	
	Approved budget	Implemented budget	Approved budget	Implemented budget	Approved budget	Implemented budget
Total (1 + 2 + 3 + 4 + 5 + 6 + 7)	25 974 916 €	28 257 865 €	-17,2%	-12,6%	-17,7%	-6,0%
1. Gross salaries	21 016 953 €	20 918 398 €	-7,6%	-8,0%	-2,1%	-1,0%
2. Computerisation (2.1 + 2.2)	193 452 €	166 203 €	-69,8%	-73,5%	-67,0%	-70,5%
2.1 Investment in computerisation	NA	NA				
2.2 Maintenance of the IT equipment of courts	88 000 €	62 677 €				
3. Justice expenses	NA	NA	NA	NA	NA	NA
4. Court buildings	90 000 €	72 098 €	-42,4%	-53,8%	-53,8%	-62,7%
5. Investment in new buildings	150 000 €	57 218 €	118,6%	-16,6%	-33,3%	-72,9%
6. Training	38 290 €	2 801 €	42,5%	-88,3%	286,8%	37,4%
7. Other	NA	NA	NA	NA	NA	NA

Implemented budget allocated to all courts per inhabitant between 2019 and 2021



• Budget allocated to the whole justice system

Whole Justice System	2021		% Variation of the Whole Justice System per inhabitant	
	Absolute number	Per inhabitant	2019 - 2021	2020 - 2021
Approved	51 037 761 €	82,3 €	-6,0%	-7,0%
Implemented	NA	NA	NA	NA



The whole justice system budget includes the following elements in 2021:

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

Montenegro has indicated that the approved justice system budget for 2021 was composed as follow: ("Official gazette of MNE", no. 70/21)

- Judiciary: 27.444.237 € (including the Judicial Council)
- State Prosecution Office: 9.190.893€ (including the Prosecutorial Council)
- Centre for Training in Judiciary and State Prosecution Office: 419.655 €
- Ministry of Justice: 3.625.808€
- Institute for Enforcement of Criminal Sanctions: 10.357.168 €

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

• Budget received from external donors

	Absolute value	Calculated as %
All courts	NA	NA
Prosecution services	NA	NA
Legal aid	NA	NA
Whole justice system	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 the judiciary and law enforcement institutions in order to meet the criteria for accession of Montenegro to the EU. The purpose of the Project is increasing the efficiency of the 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 (the 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 a prison in Mojkovac: Review of the Feasibility Study, preparation of the 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"

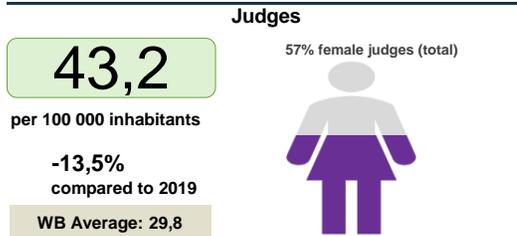
3. IPA 2017 Regional project „Fight against serious crime in the Western Balkans"

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, the United Kingdom, the United States, the Federal Republic of Germany and other international partners. According to the "NMLoS" project, the money is expected to be spent for business travel expenses IPA 2018: Development of a Business Intelligence (BIA) application to strengthen the capacity of the Financial Intelligence Unit. (Service contract, Value - 100.000€) The project has been arranged and is currently being implemented.

Kosovo is not included in the calculation of summary statistics

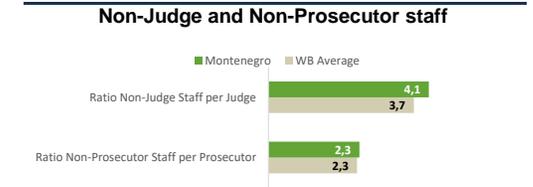
Professionals and Gender Balance in judiciary in Montenegro in 2021 (Indicators 2 and 12)



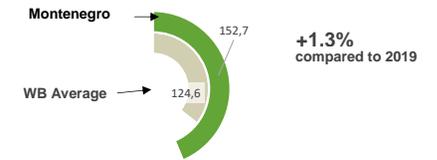
Judges - Ratio with the annual gross salary at the beginning and the end of career in 2021



Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2021



Lawyers per 100 000 inhabitants



In 2021, Montenegro had 43,2 professional judges and 17,9 prosecutors per 100 000 inhabitants. Both figures were significantly above the Western Balkans (WB) averages of 29,8 and 11,1, respectively. More than half of the professional judges (57% with the WB Average at 62%), as well as prosecutors (66% with the WB average was 53%) were women.

Professional Judges

	Professional judges			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	268	100,0%	43,2	29,8
1st instance courts	204	76,1%	32,9	23,0
2nd instance courts	58	21,6%	9,4	5,6
Supreme Court	6	2,2%	1,0	1,3

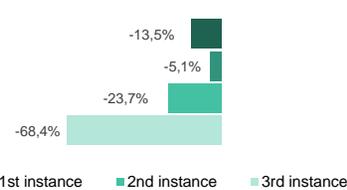
For reference only: the 2020 EU median is 21,8 judges per 100 000 inhabitants.

In 2021, the absolute number of professional judges in Montenegro was 268, which was 43,2 per 100 000 inhabitants (higher than the WB average of 29,8).

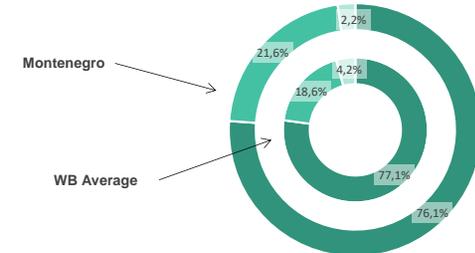
Compared to 2019, the number of professional judges per 100 000 inhabitants decreased by -13,5%. The authorities reported the end of judicial function for several judges (including 19 judges from the second instance and 12 judges from the Supreme Court), notably due to judges exercising their right to pension. At the beginning of 2022, a number of new judges were elected (eg 11 new judges of the Supreme Court of Montenegro).

The figures show a difference of 1 percentage point between the percentage of judges in the first instance (76,1%) and the WB average (77,1%).

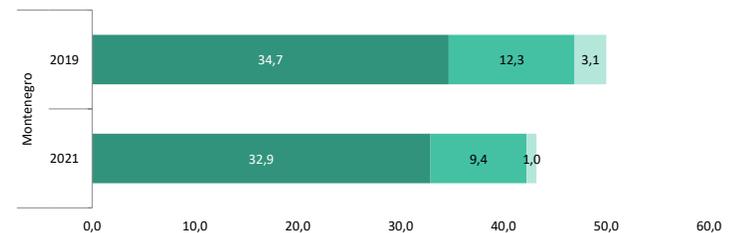
% Variation of no. of professional judges per 100 000 inh. 2019 - 2021



Distribution of professional judges by instance in 2021 (%)



Distribution of professional judges per 100 000 inhabitants by instance in 2019 and 2021

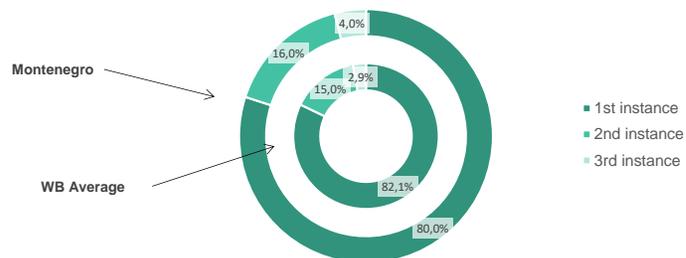


• Court presidents

	Court presidents			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	25	100,0%	4,0	2,2
1st instance courts	20	80,0%	3,2	1,8
2nd instance courts	4	16,0%	0,6	0,3
Supreme Court	1	4,0%	0,2	0,1

The absolute number of court presidents in Montenegro in 2021 was 25, which was 4 per 100 000 inhabitants (higher than the WB average of 2,2).

Distribution of court presidents by instance in 2021 (%)



• Non-judge staff

In 2021, the absolute total number of non-judge staff in Montenegro was 1 098, which increased by 0,4% between 2019 and 2021. The number of non-judge staff per 100 000 inhabitants was 177,1, which was above the WB average of 112,1.

Compared to 2019, there was no significant variation in the distribution of non-judge staff among instances in 2021.

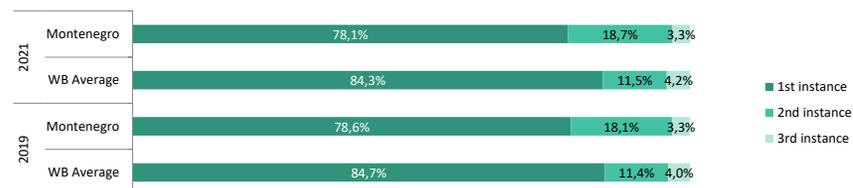
The highest number of non-judge staff were assisting judges and represented 60,7% of the total.

	Number of non-judge staff by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	1 098	100,0%	177,1	112,1
1st instance courts	857	78%	138,2	91,2
2nd instance courts	205	19%	33,1	16,0
Supreme Court	36	3%	5,81	4,87

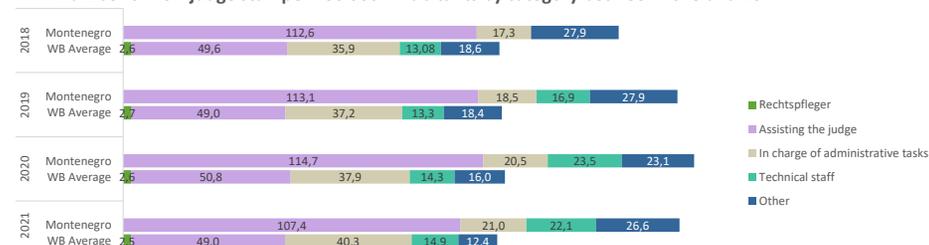
For reference only: the 2020 EU median is 69 non-judge staff per 100 000 inhabitants.

	Number of non-judge staff by category			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	1 098	100,0%	177,1	112,1
Rechtspfleger	NAP	NAP	NAP	2,5
Assisting the judge	666	60,7%	107,4	49,0
In charge of administrative tasks	130	11,8%	21,0	40,3
Technical staff	137	12,5%	22,1	14,9
Other	165	15,0%	26,6	12,4

Distribution of non-judge staff by instance in 2019 and 2021



Number of non-judge staff per 100 000 inhabitants by category between 2018 and 2021



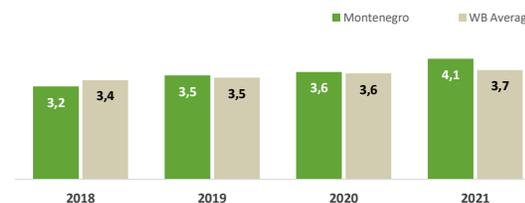
• Ratio between non-judge staff and professional judges

In 2021 in Montenegro, the ratio of non-judge staff per professional judge was 4,1. It was above the WB average of 3,7 and it has been steadily increasing since 2018.

	Ratio in 2021		% Variation between 2019 and 2021
	Montenegro	WB Average	
Total	4,1	3,7	16,1%
1st instance courts	4,2	3,9	5,0%
2nd instance courts	3,5	2,8	35,7%
Supreme Court	6,0	5,1	216,7%

For reference only: the 2020 EU median ratio of non-judge staff per judge is 3,7.

Ratio between non-judge staff and judges between 2018 and 2021



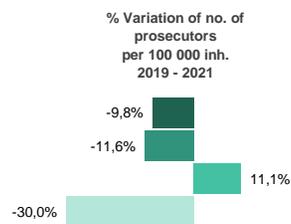
Prosecutors

	Number of prosecutors by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	111	100,0%	17,9	11,1
1st instance courts	84	75,7%	13,5	8,9
2nd instance courts	20	18,0%	3,2	1,5
Supreme Court	7	6,3%	1,1	0,9

In 2021, the absolute number of prosecutors in Montenegro was 111, which was 17,9 prosecutors per 100 000 inhabitants (higher than the WB Average of 11,1).

The total number of prosecutors per 100 000 inhabitants decreased by -9,8% between 2019 and 2021.

The figures show a difference of -3,5 percentage points between the percentage of prosecutors in the first instance (75,7%) and the WB average (79,2%)

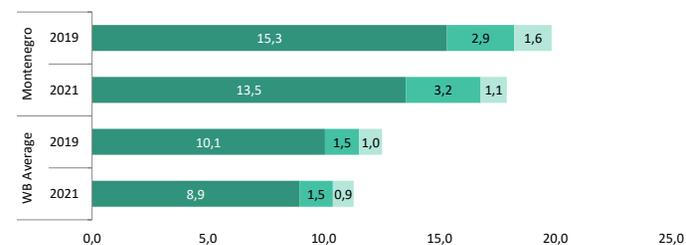


Distribution of prosecutors by instance in 2021 (%)



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

Distribution of prosecutors per 100 000 inhabitants by instance in 2019 and 2021

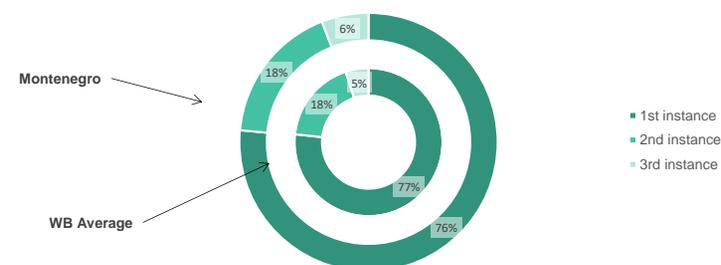


Heads of prosecution services

	Heads of prosecution services			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	17	100,0%	2,7	1,2
1st instance courts	13	76,5%	2,1	1,0
2nd instance courts	3	17,6%	0,5	0,2
Supreme Court	1	5,9%	0,2	0,1

The absolute number of heads of prosecution services in Montenegro in 2021 was 17, which was 2,7 per 100 000 inhabitants (higher than the WB average of 1,2).

Distribution of heads of prosecution services by instance in 2021 (%)



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

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

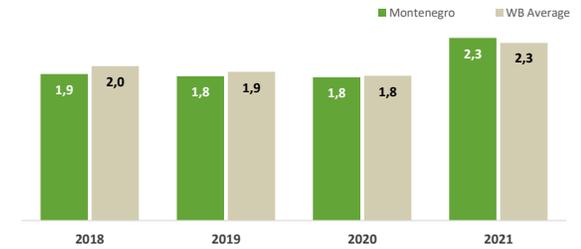
	Non-prosecutor staff in 2021			Ratio between non-prosecutor staff and prosecutors in 2021		% Variation 2019 - 2021
	Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhab.	Montenegro	WB Average	Montenegro
Total	258	41,6	24,7	2,3	2,3	26,5%

In 2021, the total number of non-prosecutor staff in Montenegro was 258, which increased by 14,2% compared to 2019.

The number of non-prosecutor staff per 100 000 inhabitants was 41,6, above the WB Average of 24,7.

The ratio of non-prosecutor staff per prosecutor was 2,3, which corresponded to the WB average. It increased by 26,5% since 2019.

Ratio between non-prosecutor staff and prosecutors between 2018 and 2021



• **Lawyers**

	Number of lawyers in 2021			% Variation 2019 - 2021
	Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants	Montenegro
Total	947	152,7	124,6	1,3%

For reference only: the 2020 EU median is 192,6 lawyers per 100 000 inhabitants.

In 2021, the number of lawyers was 152,7 per 100 000 inhabitants, which was higher than the WB Average (124,6).

The number of lawyers per 100 000 inhabitants increased by 1,3% between 2019 and 2021.

Number of lawyers per 100 000 inhabitants between 2018 and 2021



Salaries of professional judges and prosecutors

In 2021, the ratio of the salary of professional judges at the beginning of career with the annual gross average salary in Montenegro was 1,9, which was less than the WB average (2,5).

At the end of career, judges were paid more than at the beginning of career by 91,4%, which was more than the variation of WB average (+66,9%).

In 2021, the ratio of the salary of prosecutors at the beginning of career with the annual gross average salary in Montenegro was 1,9, which was less than the WB average (2,6).

At the end of career, prosecutors were paid more than at the beginning of career by 71,6%, which was more than the variation of WB average (50,4%).

		Salaries in 2021				% Variation 2019 - 2021
		Gross annual salary in €	Net annual salary in €	Ratio with the annual gross salary	WB Average Ratio with the annual gross salary	Montenegro
Professional judge	At the beginning of his/her career	18 233	12 216	1,9	2,5	0,0%
	Of the Supreme Court or the Highest Appellate Court	34 897	21 246	3,7	4,2	-19,5%
Public prosecutor	At the beginning of his/her career	18 360	12 300	1,9	2,6	0,0%
	Of the Supreme Court or the Highest Appellate Court	31 500	21 105	3,3	3,9	0,5%



For reference only: the 2020 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: 2,3

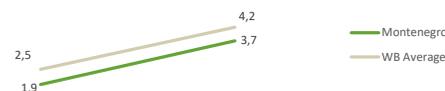
- prosecutors' salary at the beginning of career: 1,9

- professional judges' salary at the end of career: 4,3

- prosecutors' salary at the end of career: 3,8

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

Judges - Ratio with the annual gross salary at the beginning and the end of career in 2021



Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2021



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 allowances, 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 a special allowance in the amount of 45% of the basic salary.

Gender Balance

	Total number per 100 000 inh.	% Female	WB Average	% Variation 2019 - 2021
				Montenegro
Professional Judges	43,2	56,7%	62,0%	-3,6
Court Presidents	4,0	32,0%	46,4%	
Non-Judge Staff	177,1	73,6%	70,3%	1,7
Prosecutors	17,9	65,8%	53,0%	1,5
Heads of Prosecution Services	2,7	47,1%	38,2%	
Non-Prosecutor Staff	41,6	71,3%	69,1%	-1,7
Lawyers	152,7	33,7%	38,5%	-0,4

For reference only. 2020 EU medians on gender are among professionals are:

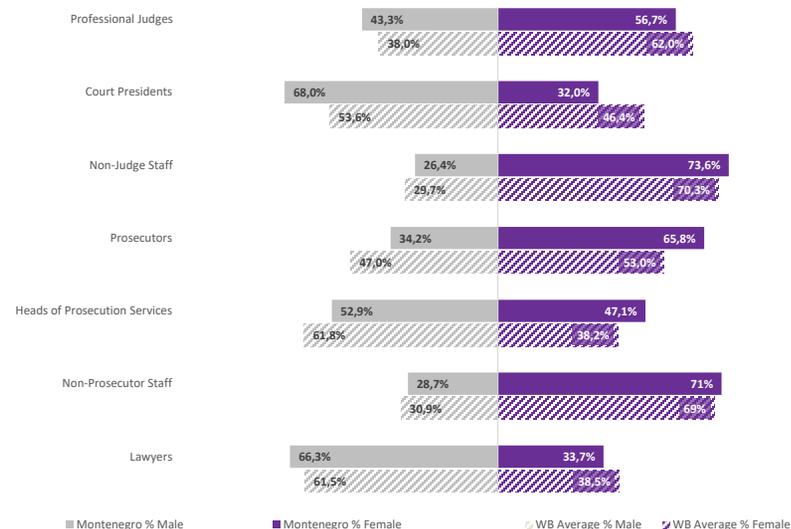
62% women judges. 76% women non-judge staff.
58% women prosecutors. 73% women non-prosecutor staff.
47% women lawyers.

In 2021 Montenegro had 56,7% of female professional judges (lower than the WB average of 62%) and 65,8% of female prosecutors (higher than the WB average of 53%). Those percentages are lower for court presidents (32% of female staff, below the WB average of 46,4%) and for heads of prosecution services (47,1% of female staff, above the WB average of 38,2%).

Courts presidents (32%), heads of prosecution services (47,1%) and lawyers (33,7%) were the judicial professionals with less than 50% of women in

	% Female Professional Judges		% Female Court presidents		% Female Prosecutors		% Female Heads of Prosecution Services	
	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average
1st instance courts	56,4%	61,8%	35,0%	47,0%	65,5%	54,1%	46,2%	40,2%
2nd instance courts	55,2%	64,5%	0,0%	35,3%	65,0%	52,8%	33,3%	31,3%
Supreme Court	83,3%	54,9%	100,0%	73,3%	71,4%	41,4%	100,0%	40,0%

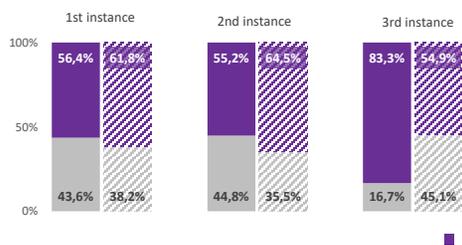
Gender Balance in 2021



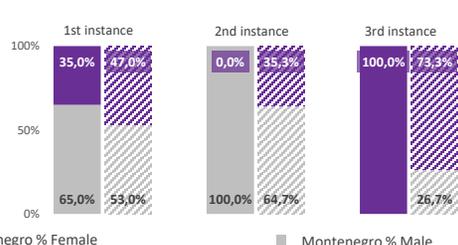
For court presidents and heads of prosecution offices, there is a decrease in the percentage of female staff between the first and the second instance (35% female court presidents in first instance against 0% in second instance; 46,2% female heads of prosecution offices in first instance, against 33,3% in second). Although, regarding the third instance, both the president of the Supreme Court and the head of the highest prosecution office are women.

For judges and prosecutors, a moderate glass ceiling can be observed in the region, but not in Montenegro where there are actually more female judges and prosecutors in third instance than in first instance.

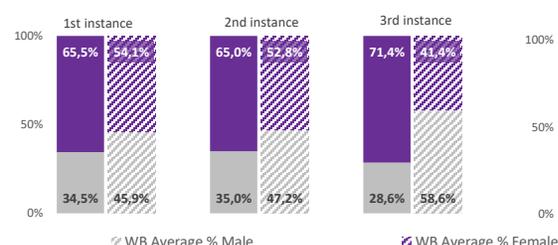
Professional Judges - Gender Balance by instance in 2021



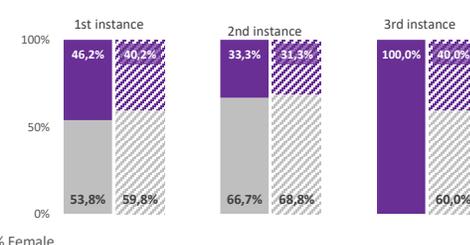
Court Presidents - Gender Balance by instance in 2021



Prosecutors - Gender Balance by instance in 2021



Heads of Prosecution Services - Gender Balance by instance in 2021



• Gender Equality Policies

	Recruitment		Appointment	Promotion		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	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	
Court Presidents			✓			
Heads of Prosecution Services			✓			
Judges	✓	✗		✓	✗	✗
Prosecutors	✓	✗		✓	✗	✗
Non-judge staff	✗	✗		✗	✗	✗
Lawyers	✗			✗		
Notaries	✗			✗		
Enforcement agents	✗			✗		

In Montenegro there is no overarching document (e.g. policy/strategy/action plan/program) on gender equality that applies specifically to the judiciary.

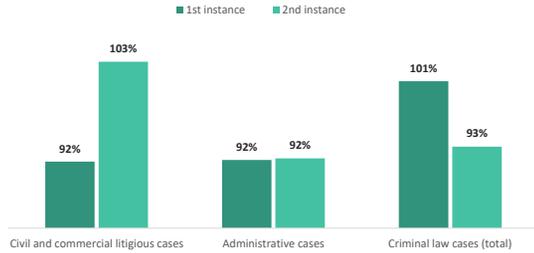
There are however specific provisions for facilitating gender equality in the recruitment and promotion of judges and prosecutors, as well as the appointment of court presidents and heads of prosecution services. Indeed, according to the Law on the Judicial Council and Judges, when making a decision 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 the 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.

Kosovo is not included in the calculation of summary statistics

Efficiency in Montenegro in 2021 (Indicators 3.1 and 3.2)

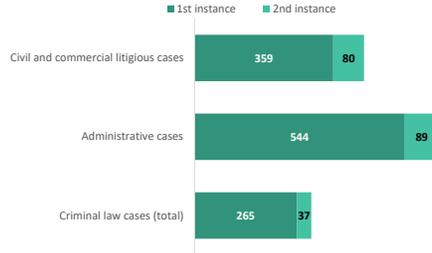
Clearance rate in 2021 (%)

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.

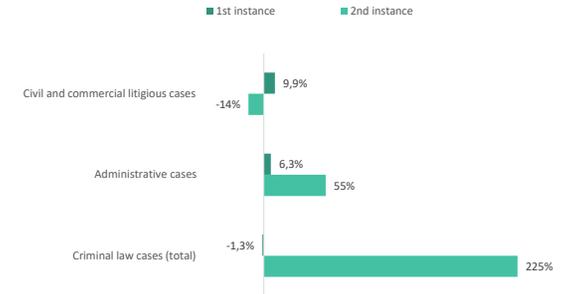


Disposition time in 2021 (in days)

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 2020 and 2021 (%)



In 2021, the judiciary in Montenegro was less efficient than in 2020 with an increase of all Disposition Times and of most Clearance Rates. The authorities reported that in 2021 the work of the judiciary was impacted by a lawyers' strike, the decision of the Bar Association to suspend the provision of legal aid, the Covid-19 pandemic and the termination of judicial office for 54 judges.

Most Clearance Rates decreased in 2021 and dropped below 100% (creating backlog). The exceptions were criminal law cases in first instance which had the lowest CR in 2020 (96%) but one of the highest in 2021 (101%); and civil and commercial litigious cases in second instance (CR increased from 102 to 103%).

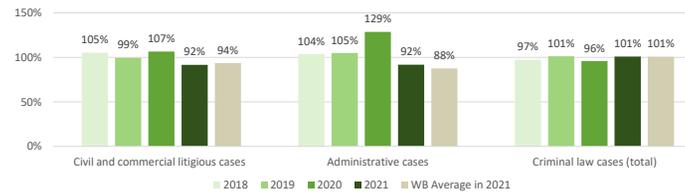
Compared to 2020, there were more pending cases at the end of the year, except for those two categories which increased their Clearance Rates (criminal law cases in first instance and civil and commercial litigious cases in second instance).

The second instance in Montenegro in 2021 was significantly faster than the first one with shorter Disposition Times, which were also significantly shorter than the WB averages.

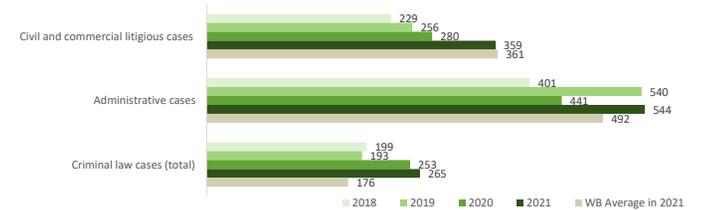
Montenegro dealt less efficiently with administrative cases than with other types of cases. Indeed, administrative cases had the smallest CR in both first and second instance (92%) as well as the longest Dispositions Times (544 days in first instance and 89 days in second instance).

First instance cases

Clearance rate for first instance cases between 2018 and 2021 (%)

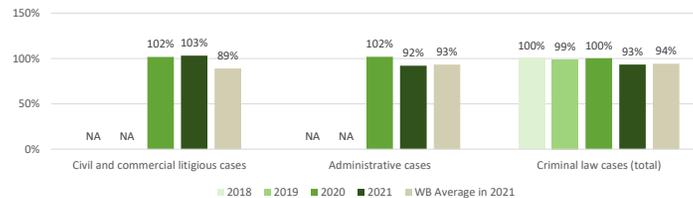


Disposition time for first instance cases between 2018 and 2021 (in days)

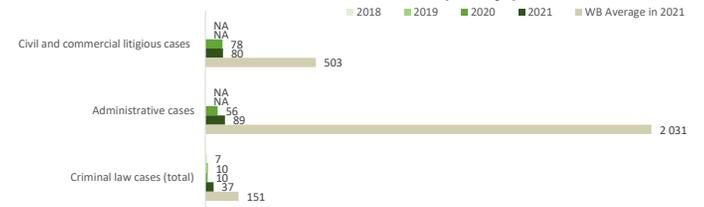


Second instance cases

Clearance rate for second instance cases between 2018 and 2021 (%)



Disposition time for second instance cases between 2018 and 2021 (in days)



• First instance cases - Other than criminal law cases

1st instance	2021								Per 100 inhabitants in 2021				% Variation between 2020 and 2021					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Average CR (%)	DT (days)	WB Average 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)	34 525	32 046	29 500	4 489	93%	100%	336	335	5,57	5,17	4,76	0,72	0,7%	-6,3%	9,0%	25,8%	-16,8	16,2%
1 Civil and commercial litigious cases	20 958	19 214	18 887	4 167	92%	94%	359	361	3,38	3,10	3,05	0,67	-0,3%	-14,2%	9,9%	25,2%	-14,8	28,1%
2 Non-litigious cases**	4 784	4 599	1 319	232	96%	106%	105	196	0,77	0,74	0,21	0,04	57,6%	51,4%	16,3%	18,4%	-3,9	23,2%
3 Administrative cases	6 602	6 065	9 040	66	92%	88%	544	492	1,06	0,98	1,46	0,01	20,6%	-13,8%	6,3%	NA	-36,7	23,4%
4 Other cases	2 181	2 168	254	24	99%	101%	43	94	0,35	0,35	0,04	0,00	31,5%	26,6%	5,4%	-45,5%	-3,9	-16,8%

PPT = Percentage points

** 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 2020 EU Median was as follows:

- Incoming cases per 100 inhabitants: 1,6;
- Clearance rate: 98,5% ;
- Disposition time: 221 days.

For reference only: for the first instance Administrative cases, the 2020 EU Median as follows:

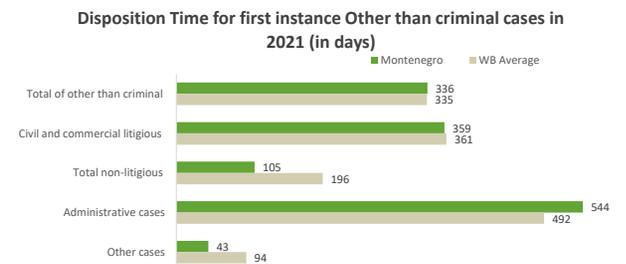
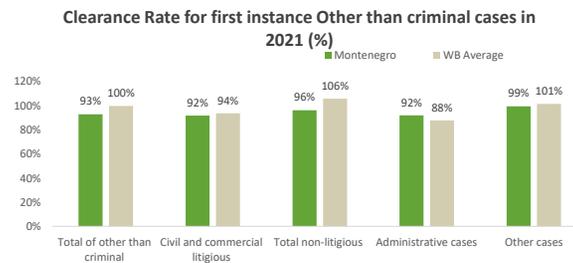
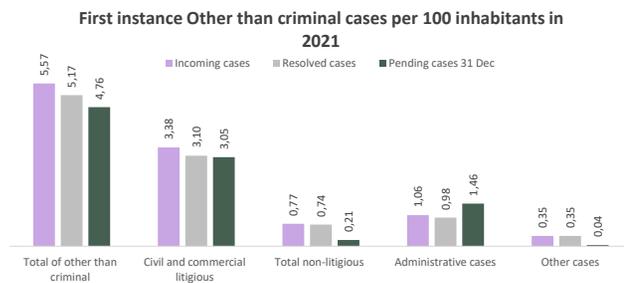
- incoming cases per 100 inhabitants: 0,3;
- Clearance rate: 100,1%;
- Disposition time: 388 days.

In 2021, there were 20 958 incoming civil and commercial litigious cases in first instance, which was 3,4 per 100 inhabitants and -0,3% less than in 2020. 19 214 cases were resolved, which was 3,1 per 100 inhabitants and -14,2% less than in 2020. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, there were more civil and commercial litigious cases pending at the end of 2021 than at the end of 2020 and the Clearance Rate for this type of cases was 92%. This decreased by -14,8 percentage points compared to 2020 and was below the WB average (94%).

Finally, the Disposition Time for civil and commercial litigious cases in first instance in 2021 was approximately 359 days. This has increased by 28,1% compared to 2020 but it remained below the WB average (361 days).

In 2021, there were 6 602 incoming administrative cases, which was 1,1 per 100 inhabitants and 20,6% more than in 2020. 6 065 cases were resolved, which was 1 per 100 inhabitants and -13,8% less than in 2020. The number of resolved cases was slightly lower than the incoming cases. As a consequence, there were more administrative cases pending at the end of 2021 than at the end of 2020 and the Clearance Rate for this type of cases was 92%. This decreased by -36,7 percentage points compared to 2020 but was above the WB average (88%).

Finally, the Disposition Time for administrative cases in first instance was approximately 544 days in 2021. This has increased by 23,4% compared to 2020 and it was above the WB average (492 days).



• First instance cases - Criminal law cases

1st instance	2021								Per 100 inhabitants in 2021				% Variation between 2020 and 2021					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Average CR (%)	DT (days)	WB Average 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)	54 688	55 209	40 070	NA	101%	101%	265	176	8,82	8,90	6,46	NA	-10,6%	-5,9%	-1,3%	NA	5,1	4,8%
1 Severe criminal cases	3 907	3 609	2 428	235	92%	102%	246	199	0,63	0,58	0,39	0,04	-7,8%	0,7%	-3,5%	04,3%	7,8	12,6%
2 Misdemeanour and / or minor criminal cases	31 907	32 689	18 532	NA	102%	99%	207	216	5,15	5,27	2,99	NA	-7,6%	-4,3%	-4,0%	NA	3,5	0,3%
3 Other cases	18 874	18 911	19 110	NA	100%	100%	369	199	3,04	3,05	3,08	NA	-15,8%	-9,5%	-0,2%	NA	7,0	10,3%

PPT = Percentage points

For reference only: for the first instance Total Criminal law cases, the 2020 EU Median was as follows:
 - Incoming cases per 100 inhabitants: 1,6; - Clearance rate: 95,2%; - Disposition time: 139 days.

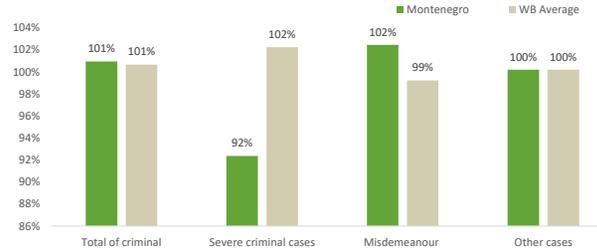
In 2021, there were 54 688 incoming total criminal cases in first instance, which was 8,8 per 100 inhabitants and -10,6% less than in 2020. 55 209 cases were resolved, which was 8,9 per 100 inhabitants and -5,9% less than in 2020. Hence, the number of resolved cases was higher than the incoming cases. As a consequence, there were less total criminal cases pending at the end of 2021 than at the end of 2020 and the Clearance Rate for this type of cases was 101%. This increased by 5,1 percentage points compared to 2020 and it was the same as the WB average.

Finally, the Disposition Time for total criminal cases in first instance was approximately 265 days in 2021. This has increased by 4,8% compared to 2020 and it was above the WB average (176 days).

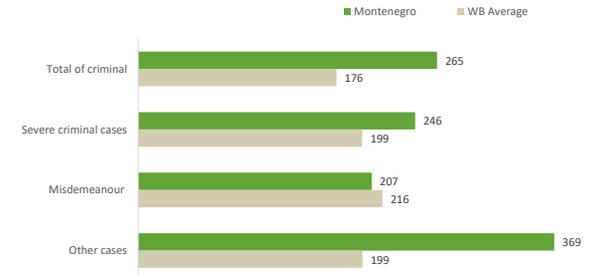
First instance Criminal law cases per 100 inhabitants in 2021



Clearance Rate for first instance Criminal Law cases in 2021 (%)



Disposition Time for first instance Criminal Law cases in 2021 (in days)



• Second instance cases - Other than criminal law cases

2nd instance	2021								Per 100 inhabitants in 2021				% Variation between 2020 and 2021							
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Average CR (%)	DT (days)	WB Average 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)	9 136	9 306	2 044	620	102%	98%	80	228	1,47	1,50	0,33	0,10	14,8%	-14,9%	-8,9%	-8,1%	-0,1	7,0%		
1 Civil and commercial litigious cases	7 784	8 033	1 762	600	103%	89%	80	503	1,26	1,30	0,28	0,10	17,0%	-15,7%	+3,6%	-9,6%	1,5	2,5%		
2 Non-litigious cases**	242	247	53	19	102%	86%	78	352	0,04	0,04	0,01	0,003	-24,6%	-30,2%	-8,6%	72,7%	-8,2	31,0%		
3 Administrative cases	982	904	220	0	92%	93%	89	2 031	0,16	0,15	0,04	0,00	7,9%	-2,6%	54,9%	NA	-9,9	39,0%		
4 Other cases	128	122	9	1	95%	98%	27	13	0,02	0,02	0,001	0,0002	7,6%	2,5%	100,0%	NA	-4,7	32,6%		

PPT = Percentage points

** 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 2020 EU Median was as follows:

- Clearance rate: 105,2% ;
- Disposition time: 177 days.

For reference only: for the first instance Administrative cases, the 2020 EU Median as follows:

- Clearance rate: 99,2% ;
- Disposition time: 362 days.

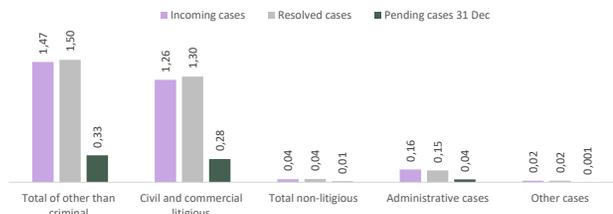
In 2021, there were 7 784 incoming civil and commercial litigious cases in second instance, which was 1,3 per 100 inhabitants and -17% less than in 2020. 8 033 were resolved, which was 1,3 per 100 inhabitants and -15,7% less than in 2020. Hence, the number of resolved cases was higher than the incoming cases. As a consequence, there were less civil and commercial litigious pending cases at the end of 2021 than at the end of 2020 and the Clearance Rate for this type of cases was 103%. This increased by 1,5 percentage points compared to 2020 and was above the WB average (89%).

Finally, the Disposition Time for civil and commercial litigious cases was approximately 80 days in 2021. This has increased by 2,5% compared to 2020 and but it was significantly below the WB average (503 days).

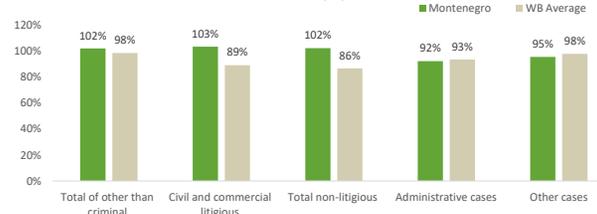
In 2021, there were 982 incoming administrative cases in second instance, which was 0,2 per 100 inhabitants and 7,9% more than in 2020. 904 cases were resolved, which was 0,1 per 100 inhabitants and -2,6% less than in 2020. Hence, the number of resolved cases was slightly lower than the incoming cases. As a consequence, there were more administrative pending cases at the end of 2021 than at the end of 2020 and the Clearance Rate for this type of cases was 92%. This decreased by -9,9 percentage points compared to 2020 and was below the WB average (93%).

Finally, the Disposition Time for administrative cases was approximately 89 days in 2021. This has increased by 55% compared to 2020 and it was significantly below the WB average (2031 days).

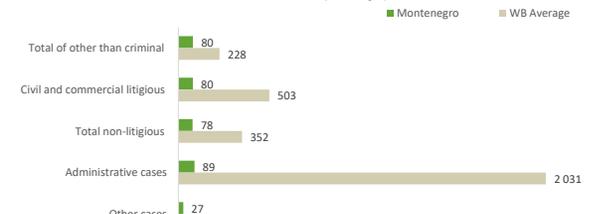
Second instance Other than criminal cases per 100 inhabitants in 2021



Clearance Rate for second instance Other than criminal cases in 2021 (%)



Disposition Time for second instance Other than criminal cases in 2021 (in days)



• Second instance cases - Criminal law cases

2nd instance	2021								Per 100 inhabitants in 2021				% Variation between 2020 and 2021					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Average CR (%)	DT (days)	WB Average 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)	3 109	2 904	296	3	93%	94%	37	151	0,50	0,47	0,05	0,0005	-2,7%	-9,3%	25,3%	NA	-6,8	258,8%
1 Severe criminal cases	1 190	1 069	212	3	90%	88%	72	366	0,19	0,17	0,03	0,0005	-6,1%	-16,2%	33,0%	75,0%	-10,8	17,3%
2 Misdemeanour and / or minor criminal cases	1 919	1 835	84	0	96%	89%	17	403	0,31	0,30	0,01	0,00	-0,5%	-4,8%	NA	NA	-4,4	-
3 Other cases	NAP	NAP	NAP	NAP	NAP	98%	NAP	58	NAP	NAP	NAP	NAP	NA	NA	NA	NA	NAP	NAP

PPT = Percentage points

For reference only: for the second instance Total Criminal law cases, the 2020 EU Median was as follows:

- Incoming cases per 100 inhabitants: 1,6; - Clearance rate: 95,2%; - Disposition time: 139 days.

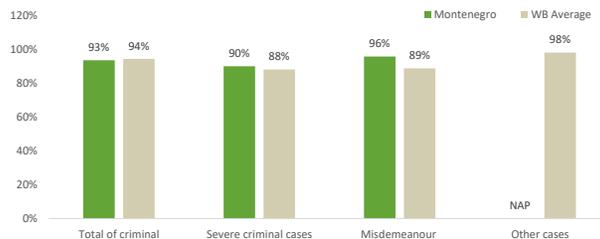
In 2021, there were 3 109 incoming total criminal cases in second instance, which was 0,5 per 100 inhabitants and -2,7% less than in 2020. 2 904 were resolved, which was 0,5 per 100 inhabitants and -9,3% less than in 2020. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, there were more total criminal pending cases at the end of 2021 than at the end of 2020 and the Clearance Rate for this type of cases was 93%. This decreased by -6,8 percentage points compared to 2020 and was below the WB average (94%).

Finally, the Disposition Time for total criminal cases in second instance was approximately 37 days in 2021. This has increased by 258,8% compared to 2020 but it remained significantly below the WB average (151 days).

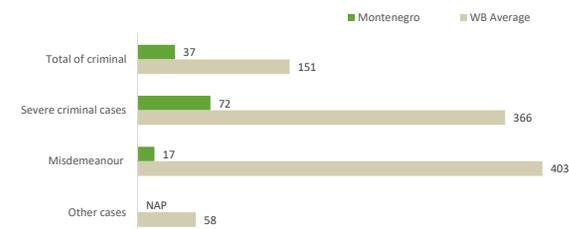
Second instance Criminal law cases per 100 inhabitants in 2021



Clearance Rate for second instance Criminal Law cases in 2021 (%)

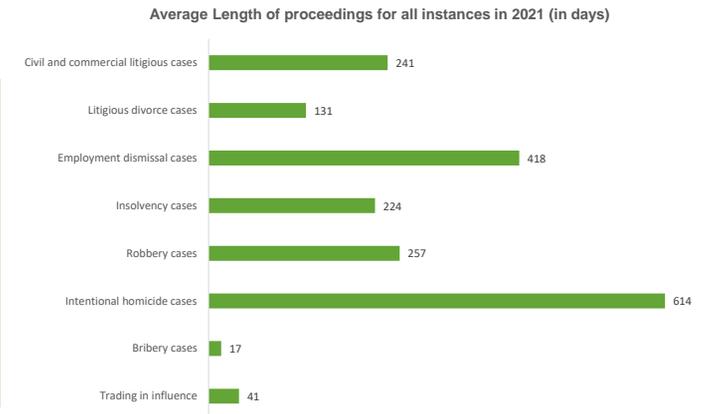


Disposition Time for second instance Criminal Law cases in 2021 (in days)



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

	2021						% Variation between 2020 and 2021					
	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	39%	233	62	0	241	66%	2,0	-19%	0%	-100%	77%	-21%
Litigious divorce cases	4%	130	31	0	131	0%	-3,0	11%	0%	-100%	77%	NA
Employment dismissal cases	66%	395	65	0	418	NA	29,0	20%	3%	-100%	182%	NA
Insolvency cases	5%	221	22	0	224	2%	-1,0	-6%	5%	NA	164%	NA
Robbery cases	53%	243	42	0	257	0%	-34,0	15%	75%	-100%	210%	NA
Intentional homicide cases	56%	580	103	0	614	0%	-42,0	56%	47%	-100%	274%	NA
Bribery cases	0%	17	0	0	17	0%	0,0	NA	NA	NA	NA	NA
Trading in influence	0%	41	0	0	41	0%	0,0	NA	NA	NA	NA	NA



• Quality standards and performance indicators in the judicial system

In Montenegro there are quality standards determined for the judicial system at national level but no specialised personnel entrusted with implementation of these national level quality standards.

• 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

Every court president can monitor the backlog through the reports made for it in the court information system. Also, the Supreme court monitors the number of those cases and conducts a number of activities to prioritize old cases in courts.

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	✗	✗

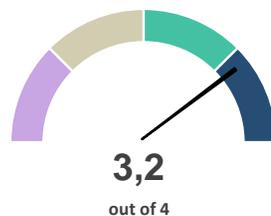
Kosovo is not included in the calculation of summary statistics

Electronic case management system and court activity statistics in Montenegro in 2021 (Indicator 3.3)

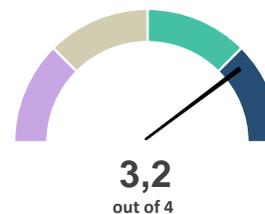
The Case Management System (CMS) Index is an index ranging from 0 to 4 points. It is calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary.

The methodology for calculation provides one index point for each of the five questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarized while 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. This methodology provides an adequate evaluation.

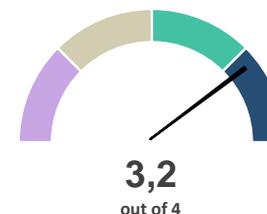
CMS index in Civil and/or commercial



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.

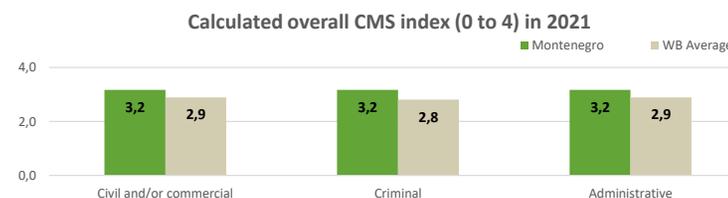
The CMS is developed in all courts (100% deployment rate) and the data is stored on a database consolidated at national level. The CMS index for Montenegro is higher than the WB average (3.2 for each type of cases in Montenegro versus 2.9 for civil and/or commercial cases and administrative cases, and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

The development of a new system is in progress (ISP (abbreviation for information system of Judiciary - in Montenegrin Informacioni Sistem Pravosuđa)). The full implementation is planned in the new ICT Judiciary Development Program 2021-2023 for the fourth quarter of 2022. However, the authorities have reported that the full implementation of the new CMS system, with user training, will most likely be completed by the end of 2023.

	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 2021	
	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 decisions**

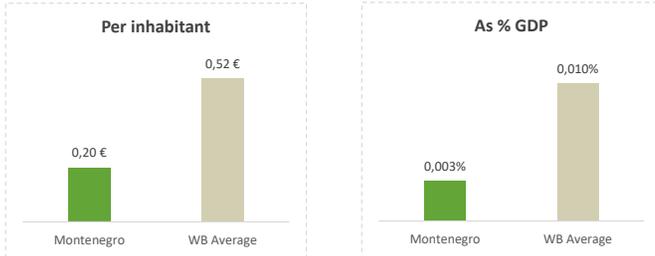
In Montenegro, there is a centralised national database of court decisions in which all judgments for all instances are collected, with anonymised data. This case-law database is available for free online and in open data. There is no links with ECHR case law (hyperlinks with a reference to the ECHR 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 2021 (Indicator 4)

Total implemented budget for Legal Aid in 2021



In 2021, the implemented budget for legal aid spent by Montenegro was 0,2€ per inhabitant (below the WB average of 0,5€). This was equal to 0,003% of the GDP (below the WB average of 0,010%).

Number of LA cases

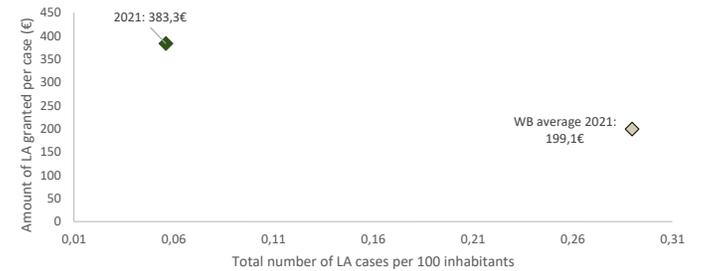


0,05

per 100 inhabitants

WB Average: 0,28

Amount of implemented legal aid budget per case (in €) and total no. of legal aid cases per 100 inhabitants in 2020 and 2021



This scatterplot shows the relation between the number of legal aid (LA) cases per 100 inhabitants and the amount of LA per case. A figure on the right (left) of the WB average means that the Beneficiary has more (less) number of LA cases per 100 inhabitants than the WB average. A figure above (below) the WB average shows that the Beneficiary has spent per LA case more (less) than the WB average.

• Organisation of the legal aid system

In Montenegro, the Law on free legal aid prescribes in detail all the conditions which shall be met for exercising the right to free legal aid.

Legal aid includes providing the necessary funds to fully or partially cover the costs of legal advice, representation in court, and enforcement proceedings as well as exemption from payment of court costs.

The financial situation of the applicant for free legal aid shall be determined on the basis of his/her income and property and the income and property of his/her family members, unless otherwise prescribed by this Law.

The body responsible for granting free legal aid is the president of the basic court, or the judge authorized by the president, in which territory the applicant has a domicile or residence. Professional and administrative tasks in the process of approving free legal aid, are organized within the Service or Office for free legal aid. The Service provides information and advice to the interested parties on the possibilities and conditions for exercising the right to free legal aid and assistance to the applicant when submitting the application. Free legal aid is provided by lawyers in the order from the list of the Bar Association of Montenegro, which is compiled according to local jurisdiction of the basic courts. The Bar Association shall submit the list to the Service.

Free legal aid is not provided in: 1) the procedure before the commercial courts and the procedure for the registration of the form of performing economic activity; 2) proceedings for damages in connection with defamation and insult; 3) the procedure for a lawsuit to reduce the amount of child support in the case when the person who is obliged to pay maintenance has not fulfilled that obligation, unless that obligation was not fulfilled through his/her fault; 4) enforcement procedure on the basis of an authentic document.

• 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 - 2021)	Cases brought to court	Cases not brought to court	Montenegro	WB Average	Montenegro	WB Average
Total	121 500 €	-40,2%	NA	NA	0,20 €	0,52 €	0,003%	0,010%
In criminal cases	NA	NA	NA	NA				
In other than criminal cases	NA	NA	NA	NA				

In 2021, the total implemented budget for legal aid was 121 500€, which was -40,2% less compared to 2019. In total, Montenegro spent 0,2€ per inhabitant on legal aid (below the WB Average of 0,52€).

	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 inh.	% Variation (2019 - 2021)					
Total	317	0,05	NA	NA	NA	383,3 €	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

Total number of LA cases per 100 inh. between 2018 and 2021



In 2021, legal aid was granted for 317 cases. On average, Montenegro spent 383,3€ per case for which legal aid was granted, which is above the WB Average of 199,08€.

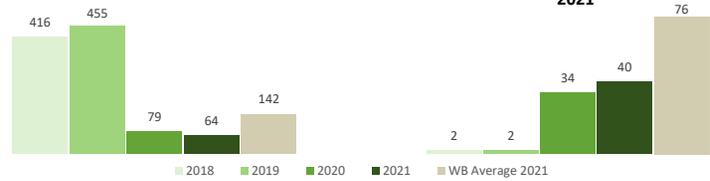
Kosovo is not included in the calculation of summary statistics

Training of judges and prosecutors in Montenegro in 2021 (Indicator 7)

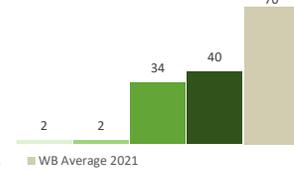
Total budget for Training per inhabitant



Delivered in-person training courses between 2018 and 2021 (in days)



Number of online training courses (e-learning) available between 2018 and 2021



Training in EU law (participants in 2021)



In 2021 the total budget for training of judges and prosecutors in Montenegro was 0,68€ per inhabitant, higher than the Western Balkans (WB) median of 0,56€ per inhabitant.

The tendencies noted regarding trainings following the pandemic in 2020 (decrease in the number of delivered in-person training courses and increase in the number of available online trainings) were confirmed in 2021 although they were less significant. Indeed, between 2020 and 2021, the number of delivered in person trainings decreased from 79 to 64 days and the number of online available trainings increased from 34 to 40 days.

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 inhabitant	% Variation 2019 - 2021	WB Average per inhabitant
Total	419 654 €	2 801 €	422 455 €	0,68 €	-33,8%	0,56 €
Judges	NAP	2 801 €				
Prosecutors	NAP	NAP				
One single institution for both judges and prosecutors	419 654 €					

Montenegro spent in total 422 455€ for training for judges and prosecutors in 2021 (budget of the training institution and budget of courts spent on training).

This represents 0,68€ per inhabitant which is more than the WB average of 0,56€.

Since 2019 there has been a 33,8% decrease of the budget spent for trainings per inhabitant.

• 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	Regularly	Optional	Regularly
	Management functions of the court	Optional	Occasional	Optional	Occasional
	Use of computer facilities in courts	No training proposed	No training proposed	No training proposed	No training proposed
	On ethics	Optional	Regularly	Optional	Regularly
	On child-friendly justice	Optional	Regularly	Optional	Regularly

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 them (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 the needs and, thus, these are not compulsory.

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.

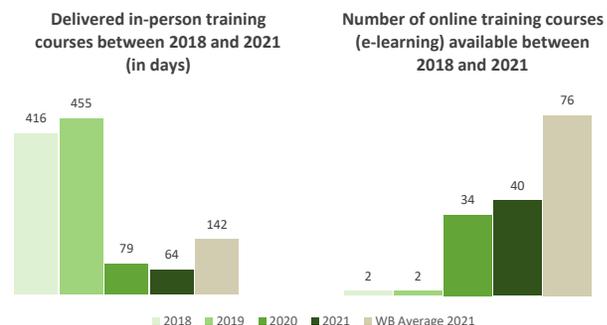
In Montenegro, no sanction is foreseen if judges and prosecutors do not attend the compulsory training sessions. The Law on the Centre for Training in Judiciary and State Prosecution does not stipulate penalties for judges and prosecutors who do not participate in training activities. However, when the 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, since 2021 training activities on ethics have become a regular part of the annual in-service training programme.

The Basic State Prosecutor's Office in Kotor and the Basic State Prosecutor's Office in Bijelo Polje have prosecutors who are specially trained in the field of domestic violence and sexual violence, as well as in the particular field of domestic violence and sexual violence against juvenile victims. The Basic State Prosecutor's Office in Podgorica and the Basic State Prosecutor's Office in Plav have prosecutors who are specially trained in the field of domestic violence and sexual violence. The High State Prosecutor's Office in Bijelo Polje, the High State Prosecutor's Office in Podgorica and the Basic State Prosecutor's Office in Bar have specialized prosecutors for dealing with juvenile victims, in the criminal offences of domestic violence and sexual violence.

• 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 2021	% Variation 2019 - 2021		In 2021	% Variation 2019 - 2021	
Total	33	64	-86%	649	40	1900,0%	1013
Judges	28	55	NA	240	39	NA	412
Prosecutors	28	55	NA	164	27	NA	265
Non-judge staff	10	17	NA	130	20	NA	98
Non-prosecutor staff	11	19	NA	72	19	NA	83
Other professionals	12	24		43	17		155



The Centre for Training in Judiciary and State Prosecution always organizes joint training activities for both judges and state prosecutors, with the exception of training activities in civil matters which are intended only for judges dealing with civil matters (as well as lawyers, bailiffs, notaries, ...). There were 18 training activities (5 face to face and 13 online) of this kind in 2021 and they lasted for 27 days.

In 2021 the Centre organized 6 training activities (5 face to face and 1 online) only for prosecutors and they lasted for 12 days.

Out of the 33 total trainings that were conducted in-person, 3 trainings were conducted in a hybrid training format.

In 2021, 3 trainings planned by the Program for Continuous Training of Judges and State Prosecutors were not implemented.

Furthermore, in 2021 following the invitation to participate in online training activities and face-to-face activities organized by foreign partners (at the regional and European level), the total of 179 representatives of Montenegrin judiciary participated in 55 training activities (122 judges, 6 special prosecutors, 21 state prosecutors, 1 candidate for a judge, 27 advisers and 2 trainees).

Regarding the online training courses available (e learning), the following training days were delivered : 58 training days for judges ; 57 training days for prosecutors ; 38 training days for non-judge staff ; 28 training days for non-prosecutor staff.

In the above data are not included 2 HELP online courses (e-learning)

- The first HELP online course – e-learning (19 February – 10 May 2021) : 49 participants successfully completed this course (11 judges, 2 state prosecutors, 17 advisers from courts, 2 advisers from the Special State Prosecution Office, 7 trainees from courts, 1 trainee from a state prosecution office, 3 candidates for judges, 2 candidates for state prosecutors, 2 lawyers, 2 special pedagogues of the Professional Service of the High Courts)

- The second HELP online course – e-learning (22 September – 10 December 2021) : 53 participants successfully completed this course (16 judges, 6 advisers from courts, 4 trainees from courts, 3 trainees from state prosecution offices, 3 candidates for judges, 5 lawyers, 12 representatives of the Ministry of Justice and Human and Minority Rights of Montenegro and 4 representatives of the Office of the Protector of Human Rights and Freedoms of Montenegro)

Regarding the Initial Training Program, during 2021 (from 11 January to 27 December) 171 days of theoretical training were conducted, out of which 25 days face-to-face, and the remaining 146 days online (zoom cloud meeting platform). The program was implemented for a total of 37 participants (6 candidates for state prosecutors, 8 candidates for misdemeanor judges and 23 candidates for judges of basic courts).

In the categories non-prosecutor and non-judge staff are not included trainees/interns in courts and state prosecution offices. 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.

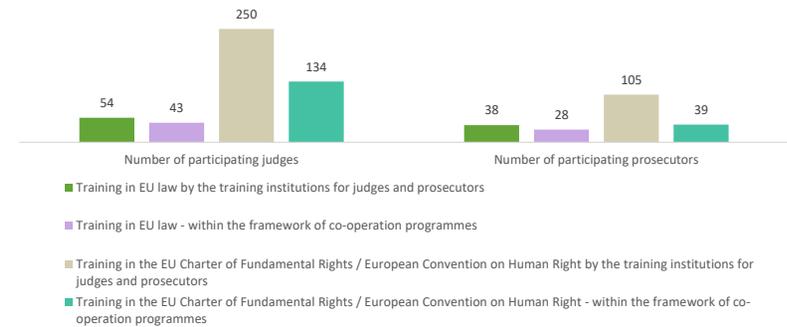
In 2021, the Centre organized 25 online trainings – all together 60 days of training activities for 135 trainees/interns, out of which 104 in courts and 31 in state prosecution offices.

Finally, advisers from courts and state prosecution offices are allowed to participate in trainings intended for judges and state prosecutors in case that judges and state prosecutors are prevented from attending the trainings. Their participation hereof is listed in the table above. However in the data presented the training activities organized within the Special training programme for advisers from courts and state prosecution offices (adopted on 23 December 2019) is not included. In 2021 the Centre organized 11 two-day training activities – 4 of which were conducted online (8 training days for 46 judicial advisers and 31 prosecutorial advisers), whereas 7 training activities were conducted face to face (14 training days for 85 judicial advisers and 27 prosecutorial advisers), which were attended by the total of 189 advisers from courts and state prosecution offices. In addition to the abovementioned programme, 30 advisers (23 judicial advisers and 7 prosecutorial advisers) attended another 2 training activities (4 training days) organized face to face in cooperation with the NGO "The Centre for Democracy and Human Rights" (CEDEM).

• 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	0	0	7	6
Number of delivered in-person training courses in days	0	0	13	12
Number of online training courses (e-learning) available	4	3	10	3
Number of judges participating	54	43	250	134
Number of prosecutors participating	38	28	105	39

Number of judges and prosecutors participating in the EU law trainings in 2021



In 2021 no in person training days in EU law were organised in Montenegro but there were 4 online training courses available, out of which 3 were available in the framework of co-operation programmes.

Regarding trainings on the EU Charter of fundamental rights/on the ECHR, there were 13 delivered training days (12 in the framework of co-operation programmes) and 10 available online courses (3 in the framework of co-operation programmes).

In 2021, 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".

Regarding the HELP Program for the Western Balkans and Turkey, Council of Europe (The European Programme for Human Rights Education for Legal Professionals), the following training courses were organized in 2021 and are not included in the data presented above:

- The first HELP online course – e-learning (19 February – 10 May 2021) : 49 participants successfully completed this course (11 judges, 2 state prosecutors, 17 advisers from courts, 2 advisers from the Special State Prosecution Office, 7 trainees from courts, 1 trainee from a state prosecution office, 3 candidates for judges, 2 candidates for state prosecutors, 2 lawyers, 2 special pedagogues of the Professional Service of the High Courts)
- The second HELP online course – e-learning (22 September – 10 December 2021) : 53 participants successfully completed this course (16 judges, 6 advisers from courts, 4 trainees from courts, 3 trainees from state prosecution offices, 3 candidates for judges, 5 lawyers, 12 representatives of the Ministry of Justice and Human and Minority Rights of Montenegro and 4 representatives of the Office of the Protector of Human Rights and Freedoms of Montenegro)
- The regional HELP online course (9 June – 16 July 2021) organized by Council of Europe HELP Program, Regional Cooperation Council (RCC) and GIZ Open Regional Funds for South East Europe - Legal Reform. This training was implemented in English over a 2-months period and was designed for judges and prosecutors from South East Europe (2 state prosecutors successfully finished the online course).

Kosovo is not included in the calculation of summary statistics

Alternative Dispute Resolution in Montenegro in 2021 (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

√

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 Average: 11,7

69,8% female mediators



Total number of court-related mediations



In Montenegro, court related mediation procedures are available and legal aid can be granted. In certain circumstances, the judicial system provides for mandatory mediation with a mediator before or instead of going to court as well as 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 2021, the number of mediators per 100 000 inhabitants was 22,4, which was above the Western Balkans median (11,7 per 100 000 inhabitants) and stable compared to 2020. The majority of the mediators were women (69,8%). There were in total 3073 cases for which the parties agreed to start mediation and 1315 mediation procedures which ended with a settlement agreement which are the highest numbers in the region.

• Mediation procedures

In Montenegro, court related mediation procedures are available and legal aid can be granted for those procedures.

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.

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

1. mandatory mediation before going to the court (first meeting with mediator) – according to the Law on ADR (article 11) the party that intends to initiate court proceedings shall first 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)

• Other ADR methods

Mediation other than court-related mediation ✓

Arbitration ✓

Conciliation (if different from mediation) ✓

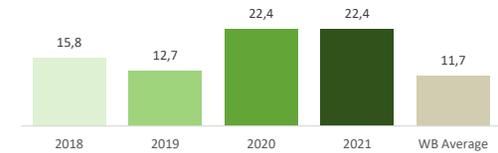
Other ADR ✓

« 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 2021
Absolute number	Per 100 000 inhabitants	WB average per 100 000 inhabitants	
139	22,4	11,7	75,9%

Accredited/registered mediators for court-related mediation per 100 000 inhabitants between 2018 and 2021



For reference only: the 2020 EU median is 17 mediators per 100 000 inhabitants.

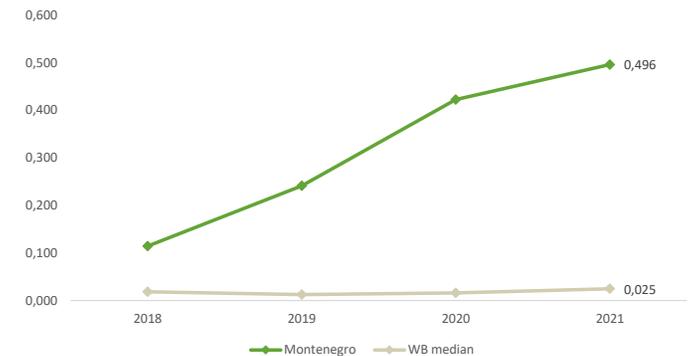
In 2021 the total number of mediators in Montenegro was 139 which was the same number as in 2020. This represented 22,4 mediators per 100 000 inhabitants which was significantly higher than the WB median of 11,7. Between 2019 and 2020 there had been a significant increase of the number of mediators (+75,9%) following the adoption of the new law on ADR but since then the number of mediators stayed stable. The authorities however reported that 32 candidates went through the basic training for mediators in 2021 and were later accredited by the Ministry of Justice, Human and Minority Rights in the beginning of 2022.

The licensing of mediators is prescribed by the Law on ADR in articles 39 and 41. In order to receive a licence to be a mediator, a person has to hold Montenegrin nationality or nationality of a Member State of the European Union; VII1 level of educational qualification; general health capacity; minimum five years of work experience in the jobs where the VII1 level of education qualification is required; and complete a basic training programme for mediators. In addition to these requirements the license should be granted to the person who has not been convicted of any offence which makes him/her unworthy of conducting mediation; has not been imposed security measure which involved prohibition to take up occupation, perform activity or duty; against whom no criminal proceedings are conducted for the criminal offence for which prosecution is initiated ex officio.

The licence is for five years and it may be extended for the same period.

	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)	3073	1903	1315				
1. Civil and commercial cases	2294	1379	933	NAP	✓	✗	✗
2. Family cases	238	207	146	NAP	✓	✗	✗
3. Administrative cases	NAP	NAP	NAP	NAP	NAP	NAP	NAP
4. Labour cases incl. employment dismissals	519	295	214	NAP	✓	✗	✗
5. Criminal cases	22	22	22	NAP	✓	✗	✗
6. Consumer cases	0	0	0	NAP	✓	✗	✗

Evolution of the number of court-related mediation for which parties agreed to start mediation per 100 inhabitants



Court related mediations are provided by a public authority (other than the court) in all types of cases where court related mediations are available (civil and commercial, family, labour, criminal and consumer cases).

Contrary to the WB median which has been low and stable over the recent years (0,025 in 2021), the number of cases for which parties agreed to start mediation per 100 inhabitants has been steadily increasing in Montenegro since 2018 (0,496 in 2021).

In 2021, like in 2020, court related mediation was most used for Civil and commercial cases and Labour cases (including employment dismissals) (2294 and 519 cases, respectively, in which parties agreed to start mediation).

In total, for all types of cases, there were 3073 cases for which the parties agreed to start mediation and 1315 mediation procedures which ended with a settlement agreement which were the highest numbers in the region.

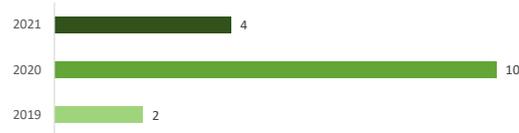
Kosovo is not included in the calculation of summary statistics

European Convention on Human Rights in Montenegro in 2021 (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.

Judgements finding at least one violation**



Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***



ECHR

In Montenegro there is a monitoring system for violations related to Article 6 of ECHR for civil procedures (non-enforcement and timeframe) and for criminal procedures (timeframe).

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



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 Court, 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 the procedure. In the reopening of the 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 a 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 repeating the proceeding finalized by final decision the contrast of the verdict of the Administrative court and the verdict of the European Court of Human Rights in the same matter. The proceeding is repeated upon the request of the party.

In 2021 for Montenegro there were 381 applications allocated to a judicial formation of the ECHR** (163 more than the previous year). 4 judgements found at least one violation (against 10 in 2020) and 13 cases were considered closed (against 8 in 2020).

	2019	2020	2021
Applications allocated to a judicial formation of the Court**	427	218	381
Judgements finding at least one violation**	2	10	4

** Source: ECHR

	2019	2020	2021
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	3	8	13

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

Kosovo is not included in the calculation of summary statistics



CEPEJ(2022)4

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: 2021

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 (LJC).

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, LJC). Measures taken during the interview to ensure transparency include taking minutes of the interviews and using a standardised point system to evaluate the candidates. The selection process takes into account the professional merits and experience of the candidates defined in Articles 32, 32a and 32b of the LJC (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, of medical fitness and of citizenship of Montenegro 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, LJC). 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, LJC).

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 candidates selected (proposed) by the Training Centre.

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



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.

Mandate of prosecutors ceases if they resign, if they lose citizenship, if their mandate expires or when they reach the retirement age.

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 (LJC).

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). The law prescribes that the compensation for violation of the right may be determined in the amount between 300 to 5.000 €, based on the following criteria: the complexity of the case in factual and legal terms, conduct of the applicant, conduct of courts and other state bodies, local self-government bodies, public services and other holders of public authority and the interest of the applicant. 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. 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. In 2021, the Supreme Court dealt with 149 requests for just satisfaction. With regard to claims for compensation for non-pecuniary damage, the Court found violation of the right to a trial within reasonable time in 64 cases and awarded the applicants a total of 40 000 EUR.

	2019			2020			2021		
	Number of requests for compensation	Number of compensations	Total amount (in €)	Number of requests for compensation	Number of compensations	Total amount (in €)	Number of requests for compensation	Number of compensations	Total amount (in €)
Total	NA	NA	NA	NA	NA	NA	NA	NA	NA
Excessive length of proceedings	78	71	50.000	62	22	38.100	149	64	40.000
Non-execution of court decisions	NA	NA	NA	NA	NA	NA	NA	NA	NA
Wrongful arrest	NA	NA	NA	NA	NA	NA	NA	NA	NA
Wrongful conviction	NA	NA	NA	NA	NA	NA	NA	NA	NA
Other	NA	NA	NA	NA	NA	NA	NA	NA	NA

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 court before which the violation of the right to a trial within reasonable time has been questioned in a procedure prescribed by the Law on the protection of the right to a trial within reasonable time), higher court (i.e. the Supreme Court of Montenegro), the Ministry of Justice, the High Judicial Council and the Protector of Human Rights and Freedoms of Montenegro. Judicial bodies are to respect a time limit within which they have to deal with the complaint whereas no time limits apply to the decision-making of the Ministry of Justice and the Protector of Human Rights and Freedoms of Montenegro.

	2019		2020		2021	
	Number of complaints	Compensation amount granted	Number of complaints	Compensation amount granted	Number of complaints	Compensation amount granted
TOTAL	NA	NA	NA	NA	NA	NA
Court concerned	NA	NA	62	38.100 €	48	NA
Higher court	73	NAP	0	NAP	0	NAP
Ministry of Justice	90	NAP	67	NAP	25	NAP
High Judicial Council	131	NAP	120	NAP	123	NAP
Other external bodies (e.g. Ombudsman)	NA	NA	NA	NA	NA	NA

In 2021, 123 complaints about the work of courts and judges were submitted to the JC and 58 complaints from the previous year were dealt with. A total of 58 complaints from 2020 and 94 complaints from 2021 were resolved while 29 complaints remain pending. In 2021, the Ministry of Justice acted upon 25 petitions and complaints of citizens and legal persons on the work of judiciary authorities.

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. The ratio was the same in 2021.

No law or regulation exists that prevents specific instructions to prosecute or not to be issued to public prosecutors. However, as per the Constitution (Article 134) the State Prosecution is independent state authority.

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 measures 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 LJC 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				2021			
	Judges		Prosecutors		Judges		Prosecutors		Judges		Prosecutors	
	Abs	per 100	Abs	per 100	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	1	0,37	0	0,00
Number of completed cases	0	0,00	0	0,00	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	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 Agency's decision can be challenged in administrative court. 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, 2020 and 2021:

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
2021	175	65,30	20	7,46	13	4,85	3	2,70	0	0,00	0	0,00

In 2020, as regards judges, 9 administrative procedures and 5 misdemeanour procedures were initiated. 8 administrative procedures and 5 misdemeanour procedures were completed in the same year. As regards sanctions pronounced: in 2 administrative procedures violation of the law has been established and the Agency of the Prevention of Corruption's decision was referred to the authority competent for appointing judges – the cases were still pending. In misdemeanour procedures, 4 judges were reprimanded, and one was fined. In 2021, 90 administrative procedures and 85 misdemeanour procedures were initiated. 7 administrative and 13 misdemeanour procedures were completed, and 13 sanctions issued (12 warnings and a fine of 150 EUR).

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).

Post-employment restrictions are prescribed in Article 15, LPC which prohibit a public official (including a judge/prosecutor) for a period of two years after the termination of his/her public function to: 1. act, before the authority in which s/he exercised a public function, as a representative or attorney of a legal person, entrepreneur or international or other organization having or establishing a contractual or business relationship with this authority; 2) establish a working relationship or business cooperation with the legal person, entrepreneur or international or other organization that, based on the decisions of the



authority in which a public official has exercised function, acquires gain; 3) represent a natural or legal person before the authority in which s/he exercised a public function in a case in which s/he participated, as a public official, in the decision-making; 4) perform management or audit activities in the legal person in which, at least one year prior to the termination of public function, his/her duties were related to supervisory or control activities; 5) enter into a contract or other form of business cooperation with the authority in which s/he exercised a public function; 6) use, for the purpose of obtaining a benefit for himself/herself or another, or to harm another, the knowledge and information acquired in the performance of public function, unless the knowledge and information are available to the public.

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, 2020 and 2021:

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
2021	0	0,00	0	0,00	0	0,00	0	0,00	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 (LJC).

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, LJC).

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				2021			
		Judges		Prosecutors		Judges		Prosecutors		Judges		Prosecutors	
		Abs	per 100	Abs	per 100	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	4	1,49	1	0,90
	1. Breach of professional ethics (including breach of integrity)	0	0,00	0	0,00	0	0,00	1	0,80	0	0,00	0	0,00
	2. Professional inadequacy	1	0,32	0	0,00	4	1,29	0	0,00	3	1,12	1	0,90
	3. Corruption	0	0,00	0	0,00	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	0	0,00	0	0,00
	5. Other	0	0,00	0		0	0,00	0	0,00	1	0,37	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	4	1,49	5	4,50
	1. Breach of professional ethics (including breach of integrity)	0	0,00	2		0	0,00	0	0,00	0	0,00	5**	4,50
	2. Professional inadequacy	1	0,32	0	0,00	1	0,32	0	0,00	3	1,12	0	0,00
	3. Corruption	0	0,00	0	0,00	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	0	0,00	0	0,00
	5. Other	0	0,00	0		0	0,00	0	0,00	1	0,37	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	0,37	1	0,90
	1. Reprimand	0	0,00	0	0,00	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	0	0,00	0	0,00
	3. Withdrawal from cases	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00
	4. Fine	0	0,00	2		0	0,00	0	0,00	0	0,00	1	0,90
	5. Temporary reduction of salary	1	0,32	0		1	0,32	0	0,00	1	0,37	0	0,00
	6. Position downgrade	0	0,00	0	0,00	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	0	0,00	0	0,00
	8. Resignation	0	0,00	0	0,00	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	0	0,00	0	0,00
10. Dismissal	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00	



*The data refers to failure to submit data on property and income in accordance with the law on prevention of corruption.

**In respect of prosecutors, 5 procedures for breaches of professional ethics were completed, in two of which violation of the Code of Ethics for Prosecutors was established while in three cases the violation was not established.

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 (LJC) 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-judge 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-judge 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.