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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”

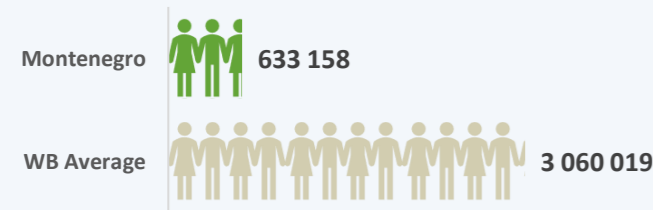
Data collection: 2023

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

## Part 2 (A) - Beneficiary profile - Montenegro

## Executive Summary - Montenegro in 2023

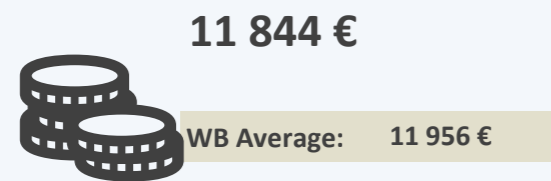
### Population in 2023



### GDP per capita in 2023



### Average annual salary in 2023



### Efficiency\*\*

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** (503 days for civil cases vs 423, 287 for criminal cases vs 226, 1422 days for administrative cases vs 867).

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 and 2023, this negative trend was confirmed, and CR is well below 100% in the two instances for the three categories of cases.** A significant issue has been reported with administrative cases in Montenegro, where the number of incoming cases doubled from 2021 to 2022 and continued to rise in 2023. This surge is apparently due to the misuse of the Law on Free Access to Information. Although the number of resolved cases has also increased, it has not been sufficient to keep up with the growing influx, leading to a backlog of cases in the system.

**The second instance in Montenegro in 2022 was significantly faster** than the first one with shorter Disposition Times, which were also shorter than the WB averages. However, in the second instance, all DTs increased from 2019 to 2023.

### ADR (Alternative Dispute Resolution)

ADR in general, and mediation in particular, are not well developed in the Western Balkans region. However, in Montenegro, a **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 2023, the number of mediators per 100 000 inhabitants was 38,4, which was well above the Western Balkans average (14 per 100 000 inhabitants) and it increased by 207,6% compared to 2019. In 2023, there were, **3 125 mediation procedures that ended with a settlement agreement (30% more than in 2022)**, which were the **highest numbers in the region**.

\*\*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.

### Judicial Organisation

Montenegro has a particular judicial organisation. **The system includes basic courts (1st instance), higher courts (1st and 2nd instance), appellate courts (2nd instance), and the Supreme Court.** In particular, at the first instance level, there are 15 Basic Courts and 3 Misdemeanour Courts. For second instance cases, there are 2 High Courts, an Appellate Court, and 1 High Misdemeanour Court. The highest instance is the Supreme Court. Additionally, there are two specialized courts: an Administrative Court and a Commercial Court.

### Budget

In 2023, Montenegro spent **42 260 684 € on the implemented judicial system budget.** This means that Montenegro spent **66,5 € per inhabitant**, which was significantly more than the Western Balkans average of 45,2 €. This number increased by 10,3% from the previous cycle.

Compared to 2022, Montenegro has spent, per inhabitant, 7,8% more for courts, 17,6% more for prosecution services, and -4,14% less for legal aid.

Furthermore, the budgets for courts and public prosecution services, when standardized as a percentage of GDP, were above the WB medians. Conversely, the budget allocated to legal aid remains lower than the regional average. This is partly due to Montenegro's difficulty in distinguishing the budget for mandatory court representation, which is included in their court budget rather than their legal aid budget.

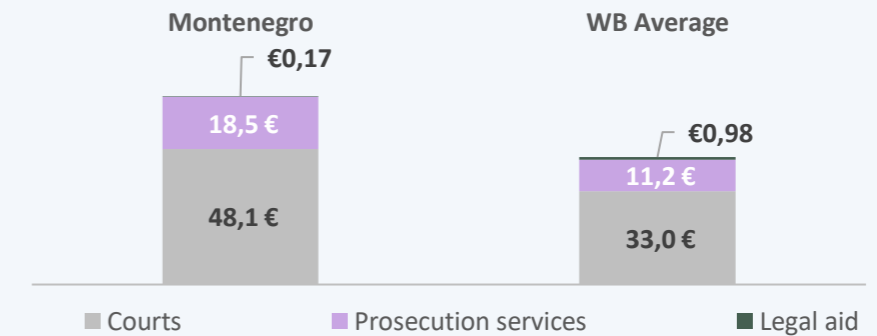
### Legal Aid

In 2023, the budget per inhabitant spent for legal aid was lower than the median, and constantly decreasing since 2019.

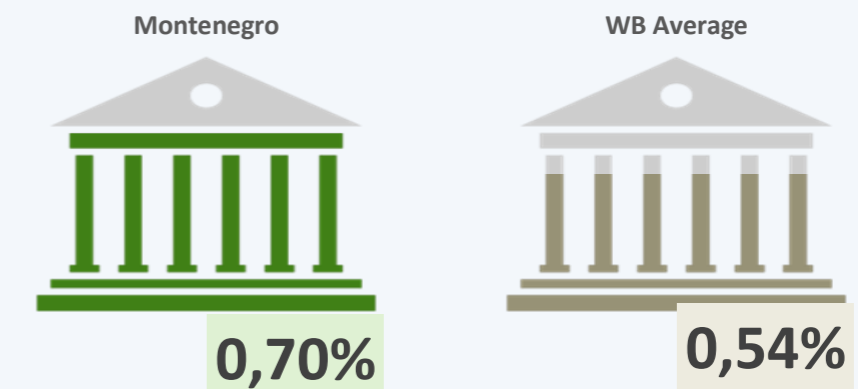
**Legal aid was granted for 352 cases**, meaning 0,06 per 100 inhabitants, well below the WB Median (0,19). On average, Montenegro spent 302 € per case for which legal aid was granted, and 375 € for each recipient of legal aid.

### Budget of the Judicial System

#### Implemented Judicial System Budget per inhabitant in 2023



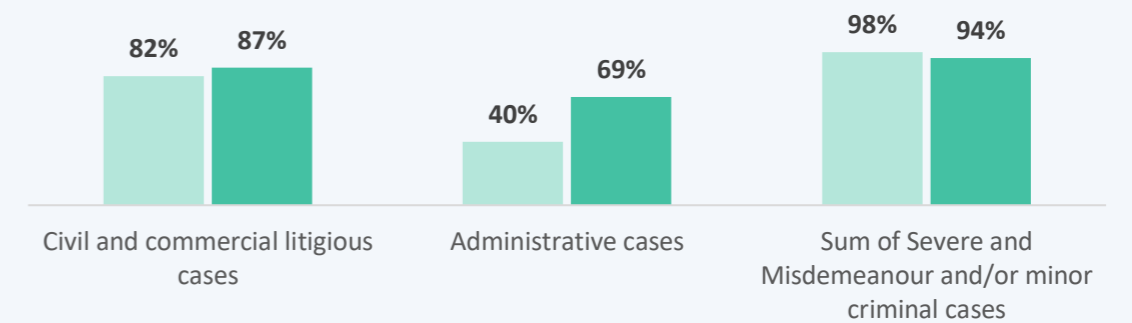
#### Implemented Judicial System Budget as % of GDP in 2023



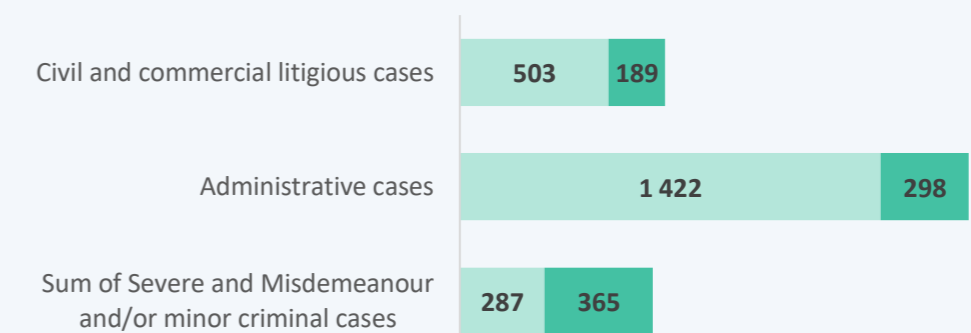
### Efficiency

1st instance 2nd instance

#### Clearance rate in 2023 (%)

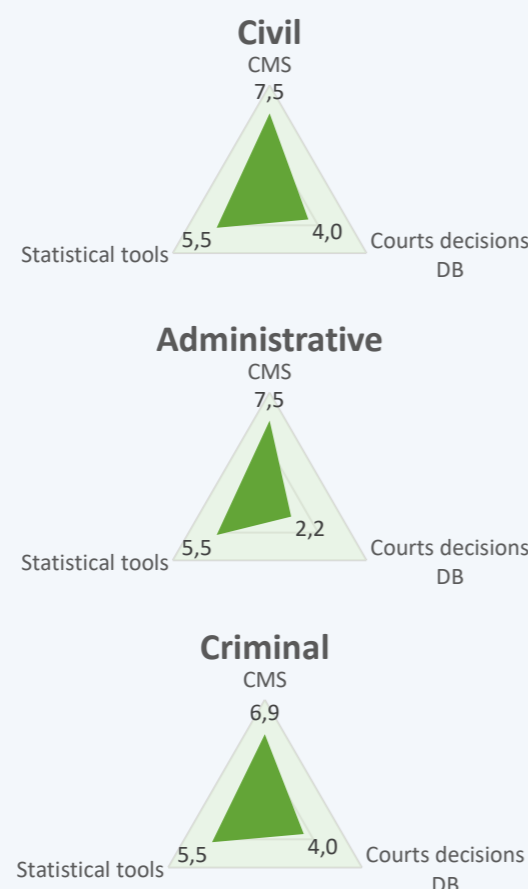


#### Disposition time in 2023 (days)



### ICT Deployment indices (scale 0-10)

The three ICT deployment indices (CMS, Courts decisions DB and Statistical tools) range from 0 to 10 points. Their calculation is based on the features and deployment rates of each beneficiary. The methodology for calculation provides points for each feature in each case matter. They are summarised and multiplied by the deployment rate as a weight. In this way, if the system is not fully deployed, the value is decreased even if all features are existing.



Montenegro's score out of 10

### ICT Tools

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. An update to the current judicial IT system is planned for 2024 with the rollout of PRIS version 2. According to the authorities, this significant upgrade will include cleaned data, improved reporting capabilities, and the integration of misdemeanour courts into the system. The enhanced system is scheduled to be operational by the first quarter of 2025 at the latest.

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

### Training

Montenegro spent in total 245 060 € for training for judges and prosecutors in 2023 (budget of the training institution and budget of courts spent on training), of which 4 838 € are coming from donors. This represents 0,39 € per inhabitant which is less than the WB average of 0,66 €.

In Montenegro, 91 % of judges and 68% of prosecutors attended at least one training per year in 2023. Regarding the training on corruption, the authorities reported that it is not mandatory.

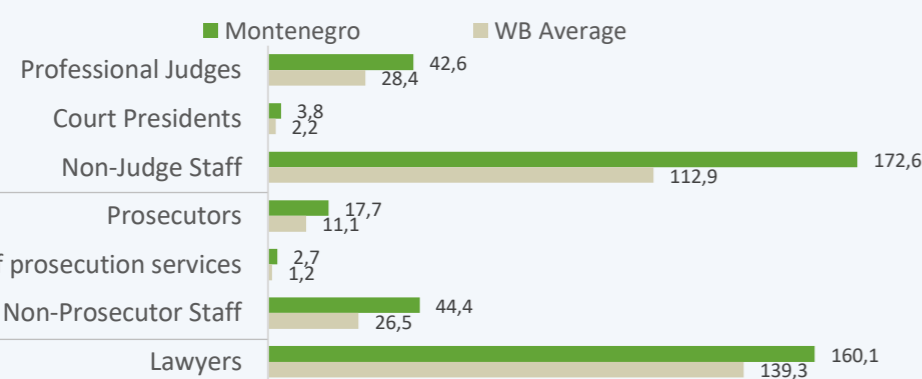
### ECHR

In 2023 for Montenegro there were 173 applications allocated to a judicial formation of the ECHR (122 less than the previous year). No judgements found at least one violation.

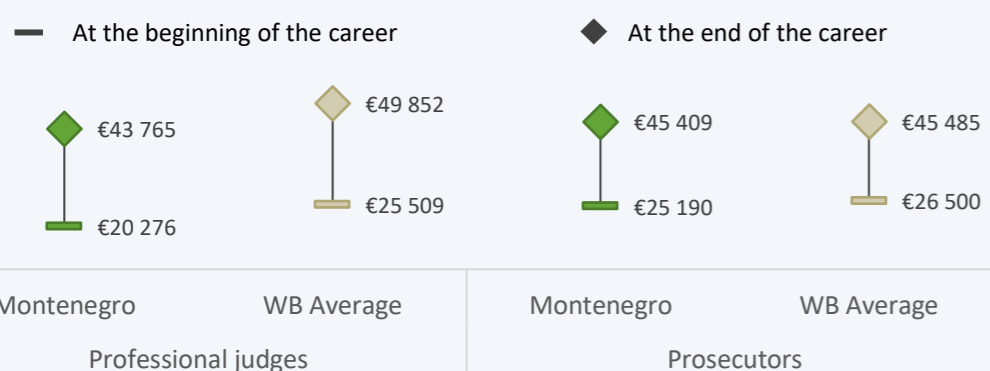
In Montenegro, there is a monitoring system for violations related to Article 6 of the European Convention on Human Rights for civil procedures (non-enforcement and timeframe) and for criminal procedures (timeframe). There is also a possibility to review a case after a decision on violation of human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

### Professionals of Justice

Total number of professionals per 100 000 inhabitants in 2023



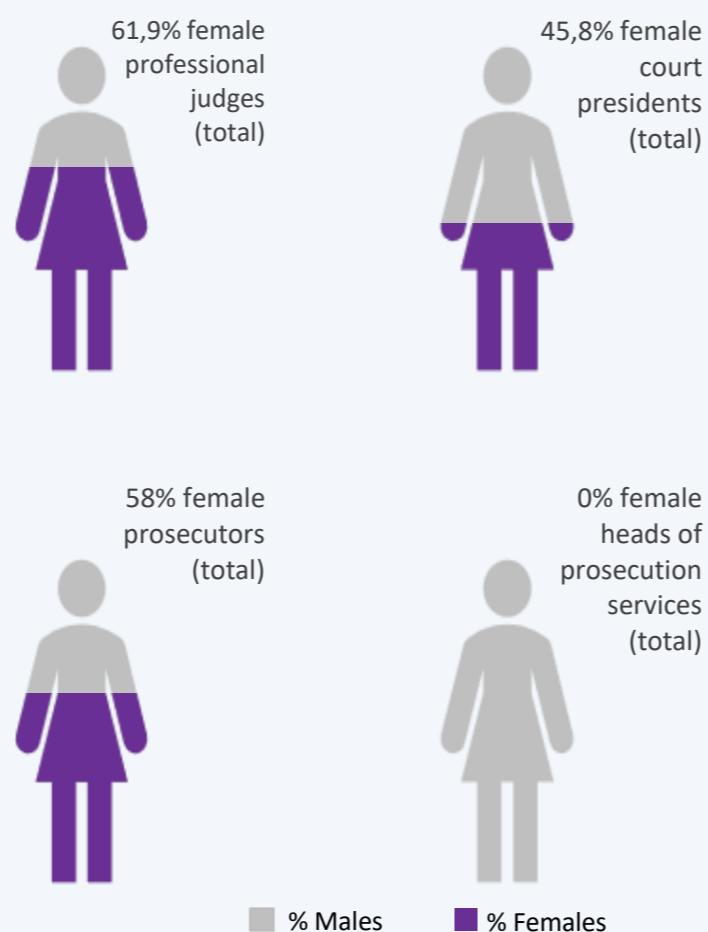
Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2023 (€)



Kosovo is not included in the calculation of summary statistics

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

### Gender Balance



### Professionals and Gender Balance

Western Balkans' countries traditionally have a very high number of professionals per 100 000 inhabitants. In 2023, Montenegro had 42,6 professional judges and 17,7 prosecutors per 100 000 inhabitants. Both figures were significantly above the Western Balkans averages of 28,4 and 11,1, respectively. However, these figures have been decreasing since 2019.

In 2023, salaries were increased as a result of the adoption of the new "Branch Collective Agreement for the Administration and Judiciary," an agreement between employers and unions. This agreement allows for the possibility of raising the basic salary for overtime, on-call duties, and other types of work performed outside of regular operating hours. As a result, salaries of judges at the supreme court increased by 33% from 2022 to 2023, while salaries of prosecutors at the same level increased by 41%. However, the salary of judges and prosecutors at the beginning of their career (as a ratio with the average national salary) is still the lowest in the region.

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.

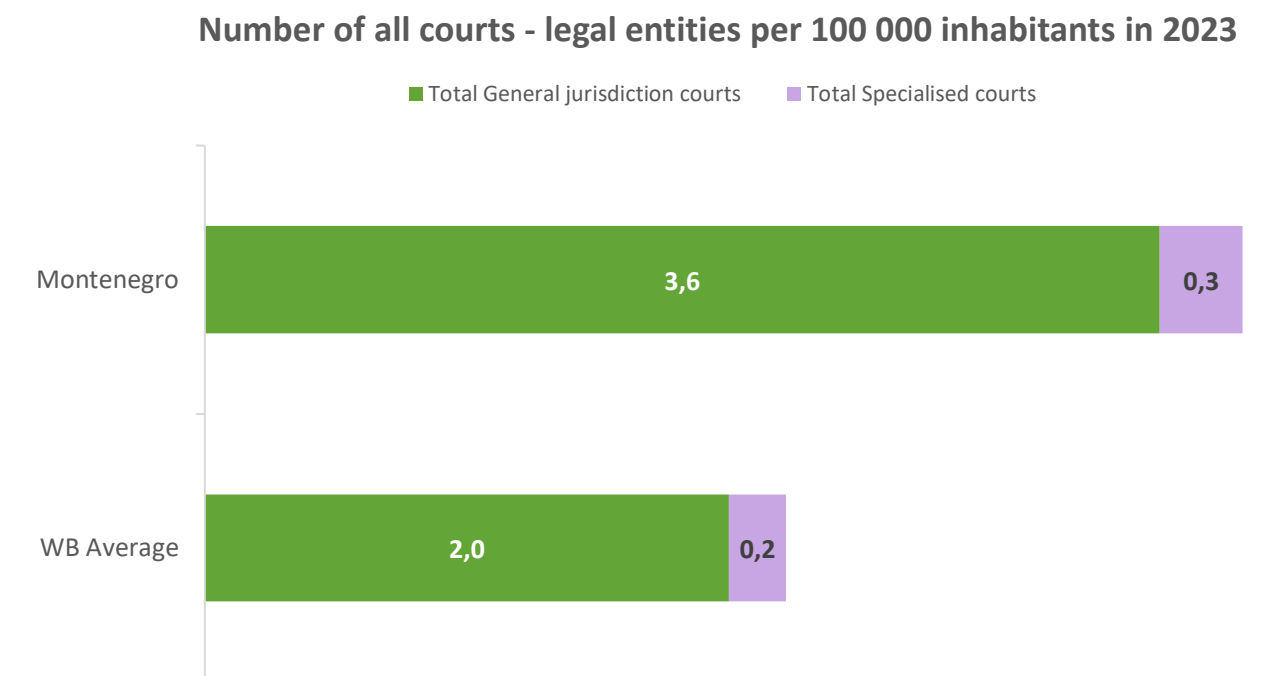
Although regarding the third instance, both the president of the Supreme Court and the head of the highest prosecution office were women in 2023.

## Judicial organisation in Montenegro in 2023 (Indicator 2.0)

Montenegro has a particular judicial organisation. The system includes basic courts (1st instance), higher courts (1st and 2nd instance), appellate courts (2nd instance), and the Supreme Court. In particular, at the first instance level, there are 15 Basic Courts and 3 Misdemeanour Courts. For second instance cases, there are 2 High Courts, an Appellate Court, and 1 High Misdemeanour Court. The highest instance is the Supreme Court. Additionally, there are two specialized courts: an Administrative Court and a Commercial Court.

### • Number of courts - legal entities

		Number of courts - legal entities in 2023		
		Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total number of all courts - legal entities (1 + 2)		25	3,9	2,3
General jurisdiction	Total General jurisdiction courts (1)	23	3,6	2,0
	1st instance	18	2,8	1,6
	2nd instance	4	0,6	0,4
	Highest instance	1	0,2	0,1
Specialised courts	Total Specialised courts (2)	2	0,3	0,2
	1st instance	2	0,3	0,2
	Higher instance	NAP	NAP	0,0



1.1 First instance courts of general jurisdiction - legal entities = 15 Basic Courts + 3 Misdemeanour courts

1.2 Second instance courts of general jurisdiction - legal entities = 2 High Courts and Appellate court + 1 high misdemeanour court

1.3 Highest instance courts of general jurisdiction - legal entities = Supreme Court

2 Total number of specialised courts - legal entities = Administrative Court, Commercial Court

## • Specialised courts

Specialised courts in 2023	First instance	Higher instances
Total number of specialised courts - legal entities	2	NAP
Commercial courts (excluded insolvency courts)	1	NAP
Insolvency courts	NAP	NAP
Labour courts	NAP	NAP
Family courts	NAP	NAP
Rent and tenancies courts	NAP	NAP
Enforcement of criminal sanctions courts	NAP	NAP
Fight against terrorism, organised crime and corruption	NAP	NAP
Internet related disputes	NAP	NAP
Administrative courts	1	NAP
Insurance and / or social welfare courts	NAP	NAP
Military courts	NAP	NAP
Juvenile courts	NAP	NAP
Other specialised courts	NAP	NAP

## • Number of courts - geographic locations

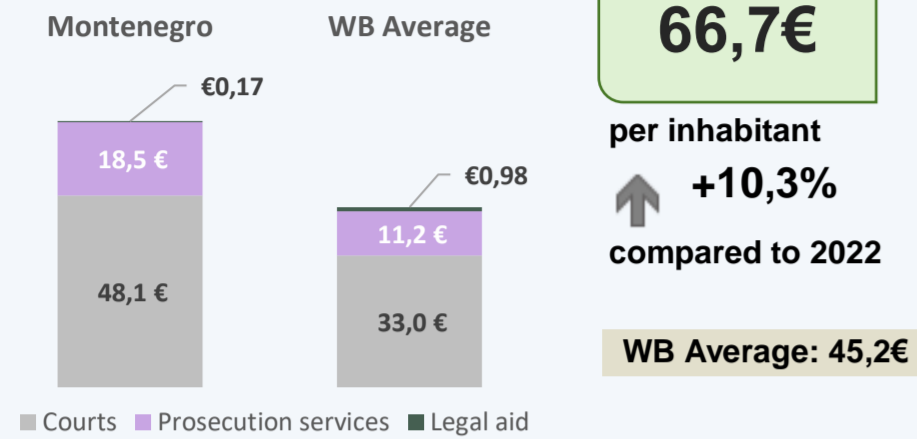
Number of courts - geographic locations in 2023	Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
Total number	16	2,5	2,1
1st instance courts	15	2,4	1,8

In Montenegro, the judiciary system comprises 25 courts distributed across 16 geographic locations. The capital, Podgorica, hosts a diverse array of courts including the Basic Court, Administrative Court, Commercial Court, High Court, Appellate Court, Supreme Court, Misdemeanour Court, and High Misdemeanour Court. Bijelo Polje houses a Basic Court, High Court, and Misdemeanour Court. Basic Courts are also found in Ulcinj, Bar, Cetinje, Kotor, Herceg Novi, Nikšić, Žabljak, Pljevlja, Danilovgrad, Kolašin, Berane, Plav, and Rožaje. Additionally, Budva is home to a Misdemeanour Court.

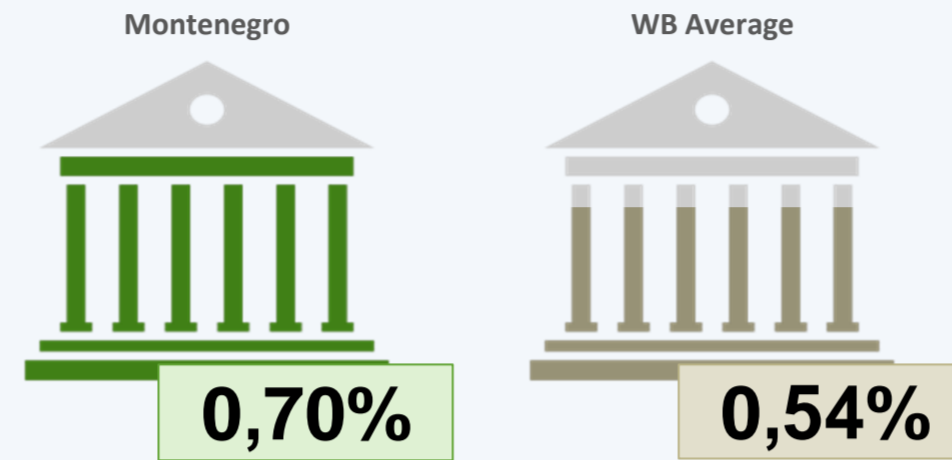
*Kosovo is not included in the calculation of summary statistics*

## Budget of the judicial system in Montenegro in 2023 (Indicator 1)

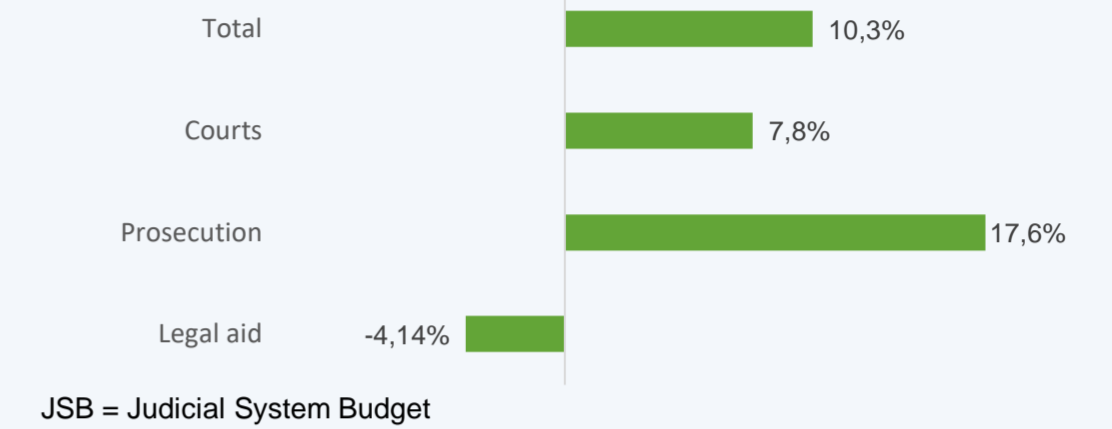
### Implemented Judicial System Budget per inhabitant



### Implemented Judicial System Budget as % of GDP



### Variation of the JSB per inhabitant between 2022 - 2023



The Judicial System Budget (JSB) is composed by the budget for courts, public prosecution services and legal aid. In 2023, the implemented JSB for Montenegro was 66,7€ per inhabitant (+10,3% compared to 2022). It was higher than the WB Average of 45,2€. The expenditure on JSB represented 0,7% of the GDP of Montenegro (the WB Average was 0,54%).

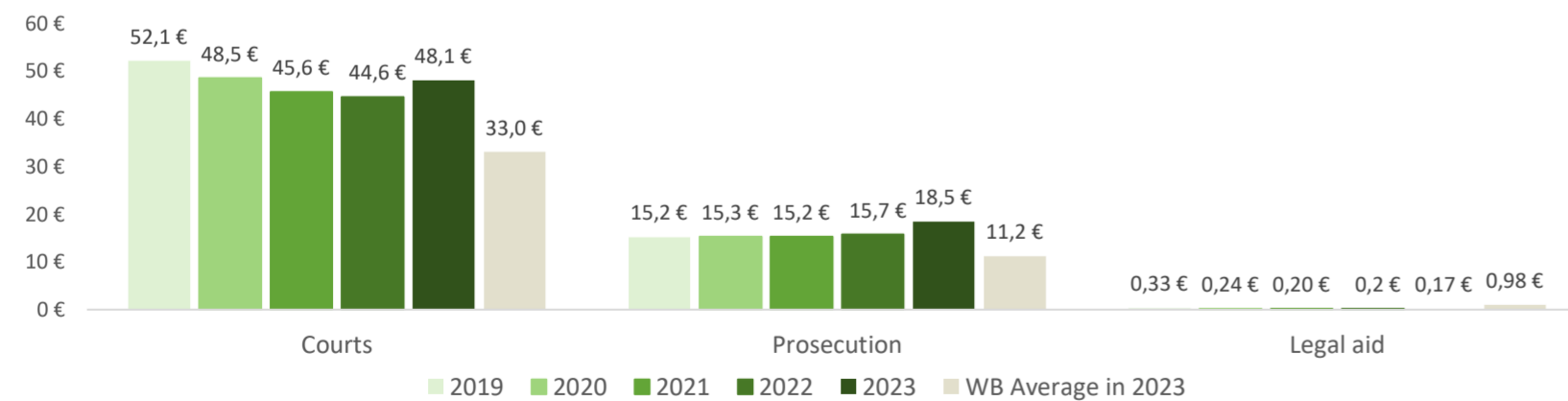
### Budget allocated to the judicial system (courts, prosecution services and legal aid)

In 2023, Montenegro spent 42 260 684€ on the implemented judicial system budget. This means that Montenegro spent 66,7€ per inhabitant, which is more than the WB Average of 45,2€. 72% was spent for courts, 27,7% for prosecution services, 0,3% for legal aid. Compared to 2022, Montenegro has spent, per inhabitant, 7,8% more for courts, 17,6% more for prosecution services, and -4,1% less for legal aid.

Judicial System Budget	Judicial System Budget in 2023		Implemented Judicial System Budget per inhabitant				Implemented Judicial System Budget as % of GDP			
	Approved	Implemented	Per inhabitant in 2023	WB Average in 2023	% Variation between 2019 - 2023	% Variation between 2022 - 2023	As % of GDP	WB Average in 2023	Variation (in ppt) 2019 -2023	Variation (in ppt) 2022 - 2023
<b>Total</b>	NA	42 260 684 €	66,7 €	45,2 €	-1,3%	10,3%	0,70%	0,54%	-0,15	-0,061
<b>Courts</b>	28 128 362 €	30 446 605 €	48,1 €	33,0 €	-7,7%	7,8%	0,50%	0,39%	-0,15	-0,056
<b>Prosecution</b>	11 382 565 €	11 707 603 €	18,5 €	11,2 €	21,9%	17,6%	0,19%	0,13%	0,00	-0,004
<b>Legal aid</b>	NA	106 476 €	0,17 €	1,0 €	-48,7%	-4,14%	0,002%	0,01%	-0,002	-0,0004

PPT = Percentage points

### Evolution of the implemented judicial system budget per inhabitant between 2019 and 2023 (€)



Legal aid xpenses do not include ex officio mandatory representation, which is included in court expenses.

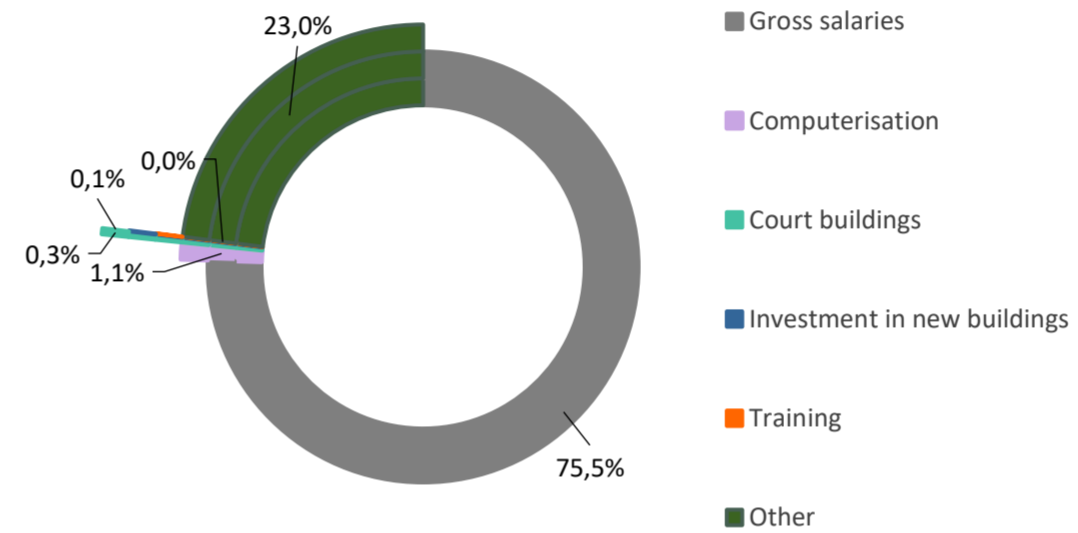
## Budget allocated to the functioning of the courts - Categories

In 2023, Montenegro spent 30 446 605€ on the implemented budget for courts. 75,5% was spent for gross salaries, 1,1% for computerisation, 0,3% for court buildings, 0,1% for investment in new buildings, 23% for other.

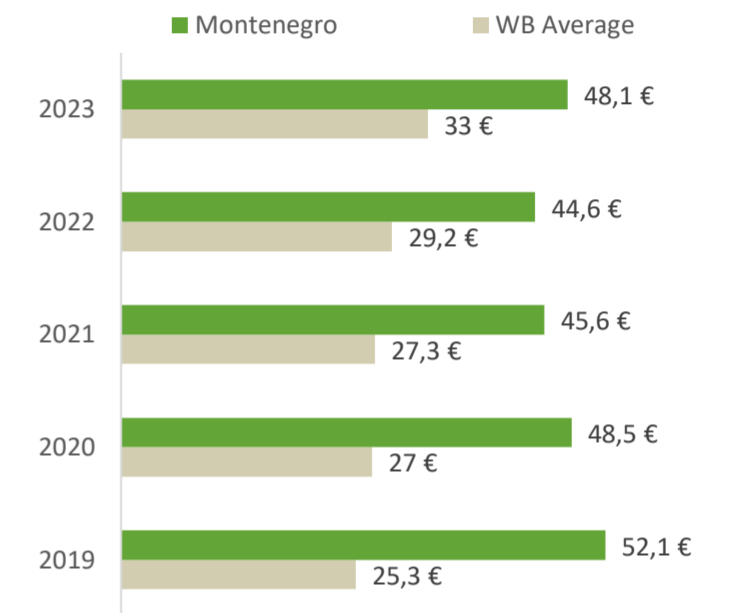
Between 2022 and 2023, the implemented budget for courts has increased by 10,1%.

	2023		% Variation between 2019 and 2023		% Variation between 2022 and 2023	
	Approved budget	Implemented budget	Approved budget	Implemented budget	Approved budget	Implemented budget
<b>Total (1 + 2 + 3 + 4 + 5 + 6 + 7)</b>	28 128 362 €	30 446 605 €	-10,3%	-5,8%	8,0%	10,1%
<b>1. Gross salaries</b>	23 157 514 €	22 985 998 €	1,8%	1,1%	9,7%	13,5%
<b>2. Computerisation (2.1 + 2.2)</b>	299 227 €	339 241 €	-53,4%	-45,9%	59,8%	180,3%
2.1 Investment in computerisation	209 348 €	260 397 €			103,2%	303,0%
2.2 Maintenance of the IT equipment of courts	89 879 €	78 844 €			6,7%	39,8%
<b>3. Justice expenses</b>	NAP	NAP	NAP	NAP	NAP	NAP
<b>4. Court buildings</b>	126 870 €	93 399 €	-18,8%	-40,1%	151,8%	336,8%
<b>5. Investment in new buildings</b>	42 815 €	16 133 €	-37,6%	-76,5%	-68,4%	9,1%
<b>6. Training</b>	16 349 €	6 836 €	-39,2%	-71,5%	-42,5%	-40,0%
<b>7. Other</b>	4 485 465 €	7 004 998 €	-35,5%	-11,5%	-0,9%	-3,1%

Distribution of the Implemented budget allocated to the courts in 2023 (%)



Implemented budget allocated to the courts per inhabitant between 2019 and 2023 (€)



Other expenses in the judiciary system of Montenegro encompass a range of categories, including: jubilee awards, separation allowances, aid, and support for separate living. Additionally, they cover administrative materials, fuel, energy, communication services, and professional services such as legal, consulting, and banking services. Insurance, contracts for work, and utility services also form part of these expenses.

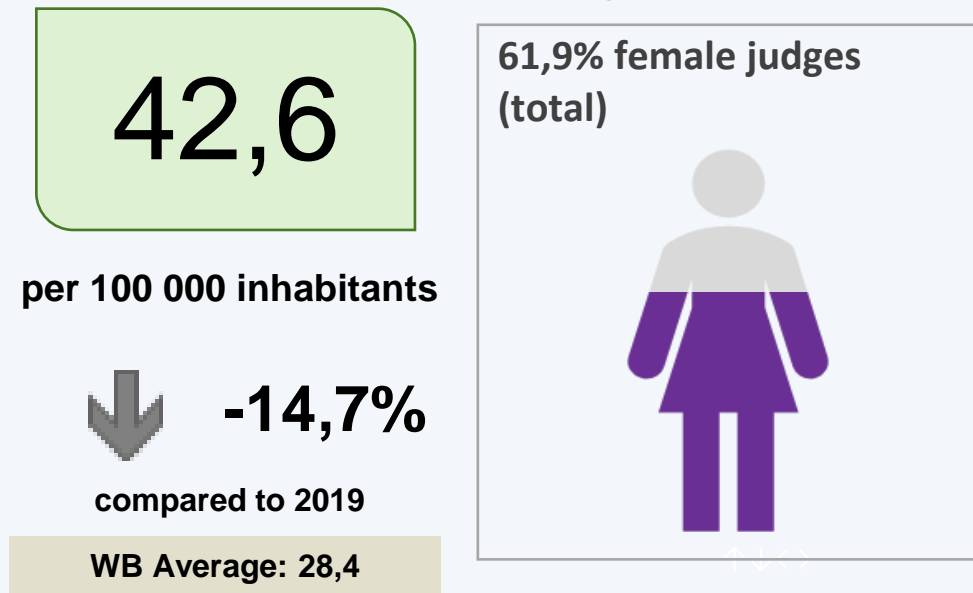
## Budget received from external donors

In Montenegro it was not possible to estimate the budget coming from external donors

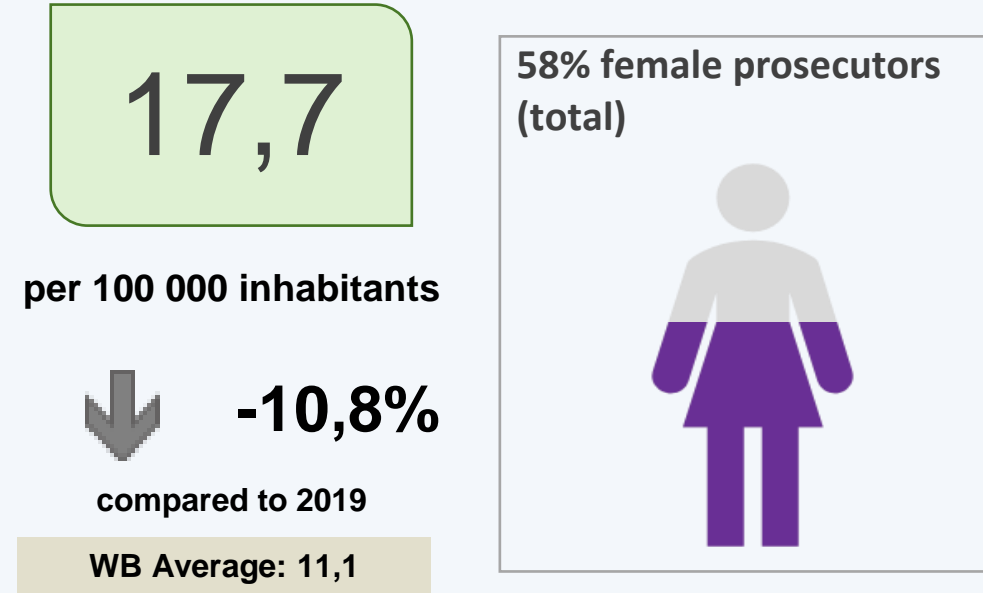
Kosovo is not included in the calculation of summary statistics

## Professionals and Gender Balance in judiciary in Montenegro in 2023 (Indicators 2 and 12)

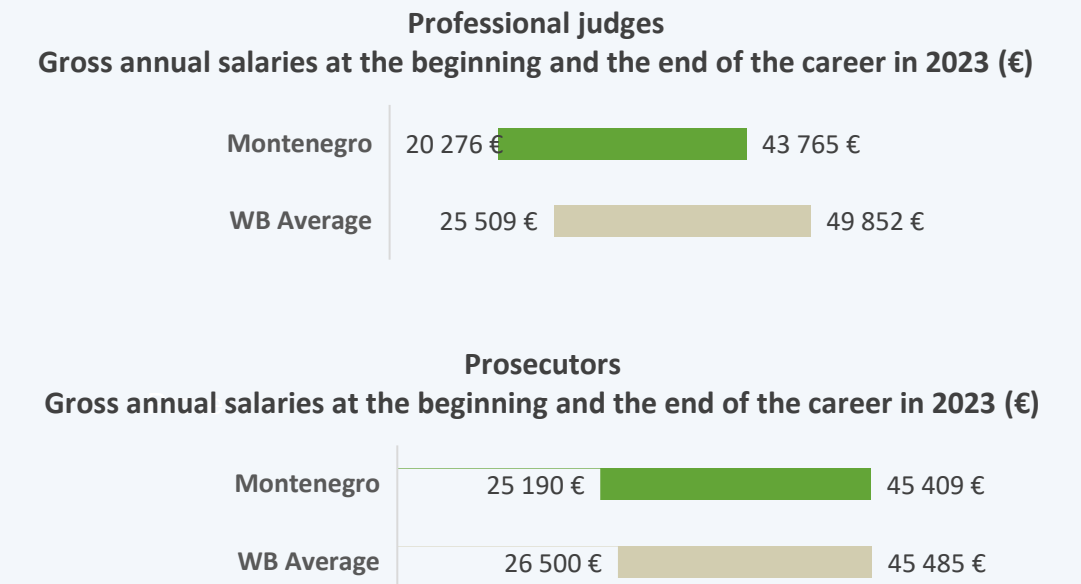
### Professional Judges



### Prosecutors



### Salaries of judges and prosecutors



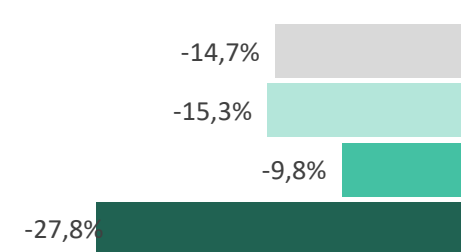
In 2023, Montenegro had 42,6 professional judges per 100 000 inhabitants and 17,7 prosecutors per 100 000 inhabitants. Both figures were above the WB Average of 28,4 and 11,1, respectively. More than half of professional judges and prosecutors were women (WB Average was 63,3% and 52,4%, respectively).

### Professional Judges

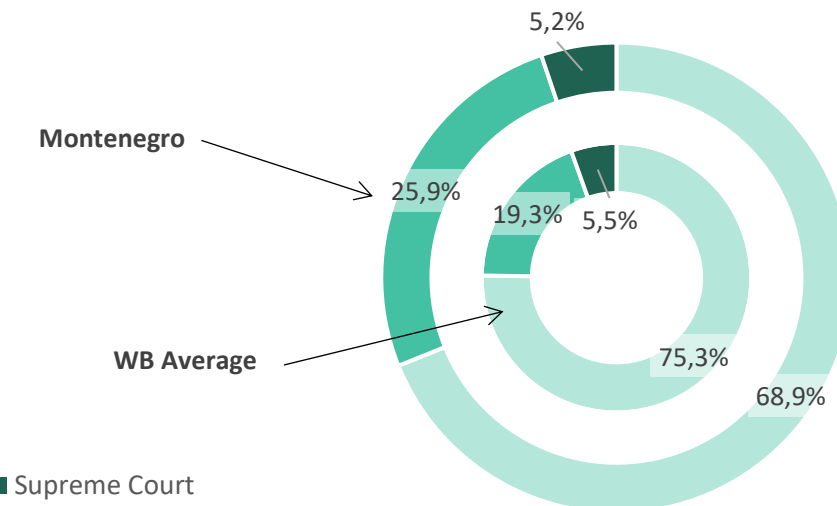
	Professional judges in 2023			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	270	100,0%	42,6	28,4
<b>1st instance courts</b>	186	68,9%	29,4	21,4
<b>2nd instance courts</b>	70	25,9%	11,1	5,5
<b>Supreme Court</b>	14	5,2%	2,2	1,6

For reference only: the 2022 EU median is 22,9 judges per 100 000 inhabitants.

### % Variation of no. of professional judges per 100 000 inh. 2019 - 2023



### Distribution of professional judges by instance in 2023 (%)



In 2023, the absolute number of professional judges in Montenegro was 270 (i.e. 42,6 per 100 000 inhabitants, which was higher than the WB Average of 28,4).

Compared to 2019, the total number of professional judges per 100 000 inhabitants decreased by -14,7%.

The figures show a difference of 6,4 percentage points between the percentage of judges in the first instance (68,9%) and the WB Average (75,3%)

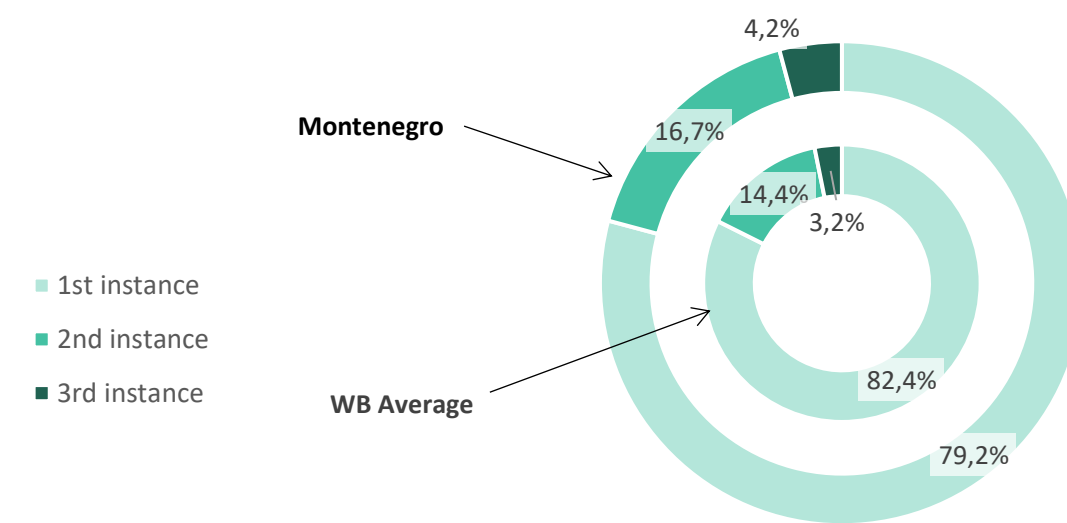


• Court presidents

	Court presidents in 2023			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	24	100,0%	3,8	2,2
<b>1st instance courts</b>	19	79,2%	3,0	1,8
<b>2nd instance courts</b>	4	16,7%	0,6	0,3
<b>Supreme Court</b>	1	4,2%	0,2	0,1

The absolute number of court presidents in Montenegro in 2023 was 24 ( i.e. 3,8 per 100 000 inhabitants, which was the WB Average of 2,2).

Distribution of court presidents by instance in 2023 (%)



In 2023, the Basic Court in Žabljak did not have a Court President, while the Supreme Court of Montenegro, the Higher Misdemeanor Court, the Basic Court in Nikšić, and the Basic Court in Danilovgrad had Acting Presidents of the Court.

## • Non-judge staff

The absolute total number of non-judge staff in Montenegro was 1 093, which decreased by -0,1% between 2019 and 2023. The number of non-judge staff per 100 000 inhabitants was 172,6, which was above the WB Average of 112,9.

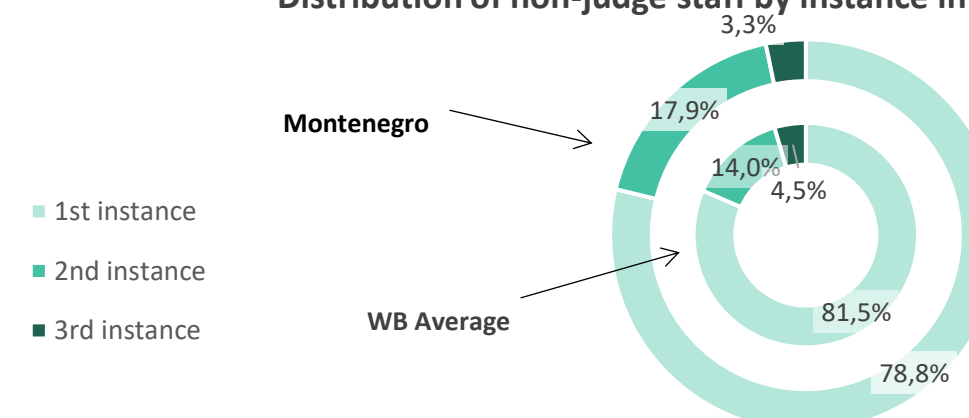
	Number of non-judge staff by instance in 2023			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	1 093	100,0%	172,6	112,9
1st instance courts	861	79%	136,0	92,0
2nd instance courts	196	18%	31,0	15,8
Supreme Court	36	3%	5,7	5,1

For reference only: the 2022 EU median is 59,4 non-judge staff per 100 000 inhabitants.

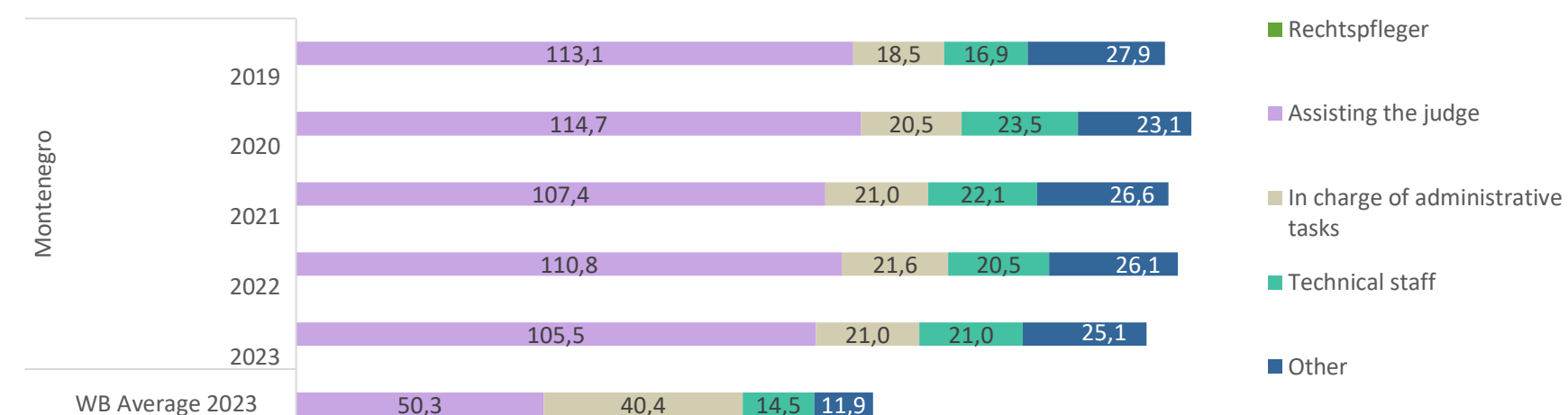
The highest number of non-judge staff were assisting judges and represented 61,1% of the total. Since 2019, there was no significant variation in the distribution of non-judge staff by category.

	Number of non-judge staff by category in 2023			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	1 093	100,0%	172,6	112,9
Rechtspfleger	NAP	NAP	NAP	-
Assisting the judge	668	61,1%	105,5	50,3
In charge of administrative tasks	133	12,2%	21,0	40,4
Technical staff	133	12,2%	21,0	14,5
Other	159	14,5%	25,1	11,9

Distribution of non-judge staff by instance in 2023



Number of non-judge staff per 100 000 inhabitants by category between 2019 and 2023



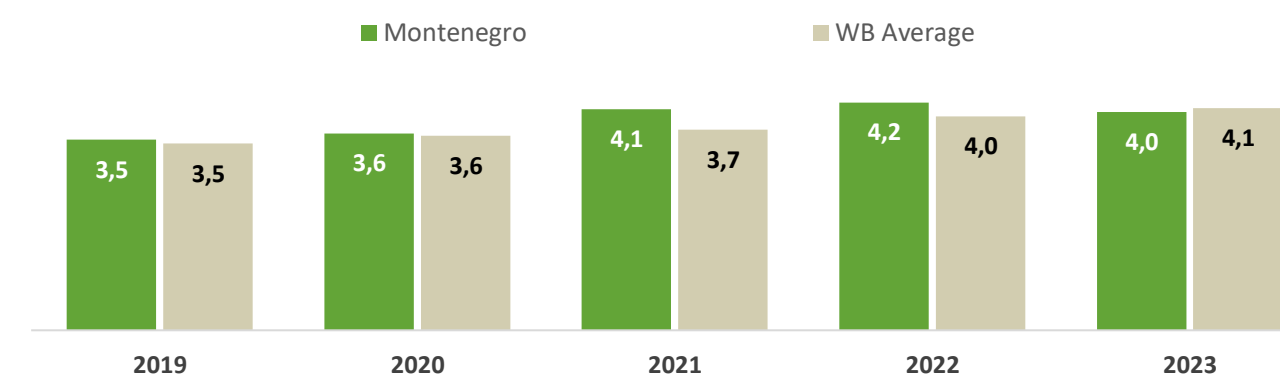
## • Ratio between non-judge staff and professional judges

In Montenegro, the ratio of non-judge staff per professional judge was 4 in 2023, whereas the WB Average was 4,1. This increased since 2019.

	Ratio in 2023		% Variation between 2019 and 2023
	Montenegro	WB Average	Montenegro
<b>Total</b>	4,0	4,1	14,7%
1st instance courts	4,6	4,4	15,7%
2nd instance courts	2,8	3,2	7,5%
Supreme Court	2,6	4,2	35,7%

For reference only: the 2022 EU median ratio of non-judge staff per judge is 3,3.

Ratio between non-judge staff and judges between 2019 and 2023



## Prosecutors

	Number of prosecutors by instance in 2023			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	112	100,0%	17,7	11,1
<b>1st instance level</b>	74	66,1%	11,7	8,8
<b>2nd instance level</b>	31	27,7%	4,9	1,8
<b>Supreme Court level</b>	7	6,3%	1,1	0,9

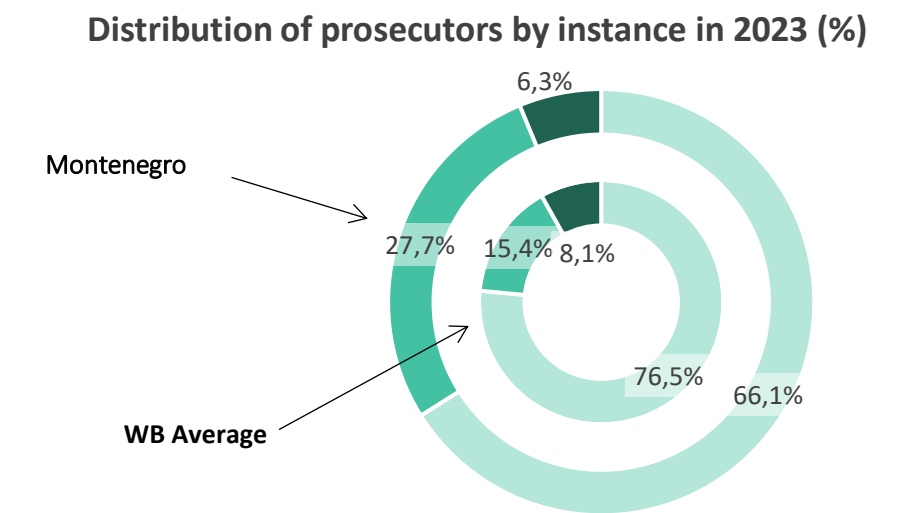
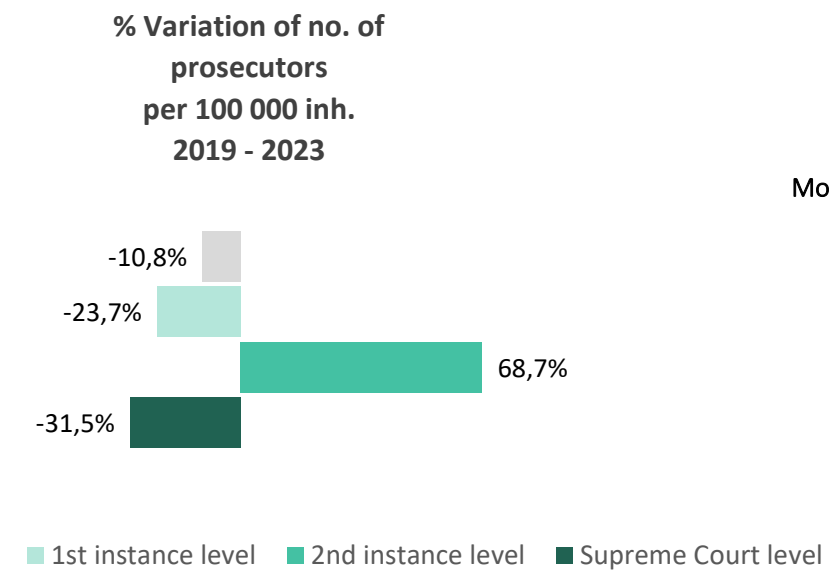
For reference only: the 2022 EU median is 11,1 prosecutors per 100 000 inhabitants.

In 2023, the absolute number of prosecutors in Montenegro was 112 (i.e. 17,7 per 100 000 inhabitants, which was significantly higher than the WB Average of 11,1).

The total number of prosecutors per 100 000 inhabitants decreased by -10,8% between 2019 and 2023.

The figures show a difference of 10,4 percentage points between the percentage of prosecutors in the first instance (66,1%) and the WB Average (76,5%)

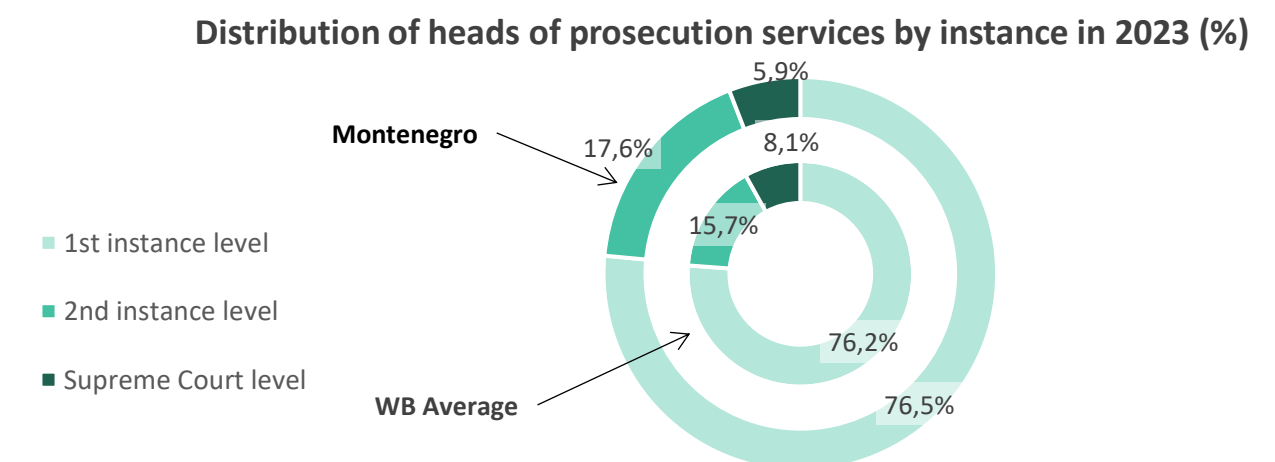
The Special State Prosecutor's Office in Montenegro comprises 15 prosecutors, with 8 males and 7 females. These prosecutors are counted in the overall total and also included in section 2 (second instance level), as they have jurisdiction over second instance cases, including those at the Court of Appeal.



## Heads of prosecution services

	Heads of prosecution services in 2023			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Average per 100 000 inhabitants
<b>Total</b>	17	100,0%	2,7	1,2
<b>1st instance level</b>	13	76,5%	2,1	0,9
<b>2nd instance level</b>	3	17,6%	0,5	0,2
<b>Supreme Court level</b>	1	5,9%	0,16	0,10

In 2023, the absolute number of heads of prosecution services in Montenegro was 17 (i.e. 2,7 per 100 000 inhabitants, which was more than double the WB Average of 1,2).



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

	Non-prosecutor staff in 2023			Ratio between non-prosecutor staff and prosecutors		
	Absolute number	Per 100 000 inhabitants		2023		% Variation 2019 - 2023
	Montenegro	Montenegro	WB Average	Montenegro	WB Average	Montenegro
<b>Total</b>	281	44,4	26,5	2,5	2,4	36,5%

For reference only: the 2022 EU median is 14,4 non-prosecutors staff per 100 000 inhabitants.

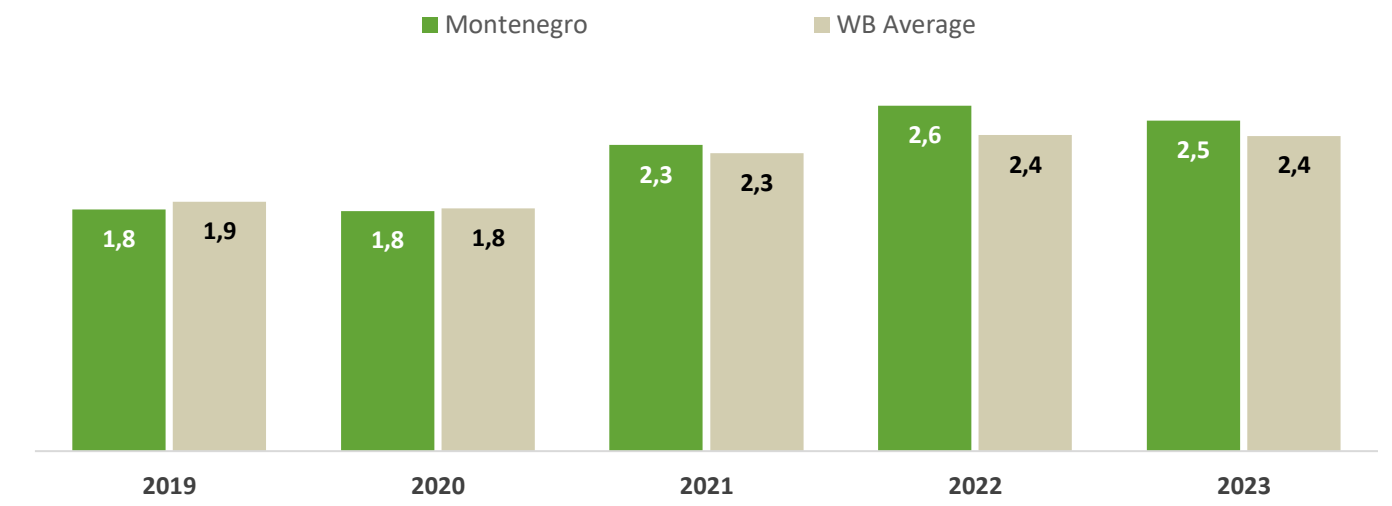
In 2023, the total number of non-prosecutor staff in Montenegro was 281. Their number increased by 24,3% compared to 2019.

The number of non-prosecutor staff per 100 000 inhabitants was 44,4, which was above the WB Average of 26,5.

The ratio of non-prosecutor staff per prosecutor was 2,5 (close to the WB Average of 2,4).

In the state prosecutor's offices of Montenegro, all staff members are full-time employed civil servants. According to the internal organization and systematization acts, employees hold various titles including: secretary, head of cabinet, advisor, chief, head of registry office, independent advisor I, II, and III, senior advisor I, II, and III, advisor I, II, and III, independent clerk, clerk, senior employee, employee, and trainee.

Ratio between non-prosecutor staff and prosecutors between 2019 and 2023



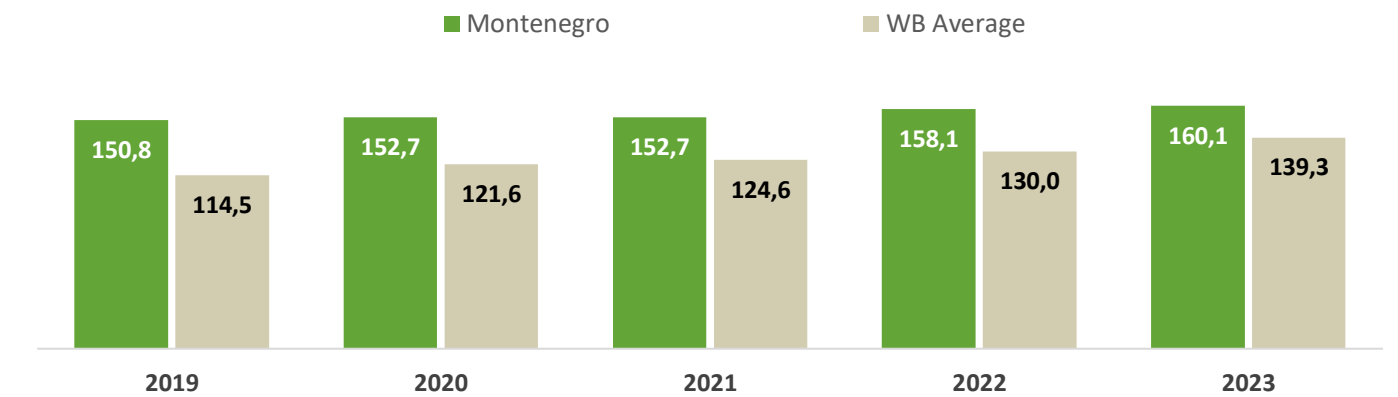
• **Lawyers**

	Number of lawyers in 2023			% Variation 2019 - 2023
	Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants	Montenegro
<b>Total</b>	1 014	160,1	139,3	6,2%

For reference only: the 2022 EU median is 132,1 lawyers per 100 000 inhabitants.

In 2023, the number of lawyers was 160,1 per 100 000 inhabitants, which was higher than the WB Average (139,3). The number of lawyers per 100 000 inhabitants increased by 6,2% between 2019 and 2023.

Number of lawyers per 100 000 inhabitants between 2019 and 2023



## Salaries of professional judges and prosecutors

In 2023, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Montenegro was 1,7, which was less than the WB Average (2,2).

At the end of career, judges were paid more than at the beginning of career by 115,8%, which was more than variation noted for the WB Average (92,7%).

In 2023, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Montenegro was 2,1, which was less than the WB Average (2,2).

At the end of career, prosecutors were paid more than at the beginning of career by 80,3%, which was more than the variation noted for the WB Average (70,2%).

		Salaries in 2023 (absolute values)			Ratio with the average gross annual salary	
		Gross annual salary in €	% Variation 2019 - 2023	Net annual salary in €	Montenegro	WB Average ratio
Professional judge	At the beginning of his/her career	20 276	▲ 5,7%	15 568	1,7	2,2
	Of the Supreme Court or the Highest Appellate Court	43 765	▬ 0,0%	31 893	3,7	4,2
Public prosecutor	At the beginning of his/her career	25 190	▲ 35,0%	18 983	2,1	2,2
	Of the Supreme Court or the Highest Appellate Court	45 409	▲ 39,5%	33 035	3,8	3,8

For reference only: the 2022 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

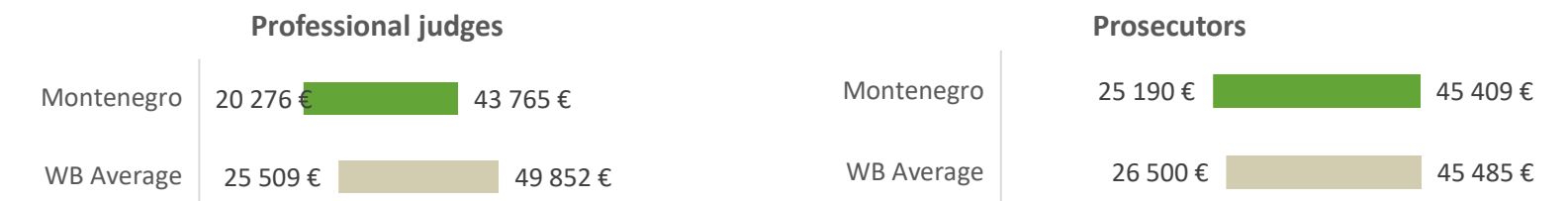
- prosecutors' salary at the beginning of career: 1,7

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

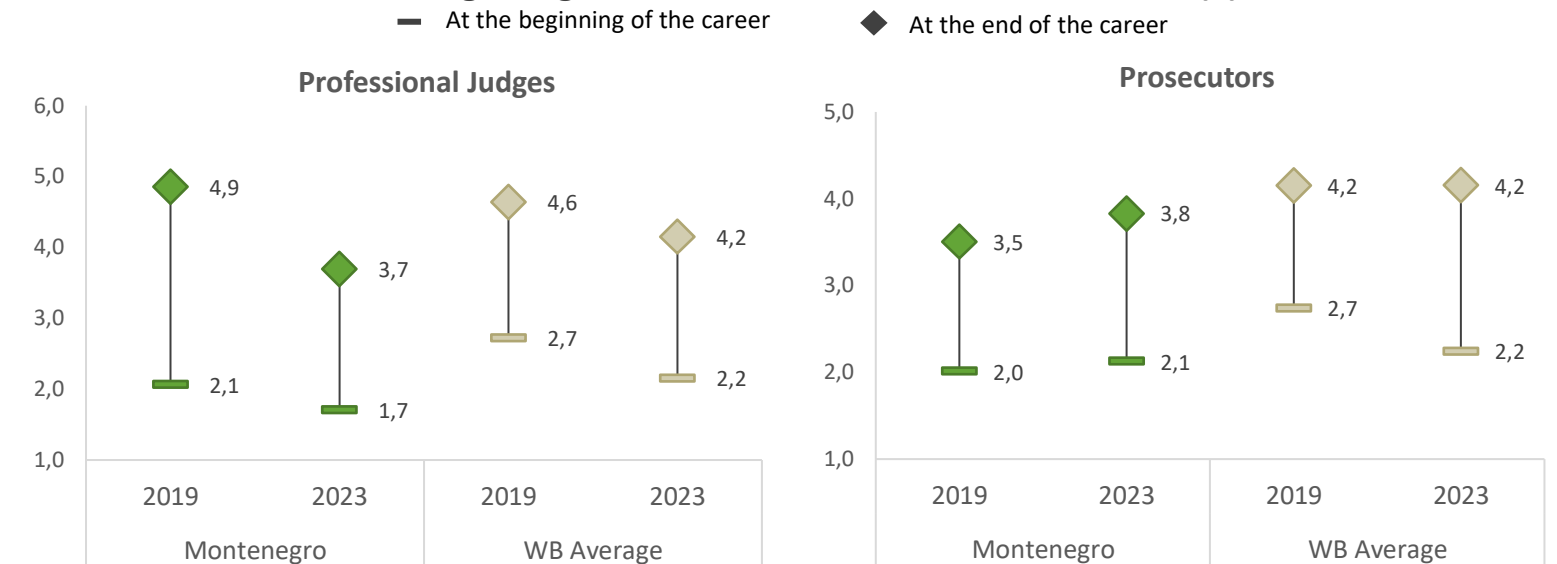
- prosecutors' salary at the end of career: 3,3

In 2023, salaries were increased as a result of the adoption of the new "Branch Collective Agreement for the Administration and Judiciary," an agreement between employers and unions. This agreement allows for the possibility of raising the basic salary for overtime, on-call duties, and other types of work performed outside of regular operating hours.

### Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2023 (€)



### 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 2023 (€)



### Additional benefits and bonuses for professional judges and prosecutors

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

Other financial benefits are: special allowances, salary supplements for work in commissions and other bodies.

**Gender Balance**

	% Female in 2023		Variation of the % females between 2019 - 2023 (in ppt)
	Montenegro	WB Average	Montenegro
Professional Judges	61,9%	63,3%	▲ 1,5
Court Presidents	45,8%	49,1%	■ -3,3
Non-Judge Staff	74,7%	71,5%	▲ 2,9
Prosecutors	58,0%	52,4%	▼ -5,6
Heads of Prosecution Services	NA	39,7%	■ -39,7
Non-Prosecutor Staff	71,9%	69,3%	▼ -2,6
Lawyers	36,7%	38,3%	▲ 1,6

PPT= Percentage points

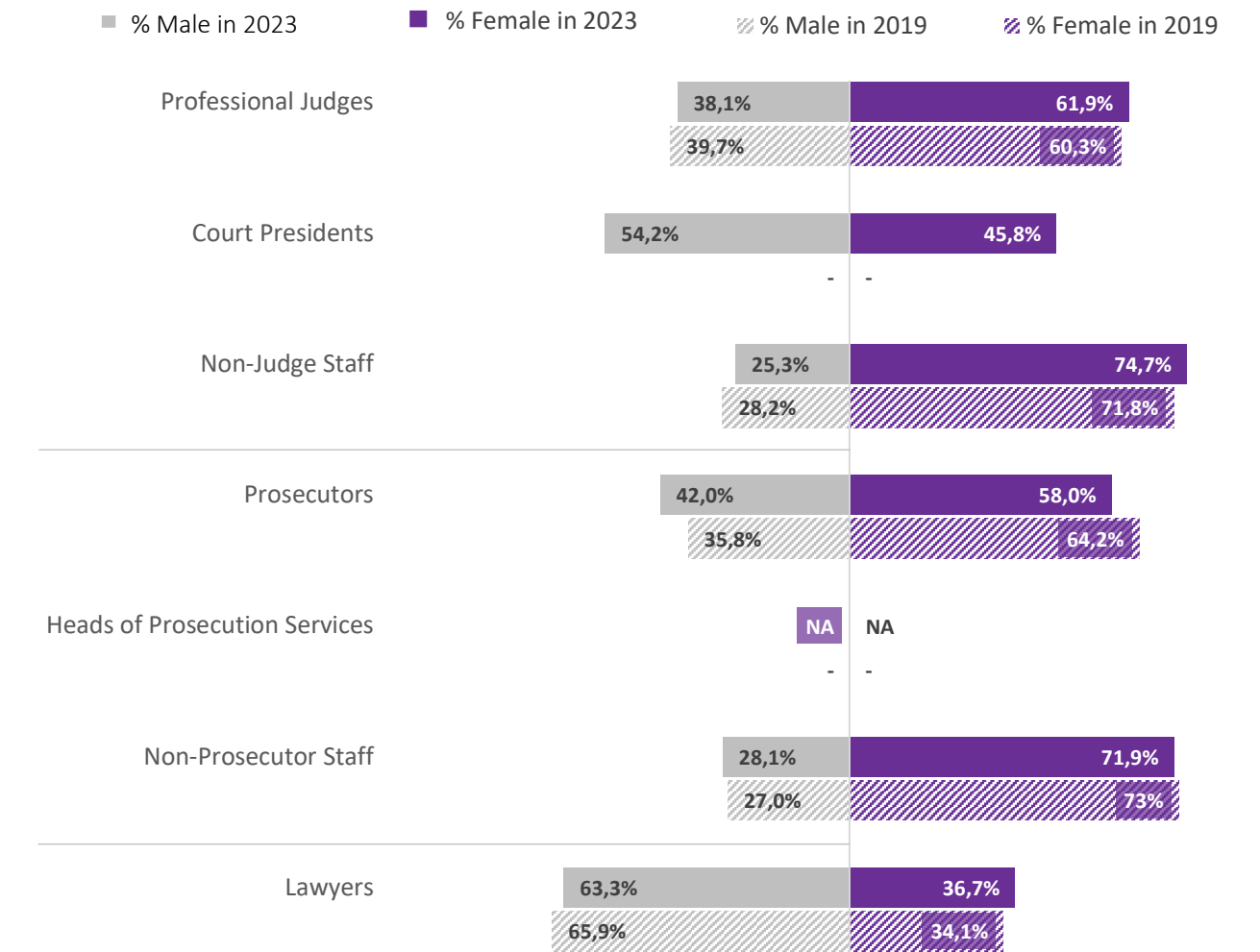
For reference only: the 2022 EU medians on gender are among professionals are as follows: 62% women judges; 76% women non-judge staff; 60% women prosecutors; 77% women non-prosecutor staff; and 49% women lawyers.

In 2023, the percentage of female professional judges was 61,9%, which was lower than WB Average (63,3%). With a presence of 45,8%, the number of female court presidents in Montenegro was lower than the WB Average of 49,1%. Moreover, the percentage of female non-judge staff was 74,7%.

The percentage of female lawyers was 36,7%, which was lower than WB Average (38,3%).

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

**Gender Balance in Montenegro in 2019 and 2023**



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 in first and second instance and heads of prosecutor offices in second and third instance.

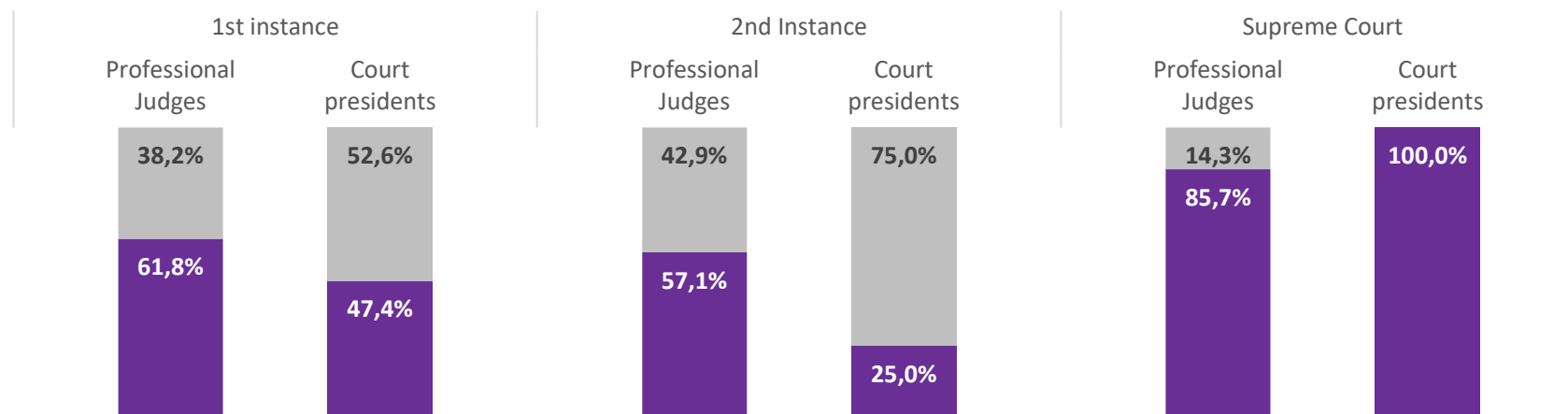
This highlights the phenomenon called “glass ceiling”, meaning that the higher the hierarchical level, the less is the number of women (and thus the percentage of women) decreases.

	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	61,8%	63,5%	47,4%	48,4%	55,4%	53,1%	NA	43,9%
2nd instance	57,1%	64,2%	25,0%	48,1%	61,3%	47,0%	66,7%	25,0%
Supreme Court	85,7%	61,3%	100,0%	73,3%	71,4%	48,2%	0,0%	30,7%

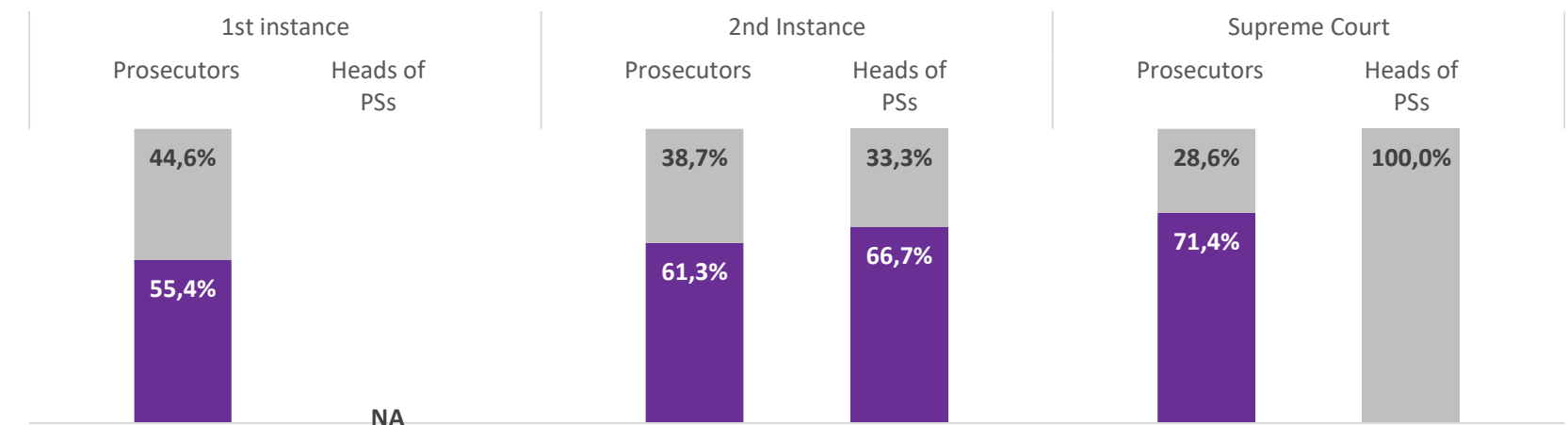
**Gender Balance by instance in 2023**

■ % Females ■ % Males

**Professional Judges and Court Presidents**



**Prosecutors and Heads of Prosecution Services**



• 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	✗			✗		

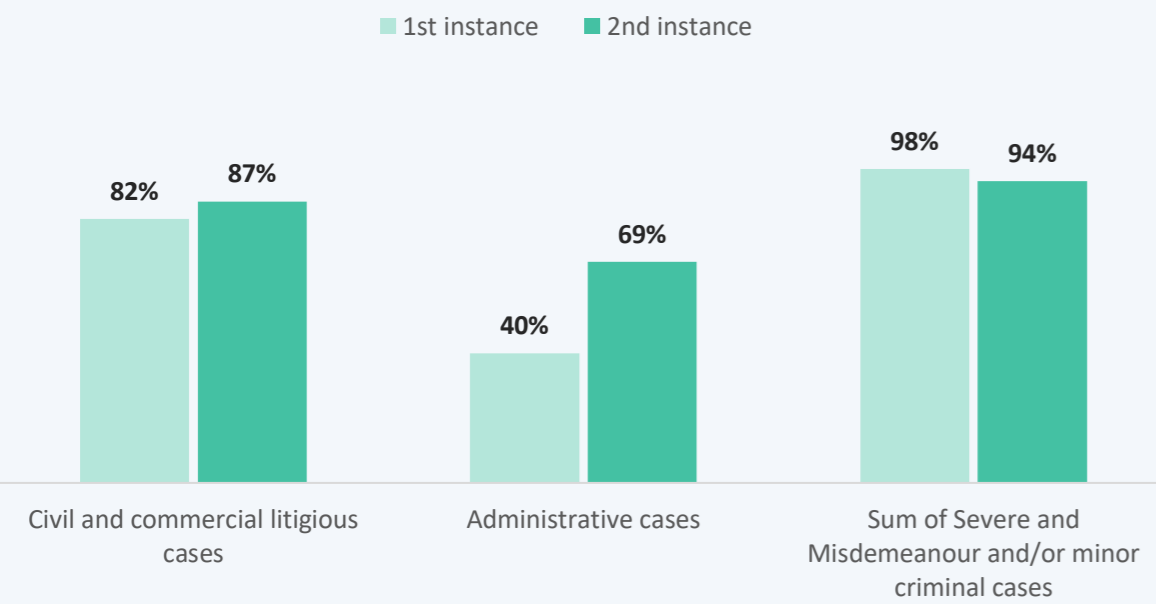
In Montenegro there is no overarching document (e.g. policy/strategy/action plan/program) on gender equality that applies specifically to the judiciary.

When appointing judges and court presidents, the Judicial Council in Montenegro is required to consider the proportional representation of minorities, as well as to ensure gender-balanced representation. Similarly, the Law on State Prosecution mandates that the Prosecutorial Council must also take these factors into account when appointing prosecutors, striving to maintain both proportional minority representation and gender balance.

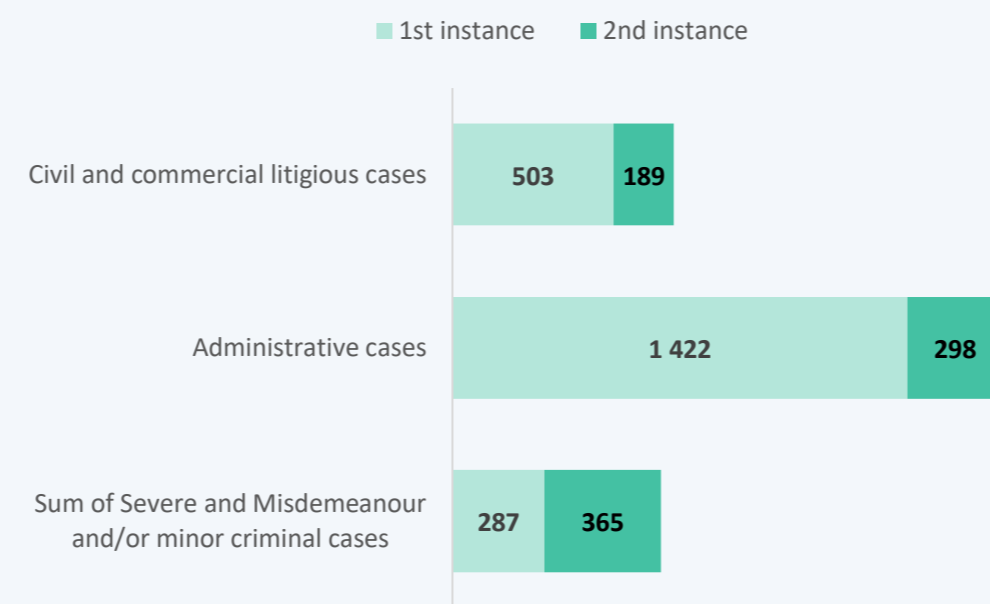
*Kosovo is not included in the calculation of summary statistics*

## Efficiency in Montenegro in 2023 (Indicators 3.1 and 3.2)

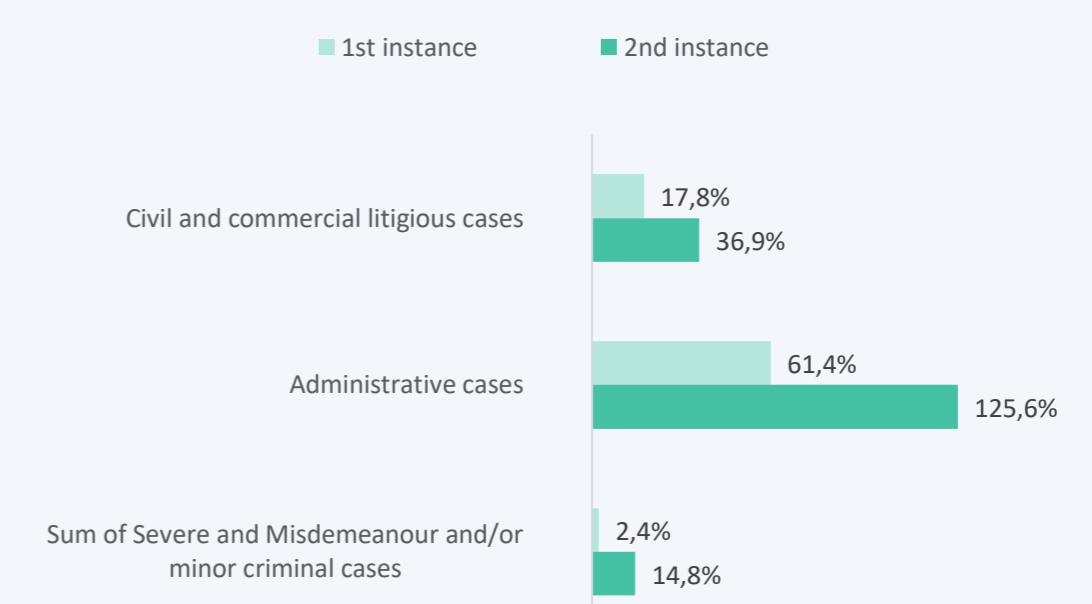
### Clearance Rate in 2023



### Disposition Time in 2023 (in days)



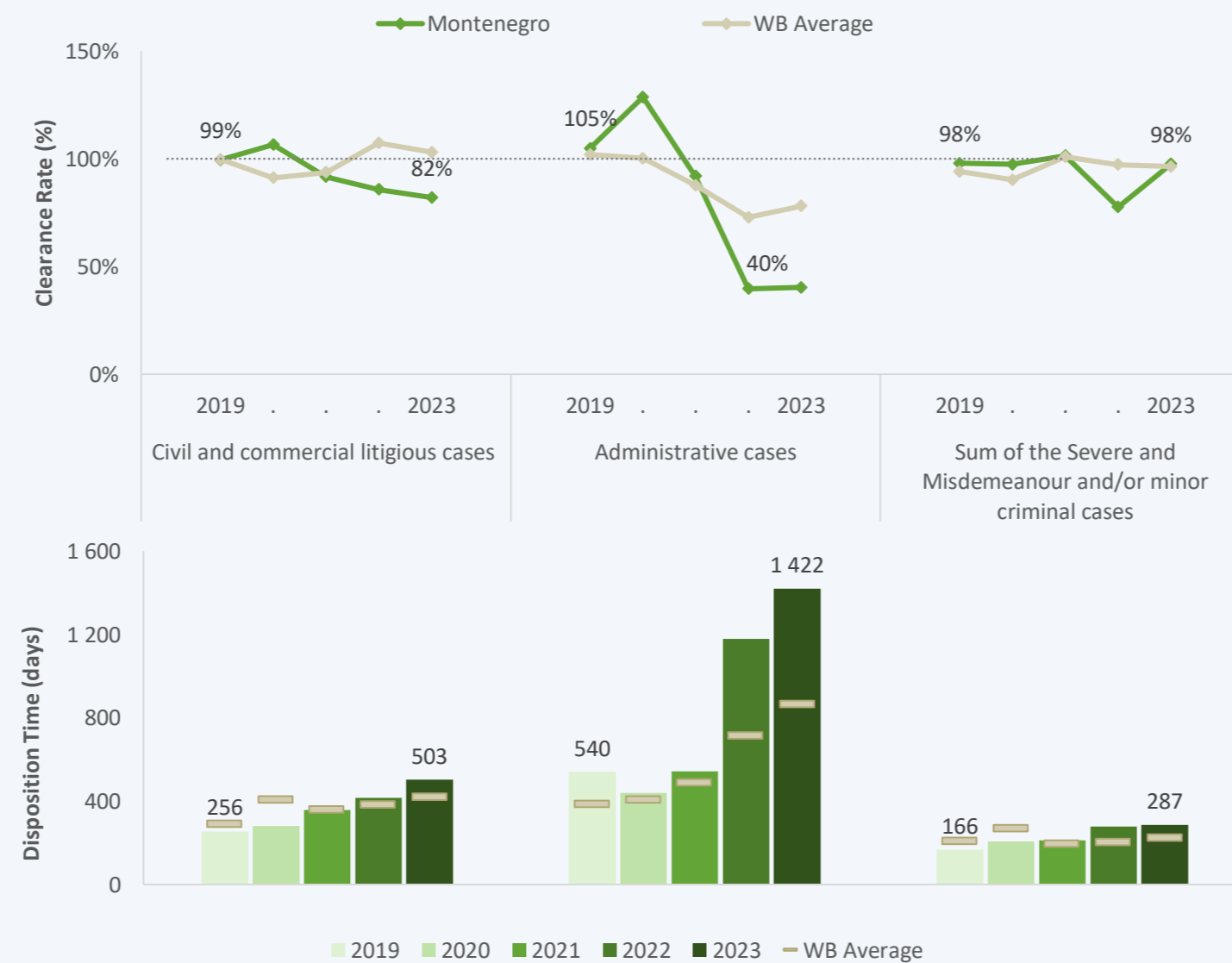
### % Variation of pending cases at the end of year between 2022 and 2023



In 2023, the highest Clearance rate (CR) for Montenegro was calculated for the first instance as a sum of the Severe and Misdemeanour and/or minor criminal cases, with a CR of 98%. However, it seems that Montenegro was not able to deal as efficiently with the first instance Administrative cases (CR of 40%). With a Disposition Time of approximately 189 days, the second instance Civil and commercial litigious cases were resolved faster than any other type of cases. Compared to 2022, the pending cases at the end of the year increased for the second instance Administrative cases (125,6%), whereas they increased for the first instance as a sum of the Severe and Misdemeanour and/or minor criminal cases only by 2,4%.

### First instance cases

#### Clearance rate (%) and Disposition Time (days) for first instance cases from 2019 to 2023



### Second instance cases

#### Clearance rate (%) and Disposition Time (days) for second instance cases from 2019 to 2023



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 (503 days for civil cases vs 423, 287 for criminal cases vs 226, 1422 days for administrative cases vs 867).

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 and 2023, this negative trend was confirmed, and CR is well below 100% in the two instances for the three categories of cases. A significant issue has been reported with administrative cases in Montenegro, where the number of incoming cases doubled from 2021 to 2022 and continued to rise in 2023. According to the authorities, this surge is apparently due to the misuse of the Law on Free Access to Information. Although the number of resolved cases has also increased, it has not been sufficient to keep up with the growing influx, leading to a backlog of cases in the system.

The second instance in Montenegro in 2023 was significantly faster than the first one with shorter Disposition Times, which were also shorter than the WB averages. However, in the second instance, all DTs increased from 2019 to 2023.

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 2019 WB Medians for these type of cases are not available.



• First instance cases - Other than criminal law cases

1st instance cases in 2023 (absolute values)	Montenegro (2023)				% Variation between 2022 and 2023			
	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)	45 081	30 346	55 044	5 926	8,7%	1,0%	35,8%	27,6%
1 Civil and commercial litigious cases	22 597	18 531	25 544	4 864	2,0%	-2,4%	17,8%	15,2%
2 Non-litigious cases**	3 651	3 405	1 705	300	2,3%	0,0%	14,8%	19,0%
3 Administrative cases	17 576	7 082	27 586	739	31,7%	34,0%	61,4%	427,9%
4 Other cases	1 257	1 328	209	23	-47,5%	-43,9%	-25,6%	-25,8%

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

In 2023, the incoming civil and commercial litigious cases were 22 597 (3,57 per 100 inhabitants vs the WB Average of 2,51). They increased by 2% between 2022 and 2023. The resolved cases were 18 531 (2,93 per 100 inhabitants) and they decreased by -2,4%, compared to the previous year. In 2023, 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 2023 were more than in 2022. Indeed, the 2023 Clearance rate for this type of cases was 82% (below the WB Average of 103%). This decreased by -3,7 percentage points compared to 2022.

The Disposition Time for civil and commercial litigious cases was approximately 503 days in 2023 (above the WB Average of 424 days). This increased by 20,8% over the 2022-2023 period.

The incoming administrative cases were 17 576 in 2023 (ie 2,78 per 100 inhabitants vs the WB Average of 1). They increased by 31,7% compared to the previous year. In 2023, the resolved cases were 7 082 (1,12 per 100 inhabitants, above of the WB Average of 0,52). Between 2022 and 2023, the number of resolved administrative cases increased by 34%. The number of incoming cases was thus higher than the resolved cases. As a consequence, the administrative pending cases at the end of 2023 were more than in 2022 and the Clearance rate for this type of cases was 40% (below the WB Average (78%). The CR increased by 0,7 percentage points compared to the previous year.

Finally, the Disposition Time for administrative cases was approximately 1 422 days in 2023. This has increased by 20,5% compared to 2022 and it was above the WB Average (868 days).

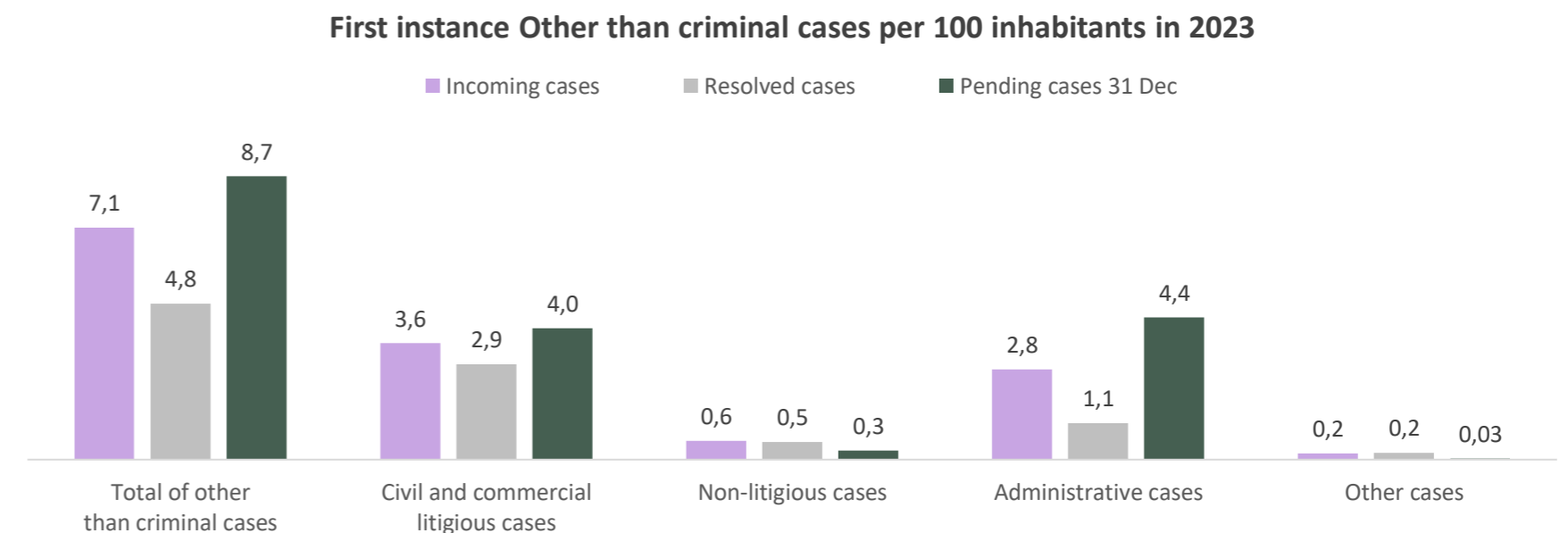
According to the authorities, the increase in administrative cases in Montenegro is largely driven by a high number of lawsuits related to the application of the Law on Free Access to Public Information. Citizens can file lawsuits before the Administrative Court in response to the "silence of administration," where public authorities fail to respond to freedom of information requests. Additionally, negative responses from public authorities, providing reasons for not disclosing information, can also lead to legal action. Furthermore, certain organizations are contributing to this rise by filing large volumes of lawsuits with the Administrative Court.

1st instance cases in 2023 (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)	7,1	< 12,0	4,8	< 11,8	8,7	< 15,4	0,94
1 Civil and commercial litigious cases	3,6	> 2,5	2,9	> 2,7	4,0	> 3,0	0,77	< 1,07
2 Non-litigious cases**	0,6	< 8,1	0,5	< 8,2	0,3	< 11,0	0,05	< 10,09
3 Administrative cases	2,8	> 1,0	1,1	> 0,5	4,4	> 1,5	0,12	< 0,15
4 Other cases	0,2	< 0,7	0,2	< 0,7	0,03	= 0,03	0,004	-

For reference only: the 2022 EU Median was as follows:

- Incoming first instance Civil and Commercial litigious cases per 100 inhabitants: 1,9;
- 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 2023	CR (%)		DT (days)		% Variation 2022 - 2023	
	Montenegro	WB Average	Montenegro	WB Average	CR (PPT)	DT (%)
	Total of other than criminal law cases (1+2+3+4)	67%	93%	662	390	-5,2
1 Civil and commercial litigious cases	82%	103%	503	424	-3,7	20,8%
2 Non-litigious cases**	93%	98%	183	213	-2,1	14,8%
3 Administrative cases	40%	78%	1 422	868	0,7	20,5%
4 Other cases	106%	104%	57	82	6,8	32,5%

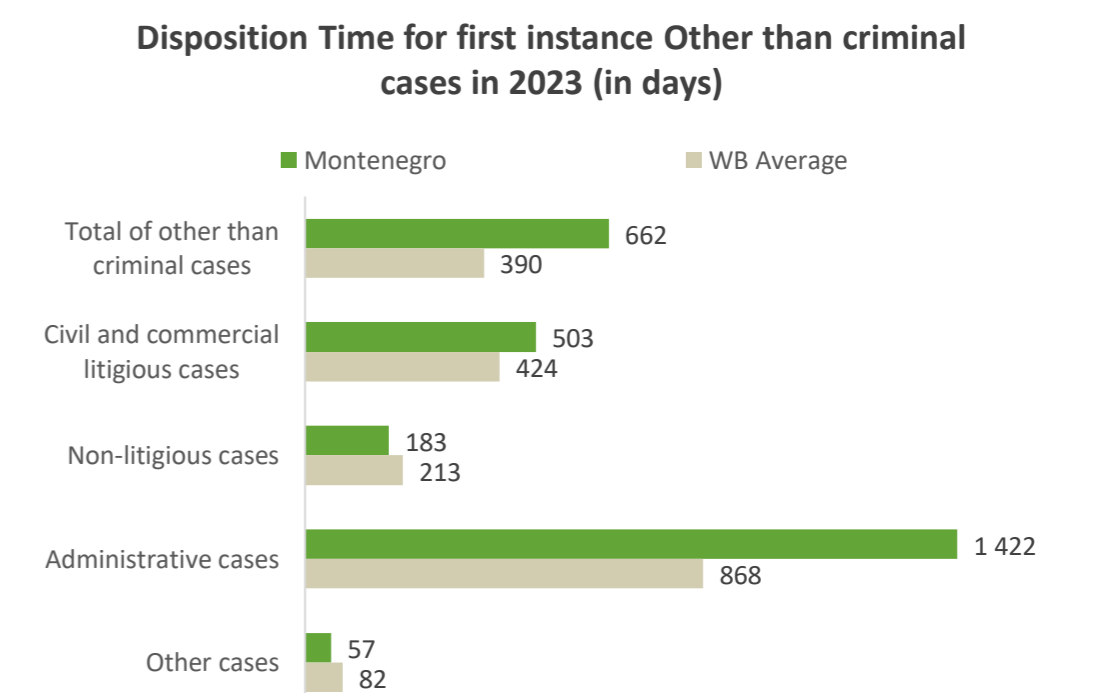
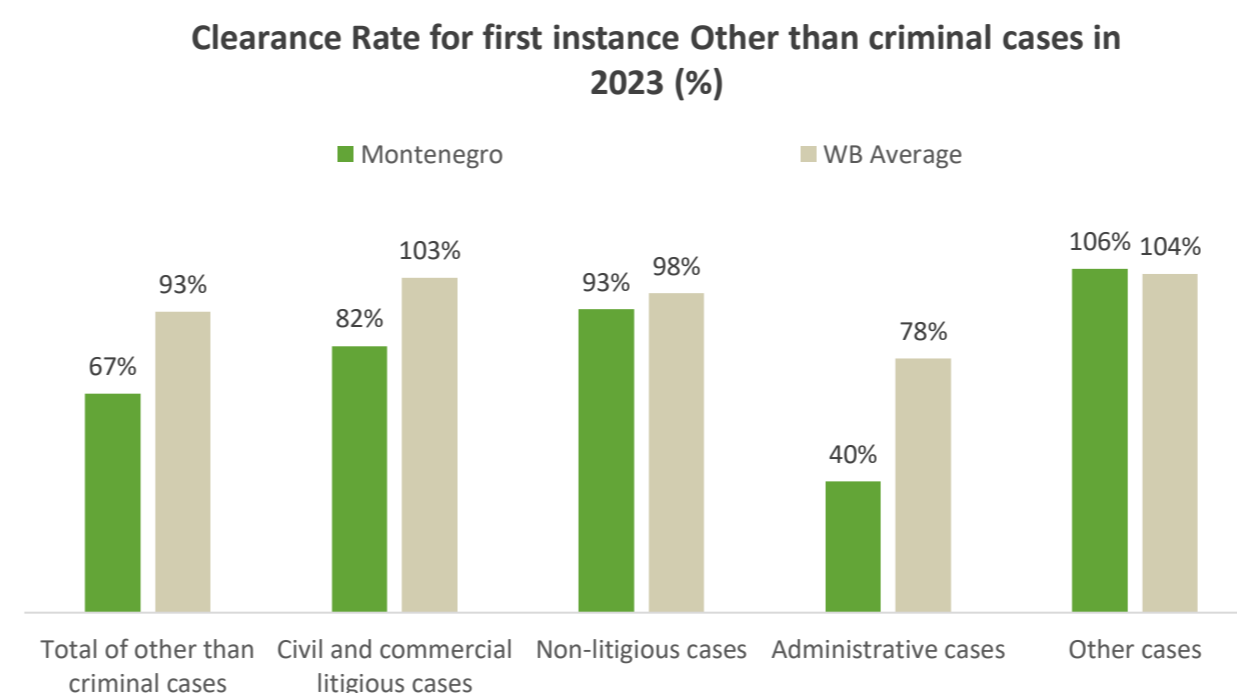
PPT = Percentage points

For reference only: the 2022 EU Median for the first instance Civil and Commercial litigious cases was as follows:

- Clearance rate: 100,5%;
- Disposition time: 239 days.

For reference only: the 2022 EU Median for the first instance Administrative cases was as follows:

- Clearance rate: 98,8%;
- Disposition time: 288 days.



• First instance cases - Criminal law cases

1st instance cases in 2023 (absolute values)	Montenegro (2023)				% Variation between 2022 and 2023			
	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)	66 614	63 338	52 897	NA	-11,2%	4,3%	1,5%	NA
Sum of Severe and Misdemeanour and / or minor criminal cases (1+2)	44 551	43 460	34 150	NA	-20,9%	-0,4%	2,4%	NA
1 Severe criminal cases	3 665	3 071	3 169	528	3,4%	-7,1%	19,3%	42,3%
2 Misdemeanour and / or minor criminal cases	40 886	40 389	30 981	NA	-22,5%	0,1%	0,9%	NA
3 Other cases	22 063	19 878	18 747	NA	17,9%	16,5%	-0,2%	NA

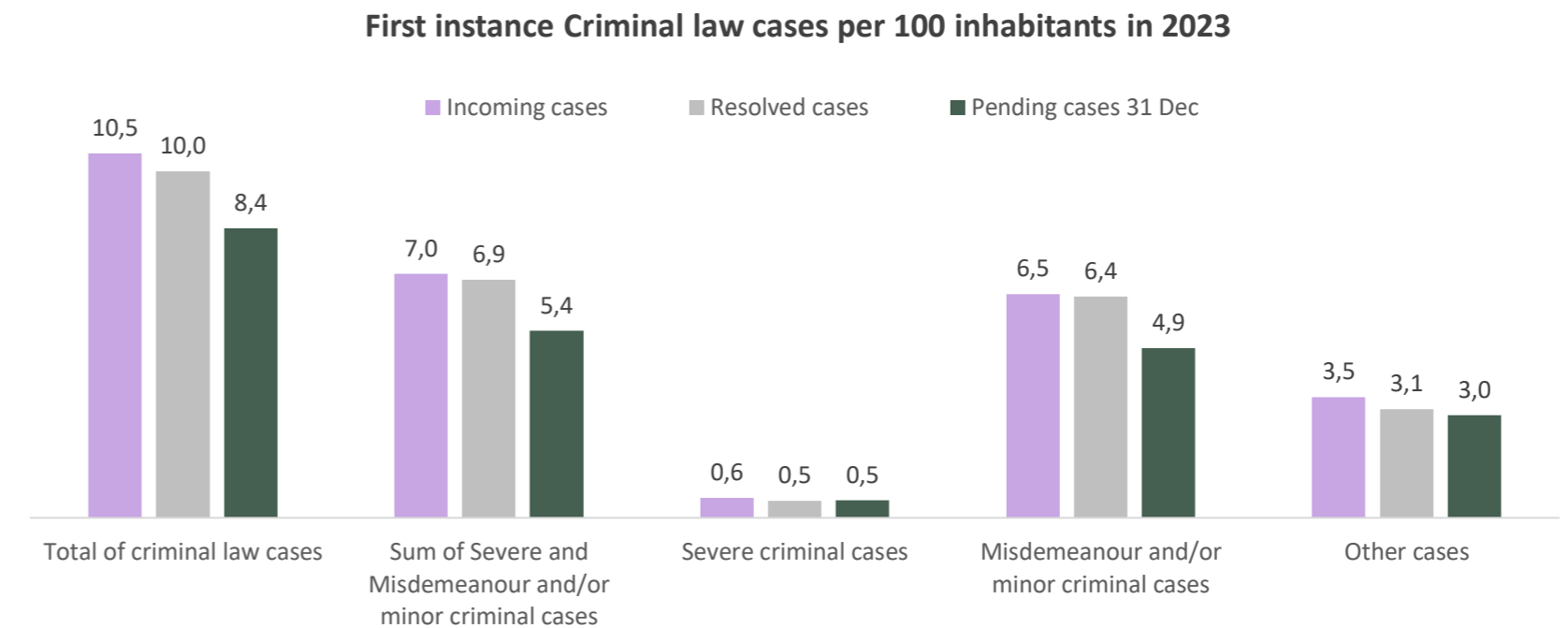
In 2023, the incoming total criminal cases were 66 614 (10,52 per 100 inhabitants vs the WB Average of 7,05). They decreased by -11,2% between 2022 and 2023. The resolved cases were 63 338 (10 per 100 inhabitants). Between 2022 and 2023, they increased by 4,3%. The number of resolved cases was lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2023 were more than in 2022. Indeed, the 2023 Clearance rate for this type of cases was 95% (below the WB Average of 96,5%). This increased by 14 percentage points compared to 2022.

The Disposition Time for total criminal cases was approximately 305 days in 2023 (above the WB Average of 197 days). This decreased by -2,7% compared to 2022.

1st instance cases in 2023 (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)	10,5	> 7,1	10,0	> 6,9	8,4	> 3,8	NA	0,36
Sum of Severe and Misdemeanour and/or minor criminal cases (1+2)	7,0	> 3,9	6,9	> 3,8	5,4	> 2,6	NA	0,08
1 Severe criminal cases	0,6	> 0,5	0,5	> 0,5	0,5	> 0,3	0,08	> 0,05
2 Misdemeanour and / or minor criminal cases	6,5	> 3,5	6,4	> 3,4	4,9	> 2,3	NA	0,04
3 Other cases	3,5	< 3,9	3,1	< 3,8	3,0	> 1,5	NA	0,28

For reference only: for the first instance Total Criminal law cases, the 2022 EU Median was as follows:  
 - Incoming cases per 100 inhabitants: 1,7.

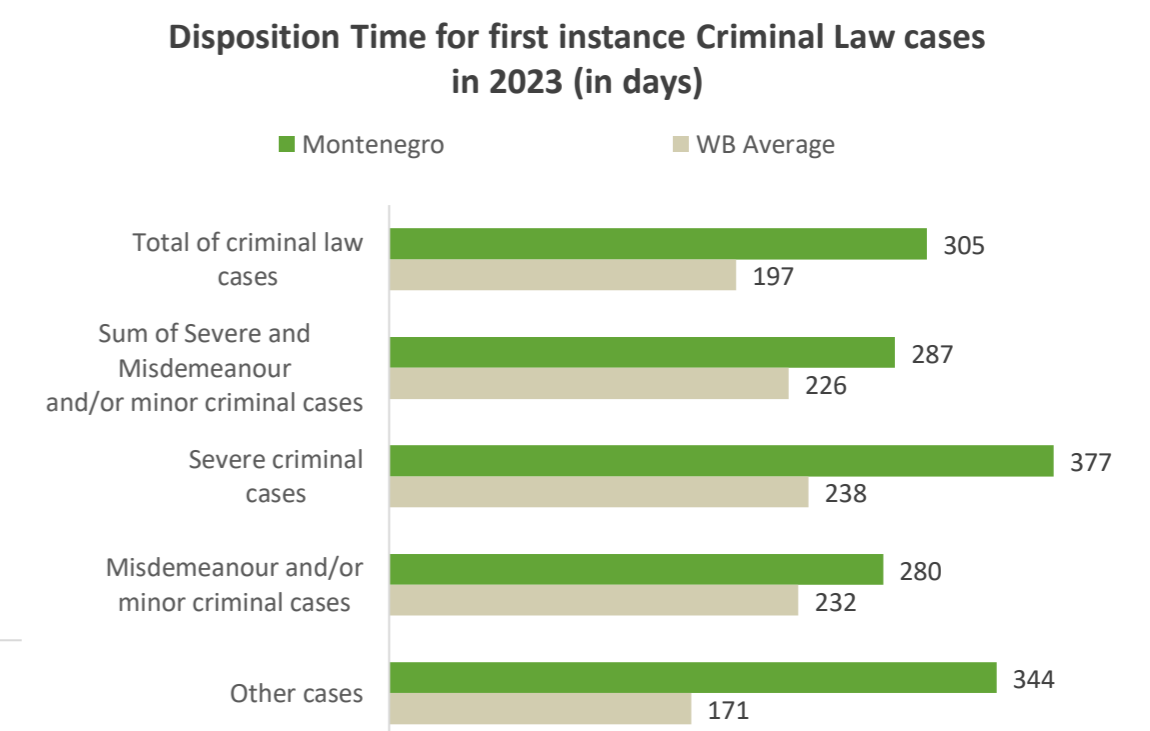
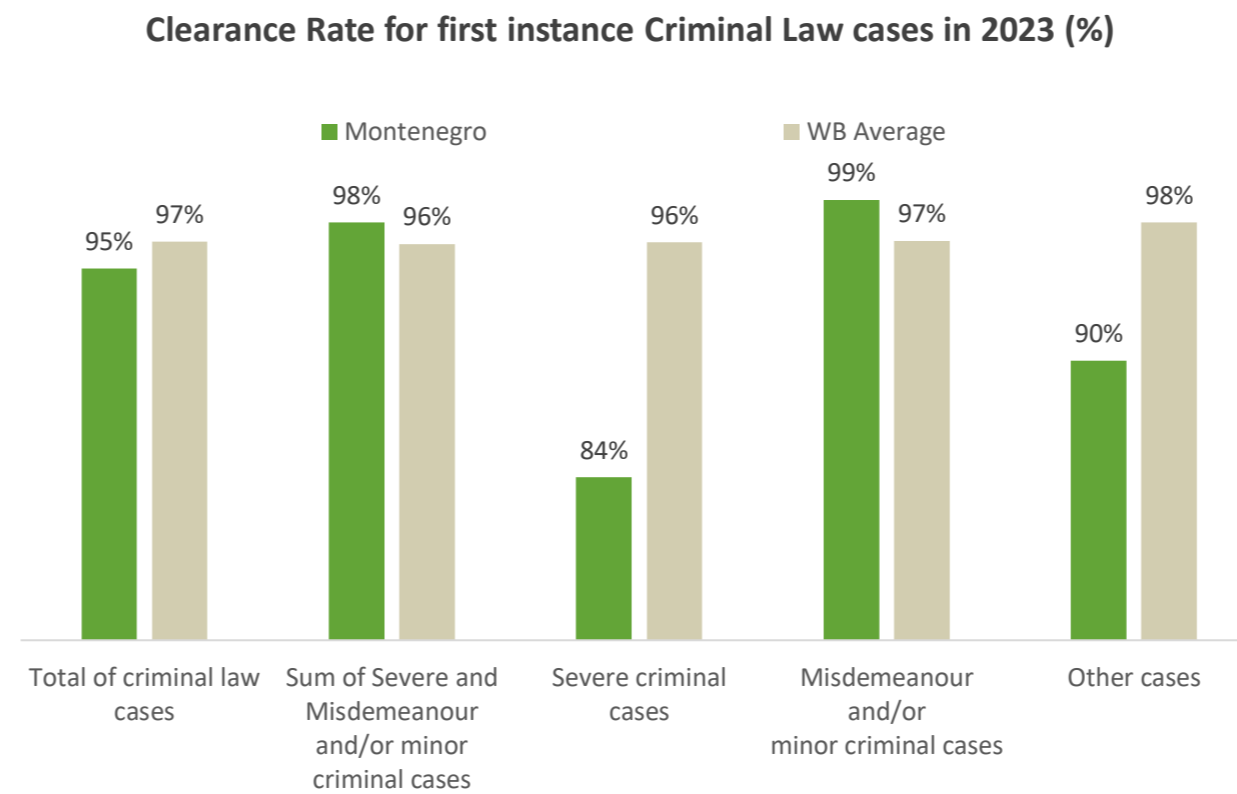
Key: > Higher than the WB Average  
 = Equal to the WB Average  
 < Lower than the WB Average



1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2023	CR (%)		DT (days)		% Variation 2022 - 2023	
	Montenegro	WB Average	Montenegro	WB Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	95%	97%	305	197	14,1	-2,7%
Sum of Severe and Misdemeanour and/or minor criminal cases (1+2)	98%	96%	287	226	20,0	2,9%
1 Severe criminal cases	84%	96%	377	238	-9,5	28,4%
2 Misdemeanour and / or minor criminal cases	99%	97%	280	232	22,3	0,8%
3 Other cases	90%	98%	344	171	-1,1	-14,3%

For reference only: for the first instance Total Criminal law cases, the 2022 EU Median was as follows:  
 - Clearance rate: 100%;  
 - Disposition time: 136 days.

PPT = Percentage points



• Second instance cases - Other than criminal law cases

2nd instance cases in 2023 (absolute values)	Montenegro (2023)				% Variation between 2022 and 2023			
	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)	9 506	8 075	4 452	2 262	0,6%	-4,0%	46,3%	134,6%
1 Civil and commercial litigious cases	7 989	6 987	3 626	2 191	-1,1%	-2,3%	36,9%	133,6%
2 Non-litigious cases**	179	157	96	67	-14,8%	-17,4%	31,5%	157,7%
3 Administrative cases	1 269	872	713	0	14,4%	-13,7%	125,6%	-
4 Other cases	69	59	17	4	23,2%	0,0%	183,3%	-

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

In 2023, the incoming civil and commercial litigious cases were 7 989 (1,26 per 100 inhabitants vs the WB Average of 0,92). They decreased by -1,1% between 2022 and 2023. The resolved cases were 6 987 (1,1 per 100 inhabitants). Between 2022 and 2023, they decreased by -2,3%. 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 2023 were more than in 2022. Indeed, the 2023 Clearance rate for this type of cases was 87% (below the WB Average of 97%). This .decreased by -1,1 percentage points compared to 2022.

The Disposition Time for civil and commercial litigious cases was approximately 189 days in 2023 (below the WB Average of 233 days). This increased by 40,2% over the 2022-2023 period.

The incoming administrative cases were 1 269 in 2023 (ie 0,2 per 100 inhabitants vs the WB Average of 0,14). They increased by 14,4% compared to the previous year. The resolved cases were 872 (0,14 per 100 inhabitants, above of the WB Average of 0,1). Between 2022 and 2023, the number of resolved administrative cases decreased by -13,7%. The number of incoming cases was thus higher than the resolved cases. As a consequence, the administrative pending cases at the end of 2023 were more than in 2022 and the Clearance rate for this type of cases was 69% (below the WB Average (76%). The CR decreased by -22,4 percentage points compared to the previous year.

Finally, the Disposition Time for administrative cases was approximately 298 days in 2023. This has increased by 161,6% compared to 2022 and it was below the WB Average (1548 days).

"Other cases" are different types execution cases, execution of payments (enforcement), cases upon constitutional appeal in commercial cases etc.

A significant issue facing the judiciary is the decreasing number of resolved cases. According to the authorities, this decline is largely due to the higher inflow of new cases, which strains the system's capacity as resources and staffing remain the same or decrease. As a result, the courts are increasingly challenged to keep up with the growing volume of cases, leading to delays and a backlog in case resolutions.

2nd instance cases in 2023 (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)	1,50	> 1,08	1,28	> 0,80	0,70	> 0,64	0,36	-
1 Civil and commercial litigious cases	1,26	> 0,92	1,10	> 0,68	0,57	> 0,55	0,35	-
2 Non-litigious cases**	0,03	-	0,02	-	0,02	-	0,01	-
3 Administrative cases	0,20	> 0,14	0,14	> 0,10	0,11	< 0,28	0,00	< 0,20
4 Other cases	0,01	-	0,01	-	0,003	-	0,001	-

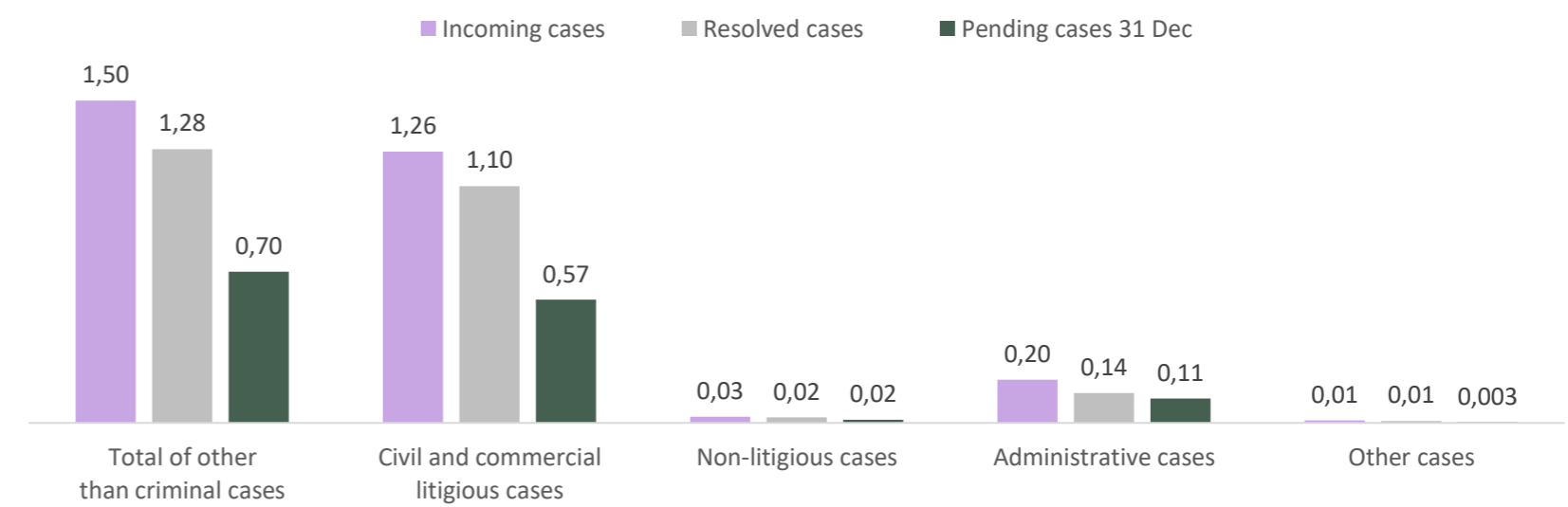
For reference only: the 2022 EU Median was as follows:

- Incoming Second instance Civil and Commercial litigious cases per 100 inhabitants: 0,2;

- incoming Second instance Administrative cases per 100 inhabitants: 0,1.

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 2023



2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2023	CR (%)		DT (days)		% Variation 2022 - 2023	
	Montenegro	WB Average	Montenegro	WB Average	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)	85%	96%	201	239	-4,1	52,4%
1 Civil and commercial litigious cases	87%	97%	189	233	-1,1	40,2%
2 Non-litigious cases**	88%	-	223	-	-2,8	59,1%
3 Administrative cases	69%	76%	298	1 548	-22,4	161,6%
4 Other cases	86%	-	105	-	-19,8	183,3%

PPT = Percentage points

For reference only: the 2022 EU Median for the Second instance Civil and Commercial litigious cases was as follows:

- Clearance rate: 97,1%;

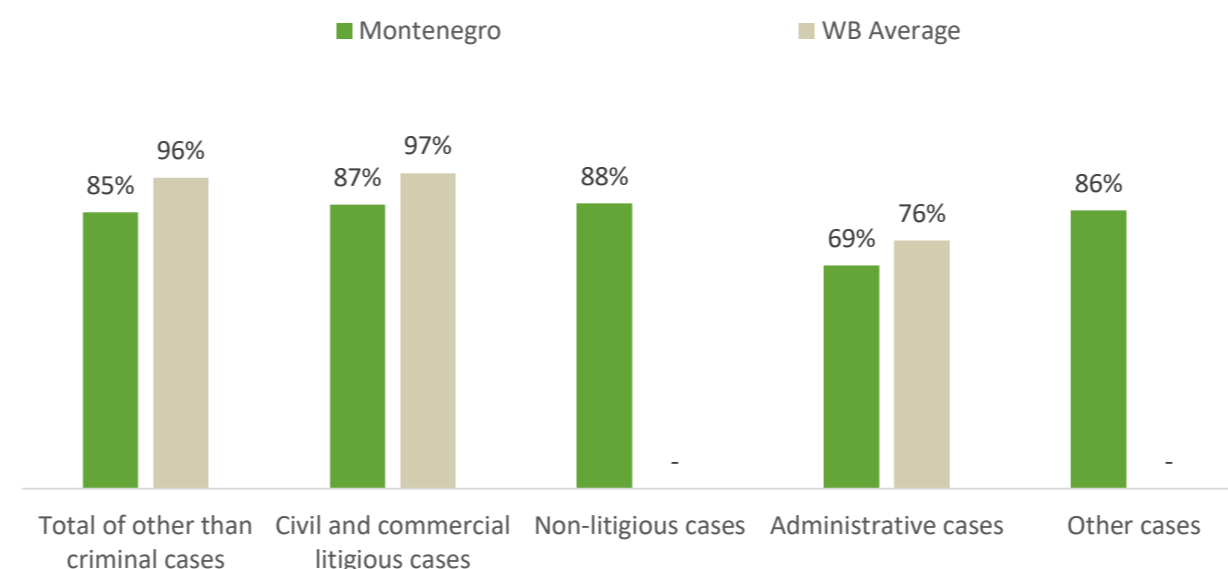
- Disposition time: 207 days.

For reference only: the 2022 EU Median for the Second instance Administrative cases was as follows:

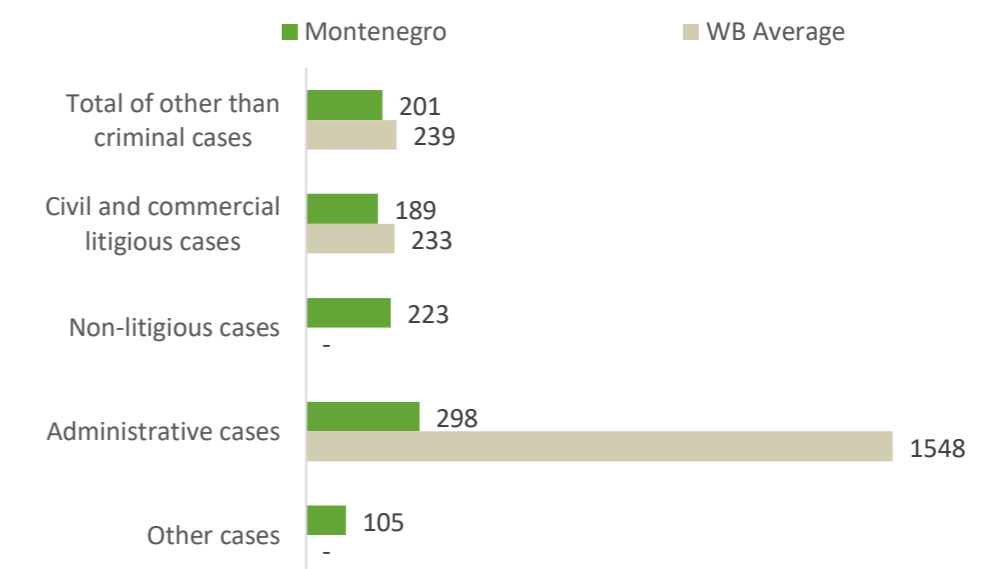
- Clearance rate: 102,6%;

- Disposition time: 277 days.

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



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



• Second instance cases - Criminal law cases

2nd instance cases in 2023 (absolute values)	Montenegro (2023)				% Variation between 2022 and 2023			
	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)	3 521	3 297	1 064	NA	2,4%	14,8%	23,3%	NA
Sum of Severe and Misdemeanour and/or minor criminal cases (1+2)	3 521	3 297	3 297	NA	2,4%	14,8%	14,8%	NA
1 Severe criminal cases	1 490	1 344	622	110	1,8%	12,2%	30,4%	685,7%
2 Misdemeanour and / or minor criminal cases	2 031	1 953	442	NA	2,8%	16,7%	14,5%	NA
3 Other cases	NAP	NAP	NAP	NAP	NA	NA	NA	NA

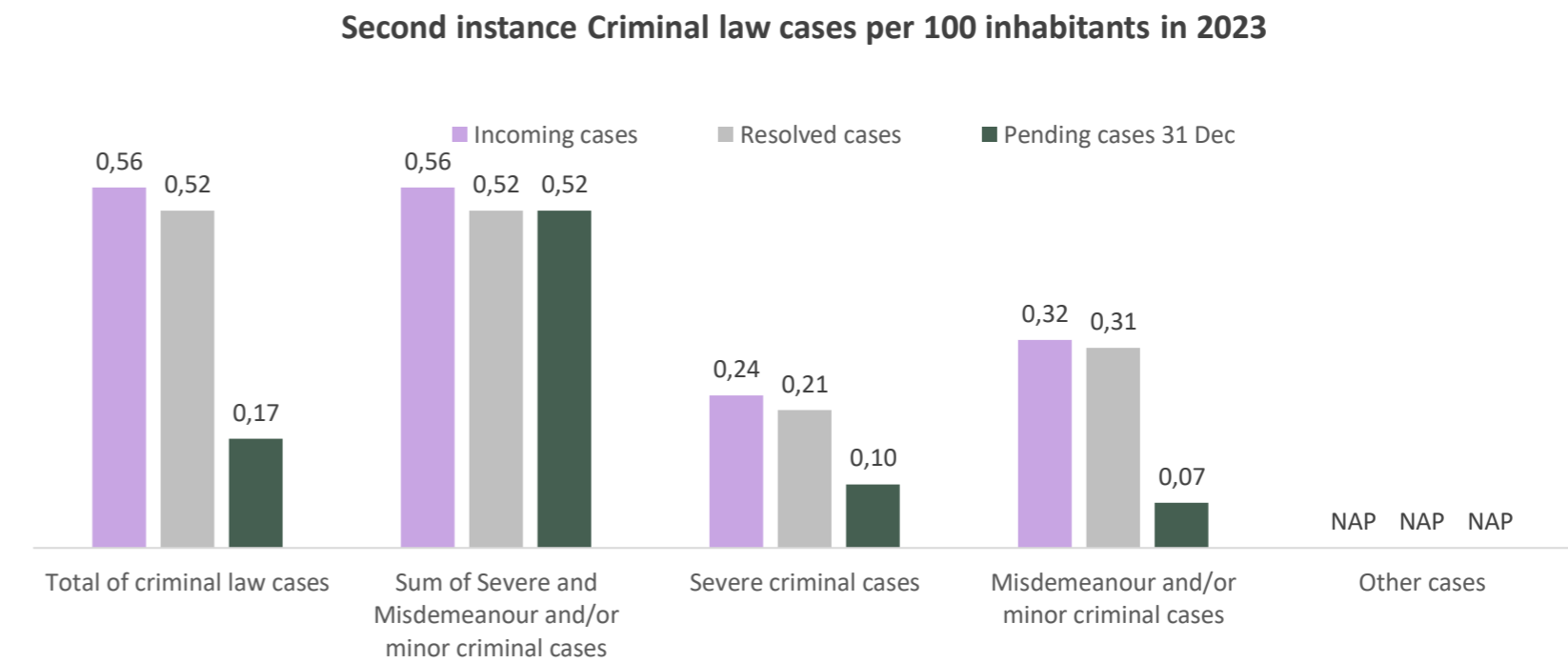
In 2023, the incoming total criminal cases were 3 521 (0,56 per 100 inhabitants vs the WB Average of 0,34), and they increased by 2,4%, compared to the previous year. The resolved cases were 3 297 (0,52 per 100 inhabitants). Between 2022 and 2023, they increased by 14,8%. In 2023, the number of resolved cases was thus lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2023 were more than in 2022. Indeed, the 2023 Clearance rate for this type of cases was 94% (above the WB Average of 91%). This increased by 10,2 percentage points compared to 2022.

The Disposition Time for total criminal cases was approximately 118 days in 2023 (below the WB Average of 307 days). This increased by 7,4% over the 2022-2023 period.

2nd instance cases in 2023 (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)	0,56	> 0,34	0,52	> 0,32	0,17	< 0,20	NA	-
Sum of Severe and Misdemeanour and/or minor criminal cases (1+2)	0,56	> 0,30	0,52	> 0,28	0,52	> 0,28	NA	-
1 Severe criminal cases	0,24	> 0,15	0,21	> 0,13	0,10	< 0,12	0,02	< 0,05
2 Misdemeanour and / or minor criminal cases	0,32	> 0,16	0,31	> 0,15	0,07	> 0,06	NA	-
3 Other cases	NAP	-	NAP	-	NAP	-	NAP	-

For reference only: for the second instance Total Criminal law cases, the 2022 EU Median was as follows:  
- Incoming cases per 100 inhabitants: 0,1.

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

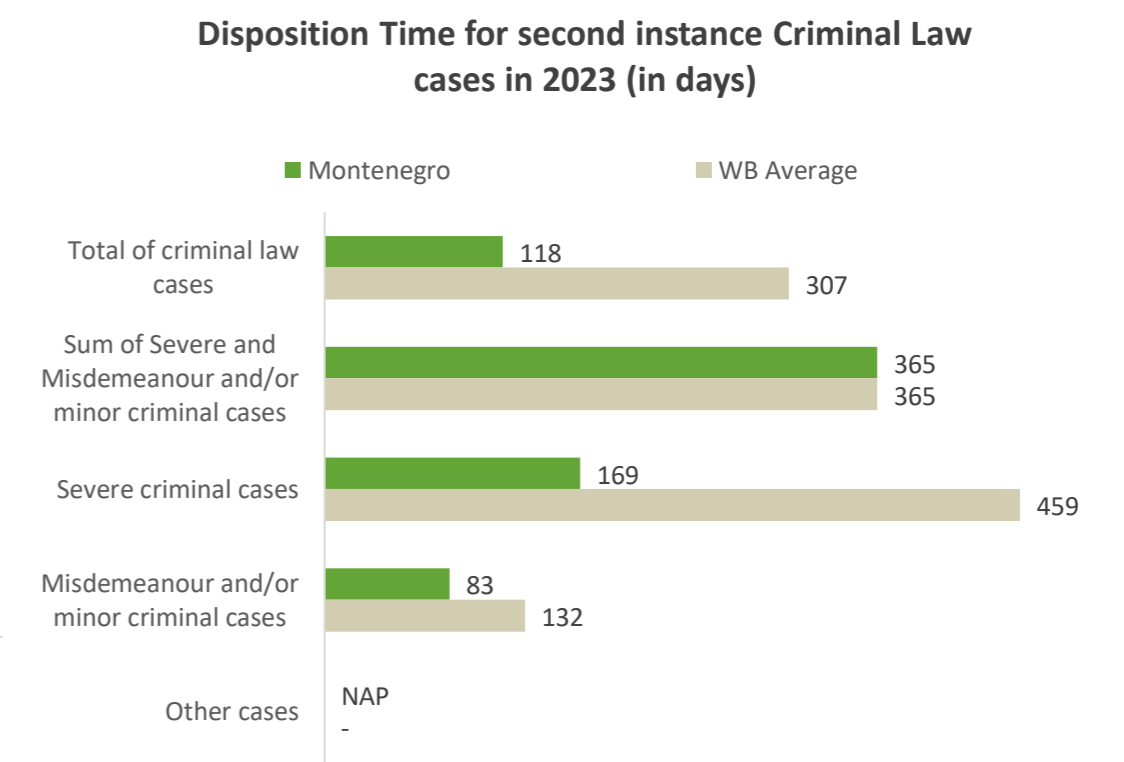
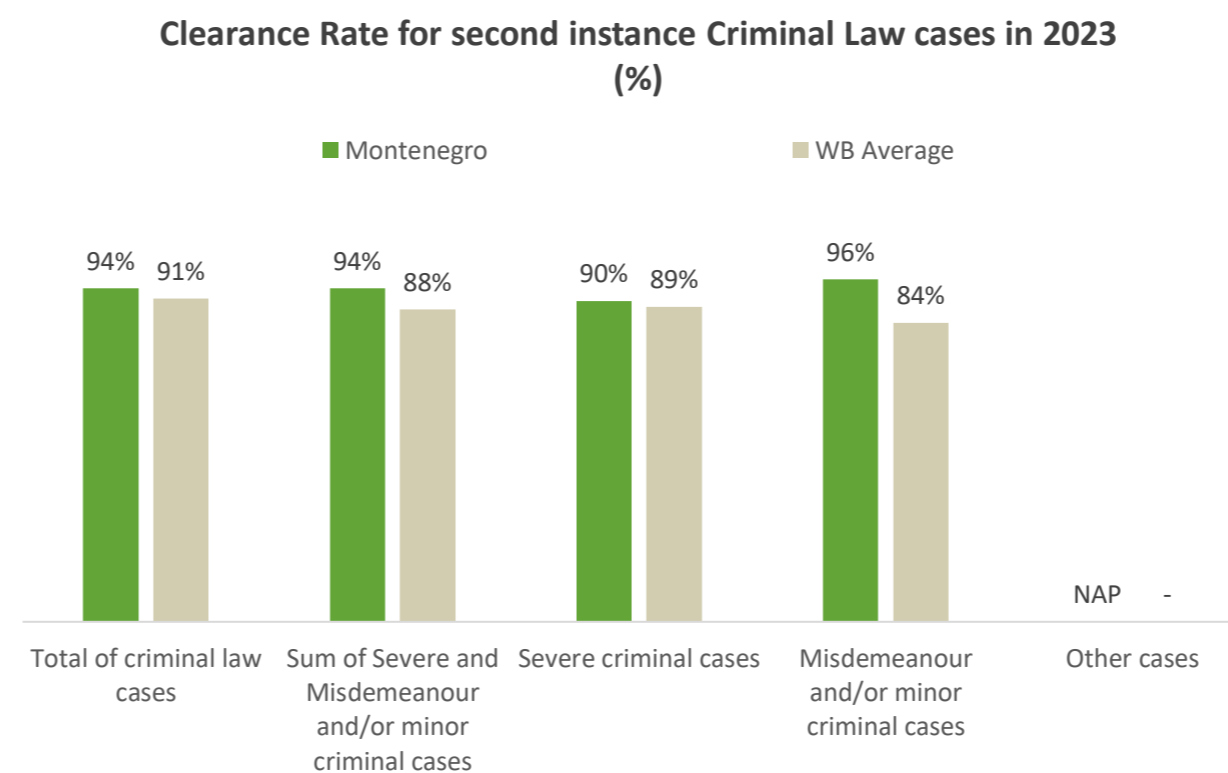


2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2023	CR (%)		DT (days)		% Variation 2022 - 2023	
	Montenegro	WB Average	Montenegro	WB Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	94%	91%	118	307	10,2	7,4%
Sum of Severe and Misdemeanour and/or minor criminal cases (1+2)	94%	88%	365	365	10,2	0,0%
1 Severe criminal cases	90%	89%	169	459	8,3	16,2%
2 Misdemeanour and / or minor criminal cases	96%	84%	83	132	11,5	-1,9%
3 Other cases	NAP	-	NAP	-	NAP	NAP

PPT = Percentage points

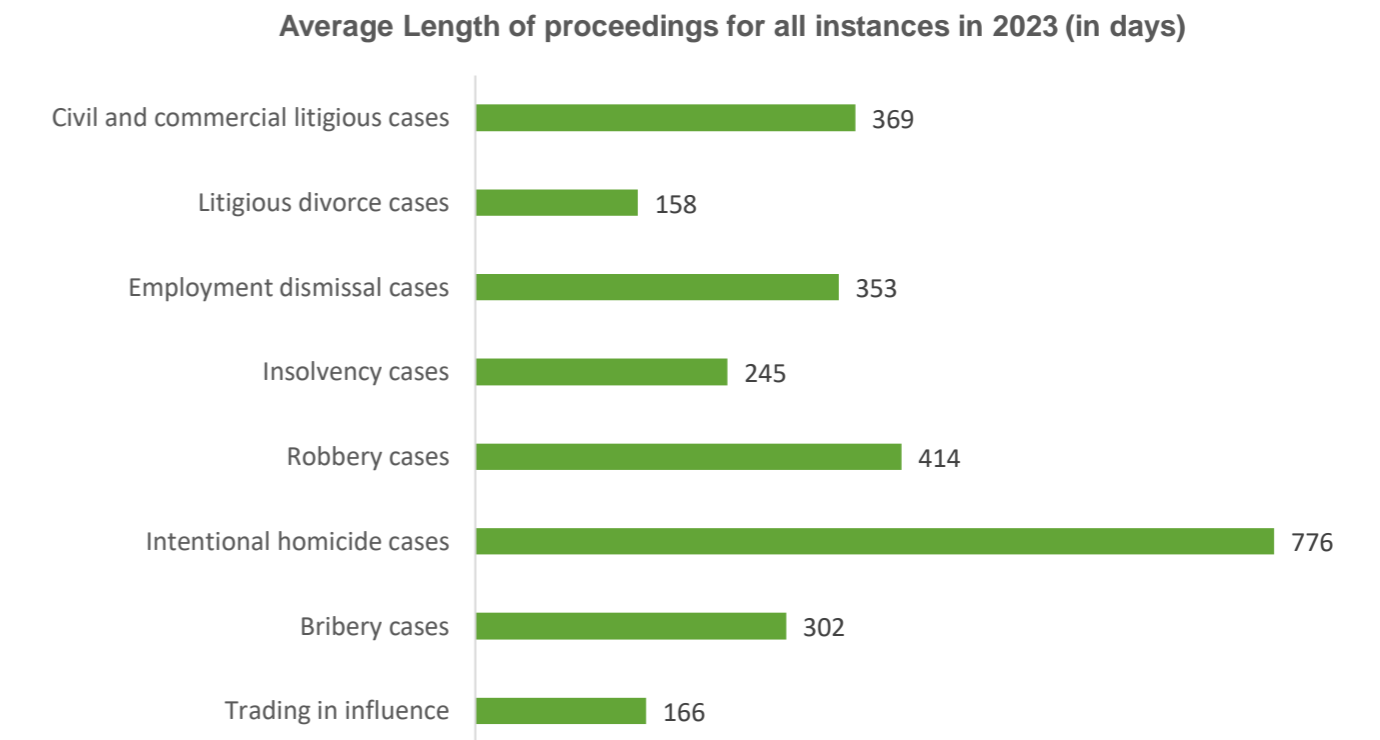
For reference only: for the second instance Total Criminal law cases, the 2022 EU Median was as follows:  
- Clearance rate: 99%; - Disposition time: 135 days.

NBNB: For the second instance Misdemeanour and / or minor criminal cases: the WB Median of the Disposition Time is visualised in the graph above (instead of the WB average).



• Specific category cases

	Montenegro (2023)						% Variation between 2022 and 2023					
	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	36%	357	79	0	369	11%	4,0	6%	5%	NA	6%	-58%
Litigious divorce cases	6%	156	37	0	158	3%	0,0	14%	-12%	NA	14%	3%
Employment dismissal cases	91%	319	82	0	353	0%	40,0	0%	26%	NA	5%	0%
Insolvency cases	21%	245	6	21	245	21%	14,0	2%	-14%	NA	2%	19%
Robbery cases	72%	396	64	0	414	9%	11,0	118%	-24%	NA	99%	9%
Intentional homicide cases	80%	737	83	71	776	40%	9,0	45%	2%	NA	43%	40%
Bribery cases	100%	284	41	0	302	22%	0,0	-77%	NA	NA	-75%	22%
Trading in influence	0%	166	0	0	166	0%	0,0	NA	NA	NA	NA	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.

• **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.

	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

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

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** 

The 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:	

The 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
Without disciplinary procedure	Warning by court's president/ head of prosecution		
	Temporary salary reduction		
	Reflected in the individual assessment		
	Other		
With disciplinary procedure	Warning by court's president/ head of prosecution		
	Temporary salary reduction		
	Reflected in the individual assessment		
	Other		
No consequences			

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

Article 11 outlines the criteria for evaluating judges and court presidents in Montenegro based on the percentage of their decisions that are revoked. A judge is rated as performing unsatisfactorily if 30% or more of their decisions are revoked in relation to the total number of cases they handled within a specific period. Conversely, a judge's performance is considered satisfactory if less than 30% of their decisions are revoked during the same timeframe.

In determining the percentage of revoked decisions, a case where the decision was only partially revoked is counted as half a case (0.5%). Additionally, if only the decision on costs was revoked, such a case is not included in the calculation of revoked decisions.

The Rules for evaluating state prosecutors and heads of state prosecutor's offices in Montenegro set criteria for assessing their performance. Article 7 details how the average workload is calculated by dividing the total completed cases of specific types by the number of prosecutors in each office category over the last three years. A case is considered complete if it results in significant actions such as indictment or archiving. Article 8 evaluates the quantity of work, deeming a prosecutor satisfactory if they complete up to 20% below the average workload; otherwise, they are unsatisfactory. Article 9 assesses work quality based on confirmed indictments, convictions, and appeals, with prosecutors rated satisfactory if 80% of their indictments or 70% of their convictions meet standards. Less than 30% accepted appeals lead to an unsatisfactory rating. This comprehensive evaluation ensures accountability and high performance among prosecutors.

• System of individual evaluation of the judges and public prosecutors' work

	Judges	Prosecutors
Existence of a system of individual evaluation	✓	✓
Quantitative work	✓	✓
Qualitative work	✓	✓

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	✗	✗

Under the Law on Judicial Council and Judges, the assessment criteria for judges focus on their expert knowledge and general abilities necessary for performing judicial duties. Evaluations are conducted to measure their expertise, the quantity and quality of their work, ethical standards, and training needs, and also to determine their eligibility for promotion to higher courts.

State prosecutors, except for the Supreme State Prosecutor and those in the Supreme State Prosecutor's Office, undergo performance evaluations every three years. These evaluations assess their competence, work output and quality, ethical conduct, and training requirements. They also serve to identify candidates for promotion to higher prosecutorial offices. Prosecutors with a four-year term are evaluated after two years and again at the end of their term.

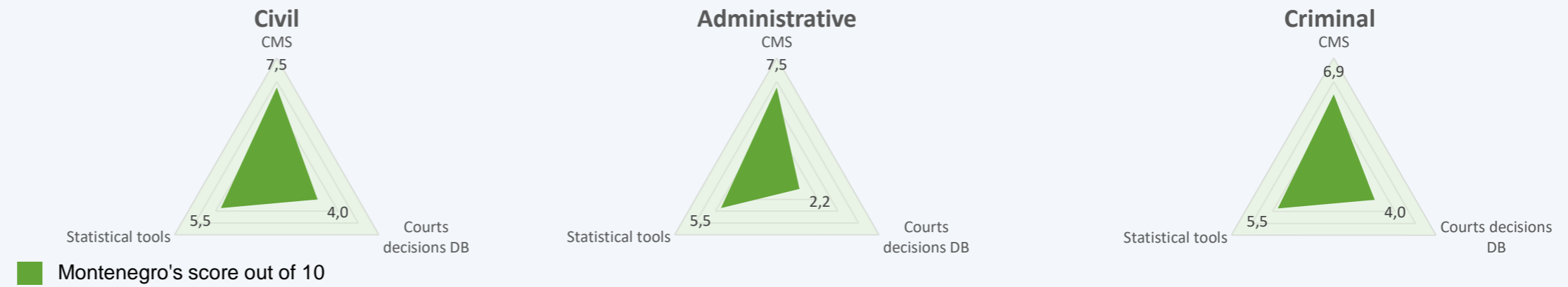
The Ministry of Justice, upon the Judicial Council's proposal, adopts the Rulebook on Orientation Criteria, which determines the required number of judges and other court staff.

*Kosovo is not included in the calculation of summary statistics*



## Information and communication technology tools in Montenegro in 2023 (Indicator 3.3)

The three ICT deployment indices (CMS, Courts decisions DB and Statistical tools) range from 0 to 10 points. Their calculation is based on the features and deployment rates of each beneficiary. The methodology for calculation provides points for each feature in each case matter. They are summarised and multiplied by the deployment rate as a weight. In this way, if the system is not fully deployed, the value is decreased even if all features are existing.



In Montenegro, the overall maximum score among the three ICT indexes is achieved by the CMS index (7,5) for civil and administrative cases; while overall lowest score was calculated for the Courts decisions DB index (4,0).

In Montenegro, there exists an overall Information and Communication Technology (ICT) strategy in the judicial system and there are plans for a significant change in the present IT system in the judiciary in 2023.

There are 1 case management systems (CMS), eg software used for registering judicial proceedings and their management. This has been developed more than 10 years ago.

An update to the current judicial IT system is planned for 2024 with the rollout of PRIS version 2. This significant upgrade will include cleaned data, improved reporting capabilities, and the integration of misdemeanor courts into the system. The enhanced system is scheduled to be operational by the first quarter of 2025 at the latest.

### • Electronic case management system

The CMS is developed and used in all courts (95-100% for all matters) and the data is stored on centralised and/or interoperable CMS databases that allows the identification of a case between instances and the electronic transfer of a case to another instance and or court.

	Deployment rate	Usage rate	Centralised and/or interoperable CMS databases	Active case management dashboard	Random allocation of cases	Case weighting	Identification of a case between instances	Electronic transfer of a case to another instance/ court	Anonymisation of decisions to be published	Interoperability with prosecution system	Interoperability with other systems	Access to closed/resolved cases	Advanced search engine	Protected log files	Electronic signature	Other
Civil	95-100 %	95-100 %	✓	✓	✓	✗	✓	✓	✓	NAP	✓	✓	✗	✓	✗	✗
Administrative	95-100 %	95-100 %	✓	✓	✓	✗	✓	✓	✓	NAP	✓	✓	✗	✓	✗	✗
Criminal	95-100 %	95-100 %	✓	✓	✓	✗	✓	✓	✓	✗	✓	✓	✗	✓	✗	✗

## • Database of court decisions

The database of court decisions encompasses all judicial instances and matters. Its deployment rate varies across different case types: 50-75% for civil cases and 75-95% for administrative and criminal cases. Court decisions are published online on a public website with manual anonymization to protect identities. For civil and administrative cases, decisions are available in open data formats with machine-readable and structured content. Additionally, there is free public online access to these civil and administrative decisions.

	1st instance		2nd instance		Supreme court		Functionalities										
	Deployment rate	Modalities of publication	Deployment rate	Modalities of publication	Deployment rate	Modalities of publication	Automatic anonymisation	Manual anonymisation	Free public online access	Link to the case law of the European Court of Human Rights (ECHR)	Open data	Advanced search engine	Machine-readable content	Structured content	Metadata	European Case Law Identifier (ECLI)	Other
<b>Civil</b>	50-75 %	Published online (public website)	50-75 %	Published online (public website)	50-75 %	Published online (public website)	✗	✓	✓	✗	✓	✗	✓	✓	✗	✗	✗
<b>Administrative</b>	75-95 %	Published online (public website)	75-95 %	Published online (public website)	75-95 %	Published online (public website)	✗	✓	✗	✗	✗	✗	✓	✓	✗	✗	✗
<b>Criminal</b>	75-95 %	Published online (public website)	75-95 %	Published online (public website)	75-95 %	Published online (public website)	✗	✓	✓	✗	✓	✗	✓	✓	✗	✗	✗

## • Statistical tools

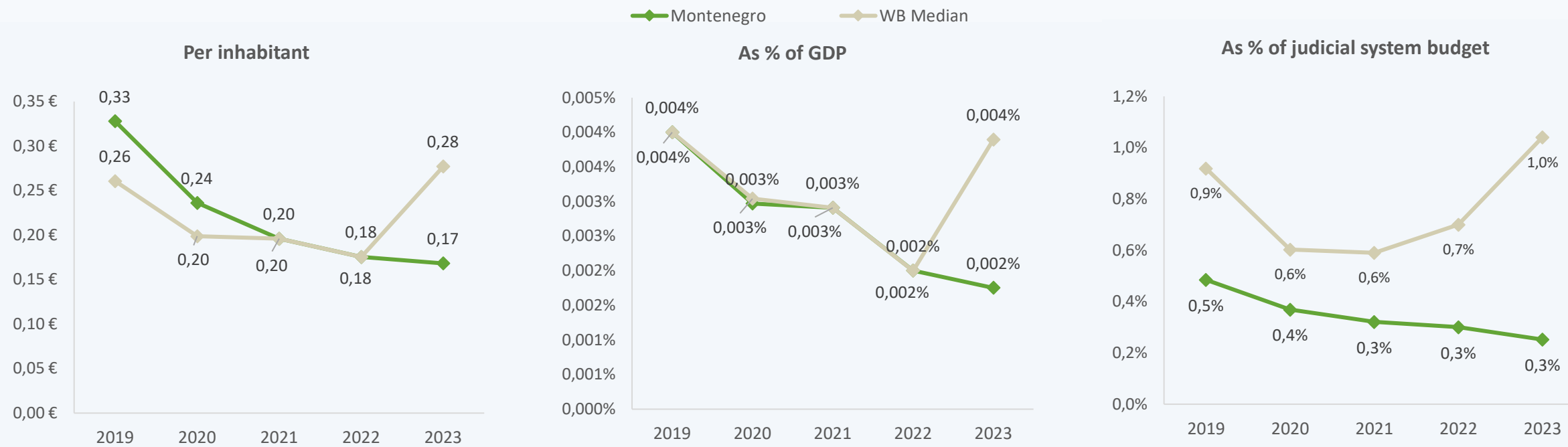
Statistical tools are implemented in 75-95% of courts, although they are not yet developed in misdemeanor courts. While the current tool lacks business intelligence software, it calculates all performance indicators except for case weights.

	Deployment rate	Functionalities									Data available for statistical analysis								
		Integration/connection with the CMS	Business intelligence software	Generation of predefined statistical reports	Generation of customised statistical reports	Internal page and/or dashboard	External page with statistics (public website)	Real-time data availability	Automatic consolidation of data at the national level	Other special functionality	Case flow data (number of incoming, resolved,	Age of a pending case	Length of proceedings	Number of hearings	Cases per judge	Case weights	Number of parties in a case	Indicator of appeal	Result of the appeal
<b>Civil</b>	75-95 %	✓	✗	✓	✓	✓	✗	✓	✓	✗	✓	✓	✓	✓	✗	✓	✓	✓	
<b>Administrative</b>	75-95 %	✓	✗	✓	✓	✓	✗	✓	✓	✗	✓	✓	✓	✓	✗	✓	✓	✓	
<b>Criminal</b>	75-95 %	✓	✗	✓	✓	✓	✗	✓	✓	✗	✓	✓	✓	✓	✗	✓	✓	✓	

Kosovo is not included in the calculation of summary statistics

## Legal Aid in Montenegro in 2023 (Indicator 4)

Total implemented budget for Legal Aid between 2019 and 2023



Number of cases for which LA has been granted in 2023



**0,06**

per 100 inhabitants

WB Median: 0,19

**WB Median: 0,19**

In 2023, the implemented budget for legal aid spent by Montenegro was 106 476€ (0,25% of the judicial system budget). This means that an amount of 0,17€ was spent per inhabitant (below the WB Median of 0,28€). The budget for legal aid was equal to 0,002% of the GDP, whereas the WB Median was 0,004%.

### • Organisation of the legal aid system

Free legal aid in Montenegro covers various legal costs, including advice, document preparation, court representation, and out-of-court dispute resolution. Applicants can also be exempted from court costs. Eligibility for free legal aid is based on the applicant's financial situation, considering their income and property as well as that of their family members, unless specified otherwise by law.

The president of the basic court or an authorized judge in the applicant's area is responsible for granting free legal aid. Administrative and professional tasks related to the approval process are handled by the Service or Office for Free Legal Aid. This Service provides information, guidance on eligibility, and assists applicants in submitting their requests.

Lawyers from the Bar Association of Montenegro, listed according to the jurisdiction of basic courts, provide the legal aid. The Bar Association supplies these lists to the Service.

Free legal aid is not available for certain types of cases: proceedings in commercial courts and business registration, defamation, damage claims, cases involving a reduction in child maintenance when the debtor has failed to pay, unless it's not their fault, and enforcement based on an authentic document. The Law on Free Legal Aid details all conditions for accessing this right.

#### 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

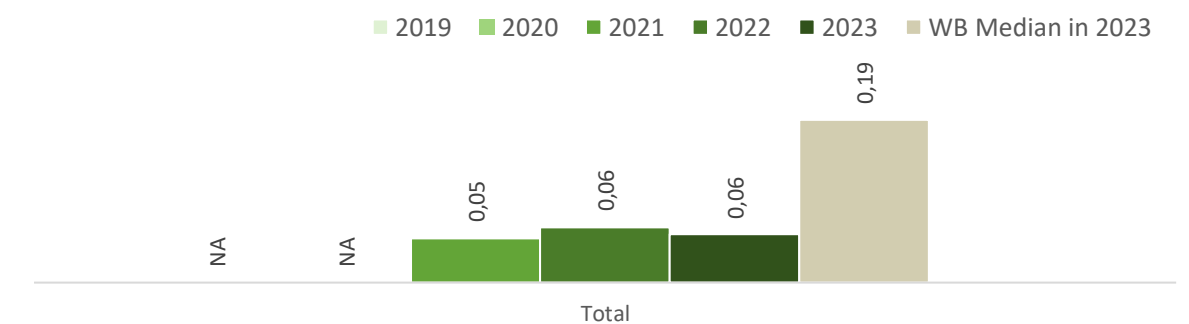
	Implemented budget for legal aid in €				Total implemented budget for legal aid per inhabitant		Total implemented budget for legal aid as % of GDP		Total implemented budget for legal aid as % of the judicial system budget	
	Total (a+b)	% Variation 2019 - 2023	Cases brought to court (a)	Cases not brought to court (b)	Montenegro	WB Median	Montenegro	WB Median	Montenegro	WB Median
<b>Total (1+2)</b>	106 476 €	-47,6%	NA	NA	0,17 €	0,28 €	0,002%	0,004%	0,25%	1,0%
<b>In criminal cases (1)</b>	NAP	NAP	NA	NA						
<b>In other than criminal cases (2)</b>	NAP	NAP	NA	NA						

In 2023, Montenegro spent 106 476€ on the total implemented budget for legal aid, which was -47,6% less compared to 2019. This means that it spent a significantly lower amount per inhabitant compared to the WB Median (0,17€ and 0,28€, respectively).

The legal aid budget does not cover ex officio mandatory representation, as this is categorized separately

	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 - 2023					
<b>Total (1+2)</b>	352	0,06	NA	NA	NA	302,5 €	NA	NA
<b>In criminal cases (1)</b>	NA	NA	NA	NA	NA	NA	NA	NA
<b>In other than criminal cases (2)</b>	NA	NA	NA	NA	NA	NA	NA	NA

Total number of LA cases per 100 inh between 2019 and 2023

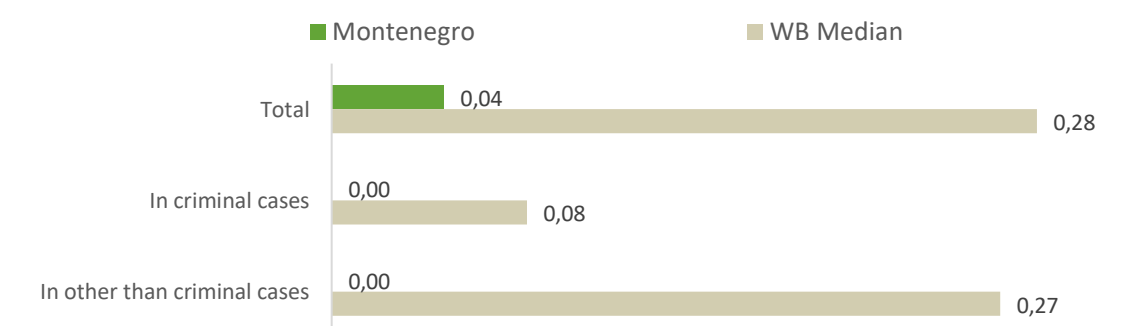


In 2023, the number of cases for which legal aid was granted was 352. On average, the amount granted per legal aid case was 302,5€.

## • Number of recipients of legal aid

	Number of recipients of legal aid					Amount of LA granted per recipient (€)		
	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.	WB Median					
<b>Total (1+2)</b>	284	0,04	0,28	NA	NA	374,9 €	NA	NA
<b>In criminal cases (1)</b>	NA	NA	0,08	NA	NA	NA	NA	NA
<b>In other than criminal cases (2)</b>	NA	NA	0,27	NA	NA	NA	NA	NA

Number of recipients of legal aid per 100 inhabitants in 2023



In 2023, the number of recipients of legal aid was 284. This means that there were 0,04 recipients per 100 inhabitants which was below the WB Median. On average, the amount granted per recipient of legal aid case of 374,9€.

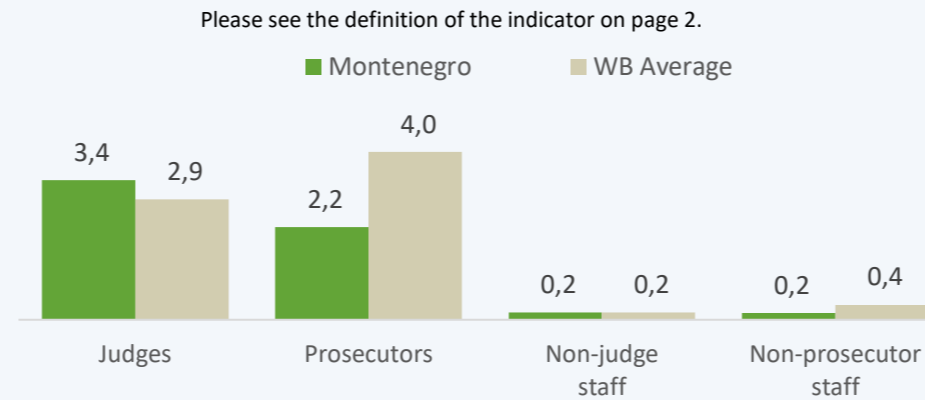
Kosovo is not included in the calculation of summary statistics

## Training of judges and prosecutors in Montenegro in 2023 (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 0,39€ per inhabitant, lower than the WB Average of 0,83€ per inhabitant.

In 2023, 1 394 participants (of which 910 judges and 250 prosecutors) were trained in 92 live trainings (in-person, hybrid or video conferences).

In Montenegro, each judge participated, on average, to 3,4 live trainings in 2023, which was higher than the WB Average (2,9) while each prosecutor participated, on average, to 2,2 live trainings, less than the WB Average (4).

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 8 trainings was completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc.).

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)	% of budget of the training institution(s) covered by external donors	Budget of the courts/prosecution allocated to training (2)	Total (1)+(2)								
				Absolute Number	Evolution of training budget per inhabitant					% Variation 2019 - 2023	% Variation 2022 - 2023	WB Average per inhabitant
					2019	2020	2021	2022	2023			
<b>Total</b>	238 224 €	2,0%	6 836 €	245 060 €	1,03 €	1,00 €	0,68 €	0,62 €	0,39 €	-62,4%	-37,8%	0,83 €
<b>Judges</b>	NAP	NAP	6 836 €	6 836 €								
<b>Prosecutors</b>	NAP	NAP	NAP	NAP								
<b>One single institution for both judges and prosecutors</b>	238 224 €	2,0%		238 224 €								

Montenegro spent in total 245 060€ for training for judges and prosecutors in 2023, which is 0,39€ 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, the funds in amount of 4 838,23 € come from the donation – “The Grant Agreement Between The Council Of Europe And The Centre For Training In Judiciary And State Prosecution Of Montenegro.”

The Centre is an independent legal entity. (Article 2 paragraph 1 of the Law on the Centre for Training in Judiciary and State Prosecution (“Official Gazette of Montenegro” no. 58/2015)) and the only institution in charge of providing training activities to representatives of Montenegrin judiciary. The Centre organizes and implement trainings for judges and state prosecutors. Centre can also organize and implement trainings for attorneys-at-law, notaries, bailiffs, advisers, clerks and trainees in courts and state prosecution offices (hereinafter referred to as: special trainings), according to this law. (Article 3 of the Law on the Centre for Training in Judiciary and State Prosecution (“Official Gazette of Montenegro” no. 58/2015)).

Funds for the work of the Centre shall be allocated in the special portion of the Budget of Montenegro in the amount of 2% of the allocated budget for judiciary and state prosecution service. (Article 53 of the Law on the Centre for Training in Judiciary and State Prosecution (“Official Gazette of Montenegro” no. 58/2015)).

The stated amount represents the total funds allocated to the Centre, based on data provided by the Centre’s international partners.

## • 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 (2023)							
	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
<b>Total</b>	98	92	164	1 394	1,8 >	1,5	15,2 <	22,1
<b>Judges</b>	98	92	164	910	1,8 >	1,5	9,9 <	13,2
<b>Prosecutors</b>	85	79	142	250	1,8 >	1,5	3,2 <	11,3
<b>Non-judge staff</b>	35	35	87	189	2,5 >	1,6	5,4 <	72,5
<b>Non-prosecutor staff</b>	35	35	87	45	2,5 >	1,2	1,3 <	149,8

CEPEJ distinguishes 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.

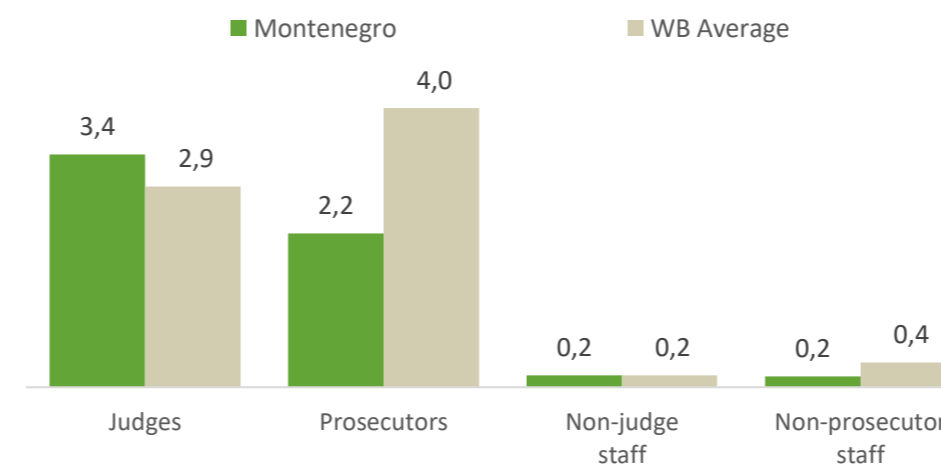
Key:	>	Higher than the WB Average
	=	Equal to the WB Average
	<	Lower than the WB Average

In 2023, the average duration of trainings of both judges and prosecutors in Montenegro was 1,8 days (while the WB Average was 1,5).

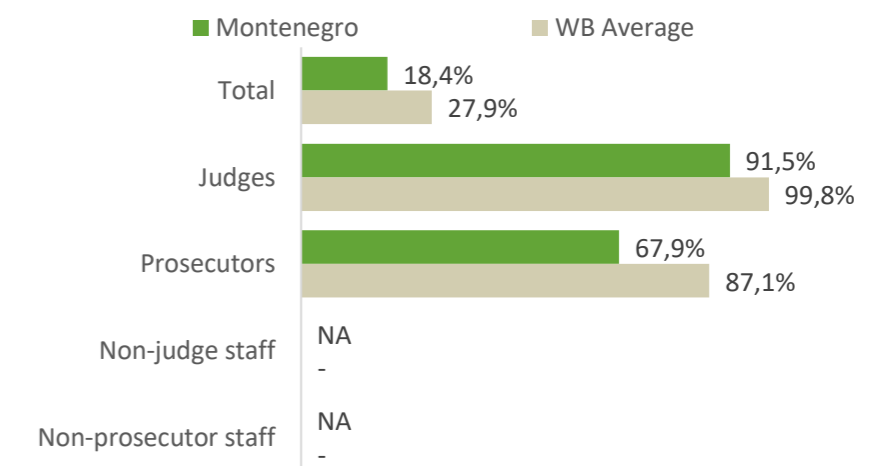
### Indicators on training participation: Number of training participations per professional and unique participants

	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
<b>Total</b>	0,8 <	1,0	323	18,4% <	27,9%
<b>Judges</b>	3,4 >	2,9	247	91,5% <	99,8%
<b>Prosecutors</b>	2,2 <	4,0	76	67,9% <	87,1%
<b>Non-judge staff</b>	0,2 <	0,2	NA	NA	-
<b>Non-prosecutor staff</b>	0,2 <	0,4	NA	NA	-

Average number of live training participations per professional in 2023



Percentage of professionals attending at least one training in 2023



#### 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 2,9. This means that, on average, each judge in the region participated to 2,9 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.

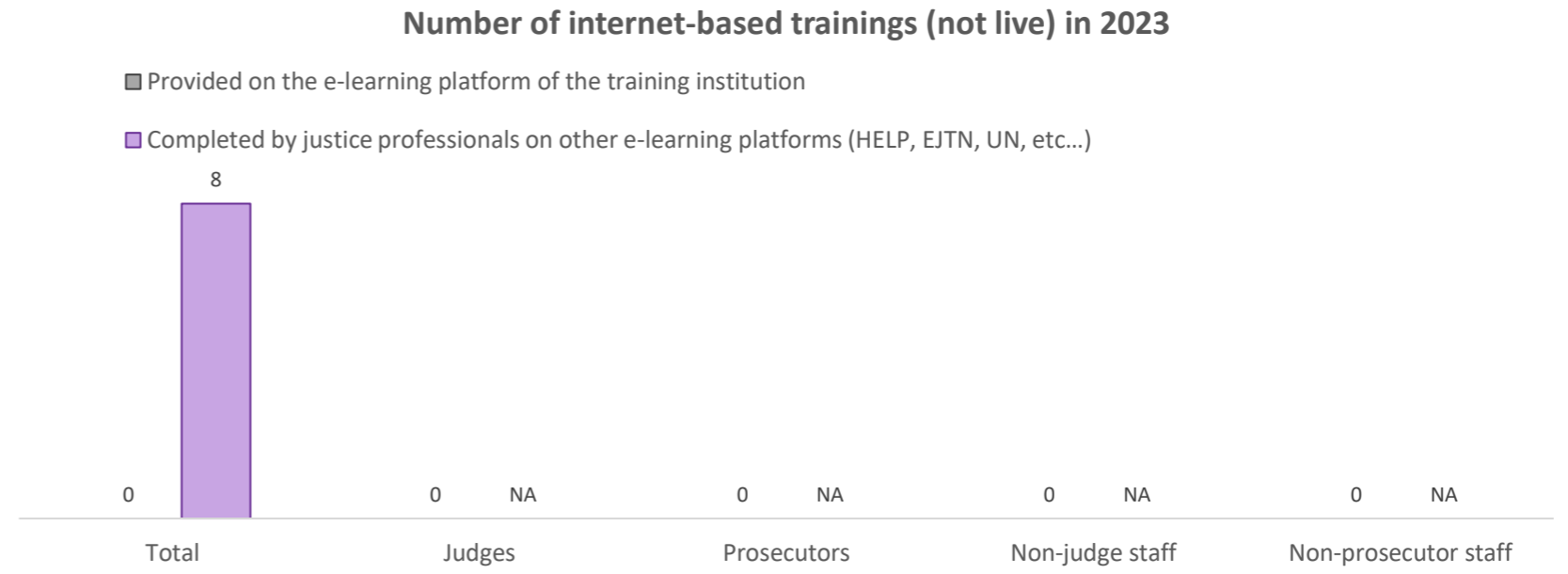
Looking at the average participations on live trainings, the highest average was for judge (3,4 live training participations per judge). Hence, compared to the other professionals, Montenegro gave priority to the trainings for judge; while in the region, the highest priority was given to train prosecutor (indeed, the WB Average number of live training participations per prosecutor was 4).

In 2023 the highest priority for live training was given to the training of Judges (3,4 participations on trainings per judge). At the same time, the percentage of judge attending at least one training was 91,5%.

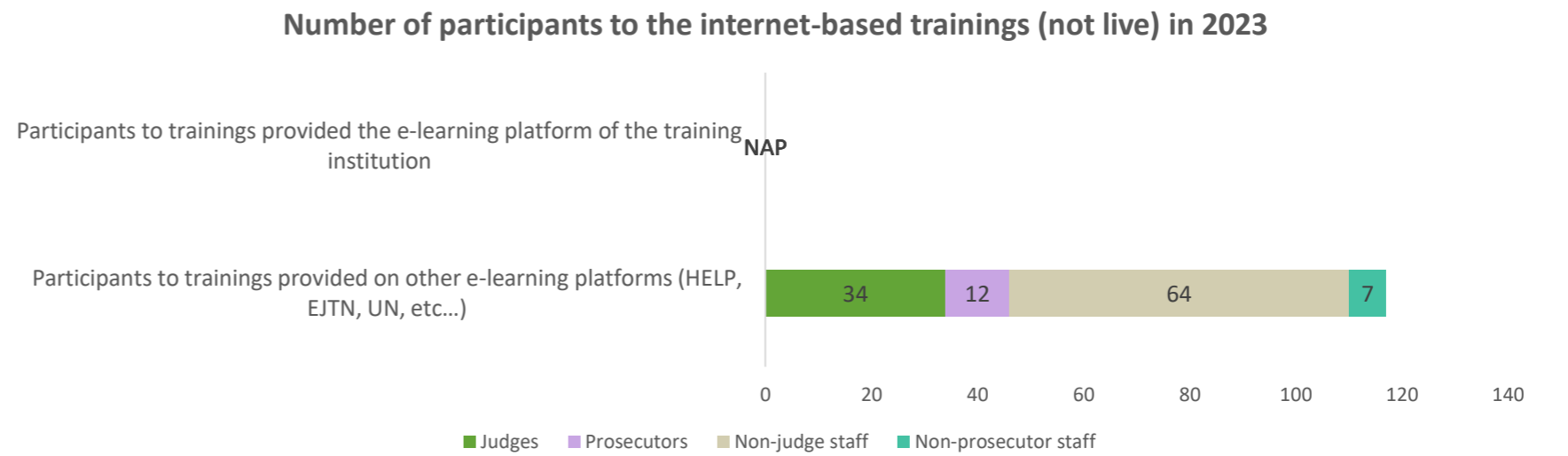
In addition to the total number of participants, there are 310 other participants not included in this categories

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

	Number of internet-based trainings (not live) in 2023			
	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
<b>Total</b>	0	NAP	8	163
<b>Judges</b>	0	NAP	NA	34
<b>Prosecutors</b>	0	NAP	NA	12
<b>Non-judge staff</b>	0	NAP	NA	64
<b>Non-prosecutor staff</b>	0	NAP	NA	7



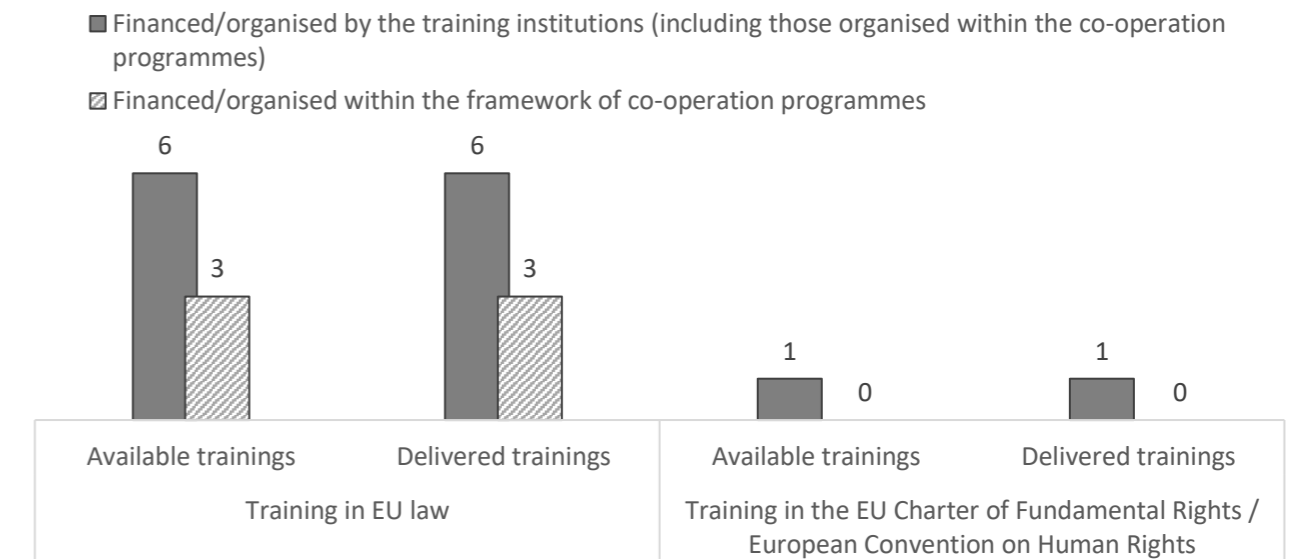
In Montenegro, there are **not** online trainings provided by the training institution.



• 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
<b>Live trainings (2023)</b>				
Number of available live trainings	6	3	1	NA
Number of delivered live trainings	6	3	1	NA
Number of delivered live training in days	12	6	2	NA
<b>Internet-based trainings(2023)</b>				
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...)	-	NA	-	NA

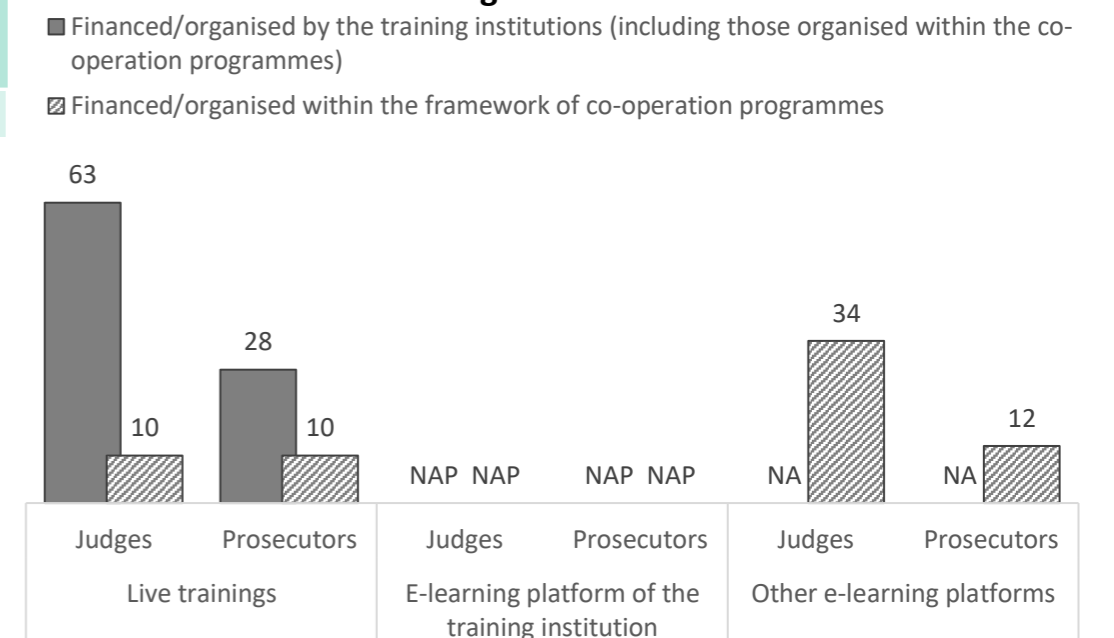
Number of live trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2023



In 2023, half of the trainings on EU Law available or delivered in Montenegro were co-organised or co-financed with International partners.

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	63	28	NA	NA	NAP	NAP	NA	NA
Within the framework of co-operation programmes	10	10	NA	NA	NAP	NAP	34	12

Number of participants to live trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2023



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	Optional	No training proposed	No training proposed	No training proposed
	On ethics	No training proposed	Regularly	Optional	Regularly
	On child-friendly justice	Compulsory	Regularly	Compulsory	Regularly
	On gender equality	Optional	Regularly	Optional	Regularly
	On prevention of corruption	Optional	Regularly	Optional	Regularly
	On conflicts of interest	Optional	Occasional	Optional	Occasional
Other	Optional	Regularly	Optional	Regularly	

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)).

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

In Montenegro, no sanction is foreseen if judges and prosecutors do not attend the compulsory training sessions.

The Law on the Centre for Training in Judiciary and State Prosecution does not stipulate penalties for judges and state 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 their overall evaluation of work.

Prosecution offices have prosecutors specially trained in domestic violence and, also, specifically trained in dealing with cases when minor victims are involved. They undergo trainings for these topics, obtain certificates and, among other, they work on cases regarding criminal offences related to these types of violence. In particular, 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, including child 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 child 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 duration and structure of the mandatory initial training for judicial candidates are specified in Article 42 of the Law on the Center for Training in the Judiciary and the State Prosecutor's Office.

1. Basic Court Judges and State Prosecutors:

- The initial training for candidates for judges of the basic court and for state prosecutors in the basic state prosecutor's office lasts 18 months.
- This period includes 6 months of theoretical training and 12 months of practical training.
- In terms of theoretical training, this sums up to 128 days, with each day comprising 6 hours of training.

2. Misdemeanor Judges:

- The training for candidates for misdemeanor judges lasts 9 months.
- This includes 3 months of theoretical training and 6 months of practical training.
- The theoretical component translates to 60 days of training, with each training day consisting of 6 hours.

3. Commercial Court Judges:

- Candidates for judges in the Commercial Court of Montenegro undergo 6 months of initial training.
- This includes 40 hours of theoretical training per month, held at the Center or the Commercial Court.
- When converted, this amounts to 44 days of theoretical training, each comprising 6 hours.

4. Administrative Court Judges:

- The initial training for candidates for judges of the Administrative Court of Montenegro lasts 4 months.
- This includes 20 hours of theoretical training per month, conducted at the Center or the Administrative Court.
- This equates to 16 days of theoretical training, with each day consisting of 6 hours.

Additionally, judges and state prosecutors are required to participate in continuous professional development. According to Article 45, paragraph 2 (paragraph 2 of Article 45) of the Law on the Centre for Training in Judiciary and State Prosecution ("Official Gazette of Montenegro" no. 58/2015), they must attend in-service training for a minimum of two working days annually, selected based on their professional interests.

**• 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 result 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 Centre for Training in Judiciary and State Prosecution has been conducting evaluations to measure the satisfaction of participants in its training activities, primarily through post-training questionnaires. These evaluations focus on several key aspects:

- Fulfillment of Participants' Expectations: Assessing how well the training met participants' initial expectations.
- Satisfaction with Provided Materials: Evaluating the usefulness and quality of the training materials offered.
- General Training Evaluations: Gathering overall feedback on the effectiveness of the training sessions.
- Knowledge Self-Assessment: Measuring participants' self-assessed knowledge before and after the training to assess the improvement.
- Suggestions for Future Topics: Collecting ideas for potential topics for future training sessions.
- Teaching Method Acceptability: Evaluating the effectiveness and acceptability of the teaching methods and lecture delivery.

Based on the feedback from these evaluations, the Centre interprets the results and adapts its training programs accordingly. This process includes potentially changing lecturers if necessary. Furthermore, the Rulebook on Lecturers mandates that lecturers submit a report after each training session, detailing their perspective on the success of the training, relevance of the topic, and participant engagement.

In late 2022, the Centre began revising the Rulebook to include a new pre-and-post training questionnaire. This will help measure the knowledge improvement specifically related to each training topic by asking participants the same questions at the beginning and end of the training.

The Centre also monitors the implementation of its Annual Training Programmes through quantitative indicators, such as the number of programs and training activities conducted, and the number and demographics of participants. This helps identify the most attended training activities and assess interest levels.

*Kosovo is not included in the calculation of summary statistics*

Special emphasis is placed on assessing the quality of lecturers, which includes:

- Quality of Lectures: How well the lectures are delivered.
- Adherence to Schedule: Whether the lecturers adhered to the planned duration of their presentations.
- Interaction with Participants: The quality of communication and interaction between lecturers and participants.
- Clarity and Engagement: How clear and engaging the presentations were.
- Knowledge Transfer Skills: The lecturers' ability to effectively convey knowledge.
- Practical Applicability: How applicable the content and shared materials are to practical scenarios.
- Lecturer Motivation: The enthusiasm and motivation demonstrated by the lecturers.

## Alternative Dispute Resolution in Montenegro in 2023 (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

Mediators

38,4

per 100 000 inhabitants

WB Average: 17,8

Total number of court-related mediations

Number of cases for which the parties agreed to start mediation

NA

Number of finished court-related mediations

NA

Number of cases in which there is a settlement agreement

3 125

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 proceeding. There are also mandatory informative sessions with a mediator. In 2023, the number of mediators was 38,4 per 100 000 inhabitants, which was above the WB Average (17,8 per 100 000 inhabitants). There were in total 3125 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 mediator) – according to the Law on ADR (article 11) before initiating court proceedings the party that intends to initiate court proceedings shall apply to the Centre with an intention to try to solve the dispute in mediation procedure, while both parties in the dispute are obliged to attend the first meeting with mediators in following disputes: the disputes stipulated as small value claims according to the law governing civil proceedings; the disputes for damages arising from insurance contracts if one of the parties is an insurance company; the disputes for which special law stipulates the obligation to do so.
2. mandatory first meeting with mediator ordered by the judge – according to the Law on Civil Procedure (Art. 329), the court is obliged to render a special ruling referring the parties to the first meeting with mediator: 1) if one of the parties is in Montenegro, Capital, Historic Capital, i.e. municipality; 2) in commercial disputes, except in disputes with international element, in disputes regarding relations to which the status corporate law is applied and in disputes where a party in bankruptcy procedure is referred to civil procedure; 3) in other cases required by special law (family disputes, labour disputes)

### • Other ADR methods

Mediation other than court-related mediation



Arbitration



Conciliation (if different from mediation)



Other ADR



Early Neutral Assessment is a procedure where, based on the agreement of the parties, a dispute evaluator provides an impartial assessment of the factual and legal aspects of their dispute. Arbitration, governed by the Law on Arbitration, offers a formal mechanism for resolving disputes outside the courts. Additionally, there are provisions for the peaceful resolution of conflicts, particularly in the realm of labor and other sectors.

## • Mediators and court-related mediations

### Requirements and procedure to become an accredited or registered mediator:

The requirements and procedures for granting mediator licenses are detailed in the Law on Alternative Dispute Resolution (Articles 39 and 41).

To qualify for a mediator license, an individual must:

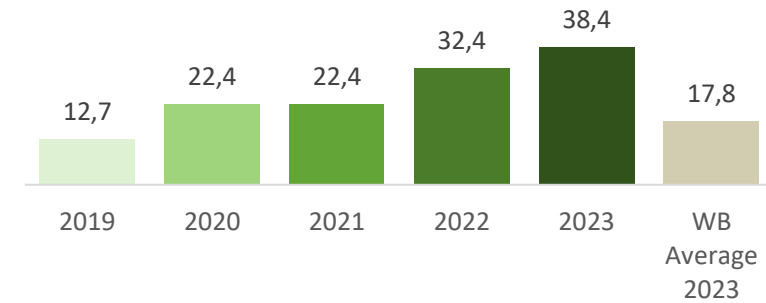
1. Hold Montenegrin nationality or be a national of a European Union Member State.
2. Possess a Level VII1 educational qualification.
3. Be in good general health.
4. Have a minimum of five years of work experience in positions requiring a Level VII1 educational qualification.
5. Complete a training program for mediators.
6. Have no criminal convictions that would deem them unfit to conduct mediation.
7. Not be subject to any security measures that prohibit them from taking up a profession, performing activities, or holding office.
8. Not be involved in ongoing criminal proceedings for offenses prosecuted ex officio.

The training program for mediators is organized and conducted by the Centre for Alternative Dispute Resolution (ADR). Upon completion, the Centre issues a certificate as proof of training, as specified in Article 39, paragraph 1, item 5 of this Act. The Ministry of Justice determines the specifics of the training program, the implementation procedures, and the certificate template.

Once an individual meets the requirements outlined in Article 39, paragraph 1, they can obtain a mediator license from the Ministry of Justice. Licenses are valid for five years and can be renewed for additional five-year periods in accordance with the Act.

Accredited/registered mediators for court-related mediation			% Variation between 2019 and 2023
Absolute number	Per 100 000 inhabitants	WB Average per 100 000 inhabitants	
243	38,4	17,8	207,6%

Accredited/registered mediators for court-related mediation per 100 000 inhabitants between 2019 and 2023

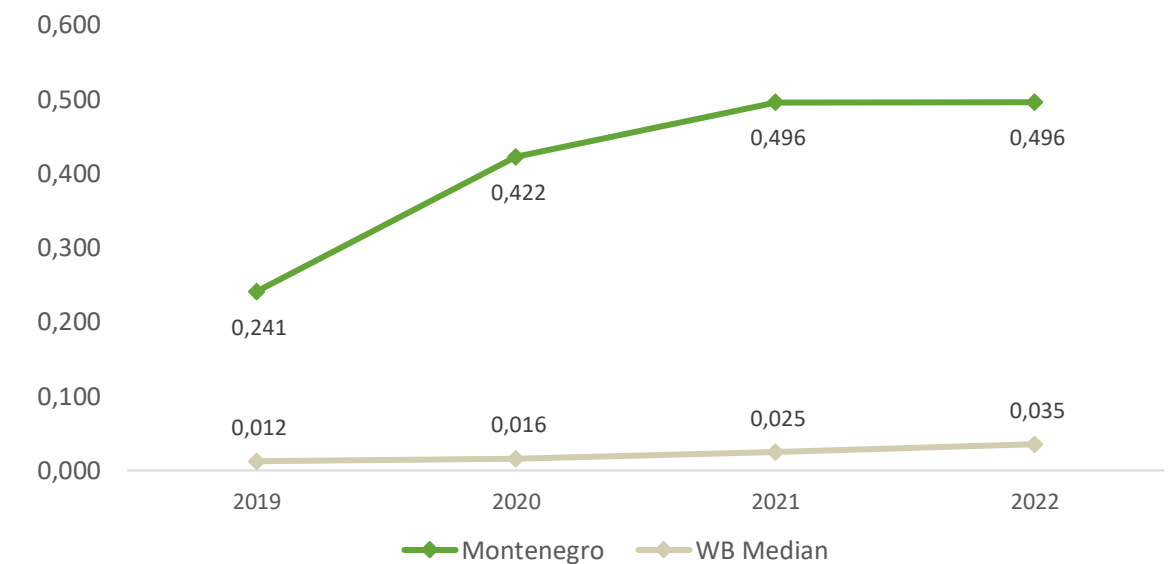


For reference only: the 2021 EU median is 17,4 mediators per 100 000 inhabitants.

In 2023, the total number of mediators in Montenegro was 243, which is 207,6% more than in 2019. The number of mediators per 100 000 inhabitants was 38,4, which is more than the WB Average of 17,8.

	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
<b>Total (1 + 2 + 3 + 4 + 5+ 6)</b>	NA	NA	3 125				
<b>1. Civil and commercial cases</b>	NA	NA	2 671	NAP	✓	✗	✗
<b>2. Family cases</b>	NA	NA	103	NAP	✓	✗	✗
<b>3. Administrative cases</b>	NA	NAP	NAP	NAP	NAP	NAP	NAP
<b>4. Labour cases incl. employment dismissals</b>	NA	NA	274	NAP	✓	✗	✗
<b>5. Criminal cases</b>	NA	NA	15	NAP	✓	✗	✗
<b>6. Consumer cases</b>	NA	NA	NAP	NAP	✓	✗	✗
<b>7. Other cases</b>	NAP	NAP	NAP				

Evolution of the number of court-related mediation for which parties agreed to start mediation per 100 inhabitants between 2019 and 2023



Court related mediations are provided by public authorities (other than the court).

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

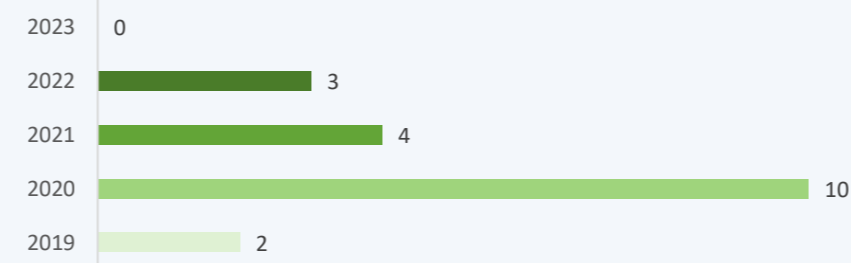
Kosovo is not included in the calculation of summary statistics

## European Convention on Human Rights in Montenegro in 2023 (Indicator 10)

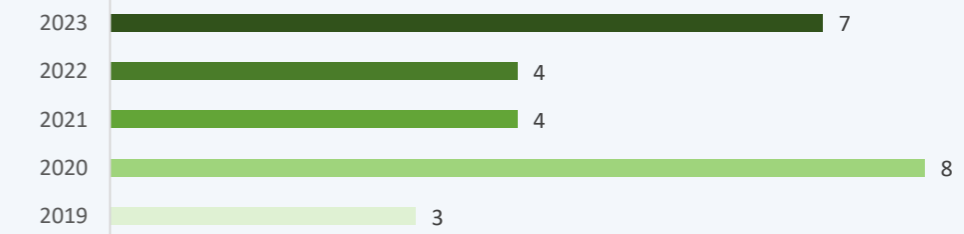
European Convention on Human Rights – Article 6 – Right to a fair trial (extract):

*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 (open), 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).

Civil procedures  
(non-enforcement)



Civil procedures  
(timeframe)



Criminal procedures  
(timeframe)



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

For civil cases	For criminal cases	For administrative cases
✓	✓	✓

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 proceeding. In the reopening of proceeding, 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 proceedings terminated 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 reopening the proceeding after final judicial 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 reopened upon the request of the party.

In 2023, the applications allocated to a judicial formation\*\* for Montenegro were 173 (-122 less than the previous year). The judgements by the ECHR finding at least one violation for Montenegro were 0; whereas they were 3 in 2022.

The number of cases considered as closed after a judgement of the ECHR and the execution of judgements process was 7 in 2023; whereas they were 4 in 2022.

		2019	2020	2021	2022	2023
<b>Applications allocated to a judicial formation of the Court**</b>		427	218	381	295	173
<b>Judgements finding at least one violation**</b>		2	10	4	3	0
<b>Judgements finding at least one violation of the Article 6 of the ECHR</b>	<b>Right to a fair trial (1)</b>	0	1	0	1	0
	<b>Length of proceedings</b>	0	7	1	2	0
	<b>Non-enforcement</b>	0	0	0	0	0

\*\* Source: ECHR

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

Kosovo is not included in the calculation of summary statistics

	2019	2020	2021	2022	2023
<b>Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***</b>	3	8	4	4	7

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

## Reforms in Montenegro in 2023

	Yes (planned)	Yes (adopted)	Yes (implemented)	Comment
(Comprehensive) reform plans	✓	✓	✗	New Judiciary Reform Strategy - planned for 2023 but adopted in 2024
Budget	✗	✗	✗	Budget increased due to increase of salaries and GDP
Courts and public prosecution services	✓	✓	✗	Rationalization of the Court Network planned, but will be implemented in 2024
Access to justice and legal aid	✓	✗	✗	Amendments to the Law on Free Legal Aid for the purpose of improvement of o procedures and rights in order to improve the procedure and the exercise of rights therein. particular attention to the access to free legal aid for vulnerable groups (victims of torture, sexual crimes, children etc.)
High Judicial Council and High Prosecutorial Council	✓	✗	✗	Amendments to the Law on Judicial Council and Judges to implement the Venice Commission recommendations, procedures for ethical and disciplinary responsibility, election of the president of the Supreme Court etc. Amendments to the Law on Prosecution.
Legal professionals	NA	NA	NA	-
Gender equality	✗	✗	✗	-
Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities	✓	✗	✗	Amendments to the Law on Civil Procedure (in alignment with the EU Acquis), Amendments to the Law on Criminal proceedings (in alignment with the EU Acquis) Amendments to the law on Misdemeanors, Amendments to the Law on Judicial Cooperation in Criminal Matters with EU Member States (in alignment with the EU Acquis), Amendments to the Law on Confiscation of property obtained through criminal activity. Ratification of the Convention on the Recognition and Enforcement of Foreign Judgements in Civil and Commercial Matters Ratification of the International Protection of Adults etc.
Mediation and other ADR	✓	✓	✗	2023-2025 Program on Alternative Dispute Resolution was adopted
Fight against corruption and accountability mechanisms	✓	✗	✗	National Strategy on Fight against Corruption 2024-2028 also planned but will be adopted in 2024 Amendments to the law related to criminal justice and judiciary.
Domestic violence	✓	✗	✗	Law on Amending the Law on protection against domestic violence
New information and communication technologies	✓	✗	✗	New Judicial ICT Strategy

## 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: 2023**

### **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

### Procedure of recruitment of judges

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.

## **Mandate of judges**

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”.

## **Procedure of recruitment of prosecutors**

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 as well as if any disciplinary proceedings have been conducted or sanctions imposed.

### **Mandate of prosecutors**

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 (66 years).

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

## Promotion for judges and prosecutors

### Promotion of judges

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

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

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


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

### Promotion of prosecutors

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

### Compensation of users of the judicial 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			2023		
	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
Excessive length of proceedings	113	59	52.200	114	39	33.100 €
Non-execution of court decisions	NA	NA	NA	NA	NA	NA
Wrongful arrest/detention	44	5	5.813	36	1	1.750 €
Wrongful conviction	NA	NA	NA	NA	NA	NA
Other	NA	NA	NA	NAP	NAP	NAP



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.

In 2023, 114 requests for compensation were filed due to excessive length of proceedings and in 39 cases, compensation was awarded in the total amount of 33.100 EUR.

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. In 2023, in 36 cases a request was filed due to wrongful arrest/detention and in one case a compensation was awarded in the amount of 1.750 EUR.

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.

### **Procedure to challenge a judge**

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. In 2023, 2.337 procedures were initiated to effectively challenge a judge and in 1.574 cases a recusal was pronounced.

### **Instructions to prosecute or not addressed to public prosecutors**

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, while the data for 2023 were not available.



## Promotion of integrity and prevention of corruption

### Independence of judges

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.

## **Independence of prosecutors**

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).

## **Existence of specific measures to prevent corruption for judges and prosecutors**

Specific measures to prevent corruption for judges and prosecutors exist, namely rules on gifts, specific training, internal controls and safe complaints mechanisms.

## **In-service training on ethics, corruption prevention and conflict of interest for judges and prosecutors**

There are optional in-service trainings regularly available to judges and prosecutors on ethics, corruption prevention and conflicts of interest. In Montenegro, judges and prosecutors do not have to undergo compulsory in-service training solely dedicated to ethics, prevention of corruption and conflicts of interest. Judges and prosecutors have a right and duty to attend the in-service training for at least two working days per year for which they are to apply based on their own interest (Article 45, para. 2 of the Law on the centre for Training in Judiciary and State Prosecution).

## **Breaches of integrity for judges, prosecutors and court staff**

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

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

## **Codes of conduct for judges and prosecutors and bodies giving opinions on ethical questions**

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). 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 and none in 2023.

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 17<sup>th</sup> 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 2023, five such opinions were issued. 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.

#### **Established mechanisms to report influence/corruption on judges and prosecutors**

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.

#### **Transparency in distribution of court cases**

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, 1.977 cases were reassigned due to recusal of the judge or requested by the parties and 3.008 due to physical unavailability of the judge. In 2023, the number of reassigned cases was 32.399 (out of which 1.547 were reassigned due to a recusal of a judge or request of a party and 1.550 due to physical unavailability of a judge due to illness, longer absence).

#### **Number of criminal cases against judges and prosecutors**

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				2023			
	Judges		Prosecutors		Judges		Prosecutors	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
Number of initiated cases	2	0,76	3	2,91	0	0,00	1	0,89
Number of completed cases	0	0,00	0	0,00	0	0,00	0	0,00
Number of sanctions pronounced	0	0,00	0	0,00	0	0,00	0	0,00

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

	Judges	Prosecutors
Implemented	33,33%	100,00%
Partially implemented	66,70%	0,00%
Not implemented	0,00%	0,00%

## Declaration of assets for judges and for prosecutors

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

Judges and prosecutors are required to declare assets, financial interests, liabilities, gifts, 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 declaration is to be filed annually for 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](http://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, 2022 and 2023:

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
2023	2	0,74	2	0,74	1	0,37	0	0,00	0	0,00	0	0,00

In 2020, as regards judges, 9 administrative procedures and 5 misdemeanour procedures were initiated. 8 administrative procedures and 5 misdemeanour procedures were completed in the same year. As regards sanctions pronounced: in 2 administrative procedures violation of the law has been established and the Agency of the Prevention of Corruption's decision was referred to the authority competent for appointing judges – the cases were still pending. In misdemeanour procedures, 4 judges were reprimanded, and one was fined. In 2021, 90 administrative procedures and 85 misdemeanour procedures were initiated. 7 administrative and 13 misdemeanour procedures were completed, and 13 sanctions issued (12 warnings and a fine of 150 EUR). 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. Two misdemeanour proceedings were initiated against judges in 2023 due to a failure to submit a regular annual report on income and assets for the year 2022. Both proceedings were completed: in one case a warning was issued and in the other the judge was acquitted.

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. In 2023, no procedures were initiated or completed against prosecutors and no sanctions imposed.

## Conflict of interest for judges and for prosecutors

### Procedures and mechanisms for managing potential conflict of interest of judges

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.

### **Procedures and mechanisms for managing potential conflict of interest of prosecutors**

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.

## Possibility for judges and prosecutors to perform additional activities

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				

## Breaches of rules on conflict of interest

Absolute number of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2019, 2020, 2021, 2022 and 2023:

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
2023	2	2	0	NA	NA	NA

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. In 2023, two cases were initiated against judges due to breaches of rules on conflict of interest and two cases were completed.

## Discipline against judges and prosecutors

### Description of the disciplinary procedure against judges

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.

#### **Description of the disciplinary procedure against prosecutors**

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.

## Statistics on disciplinary proceedings against judges and prosecutors

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				2023			
		Judges		Prosecutors		Judges		Prosecutors	
		Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated	Total number (1 to 5)	37	14,07	12	11,65	3	1,11	11	9,82
	1. Breach of professional ethics (including breach of integrity)	37	14,07	12	11,65	2	0,74	NA	NA
	2. Professional inadequacy	0	0,00	0	0,00	0	0,00	NA	NA
	3. Corruption	0	0,00	0	0,00	0	0,00	NA	NA
	4. Other criminal offence	0	0,00	0	0,00	0	0,00	NA	NA
	5. Other	0	0,00	0	0,00	1	0,37	NA	NA
Number of	Total number (1 to 5)	35	13,31	0	0,00	2	0,74	16	14,29

	1. Breach of professional ethics (including breach of integrity)	35	13,31	0	0,00	2	0,74	12	10,71
	2. Professional inadequacy	0	0,00	0	0,00	0	0,00	NA	NA
	3. Corruption	0	0,00	0	0,00	0	0,00	NA	NA
	4. Other criminal offence	0	0,00	0	0,00	0	0,00	NA	NA
	5. Other	0	0,00	0	0,00	0	0,00	NA	NA
Number of sanctions pronounced	Total number (total 1 to 10)	0	0,00	0	0,00	0	0,00	NA	NA
	1. Reprimand	0	0,00	0	0,00	0	0,00	NA	NA
	2. Suspension	0	0,00	0	0,00	0	0,00	1	0,89
	3. Withdrawal from cases	0	0,00	0	0,00	0	0,00	NA	NA
	4. Fine	0	0,00	0	0,00	0	0,00	NA	NA
	5. Temporary reduction of salary	0	0,00	0	0,00	0	0,00	1	0,89
	6. Position downgrade	0	0,00	NAP	NAP	0	0,00	NAP	NAP
	7. Transfer to another geographical (court) location	0	0,00	NAP	NAP	0	0,00	NAP	NAP
	8. Resignation	0	0,00	0	0,00	0	0,00	NA	NA
	9. Other	0	0,00	0	0,00	0	0,00	NA	NA
	10. Dismissal	0	0,00	0	0,00	0	0,00	NA	NA



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.

In 2023, in two proceedings proposals for determining disciplinary responsibility were rejected as unfounded, bearing in mind that the proceedings were initiated due to a failure to provide complete data on assets and income in accordance with the regulations governing the prevention of conflicts of interest. In one case (see “Other” in respect of judges), a disciplinary proceeding was initiated for publicly expressing an opinion on a case that has not become final yet.



## Council for the Judiciary/ Prosecutorial Council

### Council for the Judiciary

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

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

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

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

GRECO also expressed concerns as to the selection of the non-judge members of the JC. The law requires them to have at least 15 years' experience on legal affairs, to enjoy personal and professional reputation and to have clean criminal records. GRECO was of the view that more could be done to specify objective and measurable criteria supporting the vague requirement of "enjoying personal and professional reputation". Moreover, there were no guarantees that the non-judicial members were not politically engaged in the absence of provisions prohibiting them to do so; this was all the more important given that the position of President (and substitute President) of the JC was reserved for a non-judicial member who would have a casting vote in the case of an equal number of votes. Although the authorities stressed that the latter issue had not posed a problem in practice since all decisions of the JC had been adopted by majority vote, GRECO again drew the attention of the authorities to Opinion No. 10(2007) of the Consultative Council of European Judges (CCJE) clearly stating that it was necessary to ensure that the Chair of the Council was held by an impartial person who was not

close to political parties. This state of affairs called for further adjustments in the composition of the JC. GRECO recommended (i) taking additional measures to strengthen the Judicial Council's independence – both real and perceived – against undue political influence, including by abolishing the *ex officio* participation of the Minister of Justice in the Council, by providing for no less than half of the Council's membership to be composed of judges elected by their peers and by ensuring that the presiding function be given to one of those judicial members; (ii) establishing objective and measurable selection criteria for non-judicial members which would endorse their professional qualities and impartiality; and (iii) setting in place operational arrangements to avoid an over-concentration of powers in the same hands concerning the different functions to be performed by members of the Judicial Council.

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

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

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

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

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

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

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

### **Prosecutorial Council**

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

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

Regarding operational arrangements in place to avoid an over-concentration of powers in the same hands concerning different functions to be performed by members of the PC the LSPS (as amended in 2015) provides for different committees of the PC to be established in order to exercise the competencies of the PC in a more efficient manner as well as for the composition of certain committees (i.e. the Supreme State Prosecutor may only be a member of the Evaluation Committee). Moreover, certain committees are composed only of prosecutors who are not members of the PC (i.e. Committee on Promotion). They act and decide on a particular issue within their jurisdiction and then submit their conclusions to the PC which makes the final decision. When forming the committees, even distribution of powers and avoidance of conflicts of interest is taken into account (i.e. members of the committee which determined prosecutor's accountability are different from those of a committee which assesses the prosecutor's work). The PC's key committees do not have the same members. Membership of different committees is published on the PC's website.

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

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