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PART 2

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

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

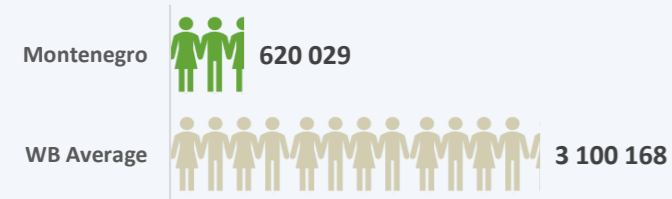
Data collection: 2022

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

Part 2 (A) - Beneficiary profile - Montenegro

Executive Summary - Montenegro in 2022

Population in 2022



GDP per capita in 2022



Average annual salary in 2022



Efficiency**

In Montenegro, the Disposition Time in the first instance had always been around the WB average. However, between 2018 and 2022, there has been a **worsening trend in the DT**, which, in 2022, was higher than the WB average (417 days for civil and commercial litigious cases vs 384, 313 for criminal cases vs 185, 1 180 days for administrative cases vs 716).

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). In 2022, this negative trend was confirmed, and **CR is well below 100%** in the two instances for the three categories of cases. A particular problem was reported for administrative cases, where incoming cases doubled, also because of complaints about applying the Law on Free Access to Information.

The **second instance in Montenegro in 2022 was significantly faster than the first one** with shorter Disposition Times, which were also significantly shorter than the WB averages. However, in the second instance, all DTs increased from 2021 to 2022.

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

Clearance Rate (CR) is the ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage. It demonstrates how the court or the judicial system is coping with the in-flow of cases and allows comparison between systems regardless of their differences and individual characteristics. Its key value is 100%. A value below 100% means that the courts were not able to solve all the cases they received and, as a consequence, the number of pending cases increases. A 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 decreases.

Disposition Time (DT) is the indicator that calculates time necessary for a pending case to be resolved and estimates the lengths of proceedings in days. It is a ratio between the pending cases at the end of the period and the resolved cases within the same period, multiplied by 365 days. More pending than resolved cases will lead to a DT higher than 365 days (one year) and vice versa.

ADR (Alternative Dispute Resolution)

ADR and mediation in particular are not well developed in the Western Balkans region. However, in Montenegro, a **new Law on ADR and Amendments to the Civil Procedure Code was adopted in July 2020** and it foresees situations where mediation is **mandatory** (see mediation procedures within ADR Indicator). Legal aid can be provided for court-related mediations.

In 2022, the number of mediators per 100 000 inhabitants was 32,4, which was well above the Western Balkans average (14 per 100 000 inhabitants) and it increased by 44,6% compared to 2021. In 2022, there were, in **total, 3 074 cases for which the parties agreed to start mediation and 2 397 mediation procedures that ended with a settlement agreement**, which were the **highest numbers in the**

Budget

In 2022, Montenegro spent **37 507 828 € on the implemented judicial system budget**. This means that Montenegro spent **60,5 € per inhabitant**, which was significantly more than the Western Balkans average of 38,5 €. However, this number has constantly been decreasing since 2019, because of the decrease in the budget allocated to courts, which represents the main part of the Judicial System Budget.

In 2022, 73,3% was spent on all courts, 26% on prosecution services, 0,3% on legal aid. Compared to 2021, Montenegro has spent, per inhabitant, -2,2% less for courts, +3,1% more for prosecution services, and -10,5% less for legal aid.

The **budgets spent for courts and public prosecution services per inhabitant are well above the WB Medians**, but, while the budget spent for prosecution services is stable, the courts' budget is constantly decreasing. The budget per inhabitant spent for legal aid (0,2 €) is slightly below the WB Average (0,5 €).

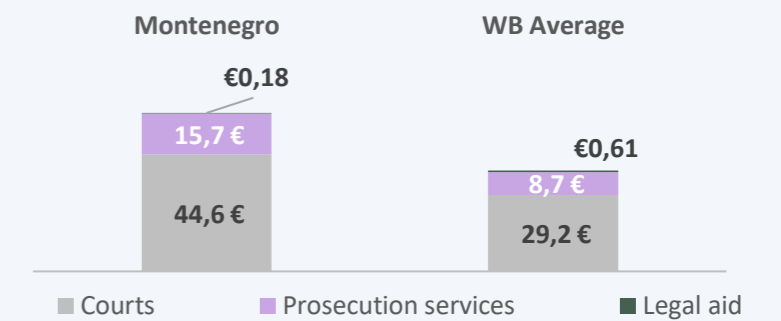
Legal Aid

In 2022, the budget per inhabitant spent for legal aid the same as the WB Median (0,18 €).

Legal aid was granted for 396 cases, meaning 0,06 per 100 inhabitants, well below the WB Median (0,27). On average, Montenegro spent 274 € per case for which legal aid was granted, which is above the WB Average of 185 €.

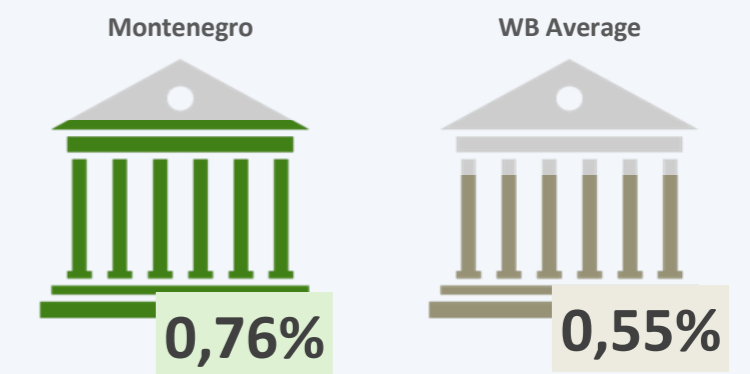
Budget of the Judicial System

Implemented Judicial System Budget per inhabitant in 2022



Implemented Judicial System Budget as % of GDP in 2022

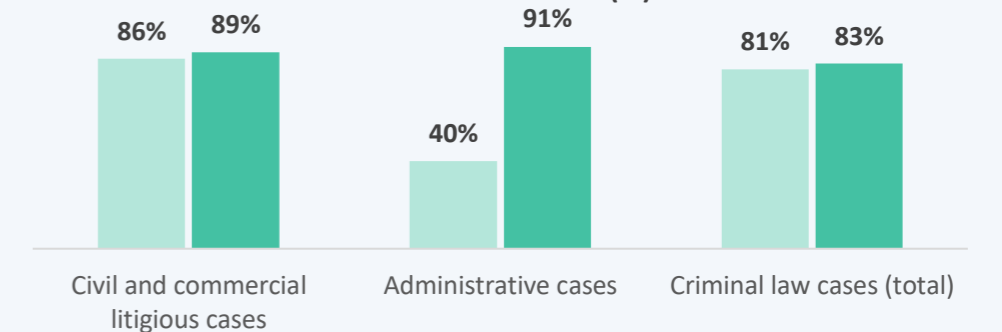
Implemented Judicial System Budget as % of GDP in 2022



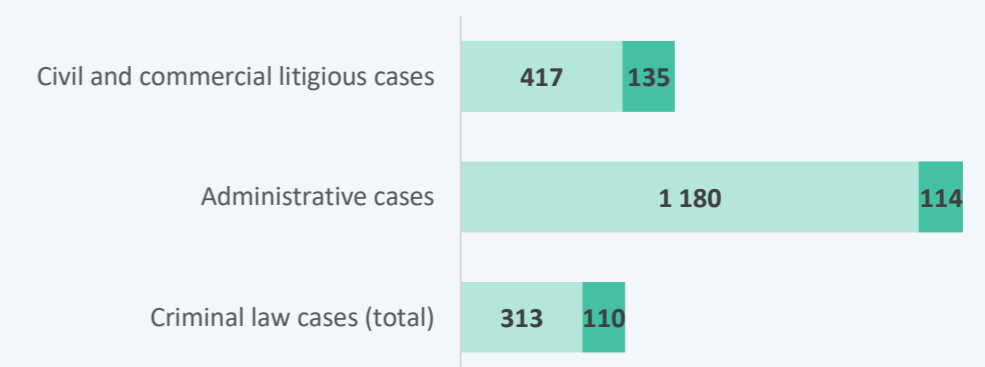
Efficiency

1st instance 2nd instance

Clearance rate in 2022 (%)



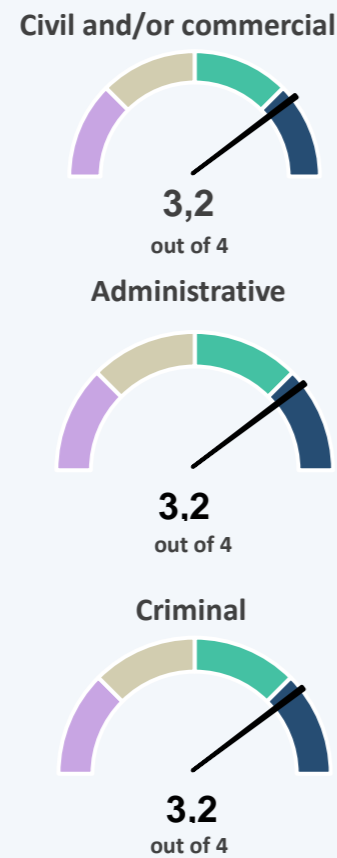
Disposition time in 2022 (in days)



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 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.

In Montenegro, there is a centralised national database of court decisions in which all judgments for all instances are stored, with anonymised data. This case-law database is available for free online and in open data.

Training

Montenegro spent in total 385 839€ for training for judges and prosecutors in 2022 (budget of the training institution and budget of courts spent on training), of which 240 540,51 € are coming from donors. This represents 0,62 € per inhabitant which is less than the WB average of 0,66 €.

In Montenegro, judges and prosecutors must attend at least 1 training annually, but, on average, they attend 3 trainings. 81% of judges and 100% of prosecutors attended at least one training per year in 2022. Regarding the training on corruption, the authorities reported that it is not mandatory.

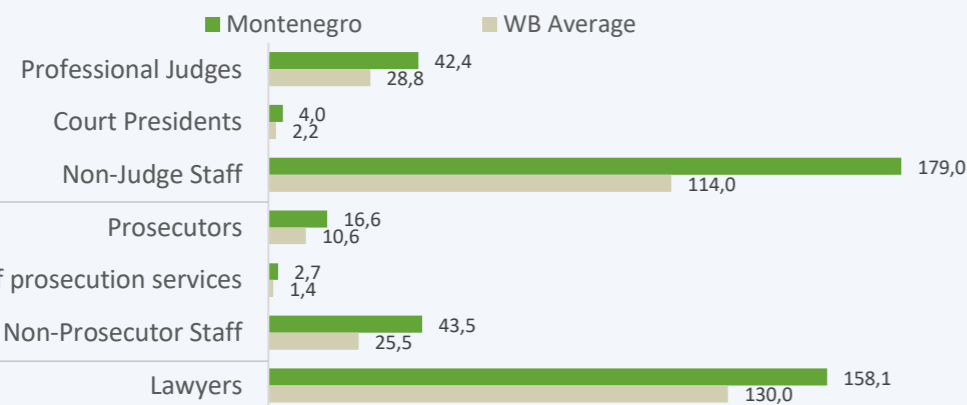
ECHR

In 2022 for Montenegro there were 295 applications allocated to a judicial formation of the ECHR (86 less than the previous year). 3 judgements found at least one violation, all on the Article 6 of the ECHR.

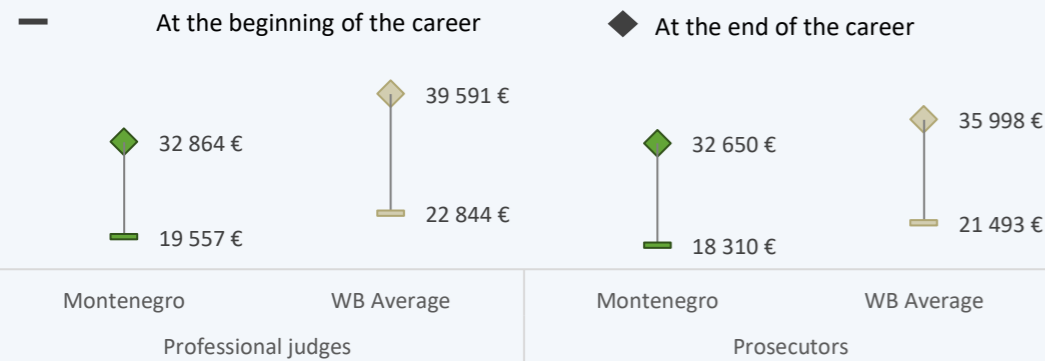
In Montenegro, there is a monitoring system for violations related to Article 6 of the European Convention on Human Rights for civil procedures (non-enforcement and timeframe) and for criminal procedures (timeframe). There is also a possibility to review a case after a decision on violation of human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

Professionals of Justice

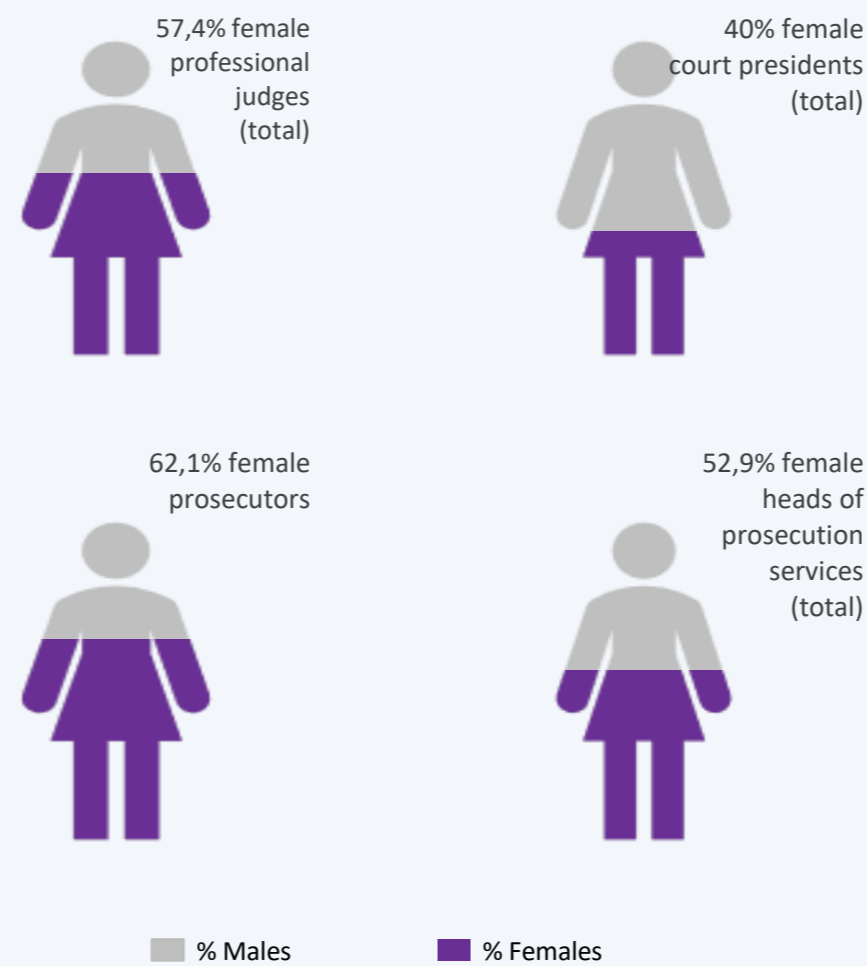
Total number of professionals per 100 000 inhabitants in 2022



Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2022 (€)



Gender Balance



Professionals and Gender Balance

Western Balkans' countries traditionally have a very high number of professionals per 100 000 inhabitants. In 2022, Montenegro had 42,4 professional judges and 16,6 prosecutors per 100 000 inhabitants. Both figures were significantly above the Western Balkans averages of 28,8 and 10,6, respectively. However, these figures have been decreasing since 2020.

In absolute values, salaries at the beginning of the career for judges and prosecutors remained stable over the four-year period. However, since the average national salary increased, the ratio between judges' and prosecutors' salaries and average national salaries decreased. In 2022, Montenegro had the lowest ratio in the region (1.8 for judges and 1.7 for prosecutors at the beginning of career vs the WB average of respectively 2.5 and 2.3).

Regarding the gender balance, in 2022, Montenegro had 57,4% of female professional judges (lower than the WB average of 62,4%) and 62,1% of female prosecutors (higher than the WB average of 54,9%).

In Montenegro, the majority of judges and prosecutors are female, including second and third instance. However, the percentage of females is lower for court presidents and heads of prosecutor offices in the first and second instances. This highlights the phenomenon called "glass ceiling", meaning that the higher the hierarchical level, the more likely there are gender disparities.

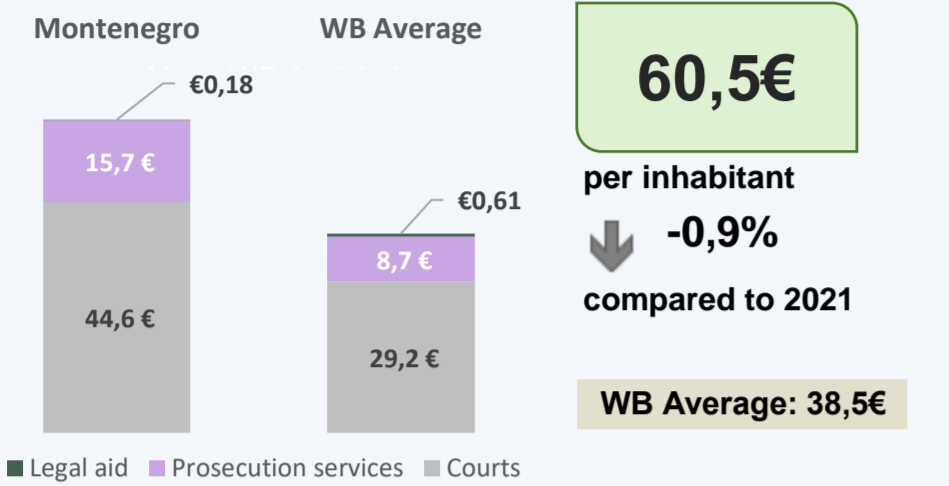
Although regarding the third instance, both the president of the Supreme Court and the head of the highest prosecution office were women in 2022.

Kosovo* is not included in the calculation of summary statistics

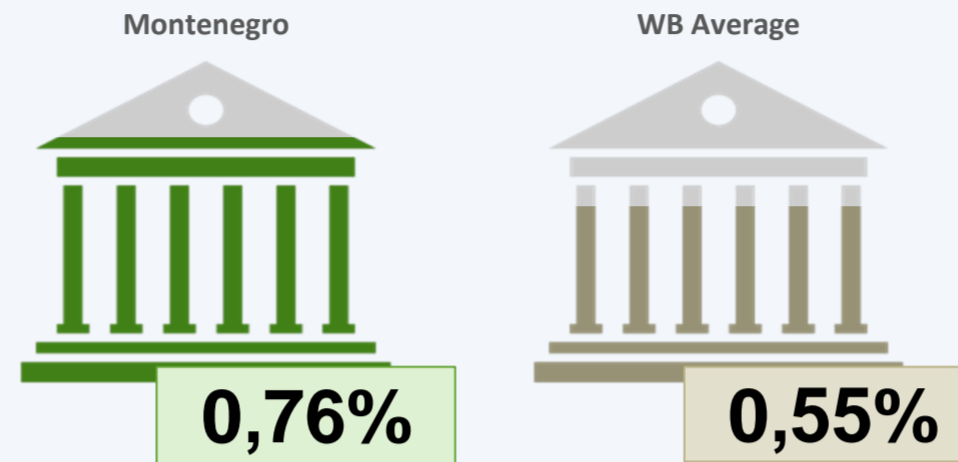
* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Budget of the judicial system in Montenegro in 2022 (Indicator 1)

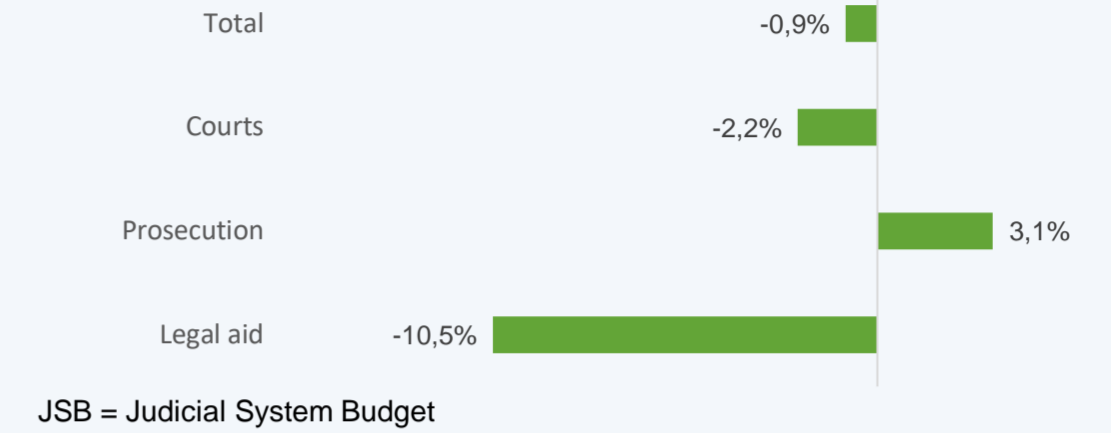
Implemented Judicial System Budget per inhabitant



Implemented Judicial System Budget as % of GDP



Variation of the JSB per inhabitant between 2021 - 2022



The Judicial System Budget (JSB) is composed by the budget for courts, public prosecution services and legal aid. In 2022, the implemented JSB for Montenegro was 60,5€ per inhabitant (-0,9% compared to 2021). It was higher than the WB Average of 38,5€. The expenditure on JSB represented 0,76% of the GDP of Montenegro (the WB Average was 0,55%).

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

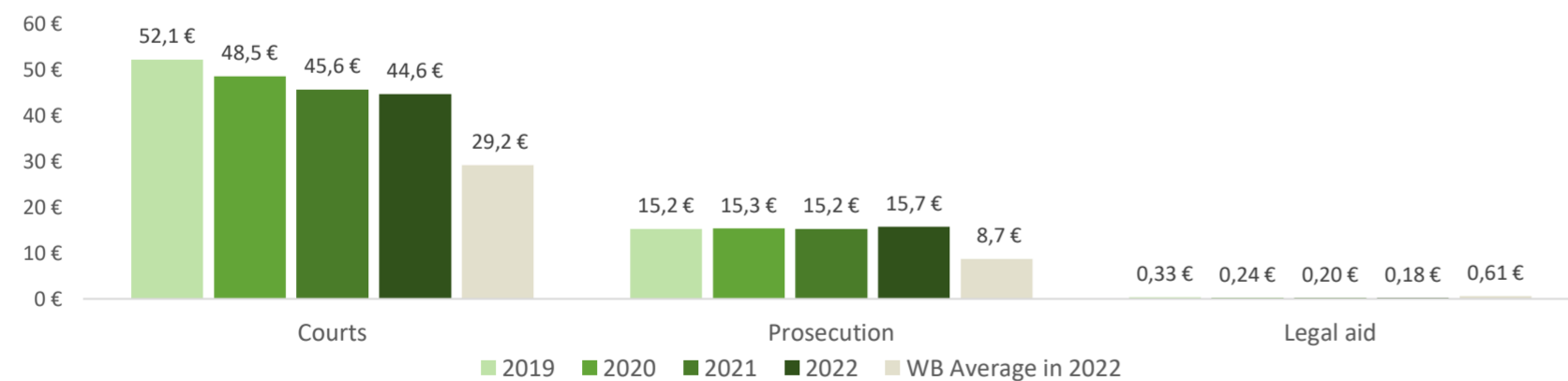
In 2022, Montenegro spent 37 507 828€ on the implemented judicial system budget. This means that Montenegro spent 60,5€ per inhabitant, which is more than the WB Average of 38,5€. 73,7% was spent for courts, 26% for prosecution services, 0,3% for legal aid.

Compared to 2021, Montenegro has spent, per inhabitant, -2,2% less for courts, 3,1% more for prosecution services, and -10,5% less for legal aid.

Judicial System Budget	Judicial System Budget in 2022		Implemented Judicial System Budget per inhabitant				Implemented Judicial System Budget as % of GDP			
	Approved	Implemented	Per inhabitant in 2022	WB Average in 2022	% Variation between 2019 - 2022	% Variation between 2021 - 2022	As % of GDP	WB Average in 2022	Variation (in ppt) 2019 - 2022	Variation (in ppt) 2021 - 2022
Total	NA	37 507 828 €	60,5 €	38,5 €	-10,5%	-0,9%	0,76%	0,55%	-0,09	-0,15
Courts	26 041 953 €	27 646 460 €	44,6 €	29,2 €	-14,5%	-2,2%	0,56%	0,41%	-0,10	-0,12
Prosecution	9 207 899 €	9 752 592 €	15,7 €	8,7 €	3,7%	3,1%	0,20%	0,13%	0,01	-0,03
Legal aid	NA	108 776 €	0,2 €	0,6 €	-46,5%	-10,5%	0,002%	0,01%	-0,002	-0,001

PPT = Percentage points

Evolution of the implemented judicial system budget per inhabitant between 2019 and 2022 (€)



As regards legal aid approved budget, in 2022 no separate amount for legal aid for courts was allocated, but that was a part of the budget section "4146" - lawyer services.

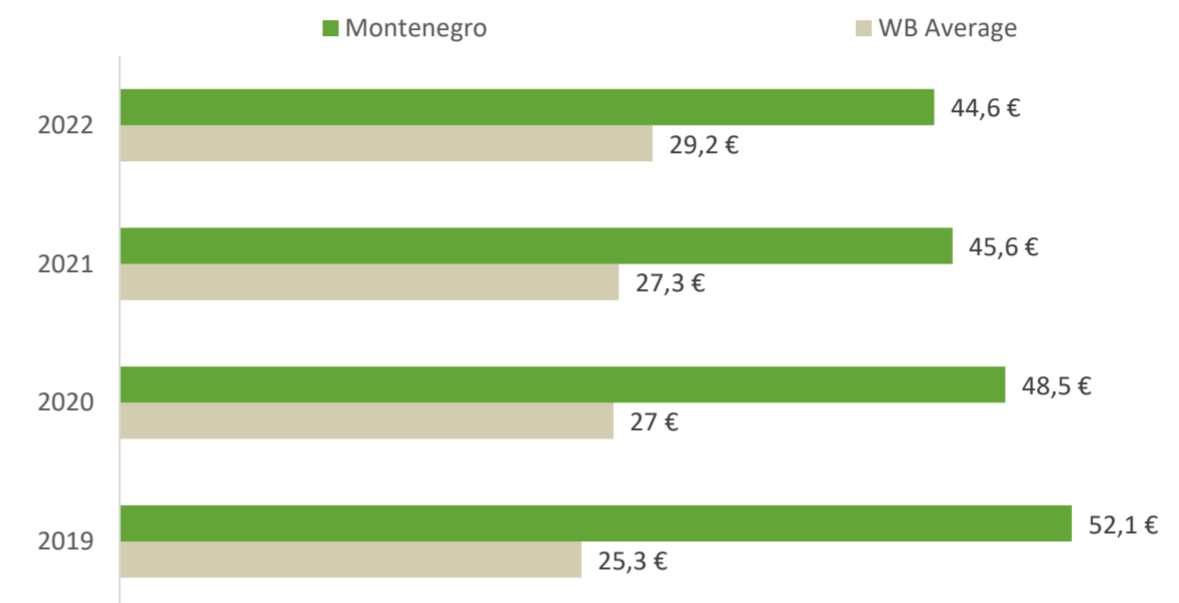
Budget allocated to the functioning of the courts

In 2022, Montenegro spent 27 646 460€ on the implemented budget for courts. 73,2% was spent for gross salaries, 0,4% for computerisation, 0,1% for court buildings, 0,1% for investment in new buildings, 26,2% for other.

Between 2021 and 2022, the implemented budget for courts has decreased by -2,2%.

	2022		% Variation between 2019 and 2022		% Variation between 2021 and 2022	
	Approved budget	Implemented budget	Approved budget	Implemented budget	Approved budget	Implemented budget
Total (1 + 2 + 3 + 4 + 5 + 6 + 7)	26 041 953 €	27 646 460 €	-17,0%	-14,5%	0,3%	-2,2%
1. Gross salaries	21 114 970 €	20 247 520 €	-7,1%	-10,9%	0,5%	-3,2%
2. Computerisation (2.1 + 2.2)	187 258 €	121 013 €	-70,8%	-80,7%	-3,2%	-27,2%
2.1 Investment in computerisation	103 019 €	64 613 €			NA	NA
2.2 Maintenance of the IT equipment of courts	84 239 €	56 399 €			-4,3%	-10,0%
3. Justice expenses	NA	NA	NA	NA	NA	NA
4. Court buildings	50 392 €	21 381 €	-67,7%	-86,3%	-44,0%	-70,3%
5. Investment in new buildings	135 481 €	14 791 €	97,4%	-78,4%	-9,7%	-74,1%
6. Training	28 422 €	11 399 €	5,8%	-52,4%	-25,8%	307,0%
7. Other	4 525 431 €	7 230 357 €	-34,9%	-8,7%	NA	NA

Implemented budget allocated to the courts per inhabitant between 2019 and 2022 (€)

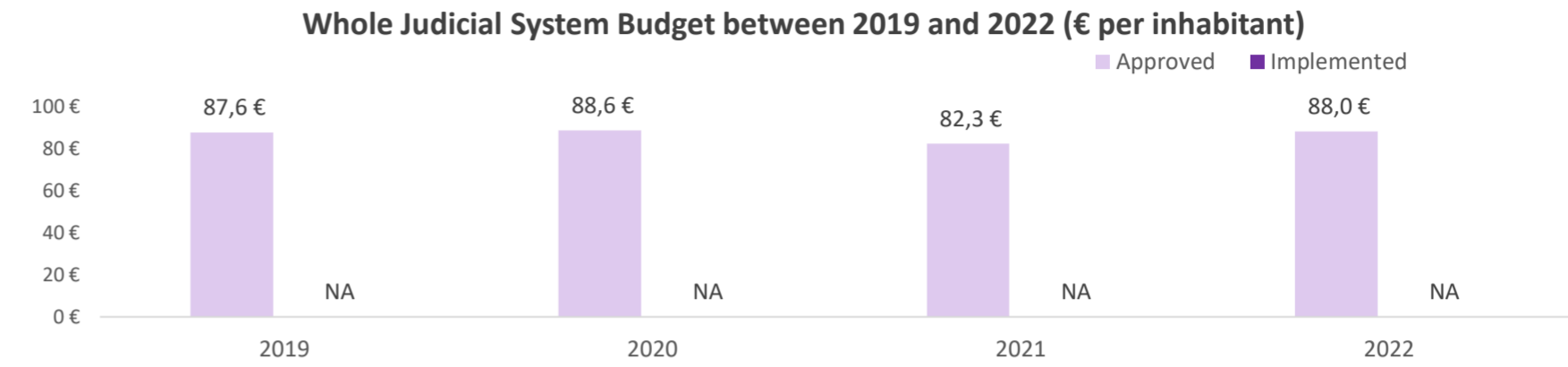


Differences relate to the enforcements via the Ministry of Finance (court experts and lawyers expenses) payed through enforcement procedures (e.g. bailiffs etc.)

The "Other" costs include the following: other personal incomes, jubilee awards, severance payments, one time assistance payments, separate family life bonus, administrative/office material, fuel costs, energy bills, communication services, lawyer services, consulting services, banking services, licenses, insurances, employment contracts, utilities etc.

• Budget allocated to the whole justice system

Whole Justice System Budget	2022		% Variation of the Whole Justice System Budget per inhabitant	
	Absolute number	Per inhabitant	2019 - 2022	2021 - 2022
Approved	54 590 196 €	88,0 €	-0,6%	7,0%
Implemented	NA	NA	NA	NA



The whole justice system budget includes the following elements in 2022:

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	✗		

According to the Law on Budget of Montenegro for 2022, the whole judicial system budget include the following:

- Judiciary: 28.159.064 € (including Judicial Council)
- State Prosecution Office: 9.207.899€ (including Prosecutorial Council) Centre for Training in Judiciary and State Prosecution Office: 437.754 €
- Ministry of Justice: 5.230.899 € (figure including human rights sector)
- Constitutional Court 998.887 €
- Institute for Enforcement of Criminal Sanctions: 10.272.509 €
- Center for Alternative Dispute Resolution (ADR) 283.126 €

The "Other" services are:

- Centre for Training in Judiciary and State Prosecution Office
- Centre for Alternative Dispute Resolution (ADR)

• Budget received from external donors

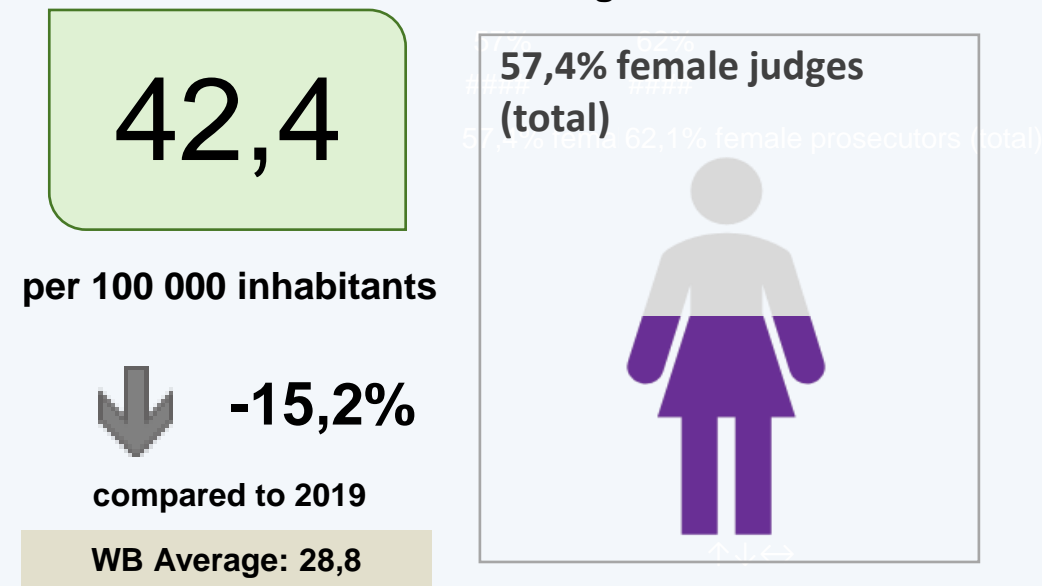
The percentages represent an estimate of the ratio between external donations and respective budget. The percentage is calculated in relation to the total implemented budget of each category. However, this does not mean that the external funds cover a percentage of the budget, since donations are not included in the judicial system budget.

	Absolute value	Calculated as %
Courts	NA	NA
Prosecution services	NA	NA
Legal aid	NA	NA
Whole justice system	NA	NA

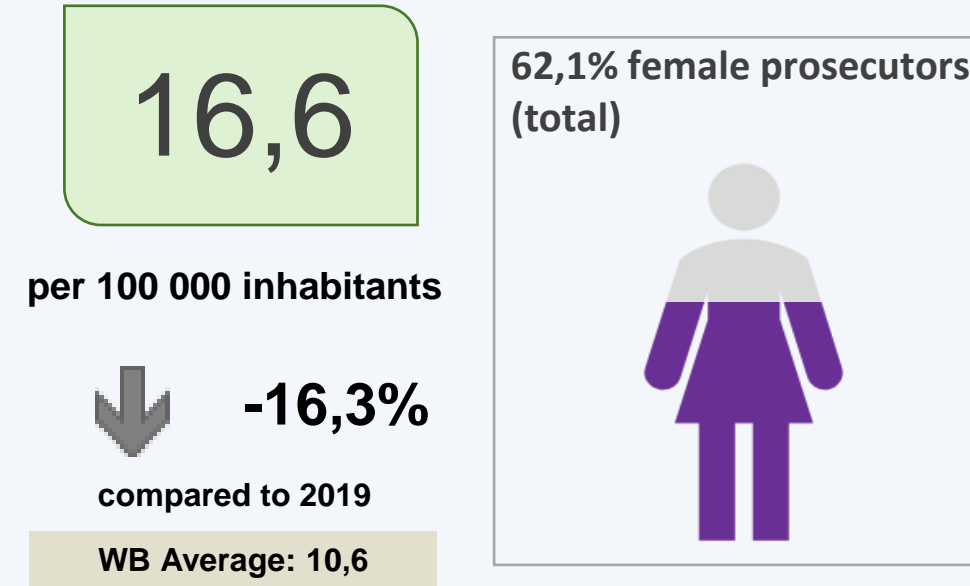
Kosovo is not included in the calculation of summary statistics

Professionals and Gender Balance in judiciary in Montenegro in 2022 (Indicators 2 and 12)

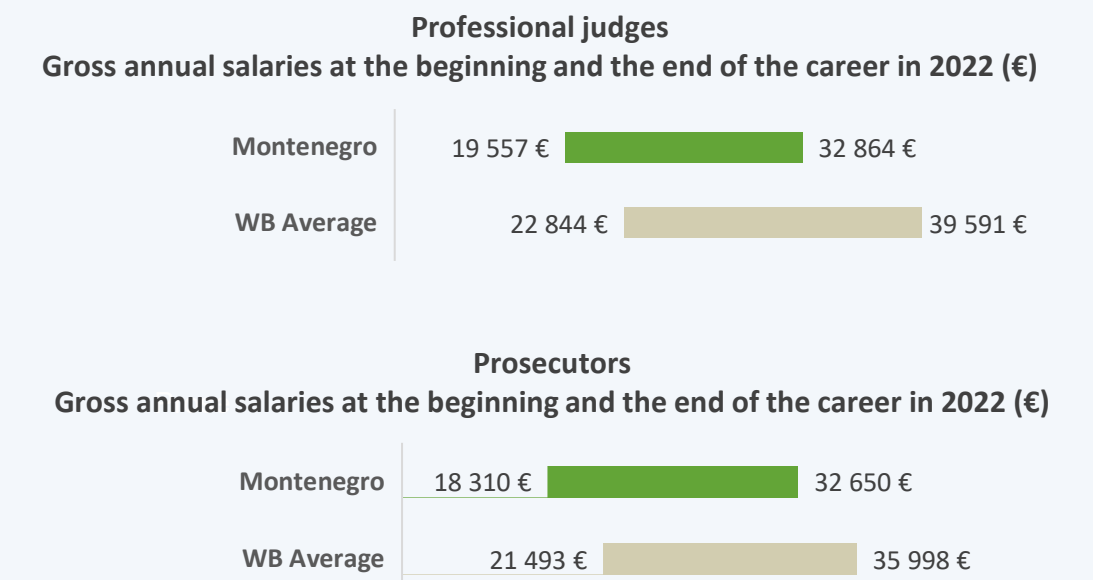
Professional Judges



Prosecutors



Salaries of judges and prosecutors



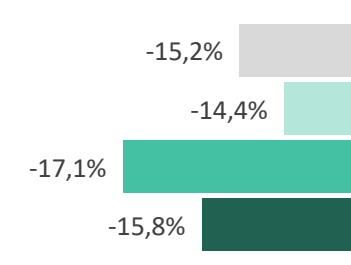
In 2022, Montenegro had 42,4 professional judges per 100 000 inhabitants and 16,6 prosecutors per 100 000 inhabitants. Both figures were above the WB Average of 28,8 and 10,6, respectively. More than half of professional judges and prosecutors were women (WB Average was 62,4% and 54,9%, respectively).

Professional Judges

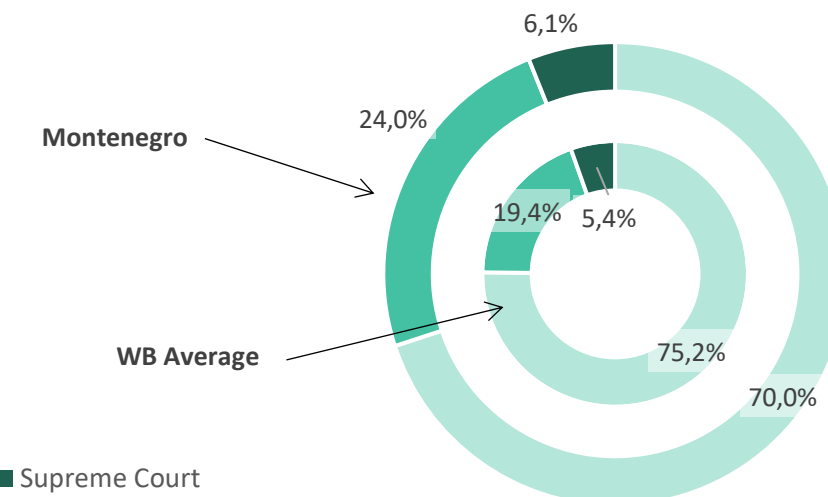
	Professional judges in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	263	100,0%	42,4	28,8
1st instance courts	184	70,0%	29,7	21,7
2nd instance courts	63	24,0%	10,2	5,6
Supreme Court	16	6,1%	2,6	1,6

For reference only: the 2021 EU median is 24,1 judges per 100 000 inhabitants.

% Variation of no. of professional judges per 100 000 inh. 2019 - 2022



Distribution of professional judges by instance in 2022 (%)



In 2022, the absolute number of professional judges in Montenegro was 263 (i.e. 42,4 per 100 000 inhabitants, which was higher than the WB Average of 28,8).

Compared to 2019, the total number of professional judges per 100 000 inhabitants decreased by -15,2%.

The figures show a difference of 5,2 percentage points between the percentage of judges in the first instance (69,96%) and the WB Average (75,2%)

In 2022, some of the judges were retired and in the meantime new judges were elected

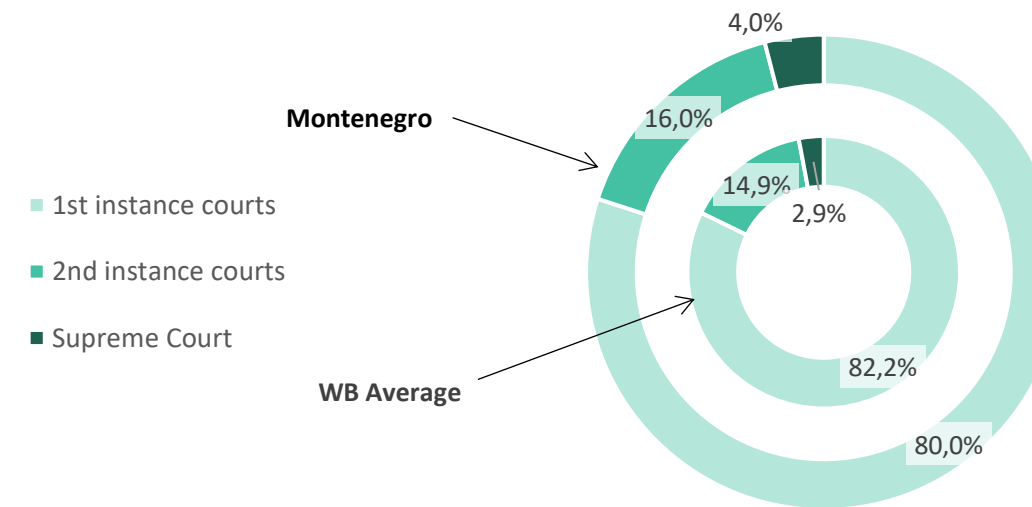
In 2021, the Judicial Council noted the termination of the judicial function for 54 judges. Out of that, 19 judges were in the position related to the second instance before the termination of their judicial function, while 12 judges performed the function of a judge of the Supreme Court of Montenegro. For this reason, there was a difference compared to last year's report. In particular, a number of judges have exercised their right to a pension. The procedure for selecting new judges takes some time. At the beginning of 2022, a number of new judges were elected (eg 11 new judges of the Supreme Court of Montenegro)

• Court presidents

	Court presidents in 2022			
	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 2022 was 25 (i.e. 4 per 100 000 inhabitants, which was above the WB Average of 2,2).

Distribution of court presidents by instance in 2022 (%)



• Non-judge staff

The absolute total number of non-judge staff in Montenegro was 1 110, which increased by 1,5% between 2019 and 2022. The number of non-judge staff per 100 000 inhabitants was 179, which was above the WB Average of 114.

	Number of non-judge staff by instance in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	1 110	100,0%	179,0	114,0
1st instance courts	865	78%	139,5	92,5
2nd instance courts	210	19%	33,9	16,4
Supreme Court	35	3%	5,6	5,0

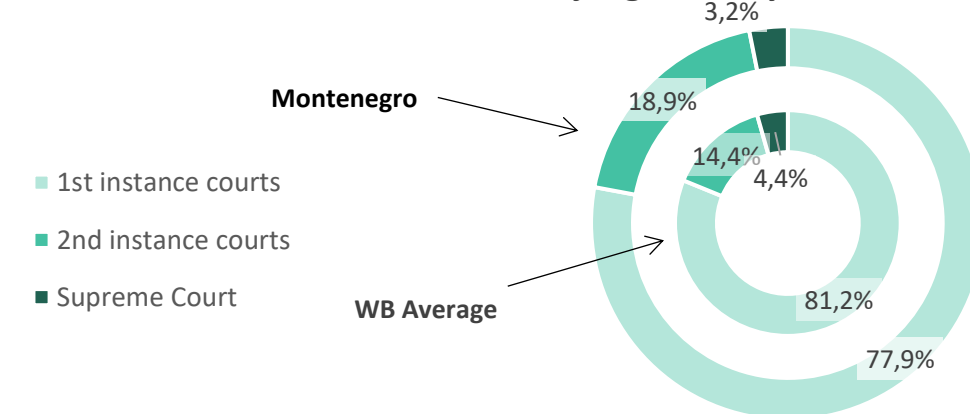
For reference only: the 2021 EU median is 58,5 non-judge staff per 100 000 inhabitants.

The highest number of non-judge staff were assisting judges and represented 61,9% of the total.

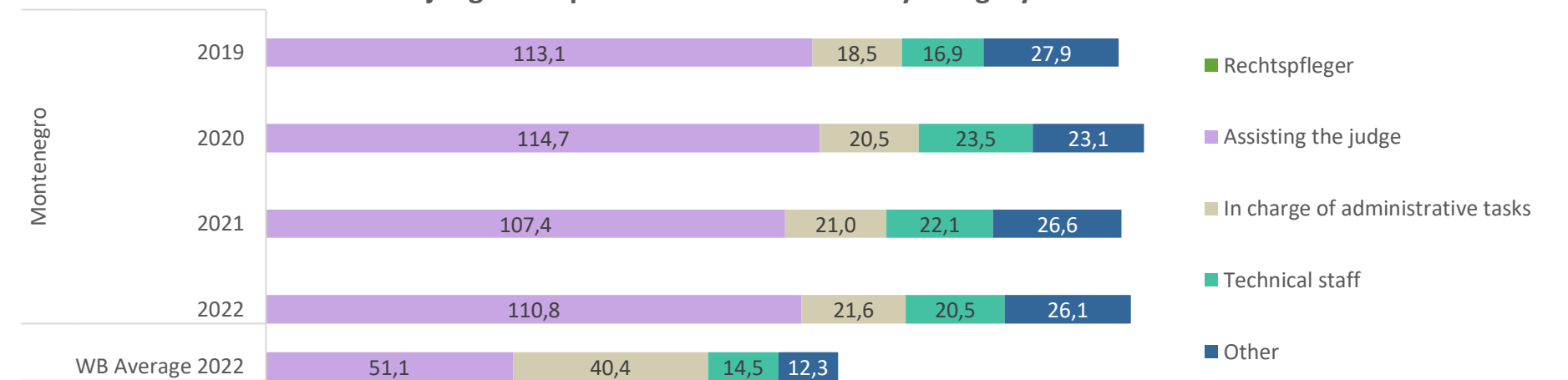
Since 2019, there was no significant variation in the distribution of non-judge staff by category.

	Number of non-judge staff by category in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	1 110	100,0%	179,0	114,0
Rechtspfleger	NAP	NAP	NAP	-
Assisting the judge	687	61,9%	110,8	51,1
In charge of administrative tasks	134	12,1%	21,6	40,4
Technical staff	127	11,4%	20,5	14,5
Other	162	14,6%	26,1	12,3

Distribution of non-judge staff by instance in 2022



Number of non-judge staff per 100 000 inhabitants by category between 2019 and 2022



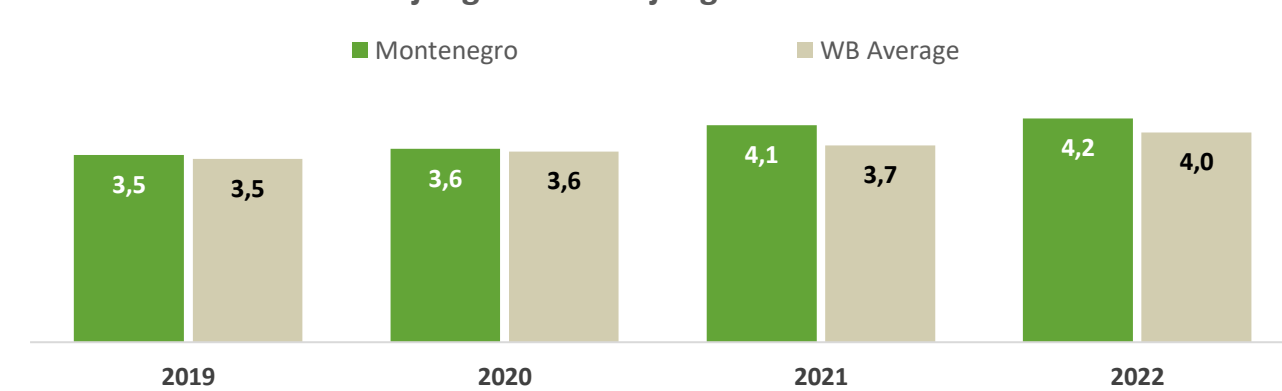
• Ratio between non-judge staff and professional judges

In Montenegro, the ratio of non-judge staff per professional judge was 4,2 in 2022, whereas the WB Average was 4. This increased by 19,6% since 2019.

	Ratio in 2022		% Variation between 2019 and 2022
	Montenegro	WB Average	
Total	4,2	4,0	19,6%
1st instance courts	4,7	4,2	17,5%
2nd instance courts	3,3	3,0	27,9%
Supreme Court	2,2	4,3	15,5%

For reference only: the 2021 EU median ratio of non-judge staff per judge is 3,1.

Ratio between non-judge staff and judges between 2019 and 2022



Prosecutors

	Number of prosecutors by instance in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	103	100,0%	16,6	10,6
1st instance level	64	62,1%	10,3	8,2
2nd instance level	33	32,0%	5,3	1,9
Supreme Court level	6	5,8%	1,0	0,9

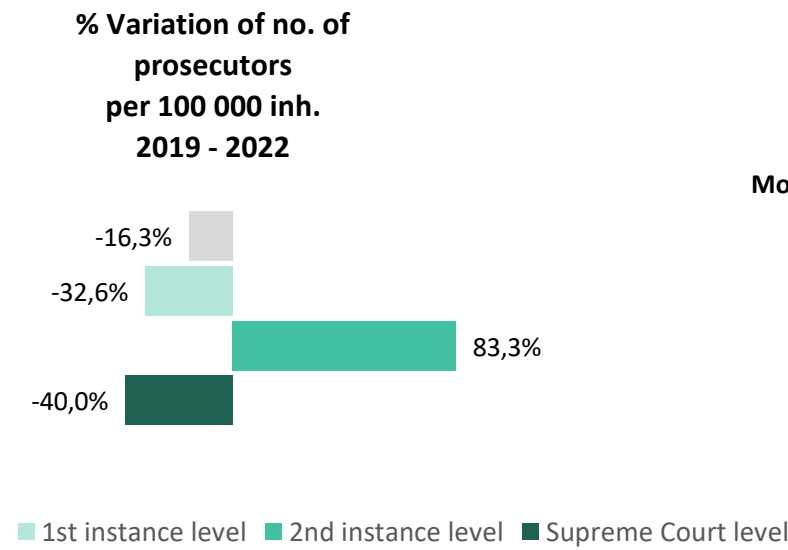
For reference only: the 2021 EU median is 10,8 prosecutors per 100 000 inhabitants.

In 2022, the absolute number of prosecutors in Montenegro was 103 (i.e. 16,6 per 100 000 inhabitants, which was significantly higher than the WB Average of 10,6).

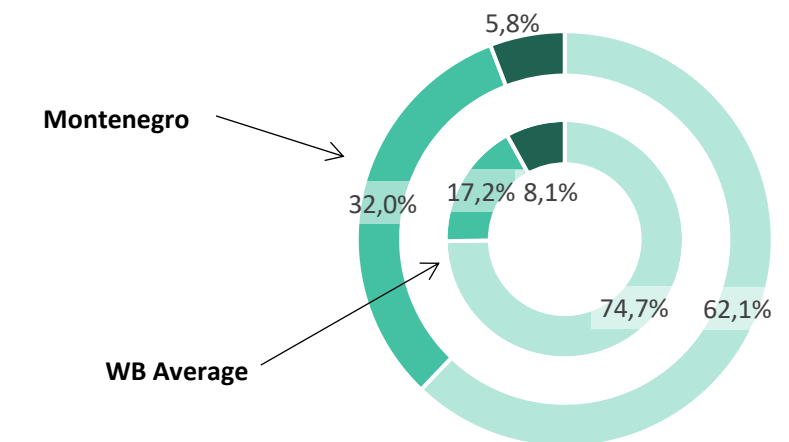
The total number of prosecutors per 100 000 inhabitants decreased by -16,3% between 2019 and 2022.

The figures show a difference of 12,6 percentage points between the percentage of judges in the first instance (62,1%) and the WB Average (74,7%)

The number of the 2nd instance level prosecutors also includes prosecutors of the Special State Prosecutor's Office.



Distribution of prosecutors by instance in 2022 (%)

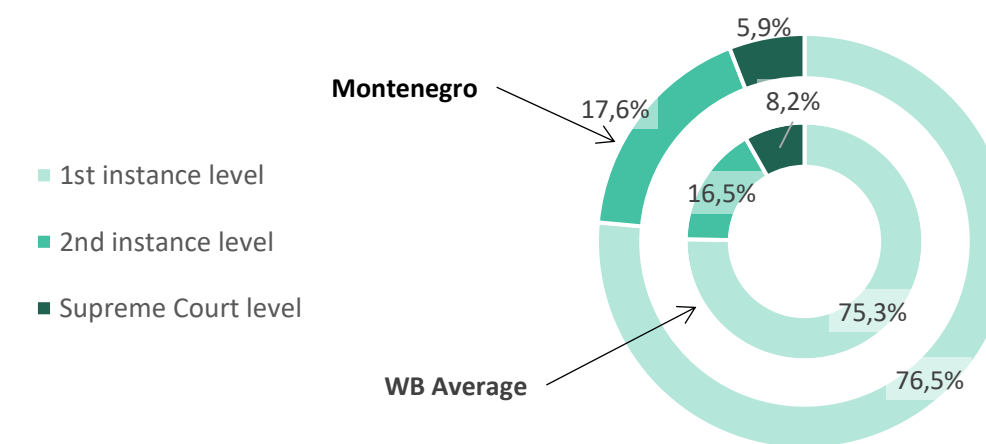


Heads of prosecution services

	Heads of prosecution services in 2022			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total	17	100,0%	2,7	1,4
1st instance level	13	76,5%	2,1	1,1
2nd instance level	3	17,6%	0,5	0,2
Supreme Court level	1	5,9%	0,16	0,12

In 2022, the absolute number of heads of prosecution services in Montenegro was 17 (i.e. 2,7 per 100 000 inhabitants, which was significantly higher than the WB Average of 1,4).

Distribution of heads of prosecution services by instance in 2022 (%)



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

	Non-prosecutor staff in 2022			Ratio between non-prosecutor staff and prosecutors		
	Absolute number	Per 100 000 inhabitants		2022		% Variation 2019 - 2022
	Montenegro	Montenegro	WB Average	Montenegro	WB Average	Montenegro
Total	270	43,5	25,5	2,6	2,4	42,7%

For reference only: the 2021 EU median is 14,7 non-prosecutors staff per 100 000 inhabitants.

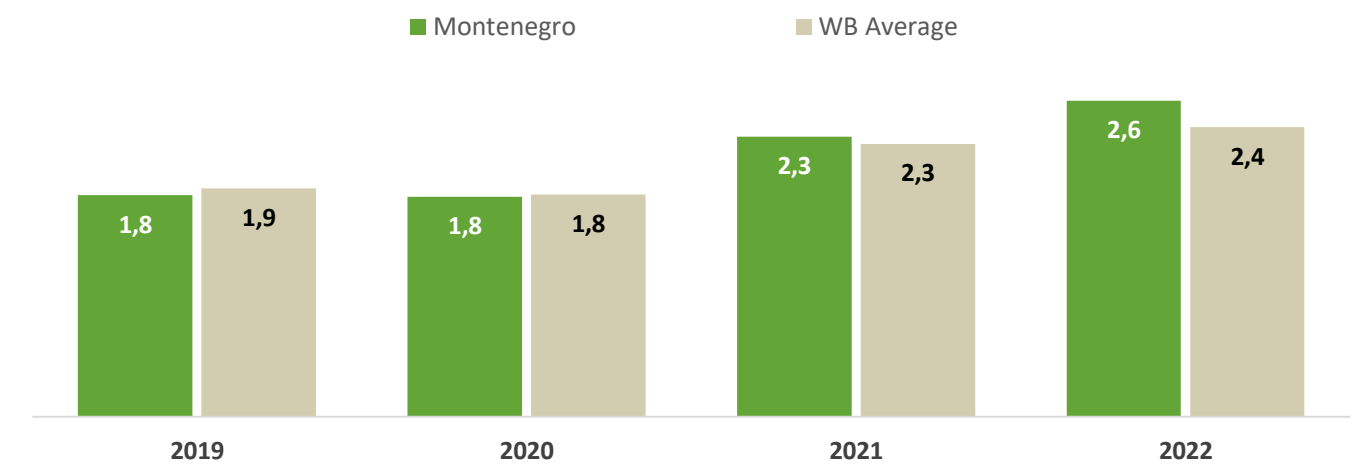
In 2022, the total number of non-prosecutor staff in Montenegro was 270. Their number increased by 19,5% compared to 2019.

The number of non-prosecutor staff per 100 000 inhabitants was 43,5, which was above the WB Average of 25,5.

The ratio of non-prosecutor staff per prosecutor was 2,6 (slightly higher than the WB Average of 2,4).

According to internal organization of the state prosecutor's offices, there are employees with the following titles: secretary, head of cabinet, advisor, chief, head of registry office, independent advisor I, independent advisor II, independent advisor III, senior advisor I, senior advisor II, senior advisor III, advisor I, advisor II, advisor III, independent clerk, clerk, senior employee, employee and trainee.

Ratio between non-prosecutor staff and prosecutors between 2019 and 2022



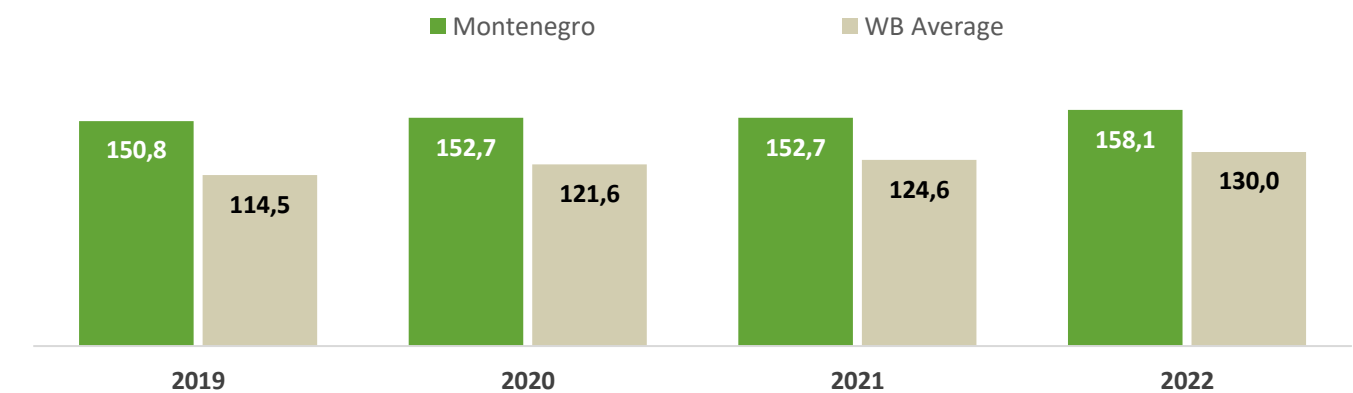
• Lawyers

	Number of lawyers in 2022			% Variation 2019 - 2022
	Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants	Montenegro
Total	980	158,1	130,0	4,8%

For reference only: the 2021 EU median is 122,4 lawyers per 100 000 inhabitants.

In 2022, the number of lawyers was 158,1 per 100 000 inhabitants, which was higher than the WB Average (130). The number of lawyers per 100 000 inhabitants increased by 4,8% between 2019 and 2022.

Number of lawyers per 100 000 inhabitants between 2019 and 2022



Salaries of professional judges and prosecutors

In absolute values, salaries at the beginning of the career for judges and prosecutors remained stable over the four-year period. However, since the average national salary increased, the ratio between judges' and prosecutors' salaries and average national salaries decreased.

In 2022, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Montenegro was 1,8, 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 68%, which was the same variation noted for the WB Average.

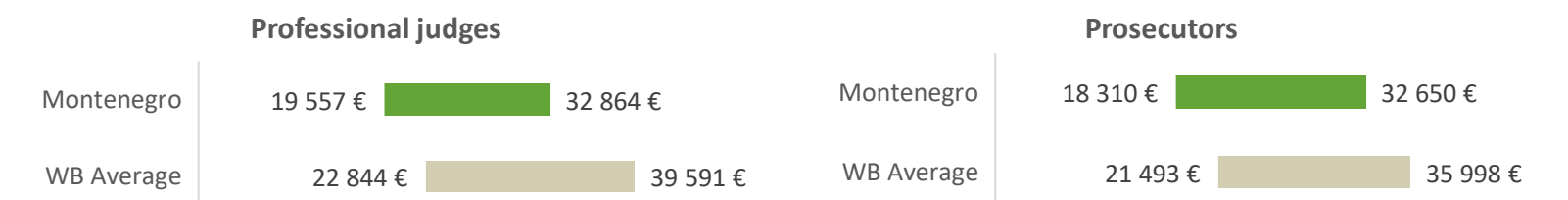
In 2022, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Montenegro was 1,7, which was less than the WB Average (2,3).

At the end of career, prosecutors were paid more than at the beginning of career by 78,3%, which was more than the variation noted for the WB Average (63,6%).

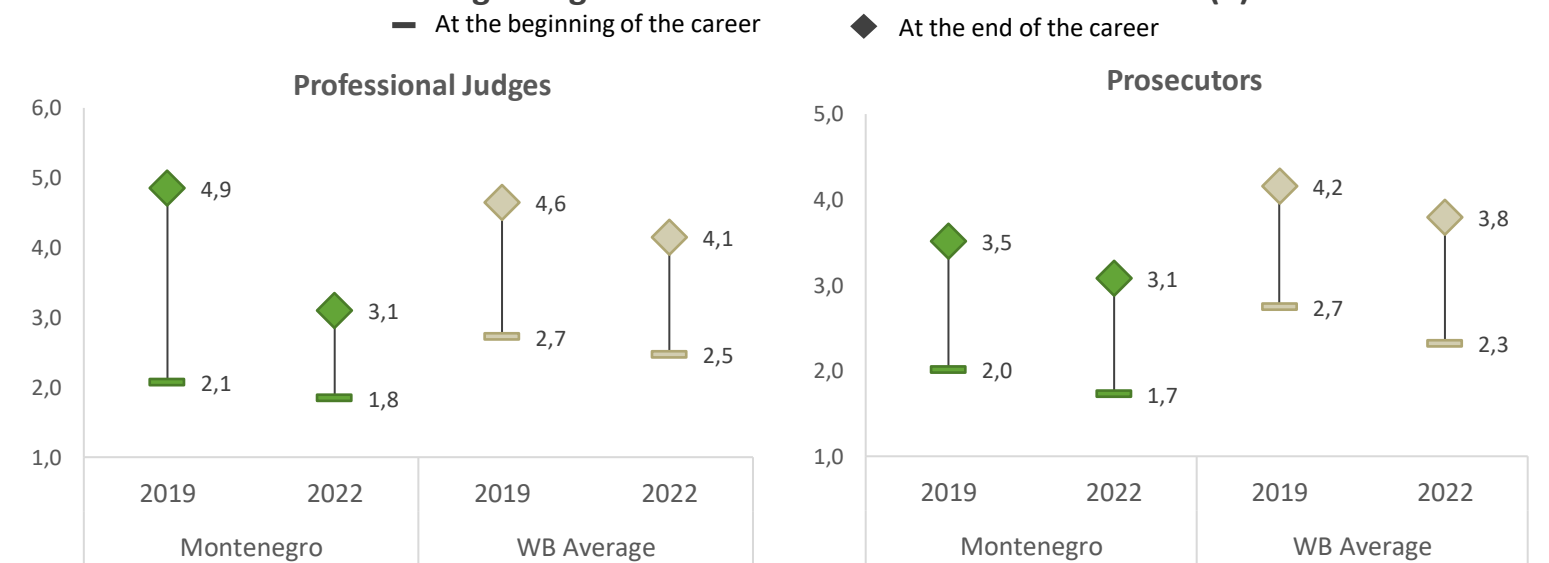
		Salaries in 2022 (absolute values)			Ratio with the average gross annual salary	
		Gross annual salary in €	% Variation 2019 - 2022	Net annual salary in €	Montenegro	WB Average ratio
Professional judge	At the beginning of his/her career	19 557	▲ 1,9%	14 167	1,8	2,5
	Of the Supreme Court or the Highest Appellate Court	32 864	■ 0,0%	22 678	3,1	
Public prosecutor	At the beginning of his/her career	18 310	▼ -1,8%	12 840	1,7	2,3
	Of the Supreme Court or the Highest Appellate Court	32 650	▲ 0,3%	24 150	3,1	3,8

For reference only: the 2021 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: 1,9
 - professional judges' salary at the end of career: 4,1
 - prosecutors' salary at the beginning of career: 1,7
 - prosecutors' salary at the end of career: 3,4

Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2022 (€)



Ratio of the gross annual salaries of judges and prosecutors with the average gross annual salary at the beginning and the end of career in 2019 and 2022 (€)



Additional benefits and bonuses for professional judges and prosecutors

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

All state prosecutors in the Special and Supreme State Prosecutor's Office, as a result of their work on specific tasks in cases of organized crime, corruption, money laundering terrorism and war crimes, are entitled to a special allowance in the amount of 45% compare to the basic salary, and from December 29, 2022 of 60%. Also, state prosecutors exercise the right to an increase in salary for each hour spent on "stand by" and "on-call" time. (source: Prosecutorial Council)

Gender Balance

	% Female in 2022		Variation of the % females between 2019 - 2022 (in ppt)
	Montenegro	WB Average	Montenegro
Professional Judges	57,4%	62,4%	▼ -2,9
Court Presidents	40,0%	50,6%	▼ -10,6
Non-Judge Staff	74,5%	70,9%	▲ 2,7
Prosecutors	62,1%	54,9%	▲ 7,2
Heads of Prosecution Services	52,9%	39,7%	▲ 13,2
Non-Prosecutor Staff	71,5%	68,7%	▲ 2,8
Lawyers	35,9%	37,2%	▼ -1,3

PPT= Percentage points

For reference only: 2021 EU medians on gender are among professionals are as follows: 62% women judges; 76% women non-judge staff; 60% women prosecutors; 74% women non-prosecutor staff; and 47% women lawyers.

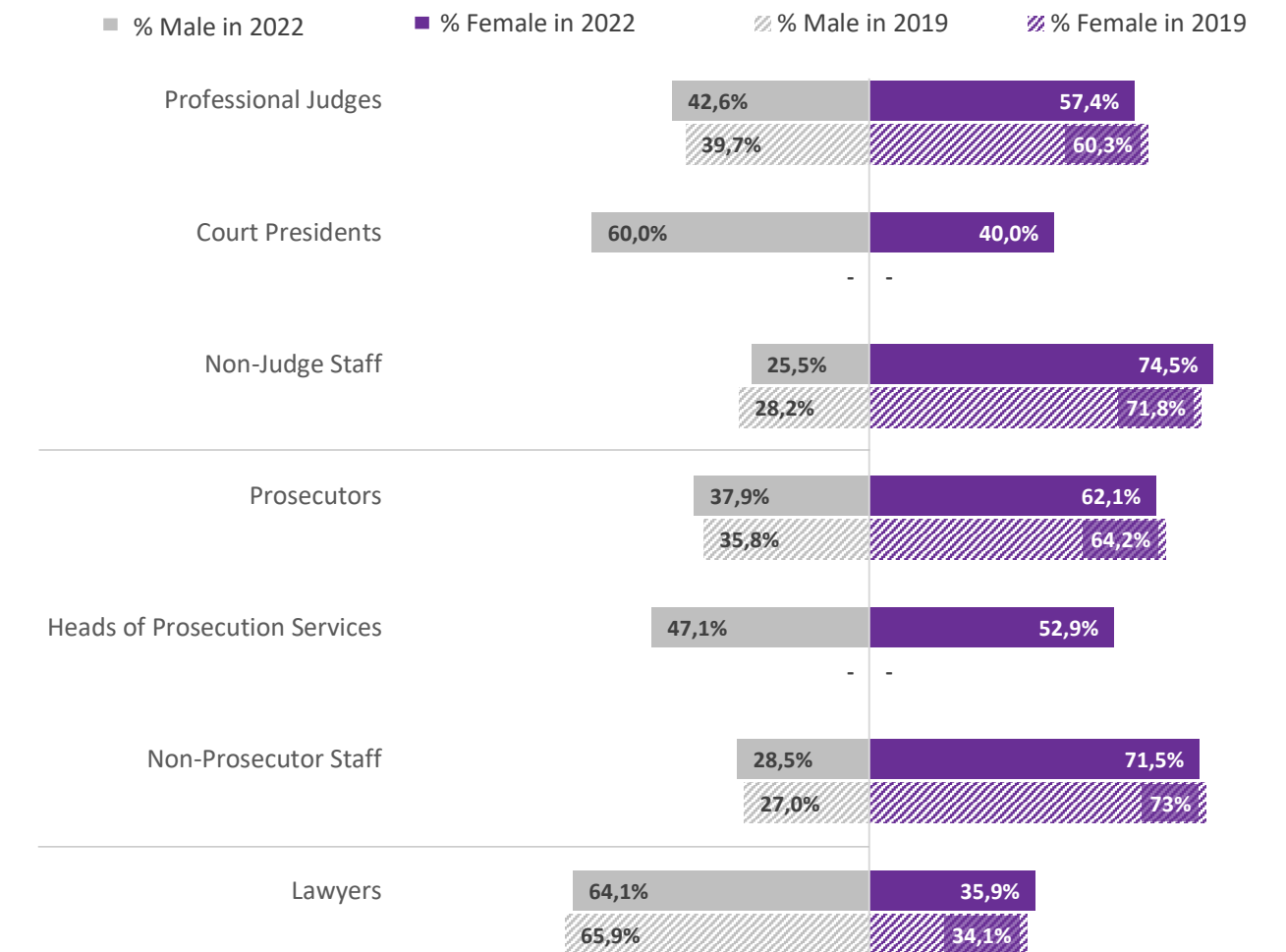
In 2022, the percentage of female professional judges was 57,4%, which was lower than WB Average (62,4%). With a presence of 40%, the number of female court presidents in Montenegro was remarkably lower than the WB Average of 50,6%. Moreover, the percentage of female non-judge staff was 74,5%.

Also, the percentage of female prosecutors was 62,1% (higher than the WB Average of 54,9%). The number of female heads of prosecution services (52,9%) was significantly higher than the WB Average (39,7%). Moreover, the percentage of female non-prosecutor staff was 71,5%.

Finally, the percentage of female lawyers was 35,9%, which was lower than WB Average (37,2%).

The court presidents and lawyers were the only categories with less than 50% of female presence.

Gender Balance in Montenegro in 2019 and 2022

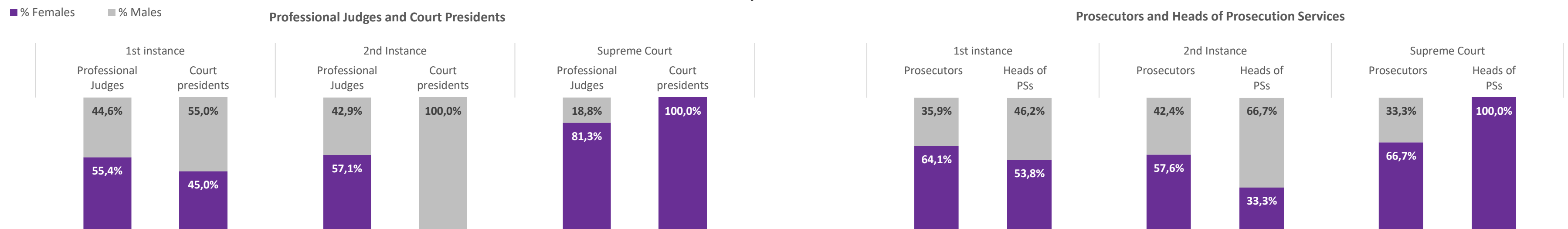


In Montenegro, the majority of judges and prosecutors are female, including second and third instance. However, the percentage of females is lower for court presidents and heads of prosecutor offices in first and second instance.

This highlights the phenomenon called "glass ceiling", meaning that the higher the hierarchical level, the more the number of women (and thus the percentage) decreases.

	Professional Judges % Female		Court presidents % Female		Prosecutors % Female		Heads of Prosecution Services % Female	
	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average
1st instance	55,4%	62,2%	45,0%	51,9%	64,1%	57,0%	53,8%	43,3%
2nd instance	57,1%	64,5%	0,0%	39,1%	57,6%	48,4%	33,3%	25,0%
Supreme Court	81,3%	55,6%	100,0%	73,3%	66,7%	43,7%	100,0%	44,4%

Gender Balance by instance in 2022



• 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.

In Montenegro, there are specific provisions for facilitating gender equality for judges and prosecutors.

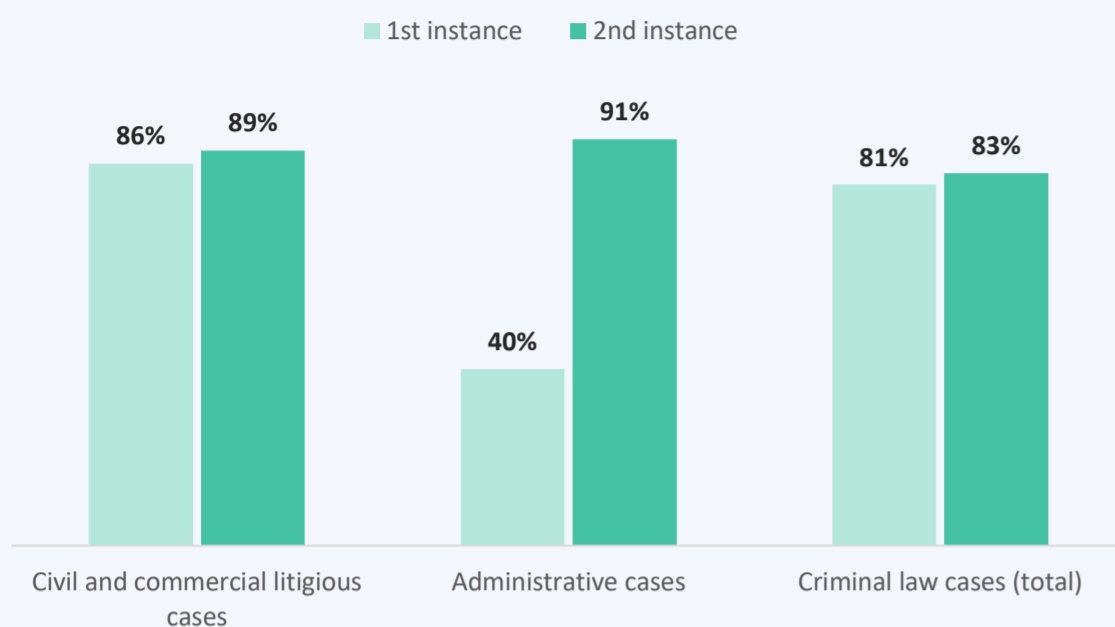
When making a decision on the appointment of judges and court presidents, the Judicial Council shall take into account the proportional representation of minorities and other minority communities and gender balanced representation.

The similar regulation is a part of the Law on State Prosecution: When making a decision on the appointment of judges and court presidents, the Prosecutorial Council shall take into account the proportional representation of minorities and other minority communities and gender balanced representation.

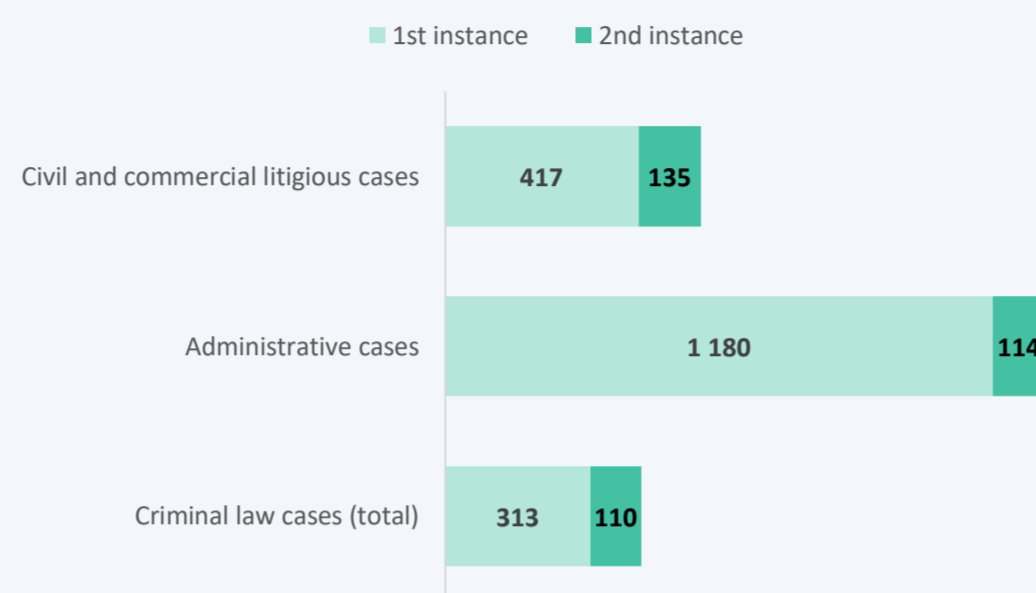
Kosovo is not included in the calculation of summary statistics

Efficiency in Montenegro in 2022 (Indicators 3.1 and 3.2)

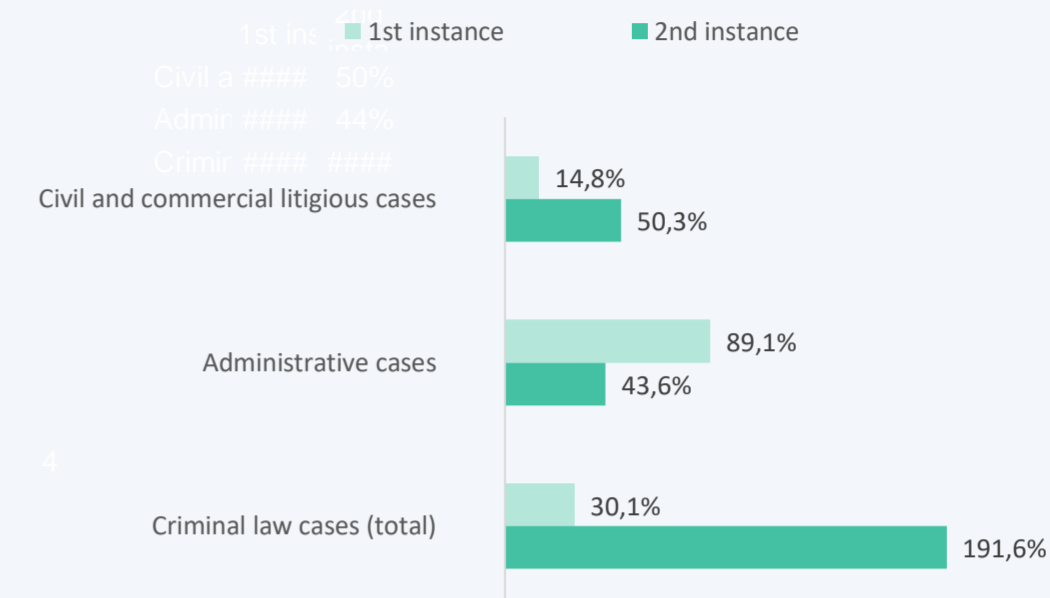
Clearance Rate in 2022 (%)



Disposition Time in 2022 (in days)



% Variation of pending cases at the end of year between 2021 and 2022



In 2022, the highest Clearance rate (CR) for Montenegro was calculated for the second instance Administrative cases, with a CR of 91%. Also, it seems that Montenegro was not able to efficiently deal with the first instance Administrative cases (CR of 40%). With a Disposition Time of approximately 110 days, the second instance total Criminal law cases were resolved faster than any other type of cases. Compared to 2021, the pending cases at the end of year increased for all categories of cases in both instances, with the highest increase for the second instance total Criminal law cases (191,6%), and the lowest increase for the first instance Civil and commercial litigious cases by 14,8%.

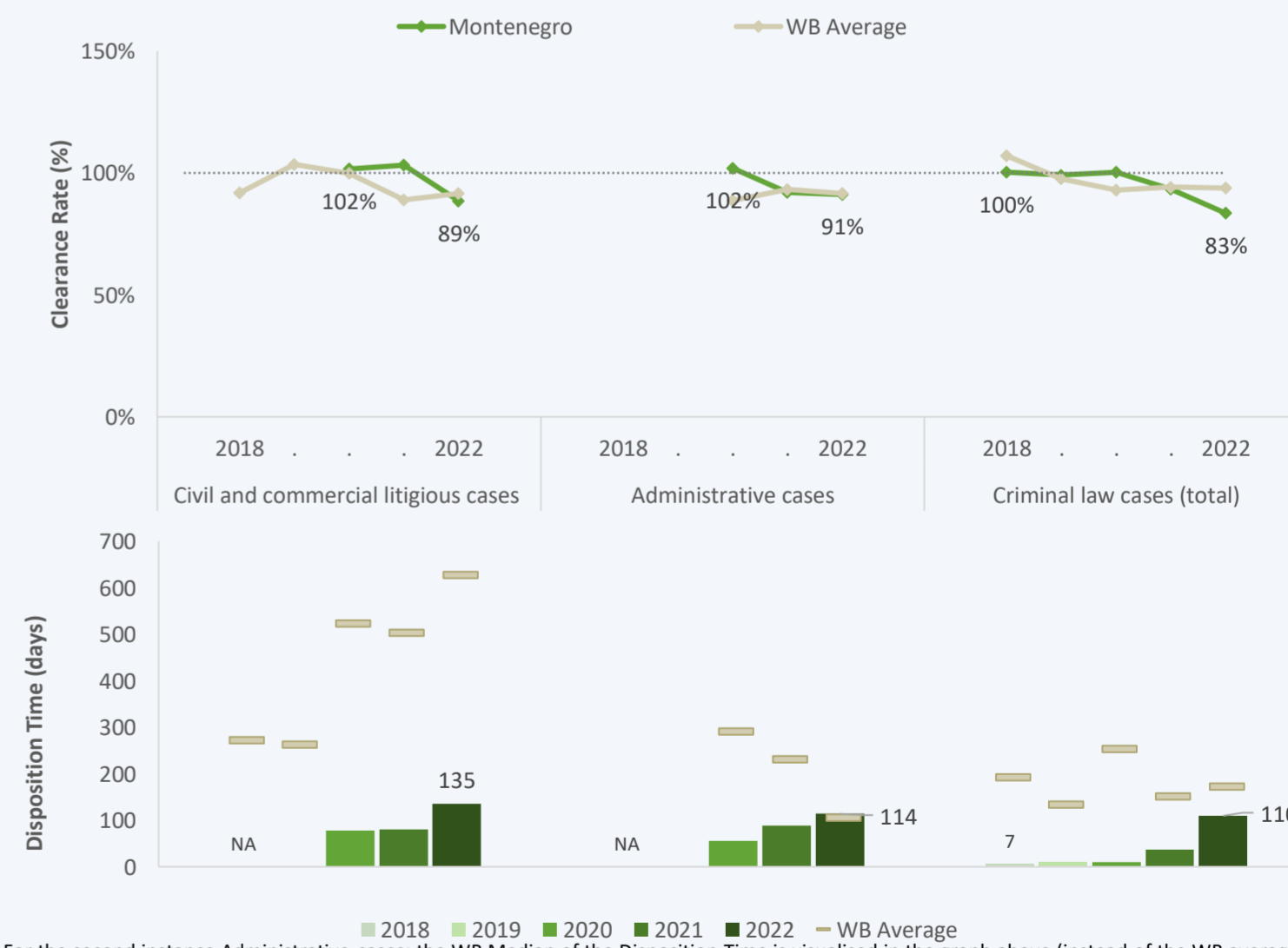
First instance cases

Clearance rate (%) and Disposition Time (days) for first instance cases from 2018 to 2022



Second instance cases

Clearance rate (%) and Disposition Time (days) for second instance cases from 2018 to 2022



In Montenegro, Disposition Time, in the first instance, had always been around the WB average. However, in the last four years, there has been a worsening trend in the DT that is now higher than the WB average (417 days for civil cases vs 384, 313 for criminal cases vs 185, 1180 days for administrative cases vs 716). 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). In 2022, this negative trend was confirmed, and CR is well below 100% in the two instances for the three categories of cases. A particular problem was reported for administrative cases, where incoming cases doubled, also because of complaints about applying the Law on Free Access to Information. The second instance in Montenegro in 2022 was significantly faster than the first one with shorter Disposition Times, which were also significantly shorter than the WB averages. However, in the second instance, all DTs increased from 2021 to 2022.

NB: For the second instance Administrative cases: the WB Median of the Disposition Time is visualised in the graph above (instead of the WB average). Also, as per methodological note, the 2018 and 2019 WB Medians for these type of cases are not available.

First instance cases - Other than criminal law cases

1st instance cases in 2022 (absolute values)	Montenegro (2022)				% Variation between 2021 and 2022			
	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
Total of other than criminal law cases (1+2+3+4)	41 465	30 049	40 535	4 646	20,1%	-6,2%	37,4%	3,5%
1 Civil and commercial litigious cases	22 160	18 992	21 677	4 223	5,7%	-1,2%	14,8%	1,3%
2 Non-litigious cases**	3 570	3 404	1 485	252	-25,4%	-26,0%	12,6%	8,6%
3 Administrative cases	13 341	5 287	17 092	140	102,1%	-12,8%	89,1%	112,1%
4 Other cases	2 394	2 366	281	31	9,8%	9,1%	10,6%	29,2%

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

The significant increase in administrative cases is predominantly generated due to the high number of initiated cases before the Administrative Court against the decisions of the public authorities. This is also related to the application of the Law on Free Access to Information. There has been a high number of requests towards the authorities (institutions) for free access to information which ended with decisions against which the complaints are not allowed, or there have been requests which remained unanswered, or the institution did not decide on a request or complaint in the administrative procedure. According to the Law on Administrative Dispute, such or similar situations provide a legal basis for initiating an administrative dispute, which means a lawsuit to the Administrative Court may be filed. In practice, many lawsuits were initiated by different subjects, such as civil society organizations dealing with the promotion of the right to free access to information, citizens or legal persons.

In 2022, the incoming civil and commercial litigious cases were 22 160 (3,57 per 100 inhabitants vs the WB Average of 2,7). They increased by 5,7% between 2021 and 2022. The resolved cases were 18 992 (3,06 per 100 inhabitants) and they decreased by -1,2%, compared to the previous year. In 2022, the number of resolved cases was lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2022 were more than in 2021. Indeed, the 2022 Clearance rate for this type of cases was 86% (below the WB Average of 107%). This decreased by -6 percentage points compared to 2021.

The Disposition Time for civil and commercial litigious cases was approximately 417 days in 2022 (above the WB Average of 384 days). This increased by 16,1% over the 2021-2022 period.

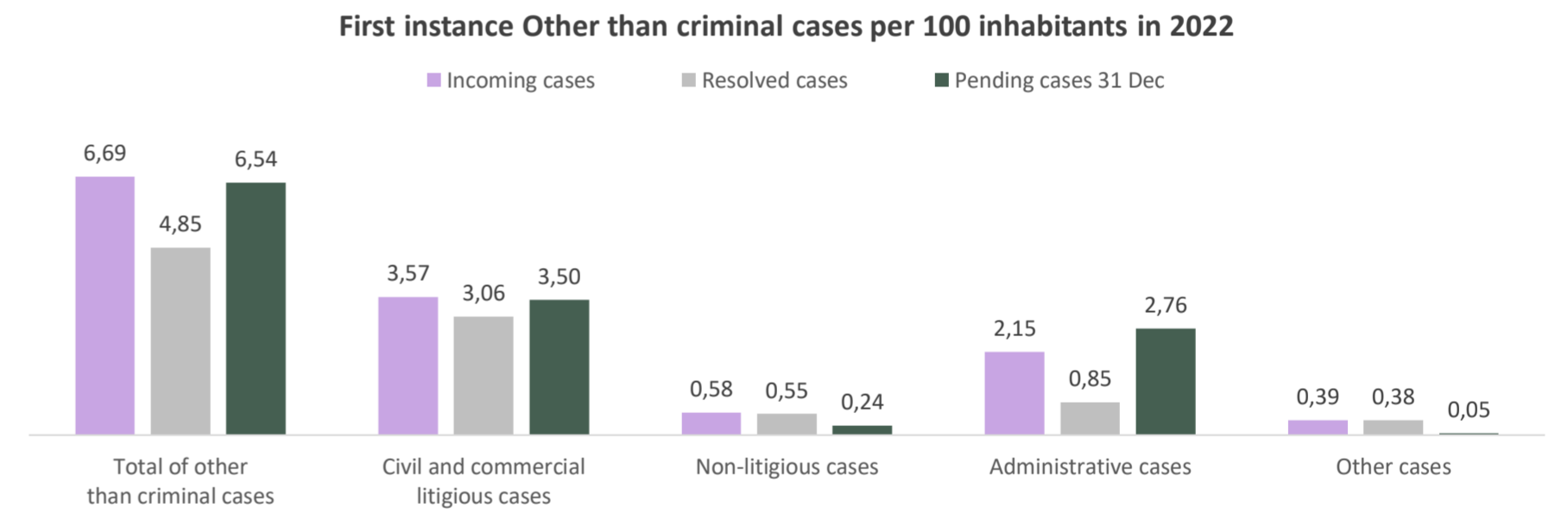
The incoming administrative cases were 13 341 in 2022 (ie 2,15 per 100 inhabitants vs the WB Average of 0,84). They increased by 102,1% compared to the previous year. In 2022, the resolved cases were 5 287 (0,85 per 100 inhabitants, above of the WB Average of 0,46). Between 2021 and 2022, the number of resolved administrative decreased by -12,8%. The number of incoming cases was thus higher than the resolved cases. As a consequence, the administrative pending cases at the end of 2022 were more than in 2021 and the Clearance rate for this type of cases was 40% (below the WB Average (73%). The CR decreased by -52,2 percentage points compared to the previous year.

Finally, the Disposition Time for administrative cases was approximately 1 180 days in 2022. This has increased by 116,9% compared to 2021 and it was above the WB Average (716 days).

1st instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average
Total of other than criminal law cases (1+2+3+4)	6,69	< 11,82	4,85	< 12,47	6,54	< 15,15	0,75	< 11,40
1 Civil and commercial litigious cases	3,57	> 2,70	3,06	> 3,03	3,50	> 3,12	0,68	< 1,01
2 Non-litigious cases**	0,58	< 7,82	0,55	< 8,52	0,24	< 10,99	0,04	< 10,30
3 Administrative cases	2,15	> 0,84	0,85	> 0,46	2,76	> 1,01	0,02	< 0,09
4 Other cases	0,39	< 0,77	0,38	< 0,77	0,05	> 0,03	0,005	-

For reference only: the 2021 EU Median was as follows:
 - Incoming first instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;
 - incoming first instance Administrative cases per 100 inhabitants: 0,3.

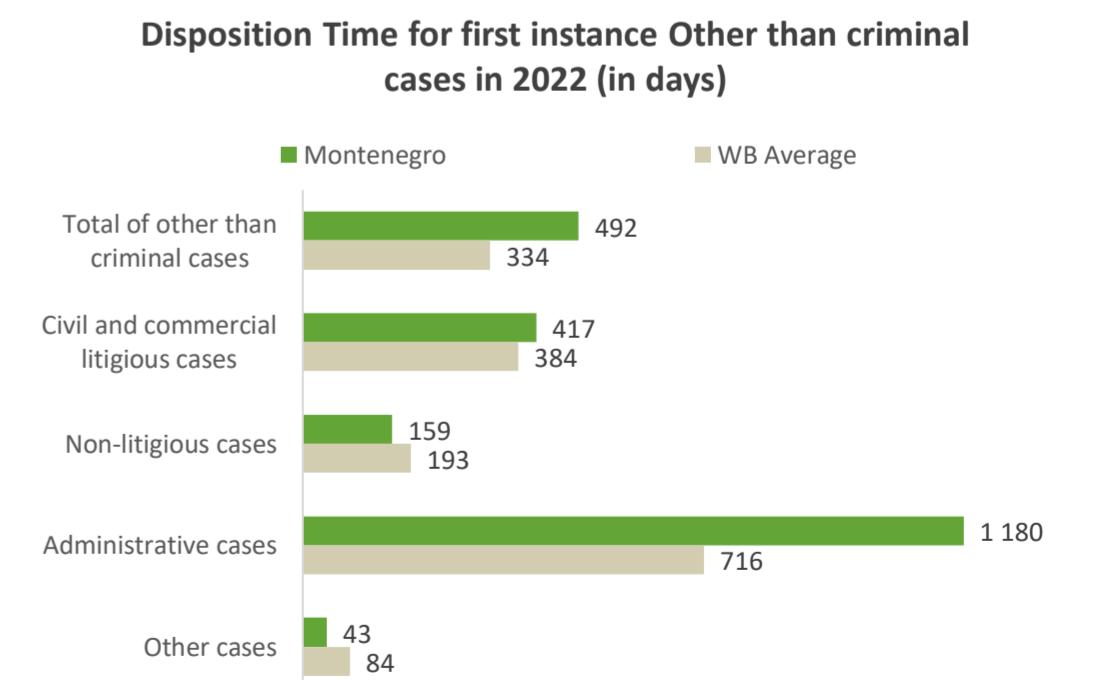
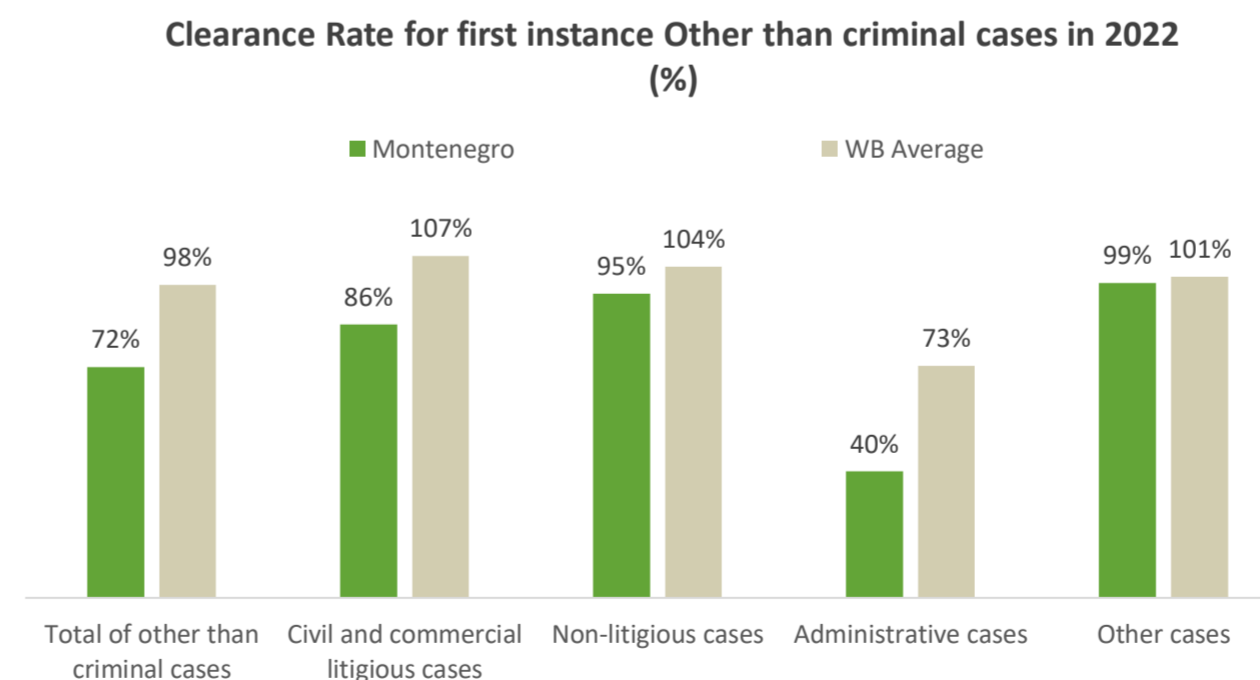
Key: > Higher than the WB Average
 = Equal to the WB Average
 < Lower than the WB Average



1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Montenegro	WB Average	Montenegro	WB Average	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)	72%	98%	492	334	-20,4	46,5%
1 Civil and commercial litigious cases	86%	107%	417	384	-6,0	16,1%
2 Non-litigious cases**	95%	104%	159	193	-0,8	52,1%
3 Administrative cases	40%	73%	1 180	716	-52,2	116,9%
4 Other cases	99%	101%	43	84	-0,6	1,4%

For reference only: the 2021 EU Median for the first instance Civil and Commercial litigious cases was as follows:
 - Clearance rate: 102,5%; - Disposition time: 234 days.

For reference only: the 2021 EU Median for the first instance Administrative cases was as follows:
 - Clearance rate: 101,7%; - Disposition time: 296 days.



• First instance cases - Criminal law cases

1st instance cases in 2022 (absolute values)	Montenegro (2022)				% Variation between 2021 and 2022			
	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
Total of criminal law cases (1+2+3)	75 005	60 720	52 136	NA	37,2%	10,0%	30,1%	NA
1 Severe criminal cases	3 543	3 304	2 656	371	-9,3%	-8,5%	9,4%	57,9%
2 Misdemeanour and / or minor criminal cases	52 755	40 349	30 695	NA	65,3%	23,4%	65,6%	NA
3 Other cases	18 707	17 067	18 785	NA	-0,9%	-9,8%	-1,7%	NA

In 2022, the incoming total criminal cases were 75 005 (12,1 per 100 inhabitants vs the WB Average of 10,69). They increased by 37,2% between 2021 and 2022. The resolved cases were 60 720 (9,79 per 100 inhabitants). Between 2021 and 2022, they increased by 10%. The number of resolved cases was thus lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2022 were more than in 2021. Indeed, the 2022 Clearance rate for this type of cases was 81% (below the WB Average of 95,7%). This decreased by -20 percentage points compared to 2021.

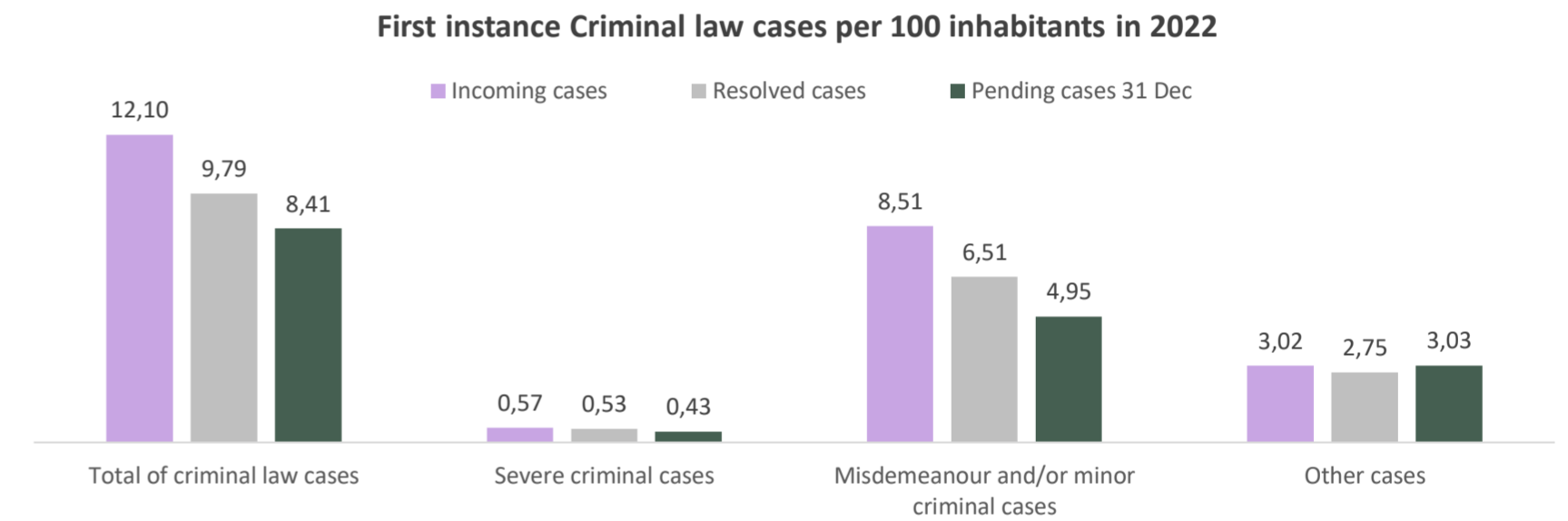
The Disposition Time for total criminal cases was approximately 313 days in 2022 (above the WB Average of 185 days). This increased by 18,3% over the 2021-2022 period.

The higher inflow of misdemeanour cases is because the subjects with jurisdiction over issuing misdemeanour orders (fines) were using the legal possibility to initiate misdemeanour proceedings before the courts instead. That led to a higher inflow of cases, reflected in the number of unresolved cases. This was mainly related to the slowdown of the public procurement system (major cyber attacks etc.) in the reference year and a lack of relevant forms for issuing misdemeanour orders (fines).

1st instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average
Total of criminal law cases (1+2+3)	12,10	> 10,69	9,79	< 10,62	8,41	> 4,77	NA	1,02
1 Severe criminal cases	0,57	> 0,48	0,53	> 0,48	0,43	> 0,28	0,06	> 0,04
2 Misdemeanour and / or minor criminal cases	8,51	> 3,84	6,51	> 3,47	4,95	> 2,20	NA	0,06
3 Other cases	3,02	< 7,97	2,75	< 8,34	3,03	> 2,85	NA	0,92

For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:
- Incoming cases per 100 inhabitants: 1,6.

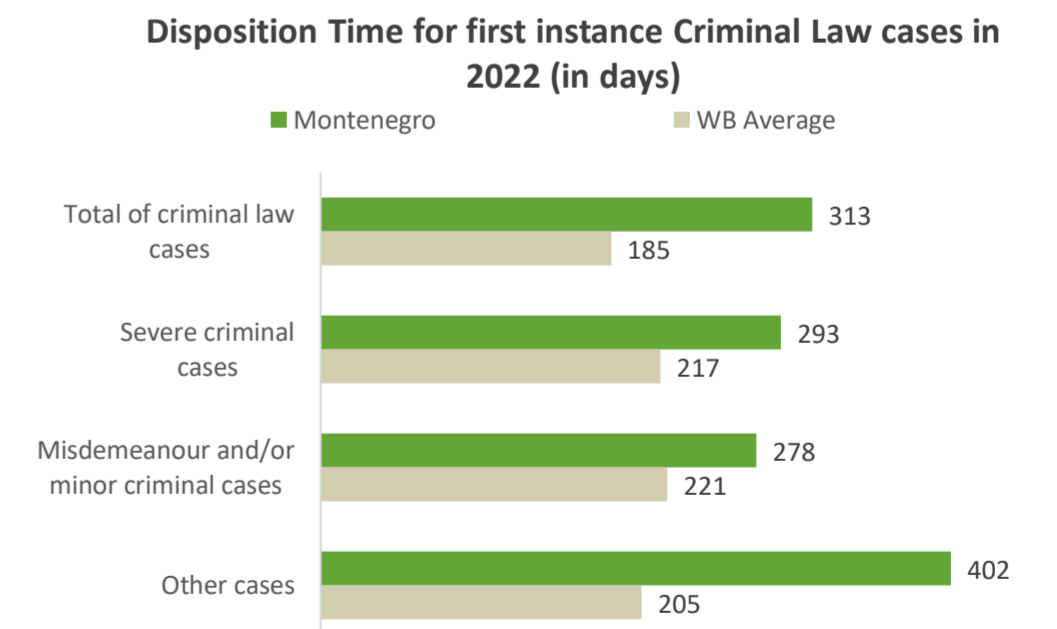
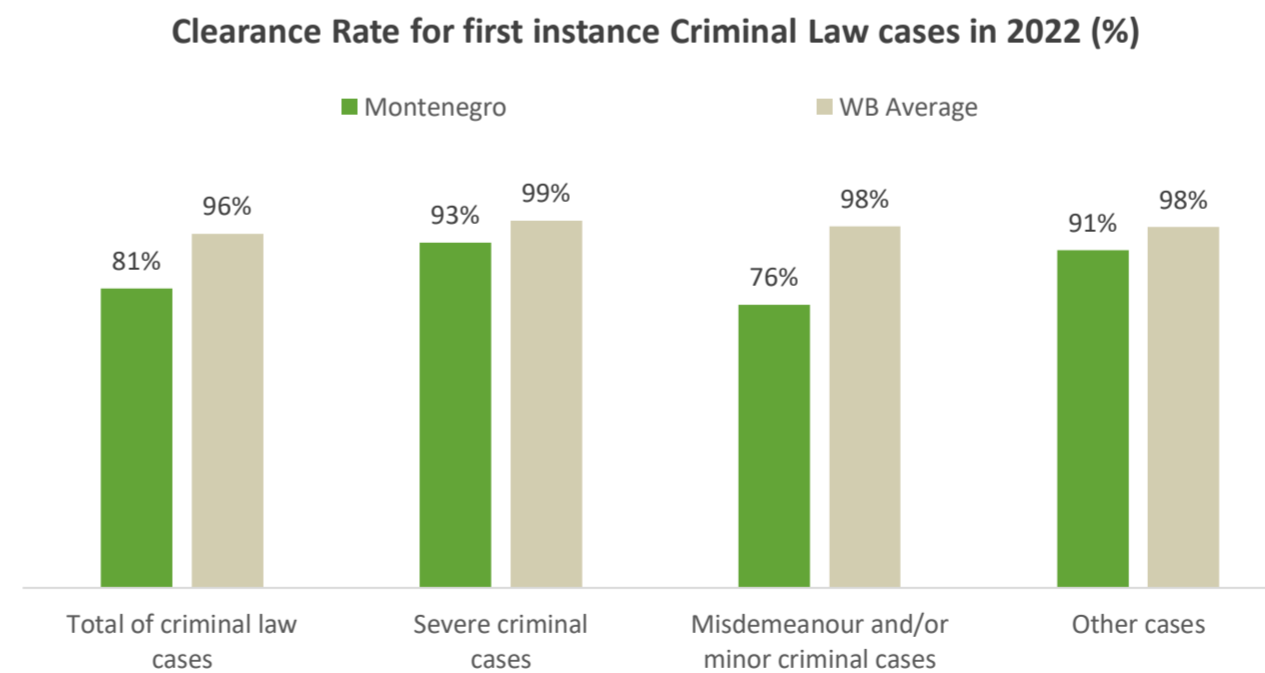
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	=	Equal to the WB Average
	<	Lower than the WB Average



1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Montenegro	WB Average	Montenegro	WB Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	81%	96%	313	185	-20,0	18,3%
1 Severe criminal cases	93%	99%	293	217	0,9	19,5%
2 Misdemeanour and / or minor criminal cases	76%	98%	278	221	-26,0	34,2%
3 Other cases	91%	98%	402	205	-9,0	8,9%

PPT = Percentage points

For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:
- Clearance rate: 100%; - Disposition time: 134 days.



Second instance cases - Other than criminal law cases

2nd instance cases in 2022 (absolute values)	Montenegro (2022)				% Variation between 2021 and 2022			
	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
Total of other than criminal law cases (1+2+3+4)	9 452	8 415	3 044	964	3,5%	-9,6%	48,9%	55,5%
1 Civil and commercial litigious cases	8 077	7 155	2 649	938	3,8%	-10,9%	50,3%	56,3%
2 Non-litigious cases**	210	190	73	26	-13,2%	-23,1%	37,7%	36,8%
3 Administrative cases	1 109	1 011	316	0	12,9%	11,8%	43,6%	-
4 Other cases	56	59	6	0	-56,3%	-51,6%	-33,3%	-100,0%

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

In 2022, the incoming civil and commercial litigious cases were 8 077 (1,3 per 100 inhabitants vs the WB Average of 1,2). They increased by 3,8% between 2021 and 2022. The resolved cases were 7 155 (1,15 per 100 inhabitants). Between 2021 and 2022, they decreased by -10,9%. The number of resolved cases was thus lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2022 were more than in 2021. Indeed, the 2022 Clearance rate for this type of cases was 89% (below the WB Average of 92%). This decreased by -14,6 percentage points compared to 2021.

The Disposition Time for civil and commercial litigious cases was approximately 135 days in 2022 (below the WB Average of 627 days). This increased by 68,8% over the 2021-2022 period.

The incoming administrative cases were 1 109 in 2022 (ie 0,18 per 100 inhabitants vs the WB Average of 0,13). They increased by 12,9% compared to the previous year. The resolved cases were 1 011 (0,16 per 100 inhabitants, above of the WB Average of 0,12). Between 2021 and 2022, the number of resolved administrative increased by 11,8%. The number of incoming cases was thus higher than the resolved cases. As a consequence, the administrative pending cases at the end of 2022 were more than in 2021 and the Clearance rate for this type of cases was 91% (below the WB Average (92%). The CR decreased by -0,9 percentage points compared to the previous year.

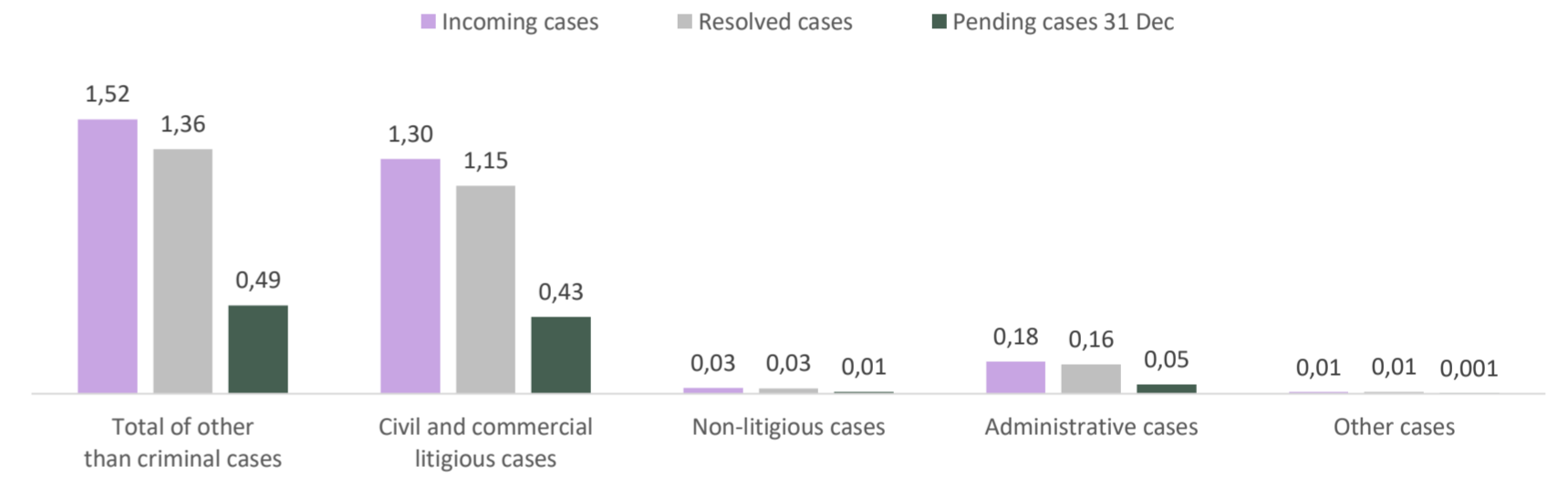
Finally, the Disposition Time for administrative cases was approximately 114 days in 2022. This has increased by 28,4% compared to 2021 and it was below the WB Average (193 days).

2nd instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average
Total of other than criminal law cases (1+2+3+4)	1,52	1,37	1,36	1,30	0,49	1,11	0,16	0,71
1 Civil and commercial litigious cases	1,30	1,20	1,15	1,14	0,43	0,88	0,15	0,57
2 Non-litigious cases**	0,03	0,11	0,03	0,10	0,01	0,07	0,00	0,03
3 Administrative cases	0,18	0,13	0,16	0,12	0,05	0,24	0,00	0,16
4 Other cases	0,01	-	0,01	-	0,001	-	0,00	-

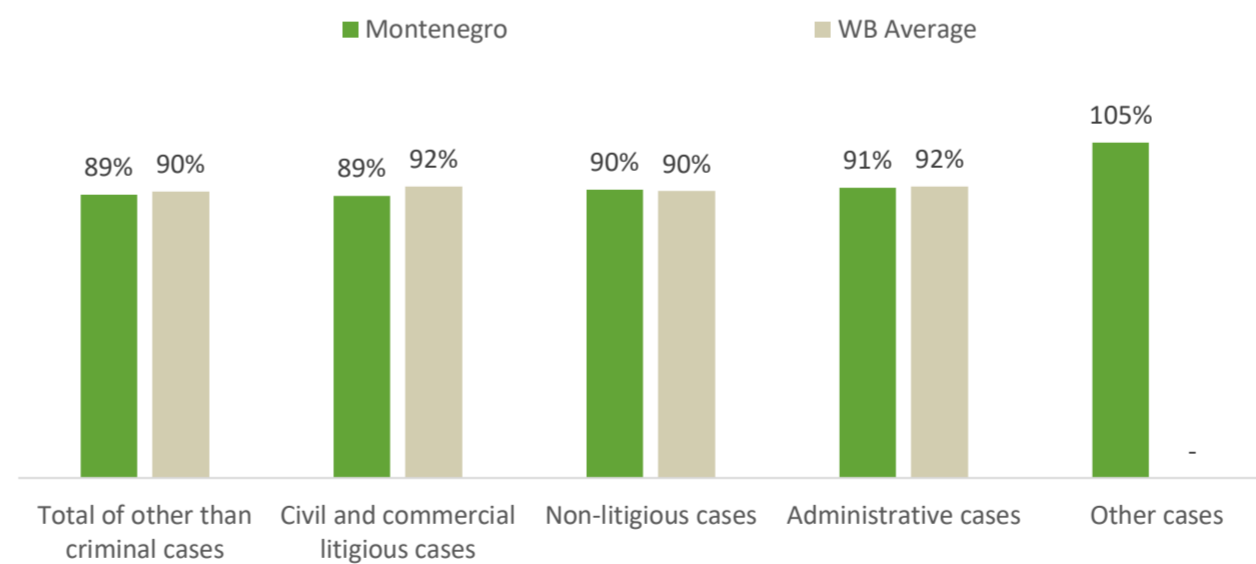
For reference only: the 2021 EU Median was as follows:
 - Incoming Second instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;
 - Incoming Second instance Administrative cases per 100 inhabitants: 0,3.

Key:
 > Higher than the WB Average
 = Equal to the WB Average
 < Lower than the WB Average

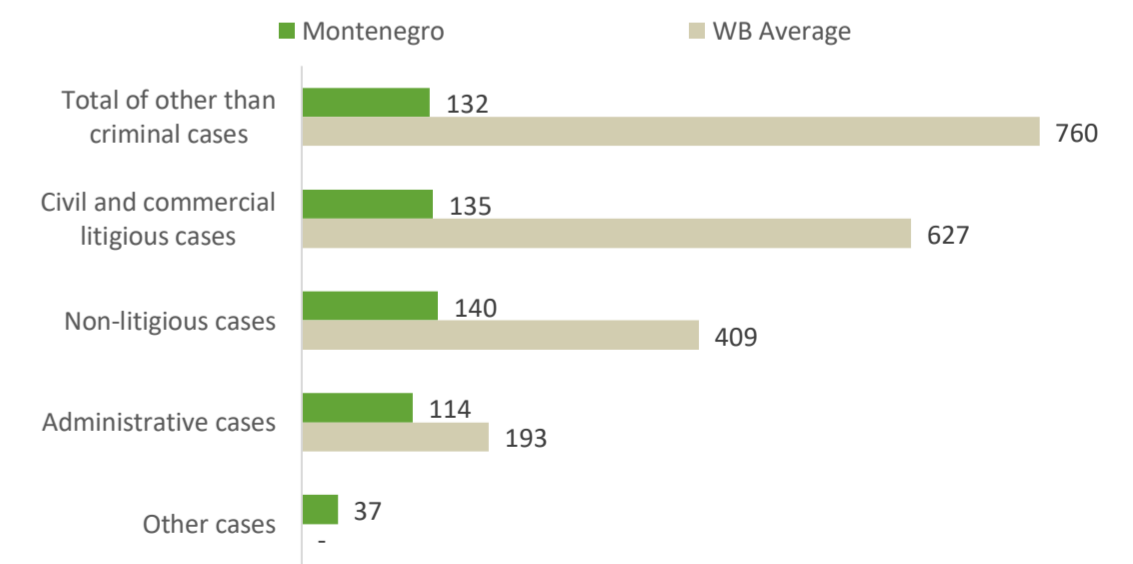
Second instance Other than criminal cases per 100 inhabitants in 2022



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



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



2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Montenegro	WB Average	Montenegro	WB Average	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)	89%	90%	132	760	-12,8	64,7%
1 Civil and commercial litigious cases	89%	92%	135	627	-14,6	68,8%
2 Non-litigious cases**	90%	90%	140	409	-11,6	79,1%
3 Administrative cases	91%	92%	114	193	-0,9	28,4%
4 Other cases	105%	-	37	-	10,0	37,9%

For reference only: the 2021 EU Median for the Second instance Civil and Commercial litigious cases was as follows:
 - Clearance rate: 102,5%; - Disposition time: 234 days.

For reference only: the 2021 EU Median for the Second instance Administrative cases was as follows:
 - Clearance rate: 101,7%; - Disposition time: 296 days.

NB: In the table and the graph above, the WB Median of the Disposition Time is presented for the second instance Administrative cases, instead of the WB Average.

• Second instance cases - Criminal law cases

2nd instance cases in 2022 (absolute values)	Montenegro (2022)				% Variation between 2021 and 2022			
	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
Total of criminal law cases (1+2+3)	3 439	2 871	863	NA	10,6%	-1,1%	191,6%	NA
1 Severe criminal cases	1 463	1 198	477	14	22,9%	12,1%	125,0%	366,7%
2 Misdemeanour and / or minor criminal cases	1 976	1 673	386	NA	3,0%	-8,3%	359,5%	NA
3 Other cases	NAP	NAP	NAP	NAP	NA	NA	NA	NA

In 2022, the incoming total criminal cases were 3 439 (0,55 per 100 inhabitants vs the WB Average of 0,5), and they increased by 10,6%, compared to the previous year. The resolved cases were 2 871 (0,46 per 100 inhabitants). Between 2021 and 2022, they decreased by -1,1%. In 2022, the number of resolved cases was thus lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2022 were more than in 2021. Indeed, the 2022 Clearance rate for this type of cases was 83% (below the WB Average of 94%). This decreased by -9,9 percentage points compared to 2021.

The Disposition Time for total criminal cases was approximately 110 days in 2022 (below the WB Average of 172 days). This increased by 194,9% over the 2021-2022 period.

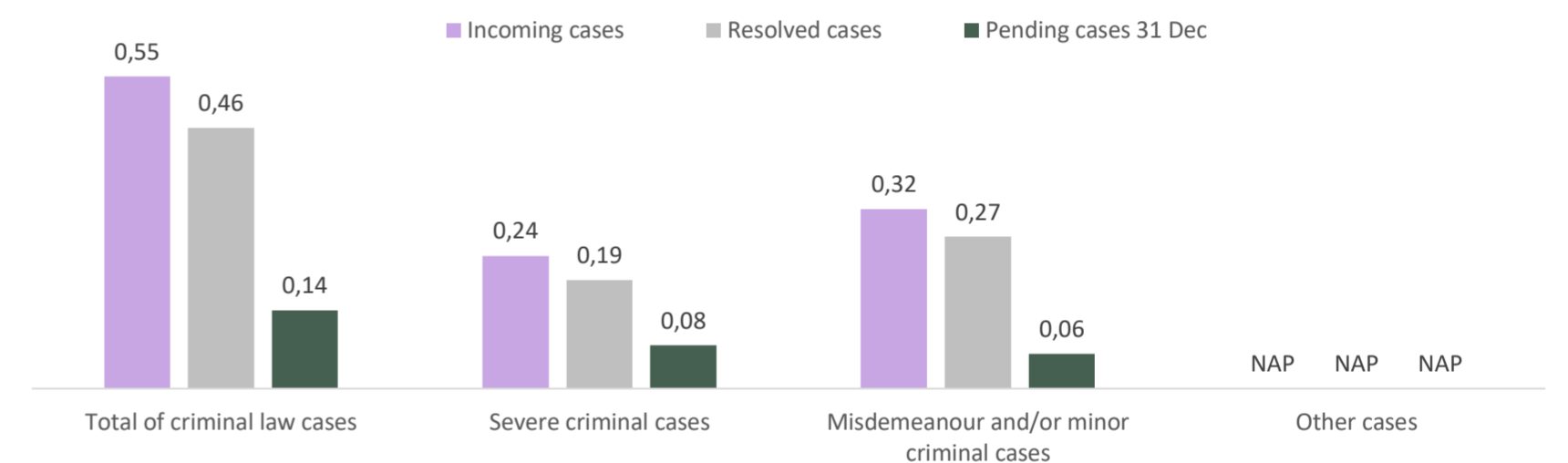
During 2021, the High Court in Podgorica operated with 6 judges less. In the same year there were no new appointments to fill the missing judicial positions in the court. That affected the efficiency of the court, which is the one with the highest number of criminal cases in the second instance.

2nd instance cases in 2022 (per 100 inhabitants)	Incoming cases		Resolved cases		Pending cases 31 Dec		Pending cases over 2 years	
	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average	Montenegro	WB Average
Total of criminal law cases (1+2+3)	0,55	> 0,50	0,46	< 0,47	0,14	< 0,16	NA	0,04
1 Severe criminal cases	0,24	> 0,20	0,19	> 0,18	0,08	< 0,09	0,00	< 0,02
2 Misdemeanour and / or minor criminal cases	0,32	> 0,22	0,27	> 0,21	0,06	> 0,05	NA	0,009
3 Other cases	NAP	0,13	NAP	0,14	NAP	0,02	NAP	0,005

For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:
- Incoming cases per 100 inhabitants: 1,6.

Key:	>	Higher than the WB Average
	=	Equal to the WB Average
	<	Lower than the WB Average

Second instance Criminal law cases per 100 inhabitants in 2022



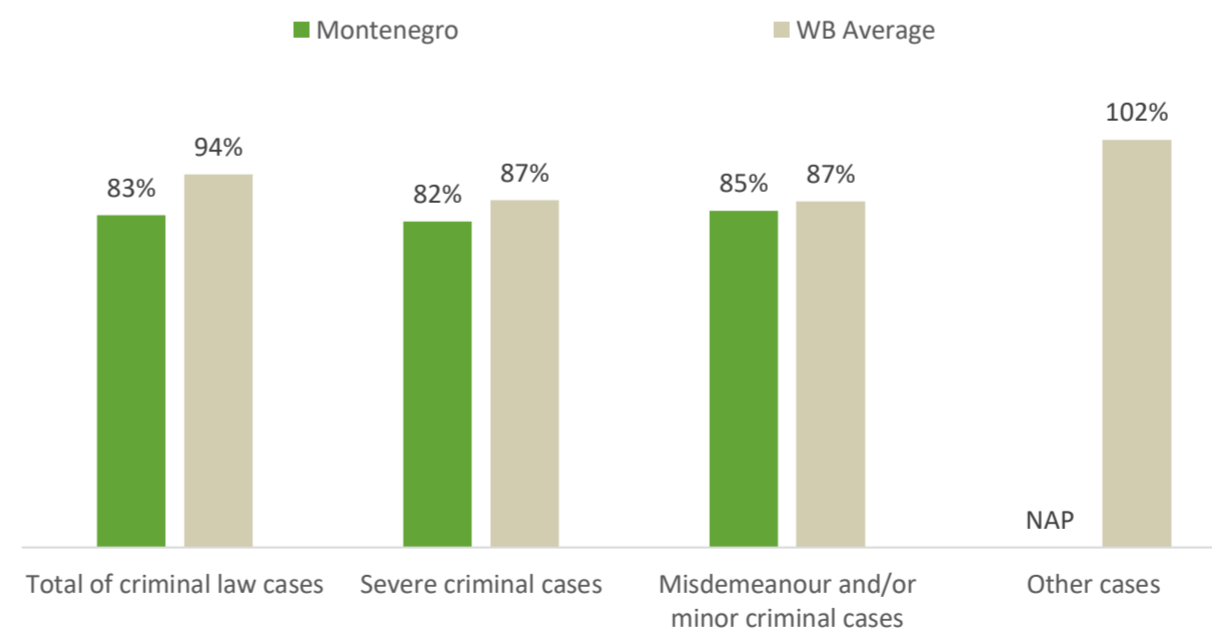
2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2022	CR (%)		DT (days)		% Variation 2021 - 2022	
	Montenegro	WB Average	Montenegro	WB Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	83%	94%	110	172	-9,9	194,9%
1 Severe criminal cases	82%	87%	145	352	-7,9	100,8%
2 Misdemeanour and / or minor criminal cases	85%	87%	84	84	-11,0	404,0%
3 Other cases	NAP	102%	NAP	53	NAP	NAP

PPT = Percentage points

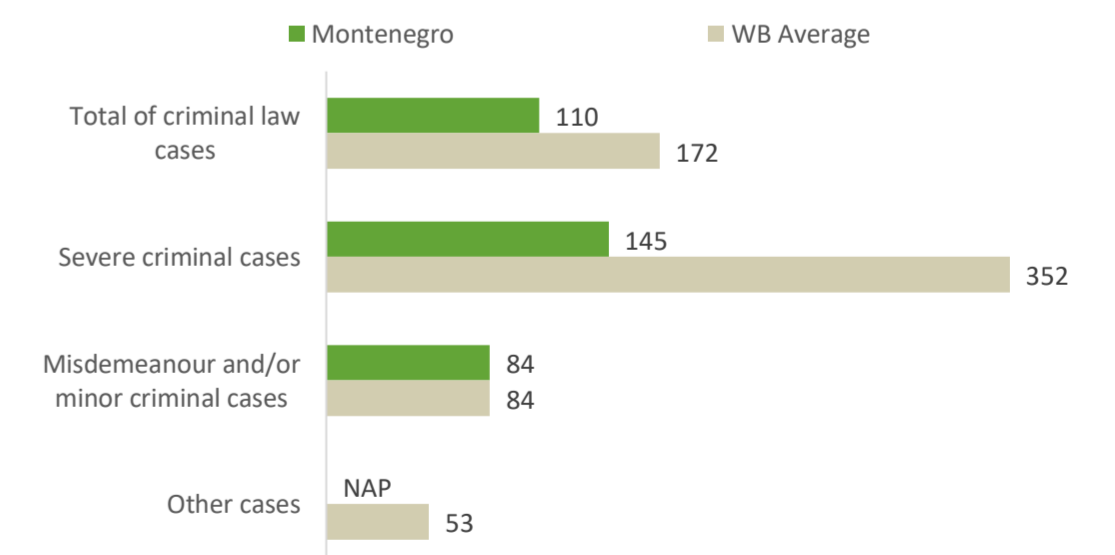
For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:
- Clearance rate: 100%;
- Disposition time: 134 days.

NB: In the table and the graph above, the WB Median of the Disposition Time is presented for the second instance Other criminal cases, instead of the WB Average.

Clearance Rate for second instance Criminal Law cases in 2022 (%)

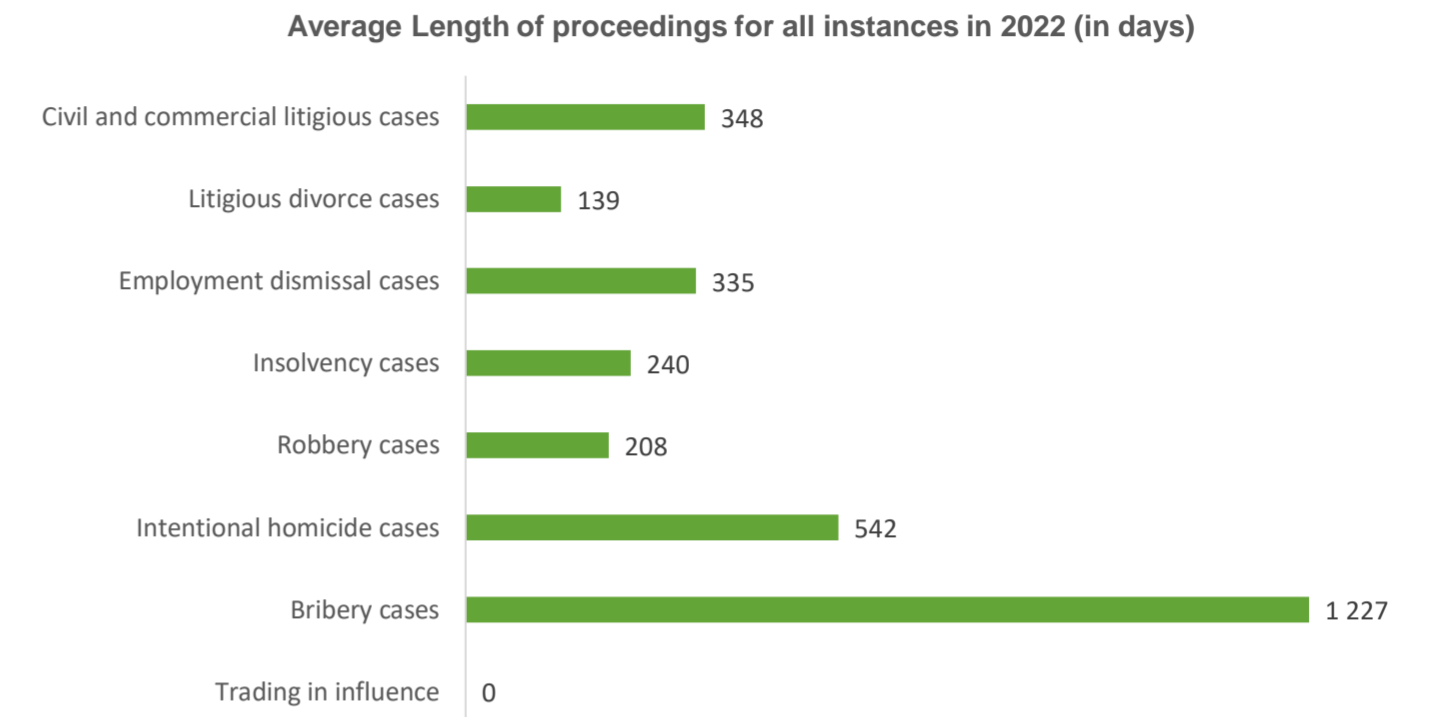


Disposition Time for second instance Criminal Law cases in 2022 (in days)



• Specific category cases

	Montenegro (2022)						% Variation between 2021 and 2022					
	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	32%	336	75	0	348	69%	-7,0	44%	21%	NA	44%	3%
Litigious divorce cases	6%	137	42	0	139	0%	2,0	5%	35%	NA	6%	0%
Employment dismissal cases	51%	318	65	0	335	0%	-15,0	-19%	0%	NA	-20%	NA
Insolvency cases	7%	240	7	0	240	2%	2,0	9%	-68%	NA	7%	0%
Robbery cases	61%	182	84	0	208	0%	8,0	-25%	100%	NA	-19%	0%
Intentional homicide cases	71%	509	81	0	542	0%	15,0	-12%	-21%	NA	-12%	0%
Bribery cases	100%	1 227	0	0	1 227	0%	100,0	7118%	NA	NA	7118%	0%
Trading in influence	0%	0	0	0	0	0%	0,0	-100%	NA	NA	-100%	0%



The average length of cases corresponds to the average length of resolved cases at a certain instance within the reference year.

• **Quality standards and performance indicators in the judicial system**

In Montenegro there are not quality standards determined for the judicial system at national level.

The authorities reported that the Rules for the evaluation of judges and presidents of courts foresees the following:

"A judge who had 30% or more of revoked decisions in relation to the total number of cases in which it was decided in the same period - unsatisfactory; A judge who had less than 30% of revoked decisions in relation to the total number of cases in which it was decided in the same period - satisfactory. When calculating the percentage of revoked decisions, the case in which the decision was partially revoked counts as one half (0.5% of a case). If only a decision on costs was revoked, such case shall not be included in the revoked decisions." (Article 11)

• **Regular monitoring of courts and prosecution offices' activities**

In Montenegro, there exists a system to regularly evaluate court performance based on the monitored indicators listed below (more frequently than once a year). This evaluation of the court activities is not used for the allocation of resources within the courts.

Moreover, there exists a system to annually evaluate public prosecution services' performance based on the monitored indicators listed below. This evaluation of the court activities is not used for the allocation of resources within the public prosecution services.

	Regular assessment	
	Courts	Prosecution offices
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

According to the authorities, 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

According to the authorities, there is no automatic evaluation of court performance. Reports are created by the court information system and provided to the decision-makers.

Also, the regular evaluation of the activities of each court is carried out for a period of 6 months and annually. However, courts are obliged to submit reports for a period of one to three months if needed.

• Quantitative targets for each judge and prosecutor

Existence of quantitative targets for:		Judges	Prosecutors
Responsibility for setting up quantitative targets for judges lies on:		✓	✓
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:	✗	✗	✗
Responsibility for setting up quantitative targets for public prosecutors lies on:			
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		For judges	For public prosecutors
Warning by court's president/ head of prosecution	✗	✗	✗
Disciplinary procedure	✓	✓	✓
Temporary salary reduction	✗	✗	✗
Reflected in the individual assessment	✗	✓	✓
Other	✗	✗	✗
No consequences	✗	✗	✗

The Ministry of Justice normally adopts the Rulebook on indicative benchmarks for determining the necessary number of judges and civil servants and state employees in court.

According to the Law on Judicial Council, a disciplinary offence is if judge does not accomplish 50% of quantity of work in relation to the average quantity benchmarks in particular category of cases, unless a judge provides a reasonable justification on reasons not accomplishing results in terms of quantity of work. Quantity benchmarks are established by Judicial Council

The average measure of prosecutor activity (as prescribed by the Rules for the evaluation of state prosecutors and heads of state prosecutor's offices:

Article 7 The Prosecutorial Council determines the average measures of the quantity of work in a certain type of case for the following categories:

- for basic state prosecutor's offices up to 5 state prosecutors,
- for basic state prosecutor's offices from 5 to 10 state prosecutors,
- for basic state prosecutor's offices over ten state prosecutors,
- for higher state prosecutor's offices.

The average measure of the quantity of work is determined at the level of one category of state prosecutor's offices by adding and dividing the number of completed cases by types Kt, Ktm, KT I, Ktr with the number of state prosecutors who performed a prosecutorial function in all state cases.

A case is considered completed if it results in a decision on rejection of a criminal report, a case in which a reconnaissance or investigation was conducted after which it was submitted to the competent prosecutor's office, suspension of investigation, confirmed indictment or indictment filed, the decision on a sentencing plea agreement, rejected criminal charges in case of postponement of criminal prosecution, as well as Ktr case that has been archived. The number of cases is determined by the number of persons.

The Prosecutorial Council also determines the average measure of the quantity of work in a certain type of case for the Special State Prosecutor's Office by adding and dividing the number of completed cases by types of Kt-s, Ktm-s, KT I-s, Ktr-s and the number of special prosecutors in that period performed the prosecutorial function in the above types of cases in the last three years.

Article 8 The quantity of work is assessed on the basis of the report on the work of the state prosecutor and the average measures of the quantity of work in a certain type of case. According to this sub-criterion, the state prosecutor is assessed: - if he has completed up to 20% below the average criteria satisfies; - if he has completed over 20% of the subjects below the average criteria, he does not satisfy.

Article 9 The quality of work is assessed on the basis of confirmed indictments, convictions and appeals. A state prosecutor with 80% or more confirmed indictments in relation to the total number of indictments in which a decision was made in the same period satisfies, and a state prosecutor with less than 20% confirmed indictments in relation to the total number of indictments does not satisfy. The state prosecutor who has 70% or more convictions in relation to the total number of convictions passed in the same period satisfies, and the state prosecutor who had less than 30% of convictions in relation to the total number of convictions in the same period, does not satisfy. The state prosecutor who has 30% or more of accepted appeals in relation to the total number of appeals filed against acquittals and convictions which were revoked on those appeals of the state prosecutor in the same period satisfies, and the state prosecutor who has less than 30% of accepted appeals in relation to the total number of appeals against acquittals and convictions that were revoked on those appeals of the state prosecutor in the same period is not satisfactory.

In accordance to the Law on State Prosecution Service, if the state prosecutor who was given the grade excellent is not promoted to a hierarchically higher state prosecutor's office within a year from getting the grade excellent, he/she shall be entitled to the salary in the same category as the salary of the head of the state prosecutor's office on the level where he/she discharges his duties.

• **Qualitative targets for each judge and prosecutor**

Existence of qualitative targets for:

Judges



Prosecutors



Responsibility for setting up the criteria qualitative 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	✗

Responsibility for setting up the criteria for the qualitative assessment of the public prosecutors' work	
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	✗

Frequency of this assessment	For judges	For public prosecutors
Annual	✗	✗
Less frequent	✓	✓
More frequent	✗	✗

The Law on the Judicial Council and judges prescribes criteria for appraisal of judges' work. The criteria for appraisal of work of judges shall be: 1) Professional knowledge; 2) General capabilities for performing judicial office. Appraisal of work of judges under the criteria referred to mention above shall be made by inspecting: 1) Five cases completed by a final and enforceable decision, randomly selected; 2) Five cases completed by a final and enforceable decision, selected by the judge himself / herself; 3) Five cases completed by a final and enforceable decision in which decisions were abolished, randomly selected; 4) A statistical report on the work of the judge, containing information on the work of the judge, data from the records on judges, information on the number of complaints and decisions on complaints against the work of the judge, information on the number of control requests in the cases of the judge and the decisions on the control requests, as well as the data on the number of cases in which a judicial decision was not made within the statutory deadline; 5) Records obtained through control of work of the court; and 6) A report of the legal person authorized for training of judges.

The Prosecutorial Council adopts the Rules for evaluation of state prosecutors and heads of state prosecutor's offices.

The rules for the evaluation of state prosecutors and heads of state prosecutor's offices are based on: Professional knowledge: quantity and quality of work, ability to plan and effectively implement procedural actions, skills of preparation and keeping case files, skills of using prosecutorial knowledge, skills of acting and professional development. General abilities to perform the prosecutorial function: communication skills, ability to adapt to changed circumstances, ability to organize and coordinate employees in the state prosecutor's office, participation in various professional activities.

Performance of state prosecutors who have permanent office, apart from the Supreme State Prosecutor and state prosecutors in the Supreme State Prosecutor's Office, is evaluated every three years to assess their competence, quantity and quality of work, ethics and training needs, as well as for the purpose of promotion to the state prosecution of higher degree.

State prosecutors, who have been elected for a term of four years, are evaluated after two years of work, as well as at the end of the mandate.

Rulebook on orientation criteria for determining the required number of judges and other court officers adopts Ministry of Justice on the proposal of the Judicial Council

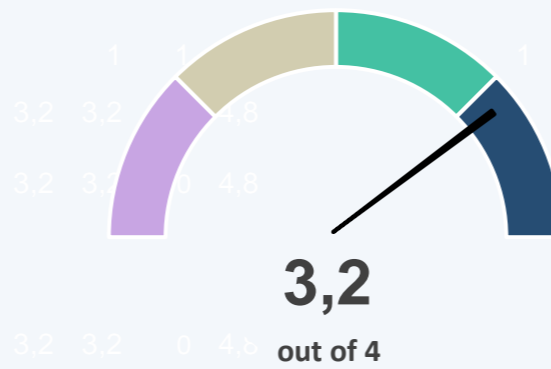
Kosovo is not included in the calculation of summary statistics

Electronic case management system and court activity statistics in Montenegro in 2022 (Indicator 3.3)

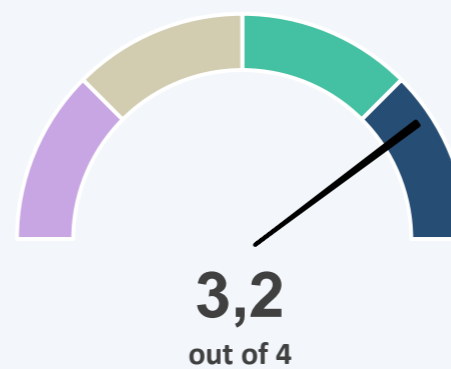
The Case Management System (CMS) Index is an index ranging from 0 to 4 points. It is calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary.

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.

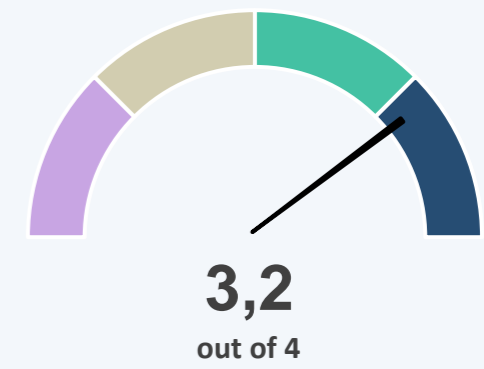
CMS index for Civil and/or commercial



CMS index for Administrative



CMS index for Criminal



• Electronic case management system

In Montenegro, there is an IT Strategy for the judiciary and there were plans for a significant change in the present IT system in the judiciary in 2022 (<https://www.gov.me/dokumenta/7af1b58d-a6aa-4e62-8de2-75979dd42d0c>).

According to the Judicial Council, the plan's main activity was to build a new information system called - ISP (abbreviation for information system of Judiciary - in Montenegrin, "Informacioni Sistem Pravosuđa"). However, due to the delays and problems with the company selected on the tender to build the system, the authority reported that they decided to cancel the contract with them and search for other options. Indeed the selected company failed to deliver parts of the system and documentation on time, even after many prolongations and compromises from the authority's side.

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

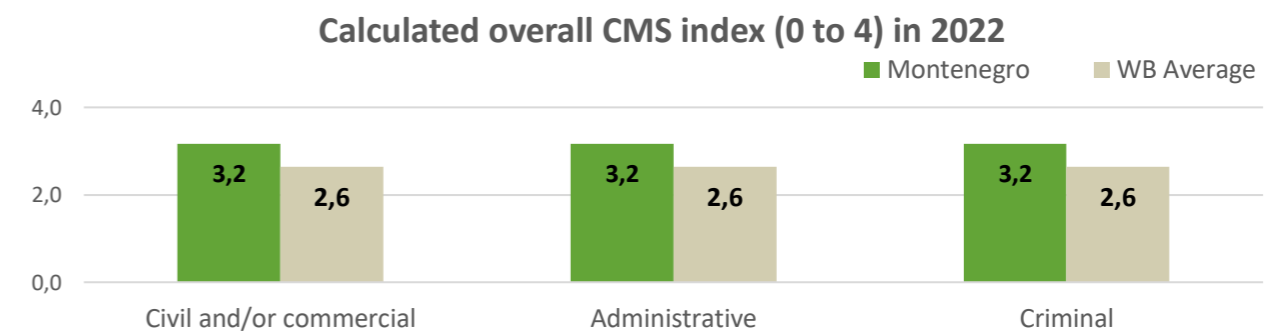
The CMS is developed in all courts (100% deployment rate) and the data is stored on a centralised and interoperable database consolidated at national level, integrated with a statistical tool. The CMS index for Montenegro is higher than the WB average (3.2 for each type of cases versus 2.6).

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
Administrative	100%	Publication of decision online	✓	✓	Integrated
Criminal	100%	Publication of decision online	✓	✓	Integrated

Legend for "Status of case online":

Both: Accessible to parties
Publication of decision online

Overall CMS Index in 2022		
	Montenegro	WB Average
Civil and/or commercial	3,2	2,6
Administrative	3,2	2,6
Criminal	3,2	2,6



• **Centralised national database of court decisions**

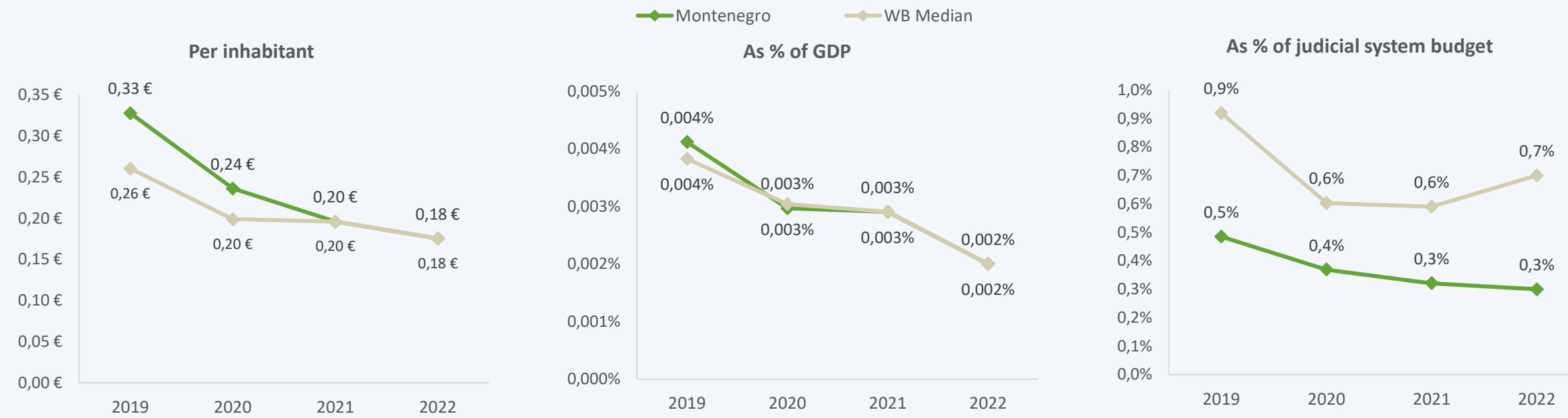
In Montenegro, there is a centralised national database of court decisions in which all judgments for all instances are collected, with anonymised data. This case-law database is available for free online and in open data. There is no link with ECHR case law (hyperlinks which reference to the ECHR judgments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

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

Kosovo is not included in the calculation of summary statistics

Legal Aid in Montenegro in 2022 (Indicator 4)

Total implemented budget for Legal Aid between 2019 and 2022



Number of cases for which LA has been granted in 2022



In 2022, the implemented budget for legal aid spent by Montenegro was 108 776€ (0,29% of the judicial system budget). This means that an amount of 0,18€ was spent per inhabitant (the same as the WB Median). The budget for legal aid was equal to 0,002% of the GDP, the same as the WB Median.

• Organisation of the legal aid system

In Montenegro, free legal aid implies providing the necessary funds to fully or partially cover the costs of legal advice, drafting letters, representation in court, the State Prosecutor's Office and the Constitutional Court of Montenegro and in out-of-court dispute resolution and enforcement proceedings as well as exemption from payment of court costs. The applicant's financial situation for free legal aid shall be determined on the basis of his/her income and property and the income and property of his 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 assistance and other issues related to the granting of 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 the 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 fault; 4) enforcement procedure on the basis of an authentic document.

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 is applied to:

	Criminal cases	Other than criminal cases
Representation in court	✓	✓
Legal advice, ADR and other legal services	✓	✓

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

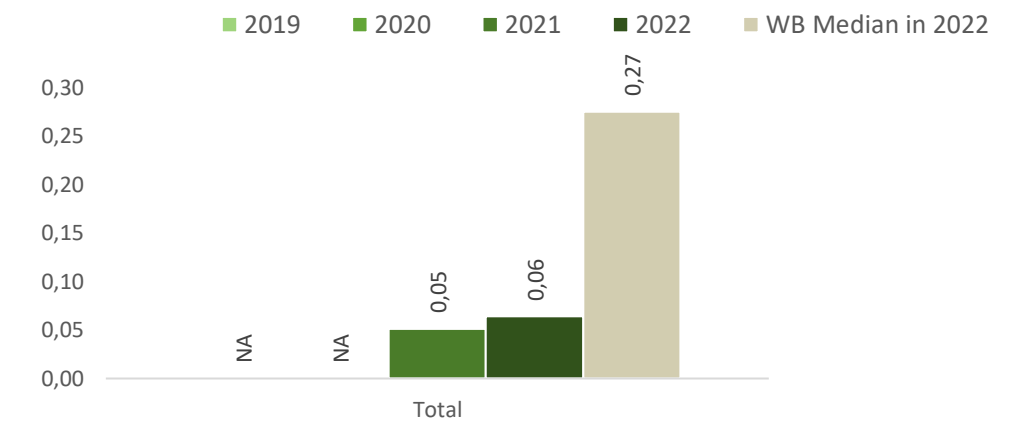
	Implemented budget for legal aid in €				Total implemented budget for legal aid per inhabitant		Total implemented budget for legal aid as % of GDP		Total implemented budget for legal aid as % of the judicial system budget	
	Total (a+b)	% Variation 2019 - 2022	Cases brought to court (a)	Cases not brought to court (b)	Montenegro	WB Median	Montenegro	WB Median	Montenegro	WB Median
Total (1+2)	108 776 €	-46,5%	NA	NA	0,18 €	0,18 €	0,002%	0,002%	0,29%	0,7%
In criminal cases (1)	NA	NA	NA	NA						
In other than criminal cases (2)	NA	NA	NA	NA						

In 2022, Montenegro spent 108 776€ on the total implemented budget for legal aid, which was -46,5% less compared to 2019. It spent the same amount per inhabitant as the WB median (0,18€).

	Number of cases for which legal aid has been granted				Amount of LA granted per case (€)			
	Total (a+b)			Cases brought to court (a)	Cases not brought to court (b)	Total	Cases brought to court	Cases not brought to court
	Absolute number	Per 100 inh.	% Variation 2019 - 2022					
Total (1+2)	396	0,06	NA	NA	NA	274,7 €	NA	NA
In criminal cases (1)	NA	NA	NA	NA	NA	NA	NA	NA
In other than criminal cases (2)	NA	NA	NA	NA	NA	NA	NA	NA

In 2022, the number of cases for which legal aid was granted was 396. On average, the amount granted per legal aid case was 274,7€.

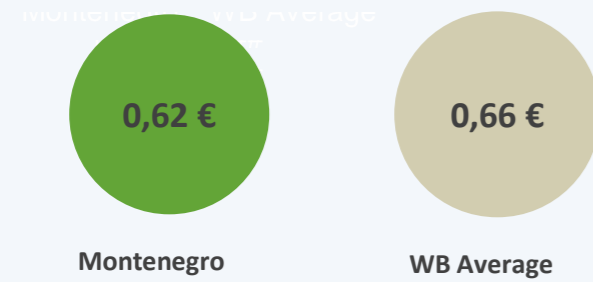
Total number of LA cases per 100 inh between 2019 and 2022



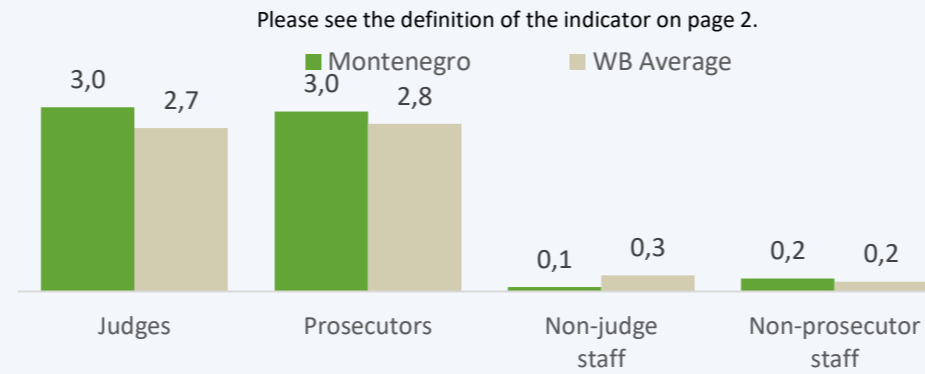
Kosovo is not included in the calculation of summary statistics

Training of judges and prosecutors in Montenegro in 2022 (Indicator 7)

Total budget for training per inhabitant



Average number of live training participations per professional



Average number of participants per delivered training



The total budget for training of judges and prosecutors in Montenegro was 0,62€ per inhabitant, close to the WB Average of 0,66€ per inhabitant.

In 2022, 1 242 participants (of which 801 judges and 306 prosecutors) were trained in 75 live trainings (in-person, hybrid or video conferences).

There were 86 participants in internet-based trainings. This shows that the participation on live trainings is higher than the participation in internet-based trainings.

In Montenegro, on average each judge and prosecutors participated to 3 live trainings in 2022, which was higher than the WB Averages (2,7 and 2,8, respectively).

Regarding the internet-based trainings (not-live), no training was provided on the e-learning platform of the training institution for judges and prosecutors, whereas a total of 16 trainings was completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc.). The total number of participants was NAP and 86, respectively.

In Montenegro, both judges and prosecutors are required to attend a minimum of 2 days of in-service compulsory training.

Budget for training

This part analyses the budget of training institution/s for judges and prosecutors but also the budgets of courts and prosecutions dedicated to training (when applicable)

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Absolute Number	Total (1)+(2)				% Variation 2019 - 2022	% Variation 2021 - 2022	WB Average per inhabitant
				Evolution of training budget per inhabitant						
				2019	2020	2021	2022			
Total	374 440 €	11 399 €	385 839 €	1,03 €	1,00 €	0,68 €	0,62 €	-39,6%	-8,7%	0,66 €
Judges	NAP	11 399 €	11 399 €							
Prosecutors	NAP	NAP	NAP							
One single institution for both judges and prosecutors	374 440 €		374 440 €							
Donor's contribution	240 541 €									

Year	Budget per inhabitant (€)
2019	1,03 €
2020	1,00 €
2021	0,68 €
2022	0,62 €

Montenegro spent in total 385 839€ for training for judges and prosecutors in 2022, which is 0,62€ per inhabitant (below the WB average of 0,66€ per inhabitant).

Out of the total amount of the implemented budget of the Centre for Training in Judiciary and State Prosecution (CTJSP) stated in the table above, an amount of 21 296 € was funded by the grant agreement between the Council of Europe and the Centre for Training in Judiciary and State Prosecution of Montenegro. Note: The amount of 240 540,51 € represents financial support from international and domestic partners for training activities organized in cooperation with the CTJSP. The total amount also includes donor support.

• Number of in-service live trainings and participants

Organisation of the trainings (number, duration and average number of participants on trainings)

	Live (in-person, hybrid, video conference) trainings (2022)							
	Number of available trainings	Number of delivered trainings	Delivered trainings in days	Number of participants	Average duration of trainings in days		Average number of participants per delivered training	
					Montenegro	WB Average	Montenegro	WB Average
Total	71	75	135	1 242	1,8 >	1,4	16,6 <	19,8
Judges	67	71	128	801	1,8 >	1,4	11,3 <	12,5
Prosecutors	51	55	104	306	1,9 >	1,5	5,6 <	11,8
Non-judge staff	25	25	42	77	1,7 >	1,3	3,1 <	24,7
Non-prosecutor staff	23	23	36	58	1,6 >	1,0	2,5 <	26,9

CEPEJ distinguish these types of trainings:
 "A live" training shall be understood as a training conducted in real time. This means that both trainers and participants are physically present in one location or several locations assisted with information technology (digital tools).
 "Internet-based" trainings are all trainings that take place over internet, irrespective of the format of the training (such as trainings via specifically designed LMS - Learning Management System platforms, webinars, podcasts and other forms of downloadable lectures and self-learning digital tools). The internet-based training shall be understood as e-training that is implemented according to participant own pace and time of training.

Key:	>	Higher than the WB Average
	=	Equal to the WB Average
	<	Lower than the WB Average

In 2022, the average duration of trainings for judges in Montenegro was 1,8 days (above the WB Average of 1,4). During the same period, the average duration of training for prosecutors was 1,9 days, which was well above the WB Average of 1,5 days.

In cooperation with HELP Programme for the Western Balkans and Turkey, Council of Europe (The European Programme for Human Rights Education for Legal Professionals), the Centre organised 2 (two) HELP e-learning courses and participated in 1 (one) regional HELP online course.

The Centre participates in the activities offered by the European Judicial Training Network (EJTN) despite its status of an observer. During 2022, owing to the Centre's role of an intermediary and the invitation to participate in training activities, 19 representatives of the Montenegrin judiciary (14 judges, 2 state prosecutor, 2 trainees from courts and 1 advisor from a court) participated herein. These training activities encompassed 6 one-hour online seminars, 1 two-and-a-half-hour online seminar, 1 two-day online workshop, 2 two-day virtual study visits to the ECtHR and 1 in-person seminar.

Finally, in 2022, owing to the role of the Centre as an intermediary and the invitation to participate in online training activities and face-to-face activities organised by foreign partners (at the regional and European level), the total of 108 representatives of Montenegrin judiciary participated in 38 training activities (51 judges, 15 special prosecutors, 18 state prosecutors, 13 candidates for a judge, 4 advisors from Special State Prosecution Office, 4 advisors from state prosecution offices, 1 advisor from a court and 2 trainees in courts).

In addition to data reported in the table, 121 other participants (representatives of state institutions, law enforcement officers, lawyers, etc) underwent through training. The participants in the training activities also included other legal professionals, i.e. the representatives of the Ministry of Justice (and Human and Minority Rights), notary public offices, the Ministry of Finance and Social Welfare, LGBTQ organizations and the Institution of the Protector of Human Rights and Freedoms of Montenegro (Ombudsman).

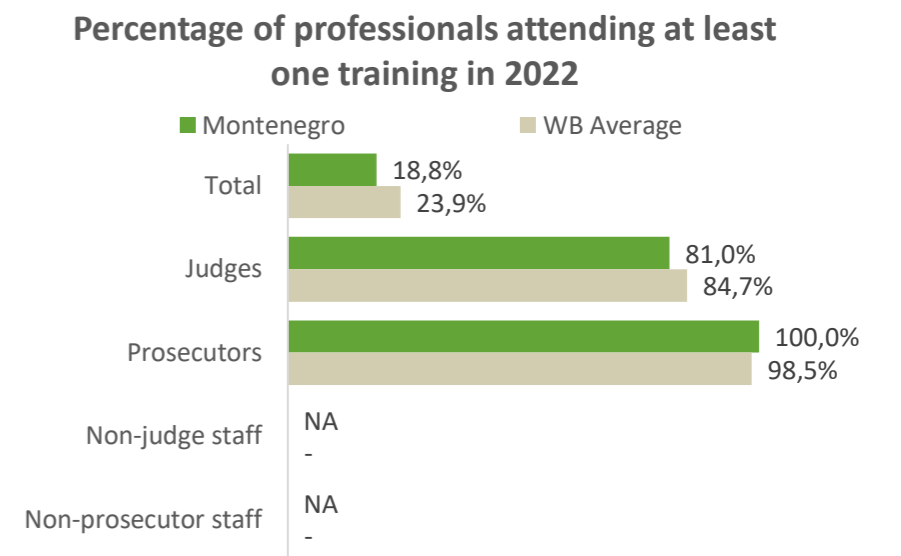
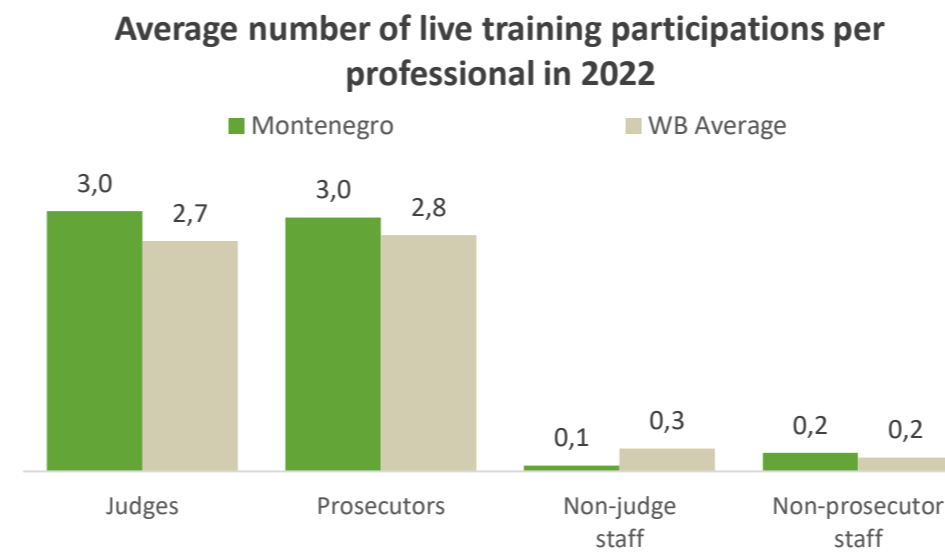
The total of 108 participants in training activities includes: 31 judges, 6 prosecutors, 42 non-judge staff (3 candidates for judges + 27 advisors from courts + 12 trainees from courts), 7 non-prosecutor staff (4 candidates for state prosecutors + 3 advisors from state prosecution offices), 22 legal professionals from other public institutions (5 lawyers, 11 the Ministry of Justice (and Human and Minority Rights) + 1 notary public offices + 1 the Ministry of Finance and Social Welfare + 3 LGBTQ organizations + 1 Institution of the Protector of Human Rights and Freedoms of Montenegro (Ombudsman).

In non-prosecutor and non-judge staff trainees/interns are not counted. The Centre for Training in Judiciary and State Prosecution implements the 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 2022, the CTJSP organised training for 108 interns, of which 88 are interns in courts and 20 in state prosecutor's offices. The trainees were divided into five groups, and a total of 23 trainings were conducted (2 live and 21 online), i.e. 55 days of training.

Indicators on training participation: Number of training participations per professional and unique participants

	Average number of live training participations per professional		Professionals attending at least one training (unique participants)			
	Montenegro	WB Average	Number	% of total professionals by category		
				Montenegro	WB Average	
Total	0,7 <	0,9	328	18,8% <	23,9%	
Judges	3,0 >	2,7	213	81,0% <	84,7%	
Prosecutors	3,0 >	2,8	103	100,0% >	98,5%	
Non-judge staff	0,1 <	0,3	NA	NA	-	
Non-prosecutor staff	0,2 =	0,2	NA	NA	-	



Average number of live training participations per professional

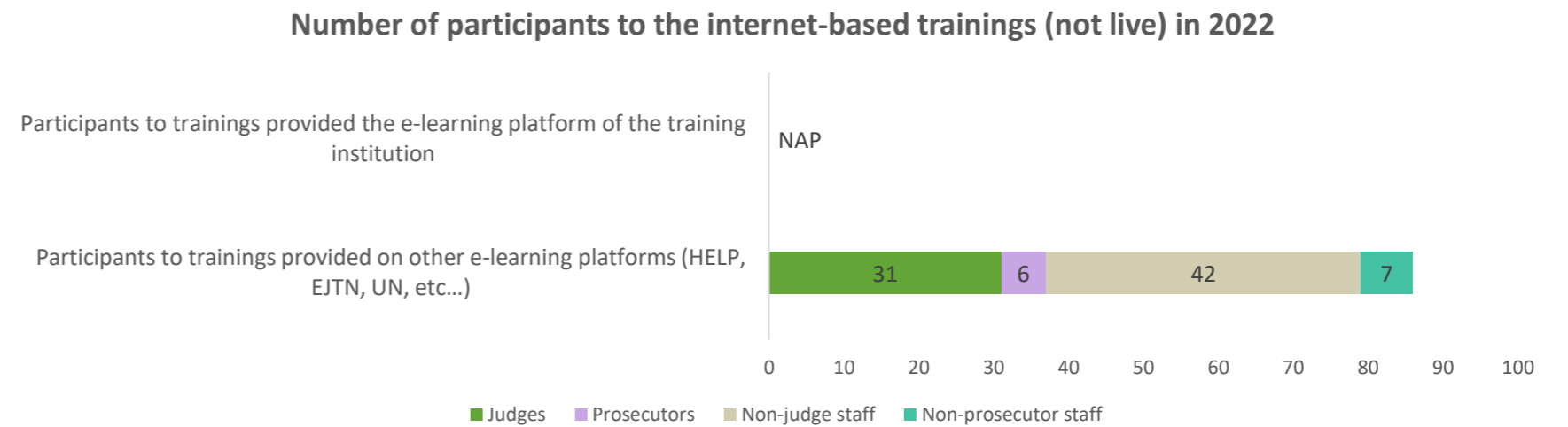
This indicator is calculated as follows: the number of participants in live trainings is divided by the number of professionals for that category. For example, the WB Average for judges is 2,7. This means that, on average, each judge in the region participated to 2,7 live trainings. This indicator should also be analysed together with the indicator on percentage of professionals attending training, shown in the table as well. Indeed, this analysis allows to better understand how long a professional was trained on average and if all were trained.

Looking at the average participations on live trainings, the highest average was for judges (3 live training participations per judge).

In 2022 the highest priority for live training was given to the training of Judges (3,0 participations on trainings per judge). At the same time, the percentage of judges attending at least one training was 81,0%.

• **Number of in-service internet-based trainings and participants**

	Number of internet-based trainings (not live) in 2022			
	Provided on the e-learning platform of the training institution		Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	
	Number of trainings	Number of participants	Number of trainings	Number of participants
Total	NAP	NAP	16	86
Judges	NAP	NAP	NA	31
Prosecutors	NAP	NAP	NA	6
Non-judge staff	NAP	NAP	NA	42
Non-prosecutor staff	NAP	NAP	NA	7



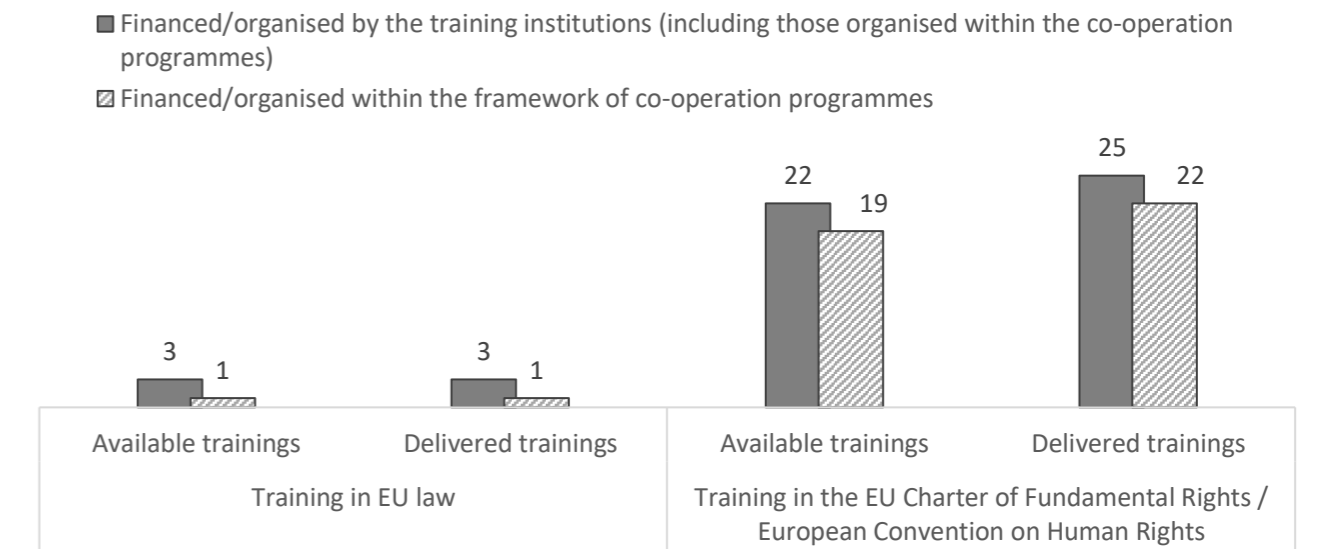
In cooperation with HELP Programme for the Western Balkans and Turkey, Council of Europe (The European Programme for Human Rights Education for Legal Professionals), the Centre organized 2 (two) HELP e-learning courses and participated in 1 (one) regional HELP online course:

- The first HELP online course – e-learning (21 February to 21 April 2022) - The total of 40 participants successfully completed this course (in effective duration of 12 hours) - 8 judges, 3 state prosecutors, 12 advisors from courts, 3 advisors from state prosecution offices, 3 trainees from courts, 2 candidates for judges, 4 candidates for state prosecutors, 2 lawyers and 3 representatives of the Ministry of Justice and Human and Minority Rights of Montenegro.
- The second HELP online course - e-learning (21 September – 21 November 2022) - The total of 38 participants successfully completed this course (in effective duration of 18 hours) – 7 judges, 1 state prosecutor, 11 advisors from courts, 5 trainees from courts, 1 candidate for a judge, 3 lawyers, 6 representatives of the Ministry of Justice of Montenegro, 3 representatives of LGBTQ organizations and 1 representative of the Institution of the Protector of Human Rights and Freedoms of Montenegro (Ombudsman).
- The regional HELP online course (29 March – 29 May 2022) organized by the Council of Europe HELP Programme and the United Nations High Commissioner for Refugees (UNHCR) – the participants herein attended separate courses in relation to the country they come from, which were translated into all languages of the Western Balkan countries and adapted to respective national legislation. The total of 11 participants successfully completed this course – 2 judges, 3 advisors from courts, 2 trainees from courts, 2 representatives of the Ministry of Justice of Montenegro, 1 representative of the Notary Office in Cetinje and 1 representative of the Ministry of Finance and Social Welfare.

• 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
Live trainings (2022)				
Number of available live trainings	3	1	22	19
Number of delivered live trainings	3	1	25	22
Number of delivered live training in days	6	2	43	39
Internet-based trainings(2022)				
Provided on the e-learning platform of the training institution (not live)	NAP	NAP	NAP	NAP
Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	7	7	9	9

Number of live trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2022

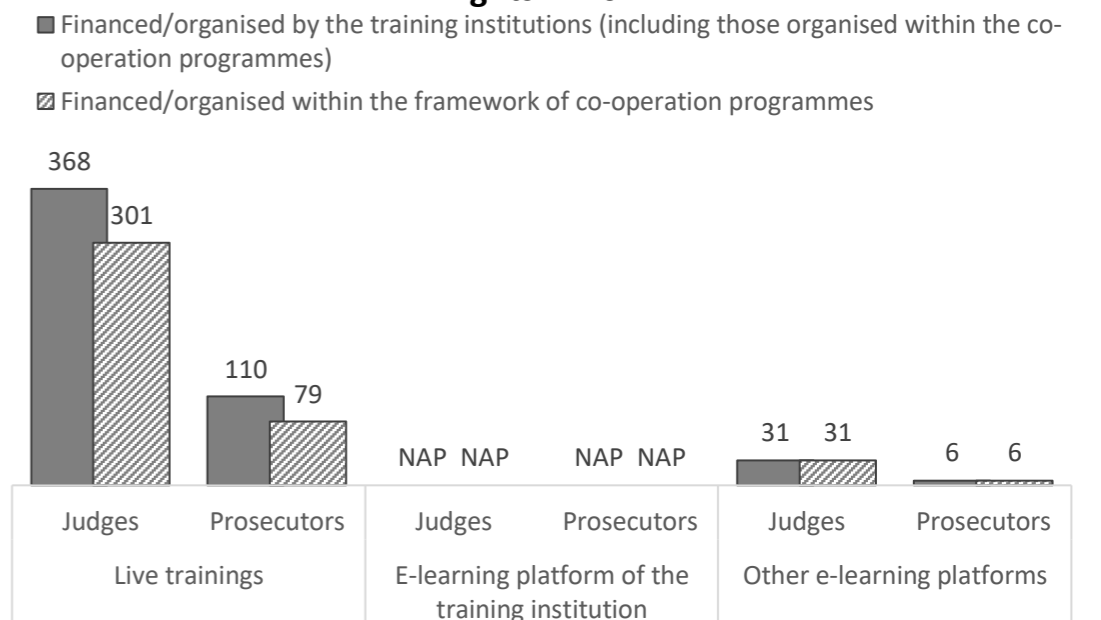


In 2021, many trainings on EU Law and the EU Charter of Fundamental Rights and the European Convention on Human Rights available or delivered in Montenegro were co-organised or co-financed with International partners.

The Centre for Training in Judiciary and State Prosecution of Montenegro and Judicial Academy of Serbia in cooperation with European Institute of Public Administration (EIPA) implemented 1 two-day training activity, i.e. regional conference on the EU Environmental Law. In total, 18 representatives of Montenegrin and Serbian judiciary participated in this activity (8 judges, 6 state prosecutors, 2 advisors from state prosecution offices and 2 representatives of Judicial Academy of Serbia).

Training in EU law and EU Charter of Fundamental Rights / European Convention on Human Right organised/financed:	Live (in-person, hybrid, video conference) trainings				Internet-based trainings (not live)			
	Number		Unique participants		Provided on the e-learning platform of the training institution		Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc...)	
	Judges	Prosecutors	Judges	Prosecutors	Judges	Prosecutors	Judges	Prosecutors
By the training institutions for judges and prosecutors	368	110	NA	NA	NAP	NAP	31	6
Within the framework of co-operation programmes	301	79	NA	NA	NAP	NAP	31	6

Number of participants to live trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2022



Number of participating judges and prosecutors to trainings in EU Law and EU Charter of Fundamental Rights/European Convention on Human Rights during the 2022 organized in cooperation with other domestic and international partners is as follows: 301 judges and 79 prosecutors.

Participation shall be understood as one attendance of a person to a training.

• 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	Compulsory	Regularly	Compulsory	Regularly
	Other	Optional	Regularly	Optional	Regularly

According to the authorities, judges and state prosecutors shall have the right and duty to attend the in-service training for at least two working days annually for which they are to apply based on their own interest. (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 (except for the mentioned two days per year), however, the Centre for Training in Judiciary and State Prosecution in the framework of the In-service Training Program organizes regular training for judges of specialized courts at the annual level (judges of Commercial Court and Administrative Court). The only compulsory specialized training is the training for judges for the juveniles (who are the only ones competent to act in criminal proceedings with juveniles) according to the Law on the Treatment of Juveniles in Criminal Proceedings). All judges in charge of juveniles went through the specialized training. The trainings for management functions in courts are organized in accordance with current needs and, thus, these are not compulsory. When it comes to training activities for the use of computer facilities in office, these training activities are organized and 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 the Prosecutorial Council, one of the sub-criteria 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.

Training on corruption is not mandatory, but the Center offers training on this topic in duration 2-3 days to judges and state prosecutors through the annual In-service training programme.

According to the reply to Q153, prosecution offices have prosecutors specially trained in domestic violence and, also, specifically trained in dealing with cases when minor victims are involved.

There are prosecutors specialized in the area of domestic violence and sexual violence. They undergone through trainings for these topics, possess certificates and, among other, they work on cases regarding criminal offences related to these types of violence. 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.

• Minimum number of compulsory trainings

	Initial compulsory training		In-service compulsory trainings	
	Minimum number of trainings	Minimum number of days	Minimum number of trainings	Minimum number of days
Judges	1	128	1	2
Prosecutors	1	128	1	2

The mandatory duration of the initial training is defined by the provision from Article 42 of the Law on the Center for Training in the Judiciary and the State Prosecutor's Office.

The initial training for candidates for judges of the basic court, that is, for candidates for state prosecutors in the basic state prosecutor's office lasts 18 months, of which six months are theoretical training and 12 months are practical training. Converted into days of theoretical training, that is 128 days of six hours of training per training day.

The initial training for candidates for misdemeanor judges lasts nine months, of which three months are theoretical training, and six months practical training, and is conducted at the Center, that is, the Court for Misdemeanors in Podgorica. Converted into days of theoretical training, that is 60 days of six hours of training per training day.

The initial training for candidates for judges in the Commercial Court of Montenegro lasts six months, of which 40 hours per month of theoretical training are conducted in the Center, i.e. the Commercial Court of Montenegro. Converted into days of theoretical training, that is 44 days of six hours of training per training day.

The initial training for candidates for judges of the Administrative Court of Montenegro lasts four months, of which 20 hours per month of theoretical training are conducted in the Center, i.e. the Administrative Court of Montenegro. Converted into days of theoretical training, it is 16 days of training of six hours per training day.

Judges and state prosecutors shall have the right and duty to attend the in-service training for at least two working days annually for which they are to apply based on their own interest. (Article 45 paragraph 2 of the Law on the Centre for Training in Judiciary and State Prosecution ("Official Gazette of Montenegro" no. 58/2015)).

• Quality of judicial training

Montenegro identifies (collects information about) future in-service training needs via:

Target audience itself	✓	Relevant judicial institutions	✓
Previous participants in trainings	✓	Ministry of Justice	✓
Trainers	✓	Other (focus groups, interviews etc.)	✓
Courts/prosecutor's offices	✓		

Future in-service training needs are assessed annually.

In Montenegro, in-service trainings (seminars, workshops, round tables) are evaluated immediately and 3-6 months after the training has been delivered by using the Kirkpatrick training evaluation model

The feedback of the training evaluation process is used:

To prepare a training evaluation report with recommendations	✗	To suppress a training course	✓
To improve the training course which, according to the report, needed improvements	✓	To introduce a new course	✓
To replace the trainers that failed to meet expected learning outcomes/were negatively evaluated	✗	Other	✗

The so-far evaluations carried out by the Centre for Training in Judiciary and State Prosecution aimed to measure participants' satisfaction in training activities immediately after the training activity.

Through evaluation questionnaires, which are filled out at the end of the training, the authorities examine whether and to what extent the participants were satisfied with the training programme, owing to which they obtain average grades by taking into account the following:

- to what extent the participants' expectations are fulfilled;
- satisfaction with the offered material;
- general evaluations of the training activity;
- knowledge self-assessment before and after the training; (i.e. positive differences in self-assessment of participants' knowledge before and after the training);
- proposals for future topics;
- and acceptability of the teaching method or the way in which the lecture was implemented.

In the evaluation questionnaire, special attention is paid to the assessment of the quality of lecturers, where the following is assessed: - Quality of lectures; - Adherence to the scheduled duration of lectures; - Communication and interaction with participants in the training activity; - Clarity and interestingness of the presentation; - Mastery of knowledge transfer skills; - Applicability in practice when it comes to the contents of the lecture and the materials shared during the training; - Demonstrated motivation.

Taking into account the above, the Centre interprets the results and opinions presented in the evaluation form and adapts its training offer to the suggestions provided by the participants (and based on the analysis, the Centre can also change the lecturers).

In addition, the Rulebook on Lecturers prescribes the obligation of lecturers to submit a report after the training (where the lecturer himself expresses his opinion on the success of the training, whether the topic was relevant, the involvement of the participants, etc.). At the end of 2022, the Centre started to amend its Rulebook on Lecturers. The amendment hereof foresees the introduction of a questionnaire that will be distributed to participants both at the beginning and at the end of the training, with the same questions, in order to measure knowledge improvement in terms of specific training activity, i.e. training topic.

Furthermore, the Centre monitors the implementation of its Annual Training Programmes through quantitative indicators of success, such as the number of implemented programmes, implemented training activities, and the number and structure of the participants. In this way, the Centre can obtain the number of the most attended training activities (through average attendance and the interest expressed in attending the training).

When it comes to the measurement of the real effects of the training activity (in addition to the evaluation questionnaires after completion of the training and sending of questionnaires after a certain period of time), we believe that the best indicator of the effects of the training activities is the analysis of judicial practice, i.e. the way in which judges and state prosecutors apply acquired knowledge in their daily practice. The Centre carries out this type of evaluation exceptionally and in cooperation with international partners within the projects related to a specific area. For example, such an analysis was carried out in relation to the freedom of expression, when court decisions were analysed, the number of court decisions and the manner in which international standards were applied in connection with Article 10 of the ECHR in the time period before and during the implementation of the project. Finally, measurement of training effects requires not only human resources within the training institution (i.e. the persons who would only deal with evaluation tasks) but also the cooperation of a number of relevant bodies and institutions (the Judicial Council, the Prosecutorial Council, the Supreme Court of Montenegro, the Supreme State Prosecutions Office, the Ministry of Justice, etc.)

Kosovo is not included in the calculation of summary statistics

Alternative Dispute Resolution in Montenegro in 2022 (Indicator 9)

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



Court-related mediation procedures



Mandatory informative sessions with a mediator



Mandatory mediation with a mediator



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

32,4

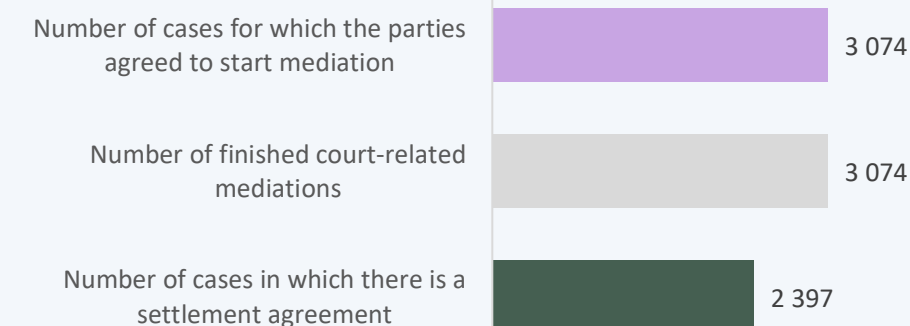
per 100 000 inhabitants

WB Average: 14

70,1% female mediators



Total number of court-related mediations



In Montenegro, court related mediation procedures are available and legal aid for court-related mediation or related mediation provided free of charge could be granted. The judicial system provides for mandatory mediation with a mediator before or instead of going to court and ordered by the court, the judge, the public prosecutor or a public authority in the course of a judicial proceeding. There are also mandatory informative sessions with a mediator. In 2022, the number of mediators was 32,4 per 100 000 inhabitants, which was above the WB Average (14 per 100 000 inhabitants). The majority of the mediators were women (70,1%). There were in total 3074 cases for which the parties agreed to start mediation and 2397 mediation procedures which ended with a settlement agreement.

• Court-related mediation procedures

Court related mediation is the mediation which includes the intervention of a judge, a public prosecutor or other court staff who facilitates, directs, advises on or conducts the mediation process. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor (or a judge) can refer a case to a mediator or propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement). Such mediation may be mandatory either as a pre-requisite to proceedings or as a requirement of the court in the course of the proceedings.

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

1. mandatory mediation before going to the court (first meeting with a mediator) – according to the Law on ADR (article 11), before initiating court proceedings, the party that intends to initiate court proceedings shall apply to the Centre with an intention to try to solve the dispute in the 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 the mediator:
 - a) if one of the parties is Montenegro, Capital, Historic Capital, i.e. municipality;
 - b) in commercial disputes, except in disputes with an 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 the civil procedure;
 - c) in other cases required by a special law (family disputes, labour disputes)

• Other ADR methods

Mediation other than court-related mediation



Arbitration



Conciliation (if different from mediation)



Other ADR



Early Neutral Assessment of a dispute is the procedure where, on the basis of the parties' agreement, a dispute evaluator gives his assessment of the facts and law elements of their dispute.

Arbitration is regulated by the Law on Arbitration.

There is also peaceful resolution of conflicts in the area of labour, for example.

• Mediators and court-related mediations

Requirements and procedure to become an accredited or registered mediator:

Requirements and procedure for granting mediators with licence is defined by the Law on Alternative Dispute Resolution (art. 39 and 41)

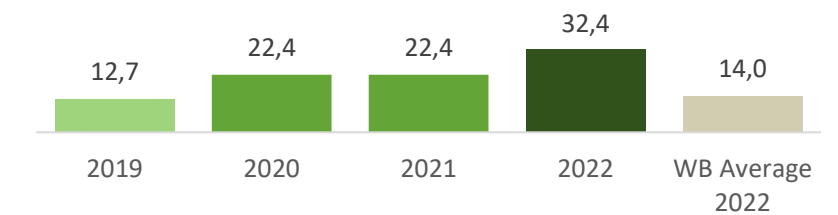
Licence for the work of mediators shall be granted to the person:

- 1) who holds Montenegrin nationality or nationality of a Member State of the European Union;
- 2) who holds the VIII level of educational qualification;
- 3) who has general health capacity;
- 4) who has minimum five years of work experience in the jobs where the VIII level of education qualification is required;
- 5) who completed a training programme for mediators;
- 6) who has not been convicted of any offence which makes him unworthy of conducting mediation;
- 7) who has not been imposed security measure which involved prohibition to take up occupation, perform activity or duty;
- 8) against whom no criminal proceedings are conducted for the criminal offence for which prosecution is initiated ex officio.

The training for mediators is organized and delivered by the Centre for ADR, after which the Centre issues a certificate on completed training referred to in paragraph 1 item 5 of this Article. The program of training referred to in paragraph 1 item 5 of this Article, the manner of implementing the training and the template for the certificate on completed training shall be stipulated by the Ministry of Justice. The person who meets requirements set out in Article 39 paragraph 1 of this Act, shall be granted with operating licence for mediator by the Ministry of Justice. Licences are issued for a five-year period and they may be extended by the same period in accordance with this Act.

Accredited/registered mediators for court-related mediation			% Variation between 2019 and 2022
Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants	
201	32,4	14,0	44,6%

Accredited/registered mediators for court-related mediation per 100 000 inhabitants between 2019 and 2022



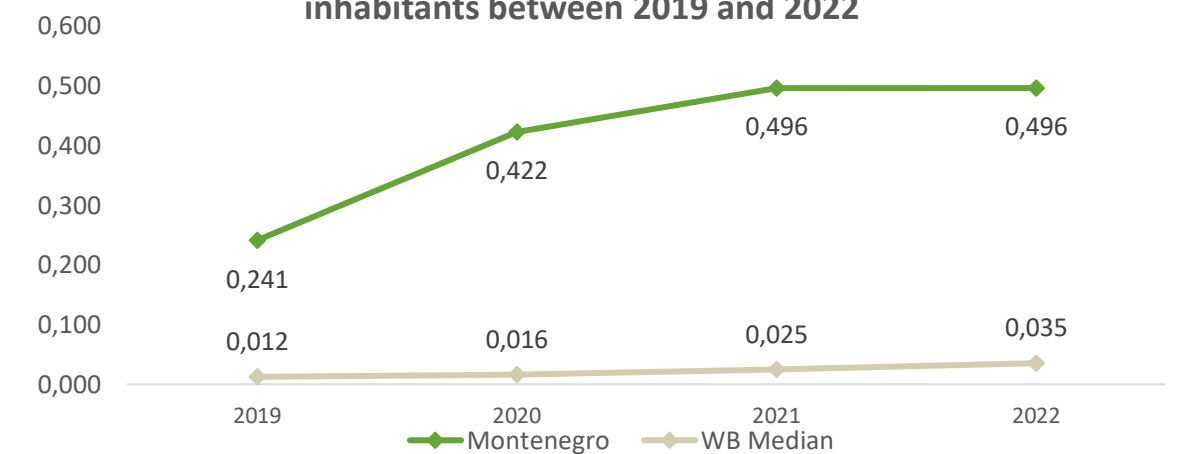
For reference only: the 2021 EU median is 16,2 mediators per 100 000 inhabitants.

In 2022, the total number of mediators in Montenegro was 201, which is 44,6% more than in 2019. The number of mediators per 100 000 inhabitants was 32,4, which is more than the WB Average of 14.

Licensing of mediators is prescribed by the Law on ADR in articles 39 and 41. In order to receive a licence to be a mediators, a person has to hold Montenegrin nationality or nationality of a Member State of the European Union; VIII level of educational qualification; general health capacity; minimum five years of work experience in the jobs where the VIII level of education qualification is required; completed 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 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 person who meets above mentioned requirements shall be granted operating licence for mediator, which is issued by the Ministry for a five-year period and it may be extended by the same period in accordance with the Law on ADR.

	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)	3 074	3 074	2 397				
1. Civil and commercial cases	2 395	2 395	1 967	NAP	✓	✗	✗
2. Family cases	154	154	102	NAP	✓	✗	✗
3. Administrative cases	NAP	NAP	NAP	NAP	NAP	NAP	NAP
4. Labour cases incl. employment dismissals	490	490	297	NAP	✓	✗	✗
5. Criminal cases	22	22	22	NAP	✓	✗	✗
6. Consumer cases	0	0	0	NAP	✓	✗	✗
7. Other cases	13	13	9				

Evolution of the number of court-related mediation for which parties agreed to start mediation per 100 inhabitants between 2019 and 2022



Court related mediations are provided by public authorities (other than the court). In 2022, mediation was most used for Civil and commercial cases and Labour cases (including employment dismissals) (parties agreed to start mediation in 2 395 and 490 cases, respectively).

In Montenegro, it is possible to receive legal aid for court-related mediation or receive these services free of charge.

The total number of received requests for mediation in 2022 is 10773. At the end of 2022 there were 2625 cases are pending.

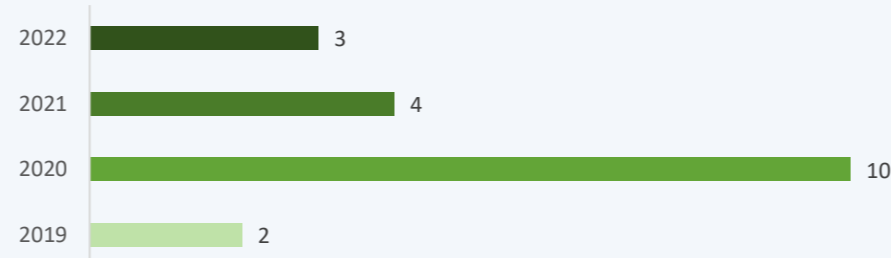
Kosovo is not included in the calculation of summary statistics

European Convention on Human Rights in Montenegro in 2022 (Indicator 10)

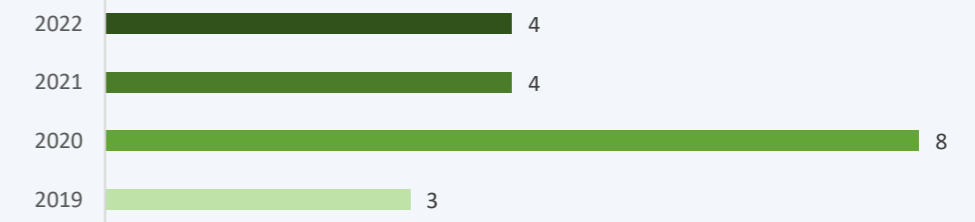
European Convention on Human Rights – Article 6 – Right to a fair trial:

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***

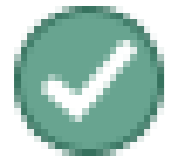


• ECHR

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 violation of human rights and fundamental freedoms guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the party may, within three months from the final judgment of the European Court of Human Rights, submit request to the court which judged in the first instance in the case where a decision that violates human rights and fundamental freedom was made, to change the decision by which that right or fundamental freedom has been violated, if committed violation cannot be removed in any other way except by reopening of procedure. In the reopening of procedure, the court is bound by the legal views expressed in the final judgment of the European Court of Human Rights by which is established violation of basic human right or freedom. Also, the Criminal Procedure Code defines the possibility that the criminal procedure finalized by a final verdict is repeated in favour of the accused person, if by the decision of the European Court of Human Rights or another court established by a ratified international treaty it was found that human rights and fundamental freedoms have been violated in the course of the criminal proceeding and that the judgment is based on such violation, provided that the reopening of the proceedings can remedy such violation. Also, the Law on Administrative Dispute defines as one of the reasons for the repeating the proceeding finalized by final decision – contrast of the verdict of the Administrative court from the verdict of the European Court of Human Rights in the same matter. Proceeding is repeated upon the request of the party.

In 2022, the applications allocated to a judicial formation** for Montenegro were 295 (-86 less than the previous year). The judgements by the ECHR finding at least one violation for Montenegro were 3; whereas they were 4 in 2021.

The number of cases considered as closed after a judgement of the ECHR and the execution of judgements process was 4 in 2022; whereas they were 4 in 2021.

		2019	2020	2021	2022
Applications allocated to a judicial formation of the Court**		427	218	381	295
Judgements finding at least one violation**		2	10	4	3
Judgements finding at least one violation of the Article 6 of the ECHR	Right to a fair trial (1)	0	1	0	1
	Length of proceedings	0	7	1	2
	Non-enforcement	0	0	0	0

** Source: ECHR

(1) Figures in this line may include conditional violations.

	2019	2020	2021	2022
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	3	8	4	4

*** Source: Department for the Execution of Judgments of the ECHR

Kosovo is not included in the calculation of summary statistics

Reforms in Montenegro in 2022

	Yes (planned)	Yes (adopted)	Yes (implemented during 2023)	Comment
(Comprehensive) reform plans	✔	✘	✘	The reform of the judiciary has been implemented so far in accordance with the Judicial Reform Strategy 2019-2022 and related Action Plan for implementation. Since the strategy is expired, a new strategy is planned to be adopted in 2023 for period 2024-2027 along with the accompanying action plan for implementation.
Budget	✘	✘	✔	Courts and prosecution services were recognised as separate budget entities in the overall state Budget for 2022. Thus, the relevant provisions of the Law on Courts and Law on Prosecution were implemented. That is also a part of the whole reform process, as a contribution to the independence and autonomous position of judiciary and state prosecution service.
Courts and public prosecution services	✔	✘	✘	In 2023 the Plan for rationalization of the judicial network is foreseen to be adopted. There is ongoing work on such a document which will define measures, activities, result and impact indicators, deadlines and competent bodies as well as funding resources for implementation of the rationalization of the judicial network.
Access to justice and legal aid	✔	✘	✘	There is ongoing work on amendments to the Law on Free Legal Aid with the aim to provide the right to free legal aid to vulnerable groups such as victims of torture, victims of sexual criminal offences, children seeking protection of the rights of the child etc.
High Judicial Council and High Prosecutorial Council	✔	✘	✘	Both the Law on the Judicial Council and the Law on Prosecution are planned to be amended with the purpose of improving the work of the Judicial and Prosecutorial Councils and the selection of their members.
Legal professionals	✔	✘	✘	Amendments to the Law on the Judicial Council and Judges are planned to improve the provisions related to ethical and disciplinary responsibility of judges, the selection of judges and court presidents, relocation and secondment of judges as well as the evaluation of judges. In 2023 the amendments to the Law on Prosecution are planned with the same goal.
Gender equality	NA	NA	NA	-
Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities	✔	✘	✘	Amendments to the Law on Civil Procedure in 2023 (alignment with the EU Acquis) Amendments to the Law on Criminal Proceedings in 2023 (alignment with the EU Acquis) Amendments to the Law on Misdemeanors in 2023 Amendments to the Law on Judicial Cooperation in Criminal Matters with EU Member States (alignment with the EU Acquis) Ratification of the Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters 2019 Ratification of the International Protection of Adults 2000
Mediation and other ADR	✔	✘	✘	It is planned that a new Program of Alternative Dispute Resolution 2023-2025 and its accompanying action plan will be adopted in 2023.
Fight against corruption and accountability mechanisms	✔	✘	✘	National Strategy on Fight against Corruption 2024-2028 also planned to be adopted in 2023.
Domestic violence	✔	✘	✘	Amendments to the Law on protection against domestic violence (family violence) are planned in 2023.
New information and communication technologies	✔	✘	✘	In 2023 planned adoption of Strategy for development of ICT in judiciary 2024-2027 with Action Plan 2024-2025.

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

HFIII:

Towards a better evaluation of the results of judicial reform efforts in the Western Balkans – phase II

“Dashboard Western Balkans II”

Data collection: 2022

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 appointed 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 Judicial Council) (articles 48 and 49, Law on Judicial Council and Judges (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 – results of bar exam, work experience, types of assignments and performance (articles 37 and 38 LJC) – , but also motivation for work in courts, communication skills, ability to make decisions and to resolve conflicts, comprehension of the role of a judge in society (article 49 of the LJC). 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 Judicial Council (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 candidate-judge 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. Namely, candidates who are not appointed have the possibility to file lawsuit to the Administrative court of Montenegro. Such procedure is defined by the Law on Administrative Dispute. The JC may only confirm the candidates selected (proposed) by the Training Centre.

Integrity of a candidate judge is checked in the selection process through the check of criminal records and of disciplinary proceedings and sanctions.



Judges have life-tenure (Article 121, Constitution), until they reach the retirement age of 66 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 appointed 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 and, 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, Law on the State Prosecution Services (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).

Measures in place to ensure transparency of the interview process include: taking minutes of the interview; audio or video recording of the interview; using a standardised questionnaire for all candidates and a standardised point system to evaluate all candidates.


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 and the fact that no criminal procedure is conducted against the candidates 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 before the administrative court 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 appointed 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. Their criminal record is checked.

Prosecutors enjoy life tenure, with the exception of those appointed for the first time in the basic PPO who are appointed 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 appointed 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 (LJCJ).

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

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

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

The PC is competent for deciding on the promotion of prosecutors to a higher prosecutors' office and the Supreme State Prosecutors Office according to the Law on State Prosecution Service (LSPS). The promotion procedure is regulated in Articles 75 to 77 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. An interview is conducted on the basis of which the candidates are assessed. 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 candidate who is awarded the grade excellent or good in the performance evaluation and if s/he meets the specific requirements stipulated in the law for the election to a particular state prosecutor's office shall be entitled to promotion to the state prosecutor's office of a higher rank. To the Supreme State Prosecutor's Office is promoted a candidate who is given the grade excellent and if s/he meets the specific requirements for the election to the Supreme Prosecutor's Office as stipulated in para. 3 Article 50 LSPS (Article 75, LSPS).

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

	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

	2022		
	Number of requests for compensation	Number of compensations	Total amount (in €)
Total	NA	NA	NA
Excessive length of proceedings	113	59	52.200
Non-execution of court decisions	NA	NA	NA
Wrongful arrest	44	5	5.813
Wrongful conviction	NA	NA	NA
Other	NA	NA	NA




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. In 2022, the Court dealt with 113 claims for just satisfaction. Based on adopted claims for compensation of non-pecuniary damages, the Court found a violation of the right to trial within a reasonable time in 59 cases and awarded damages in the amount of 52.200 EUR.

Before filing a lawsuit to the court, requests for compensation for wrongful detention or wrongful conviction need to be filed to the Ministry of Justice for settlement. Legal time limit is 3 years from legally binding court decision. If the Ministry of Justice does not decide on the request in 3 months or the request is rejected, the person concerned may file a lawsuit.

In 2022, for wrongful arrest there were 44 requests for compensation among which only 5 were successful. In total, 5.813 EUR were awarded on this specific ground.

For wrongful conviction, compensation for damages may be sought and granted on the basis of the Criminal Procedure Code (Article 498). The deadline for filing a request for compensation for wrongful conviction (or detention) is 3 years from legally binding court decision. As explained above, a person should submit his/her request first to the Ministry of Justice where a settlement on the existence of damages and the type and the amount of compensation should be reached. The Ministry should decide on the request within 3 months. If not or if the request is rejected, the person may file a claim with a court. For example, 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.



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. Starting from 2022, this information is no more collected as such by the CEPEJ.

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial (regulated by civil and criminal procedural codes). The authorities have reported that 99% of initiated procedures of challenges have been finalised in 2020. The ratio was the same in 2021. In 2022, the authorities reported on 2765 initiated procedures to effectively challenge a judge and 2705 recusals pronounced.

No law is in place that prevents specific instructions given to public prosecutors to prosecute or not. As per Constitution (Article 134), the state prosecution is independent state authority. The prosecution service is hierarchical organisation and instructions are defined in LSPS (Article 131 and 132). They may be issued by the Prosecutor General and a higher prosecutor or a head of prosecution office. In fact, the mandatory operating instructions to which the law refers can be of general nature or instructions to proceed in individual cases. The instructions of general nature shall be issued by the supreme state prosecutor, while the head of the state prosecution office may initiate their adoption as they considered needed.

Instructions for proceeding in an individual case are issued in writing and should be reasoned and recorded in the case file; however, if circumstances do not allow it, the instruction may be issued orally, but should be issued in writing within an appropriate timeframe. A prosecutor may initiate a procedure in case s/he deems instruction as unlawful or unfounded. In such a case s/he requests that the instruction is repeated if it is given in writing or that is given in writing if prior to that was given orally. If the prosecutor still deems the instruction unlawful or unfounded, the head of the prosecutor's office may release him/her from the case upon written request, if there is no danger of delay, and designate the case to another prosecutor. The prosecutor cannot be held liable for expressed opinion or filed request. In practice, instructions are issued occasionally. In 2022, 2 instructions to prosecute or not were issued to a prosecutor.

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.

There are optional in-service trainings regularly available to judges. In Montenegro, judges do not have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. Put differently, training activities are not compulsory in this field.

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).

There are optional in-service trainings regularly available to prosecutors. In Montenegro, prosecutors do not have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. Put differently, training activities are not compulsory in this field.

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 is regularly updated. The Code of Judicial Ethics also contains a set of rules on adherence to judicial values (independence, integrity, impartiality), judges' relationship with institution, citizens and users, political activities, conflict of interest,

information disclosure and relationship with press agencies, association membership and institutional positions and gifts.. 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) the Commission for the Code of Ethics; 2) Agency for Prevention of Corruption (Agency). 1) 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. In 2022, one such opinion was issued.

Indeed, the Ethics Commission provides opinions in accordance with the guidelines adopted in December 2018. They were developed and adopted by the Commission for the Code of Ethics and the Commission for the Code of Ethics of Prosecutors. Three guidelines were developed, namely on permissible limits of use of accounts on social networks in terms of professional ethics of judges and prosecutors, in relation to permitted activities of judges and prosecutors that they may perform together with their office and on participation of judges and prosecutors in political activities in terms of the principle of independence and impartiality. The fourth guideline on freedom of expression of judges was adopted on 17th June 2022 and is publicly available.

The Agency provides binding opinions, at a request 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 and is regularly (periodically) updated foresees its review on a biannual basis, as necessary. The Code contains a set of rules on adherence to judicial values (independence, integrity, impartiality), prosecutors' relationship with institution, citizens and users, political activities, conflict of interest, information disclosure and relationship with press agencies, association membership and institutional positions and gifts. 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 random 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. In 2022, 1977 cases were reassigned due to recusal of the judge or requested by the parties and 3008 due to physical unavailability of the judge.

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

	2022			
	Judges		Prosecutors	
	Abs	per 100	Abs	per 100
Number of initiated cases	2	0,76	3	2,91
Number of completed cases	0	0,00	0	0,00
Number of sanctions pronounced	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 as well as membership in management bodies and supervisory bodies of public companies, public institutions and other legal persons with a share of capital owned by the state of a municipality, as well as in scientific, educational, cultural, artistic, humanitarian, sports or similar associations. They are also required to declare the assets and income of their spouses, partners 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. In case of non-declaration of assets sanctions imposed are: 1. A fine in the amount of 20 – 40 % of monthly income for a period between 3 to 6 months or 2. prohibition of promotion. 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. The Agency may also initiate a misdemeanour procedure before misdemeanour courts.

Number (absolute and per 100 judges/prosecutors) of proceedings against judges and prosecutors for violations or non-declaration of assets in 2019, 2020, 2021 and 2022:

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
2022	9	3,42	2	0,76	2	0,76	2	1,94	1	0,97	1	0,97

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). In 2022, 4 misdemeanour procedures were initiated against formers judges for non-submission of asset declarations 30 days after termination of office and one year after termination of office and 3 misdemeanour procedures were initiated for non-submission of annual asset declaration. 2 procedures were completed (2 warnings issued), others are ongoing. In 2022, administrative procedures were initiated against 2 judges for submitting declarations with incorrect and incomplete data in 2021. Data on administrative procedures initiated for submission of declarations with incorrect and incomplete data in 2022 have not been provided. In 2022, decisions were made that 70 judges (69 from 2021 and 1 from 2022) failed to submit accurate and complete data in their regular annual asset declarations for 2020. In none of the cases the authorities acted in accordance with Article 42 Law on Prevention of Corruption.

As regards prosecutors, in 2022 2 misdemeanour procedures were initiated against formers prosecutors for non-submission of asset declarations 30 days after termination of office and one year after termination of office. 1 procedure was completed (a fine in the amount of 300 EUR), other is ongoing. In 2022, administrative procedures were initiated against 35 prosecutors for submitting declarations with incorrect and incomplete data in 2021. Data on administrative procedures initiated for submission of declarations with incorrect and incomplete data in 2022 have not been provided. In none of the cases the authorities acted in accordance with Article 42 LPC.

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), as regards recusal from a case; 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, 11 and 12), sponsorships and donations (Article 21) and post-employment restrictions (Article 15); 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); 4) Law on State Prosecution Service (LSPS).

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 needs prior authorisation regarding performance of accessory activities (teaching, research and publication, mediation – with or without remuneration) only in respect of some of them. Generally, s/he has not 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, Law on State Prosecution Service 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				

Absolute number of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2019, 2020, 2021 and 2022:

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
2019	2	0	0	0	0	0
2020	28	19	0	1	0	0
2021	0	0	0	0	0	0
2022	37	35	0	12	0	0

During 2022, 37 disciplinary proceedings were conducted based on proposals for determining the disciplinary accountability of judges. In 35 proceedings, proposals for determining disciplinary accountability were rejected as unfounded, bearing in mind that the proceedings were initiated due to failure to provide data on assets and income in accordance with the regulations governing the prevention of conflicts of interest. In the remaining two cases, the procedures are ongoing. In respect of prosecutors, 12 proceedings were initiated in 2022 but no of them was completed within the reference year.

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; or 4) the Commission for Monitoring the Implementation of the Code of Ethics for Judges (Article 110, 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 (article 112 of the LJC). 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 (article 114 of the LJC). 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 114 of the LJC; 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 (article 109 of the LJC). 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; or 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 (articles 112 and 113, LSPS).

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 (Article 115, LSPS).

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 judges, in 2021, 4 disciplinary proceedings have been initiated – 3 on the ground of professional inadequacy and 1 because the judge concerned did not submit data on property and income in accordance with the regulations governing the prevention of conflicts of interest. All of these disciplinary proceedings were completed and only one sanction was imposed – a temporary reduction of salary. With regard to prosecutors, in 2021 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).

		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	

*Besides, 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.

		2022			
		Judges		Prosecutors	
		Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated	Total number (1 to 5)	37	14,07	12	11,65
	1. Breach of professional ethics (including breach of integrity)	37	14,07	12	11,65
	2. Professional inadequacy	0	0,00	0	0,00
	3. Corruption	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00
	5. Other	0	0,00	0	0,00
Number of cases completed	Total number (1 to 5)	35	13,31	0	0,00
	1. Breach of professional ethics (including breach of integrity)	35	13,31	0	0,00
	2. Professional inadequacy	0	0,00	0	0,00
	3. Corruption	0	0,00	0	0,00
	4. Other criminal offence	0	0,00	0	0,00
	5. Other	0	0,00	0	0,00

Number of sanctions pronounced	Total number (total 1 to 10)	0	0,00	0	0,00
	1. Reprimand	0	0,00	0	0,00
	2. Suspension	0	0,00	0	0,00
	3. Withdrawal from cases	0	0,00	0	0,00
	4. Fine	0	0,00	0	0,00
	5. Temporary reduction of salary	0	0,00	0	0,00
	6. Position downgrade	0	0,00	NAP	NAP
	7. Transfer to another geographical (court) location	0	0,00	NAP	NAP
	8. Resignation	0	0,00	0	0,00
	9. Other	0	0,00	0	0,00
	10. Dismissal	0	0,00	0	0,00

During 2022, 37 disciplinary proceedings were conducted against judges based on proposals for determining disciplinary accountability of judges. In 35 proceedings, the proposals were rejected as unfounded because the proceedings were initiated for a failure to provide data on assets and income in accordance with the regulations governing the prevention of conflict of interest. In the remaining two cases the procedure is ongoing. As to public prosecutors, 12 disciplinary proceedings were initiated in 2022 on the ground of breach of professional ethics, but no proceeding has been completed. Accordingly, no disciplinary sanction has been pronounced.

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.

According to article 127 of the Constitution of Montenegro, as amended in 2013, the Judicial Council is composed of one president and nine members. Namely, the members of the Judicial Council shall be: 1) president of the Supreme Court; 2) four judges to be elected and released from duty by the Conference of Judges, taking into account equal representation of courts and judges; 3) four reputable lawyers that are elected and released from duty by the Parliament at proposal of the competent working body of the Parliament upon announced public invitation; 4) Minister in charge of judicial affairs. The President of the Judicial Council shall be elected by the Judicial Council from among its members who do not perform judicial functions, by two-thirds majority vote of the members of the Judicial Council. The Minister in charge of judicial affairs may not be elected the president of the Judicial Council. The vote of the President of the Judicial Council shall be decisive in case of equal number of votes. The composition of the Judicial Council shall be proclaimed by the President of Montenegro. The term of office of the Judicial Council shall be four years.

The Law on Judicial Council and Judges specifies that the members of the Judicial Council from among the judges shall be: 1) three members from among the judges of the Supreme Court of Montenegro (hereinafter referred to as "the Supreme Court"), the Appellate Court of Montenegro (hereinafter referred to as "the Appellate Court"), the Administrative Court of Montenegro (hereinafter referred to as "the Administrative Court"), High Misdemeanour Court of Montenegro (hereinafter referred to as "the High Misdemeanour Court"), Commercial Court of Montenegro (hereinafter referred to as "the Commercial Court") and High Courts, having at least ten years of work experience as judges; 2) One member from among the judges of the Basic Courts and Misdemeanour Courts, having at least five years of work experience as judges (article 12). Moreover, the same legal provision provides for that a judge who received a grade of not satisfactory or who was pronounced a disciplinary sanction may not be appointed as a member of the Judicial Council from among the judges.

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).

According to article 18 of the Law on the State Prosecution Service, as amended in 2021, the Prosecutorial Council is composed of a president and ten members, including, the Supreme State Prosecutor (who is the president of the PC, except in disciplinary proceedings). More precisely, members of the Prosecutorial Council shall be: 1) four state prosecutors who have a permanent position and at least five years of work experience in performing the prosecutorial function, of which three from the Supreme State Prosecutor's Office, Special State Prosecutor's Office and higher state prosecutor's offices, and one from basic state prosecutor's offices elected and dismissed by the Conference of State prosecutors; 2) four eminent lawyers elected and dismissed by the Parliament of Montenegro (hereinafter referred to as the Parliament), at the proposal of the competent working body; 3) one representative of the state administration body responsible for judicial affairs (hereinafter referred to as the Ministry of Justice), appointed by the Minister of Justice from among the employees of the Ministry of Justice; 4) one eminent lawyer as a representative of non-governmental organizations in the field of rule of law, work of the state prosecutor's office or fight against corruption and organized crime, proposed by non-governmental organizations that meet the requirements of this law, and elected and dismissed by the Parliament. The President of the Parliament of Montenegro shall promulgate the composition of the Prosecutorial Council. Akin to the Judicial Council, a state prosecutor who was given the grade unsatisfactory or who has been imposed a disciplinary sanction shall not be elected to the position of a member of the Prosecutorial Council from among the state prosecutors.

. The term of office of the elected members of the PC is four years, renewable (article 19 of the Law on the State prosecution service).

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.