

1. Evaluation of the judicial systems (2016-2018 cycle)



Montenegro

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Reference data 2016 (01/01/2016 - 31/12/2016)

Start/end date of the data collection campaign : 01/06/2017 - 31/12/2017

Objective :

The CEPEJ decided, at its 28th plenary meeting, to launch the seventh evaluation cycle 2016 – 2018, focused on 2016 data. The CEPEJ wishes to use the methodology developed in the previous cycles to get, with the support of its national correspondents' network, a general evaluation of the judicial systems in the 47 member states of the Council of Europe as well as two observer states (Israel and Morocco). This will enable policy makers and judicial practitioners to take account of such unique information when carrying out their activities.

The present questionnaire was adapted by the Working group on evaluation of judicial systems (CEPEJ-GT-EVAL) in view of the previous evaluation cycles and considering the comments submitted by CEPEJ members, observers, experts and national correspondents. The aim of this exercise is to increase awareness of judicial systems in the participating states, to compare the functioning of judicial systems in their various aspects, as well as to have a better knowledge of the trends of the judicial organisation in order to help improve the efficiency of justice. The evaluation questionnaire and the analysis of the results becomes a genuine tool in favour of public policies on justice, for the sake of the European citizens.

Instruction :

The ways to use the application and to answer the questions are guided by two main documents:

- User manual
- Explanatory note

While the explanatory note gives definitions and explanations on the CEPEJ evaluation questionnaire and the methodology needed for replying, the User manual is a tool to help you navigate through this application. You can download the Explanatory note as a whole on the CEPEJ website. The specific explanations are also accessible for each question within this application under the tab "Explanatory note". This will serve as immediate consultation tool when answering questions. The user manual is accessible in the "Documentation" tab of the application.

In case you have any questions related to these documents or on the use of the application, please do not hesitate to contact the Secretariat.

1.General information

1.1.Demographic and economic data

1.1.1.Inhabitants and economic general information



001. Number of inhabitants (if possible on 1 January of the reference year +1)

[620029]

Comments

002. Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State or federal level	1826000500 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Regional / federal entity level (total for all regions / federal entities)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments

003. Per capita GDP (in €) in current prices for the reference year

[6354]

Comments GDP of Montenegro has increased since last report.

004. Average gross annual salary (in €) for the reference year

[9012]

NA

Comments

005. Exchange rate of national currency (non-Euro zone) in € on 1 January of the reference year +1

[]

Allow decimals : 5

NAP

Comments

A1. Please indicate the sources for answering questions 1 to 5

Sources: Ministry of Finance, Statistical Office of Montenegro

1.1.2. Budgetary data concerning judicial system



006. Annual (approved and implemented) public budget allocated to the functioning of all courts, in € (without the budget of the public prosecution services and without the budget of legal aid). If you cannot separate the budget allocated to the courts from the budgets of public prosecution services and/or legal aid, please go to question 7. If you are able to answer this question 6, please answer NAP to the question 7.

Approved budget (in €)	Implemented budget (in €)
------------------------	---------------------------

TOTAL - Annual public budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	27664139 [] NA [] NAP	33557634 [] NA [] NAP
1. Annual public budget allocated to (gross) salaries	20842812 [] NA [] NAP	20736204 [] NA [] NAP
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	384190 [] NA [] NAP	382646 [] NA [] NAP
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.	926323 [] NA [] NAP	920829 [] NA [] NAP
4. Annual public budget allocated to court buildings (maintenance, operating costs)	45000 [] NA [] NAP	44402 [] NA [] NAP
5. Annual public budget allocated to investments in new (court) buildings	1890000 [] NA [] NAP	1890000 [] NA [] NAP
6. Annual public budget allocated to training	23000 [] NA [] NAP	19715 [] NA [] NAP
7. Other (please specify)	3552812 [] NA [] NAP	9563836 [] NA [] NAP

Comments - Please indicate any useful comment to explain the figures provided. If the annual public budget allocated to the functioning of all courts actually implemented is different from the approved annual public budget allocated to the functioning of all courts, please indicate the main differences: With the adoption of The Law on Courts (2015) three Misdemeanor Courts with departments and High Misdemeanor Court entered the regular composition of Montenegrin courts and thus budget of these courts was allocated to the consumer unit Judiciary, which resulted in difference reflected in increase in the annual budget for the functioning of all courts. Center for training of holders of judicial offices was organisational and budgetary unit of the Supreme Court of Montenegro. After coming into force of the Law on Centre for Training of Judges and Public Prosecutors (in 2015.) it became financially and institutionally independent and the budget is accordingly not included in this question.

007. (Modified question) If you cannot answer question 6 because you cannot isolate the budget allocated to courts from the budget allocated to public prosecution services and/or legal aid, please fill only the appropriate line in the table according to your system:

	Approved budget (in €)	Implemented budget (in €)
Total annual public budget allocated to all courts and the public prosecution services together	[] NA [X] NAP	[] NA [X] NAP
Total annual public budget allocated to all courts and legal aid together	[] NA [X] NAP	[] NA [X] NAP
Total annual public budget allocated to all courts, public prosecution services and legal aid together	[] NA [X] NAP	[] NA [X] NAP

Comments:

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

	Litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction ?
for criminal cases	(X) Yes () No
for other than criminal cases	(X) Yes () No

Comments - If there are exceptions to the rule to pay a court tax or fee, could you please provide comments on those exceptions? Exempt of payment of fees are: the state of Montenegro, state bodies, public institutions, local self-government, humanitarian organizations, persons participating in the exercise of the rights from labor or civil service relations, dependents in the process of legal support, prosecutors in court proceedings for establishing maternity or paternity, prosecutors in disputes on protection and upbringing of children, spouse, child or parent of a missing person in the pronouncing of missing person dead and proof of death. Foreign state and citizen are exempt from paying fees only if so provided by international agreement or on condition of reciprocity.

008-1. Please briefly present the methodology of calculation of court taxes or fees:

- In civil proceedings, the fee is paid according to the value of the case.
 In the enforcement proceedings, the fee is paid according to the value of enforcement or security.
 In a non-contentious proceedings, criminal proceedings based on a private lawsuit, administrative dispute and insolvency proceedings of companies, a tax shall be paid at a tariff fee.
 Law on court fees states fee tariff for pleadings, decisions and court settlements in civil and enforcement proceedings, the amount of fees for non-contentious proceedings, the fees in proceedings on insolvency of companies, the amount of fees for pleadings and decisions in criminal proceedings conducted by private prosecution and in an administrative dispute.

008-2. The amount of court fees to commence an action for 3000€ debt recovery:

- [70]
- [] NA
- [] NAP

Comments The amount of court fee shall be paid according to the value of the dispute, so in this case it amounts to 20 euros plus 2% on the difference when exceeds €50.
 i.e. the court fee to commence an action for 3000€ debt recovery shall be 70€

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

- [1440493]
- [] NA
- [] NAP

Comments /

012. Annual approved public budget allocated to legal aid, in €.

TOTAL	Criminal cases	Other than criminal cases

TOTAL - Annual approved public budget allocated to legal aid (12.1 + 12.2)	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
12.1 for cases brought to court	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
12.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The Judicial Council has no specific information on the funds allocated for free legal aid, because the attorneys get paid from the cost of the procedure. The Judicial Council records the costs for the free legal aid assigned to it, which is the basis for paying the attorneys.

012-1. Annual implemented public budget allocated to legal aid, in €.

	TOTAL	Criminal cases	Other than criminal cases
TOTAL - Annual implemented public budget allocated to legal aid (12-1.1 + 12-1.2)	143299 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
12-1.1 for cases brought to court	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
12-1.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If the public budget actually implemented regarding legal aid is different from the annual approved public budget allocated to legal aid, please indicate the main differences: The total budget allocated for legal aid in 2016 is higher than in 2014 due to the fact that in 2016 there were more approved legal aid applications, so more resources were spent.

013. Total annual (approved and implemented) public budget allocated to the public prosecution services, in €.

	Approved budget (in €)	Implemented budget (in €)
Total annual public budget allocated to the public prosecution services, in €	8379408 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Please indicate any useful comment to explain the figures provided. Moreover, if the annual public budget allocated to the public prosecution services actually implemented is different from the approved annual public budget allocated to the public prosecution services, please indicate the main differences: Changes in organizational laws, establishment of the Special Prosecutor's Office and the Secretariat of the Prosecutor's Office in 2015, the adoption of the Law on Wages of Civil Servants and State Employees in March 2016, the increase in the number of employees in line with the new acts of systematization resulted in increase of budget compared to 2014, according to the Law on Budget of Montenegro for 2016.

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

Preparation of the total court budget	Adoption/approval of the total court budget	Management and allocation of the budget among the courts	Evaluation of the use of the budget at a national level courts

Ministry of Justice	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Other ministry	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Parliament	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Supreme Court	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
High Judicial Council	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Courts	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Inspection body	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments - If any other Ministry and/or inspection body and/or other, please specify: The Judicial Council submits the proposal of the Judicial Budget to the Ministry of Finance, which, together with the proposal of the other budget units, is submitted in the form of a draft to the Government. State Audit Institution controls the regularity (legality), economy, effectiveness and efficiency of budget expenditure and state property management. The results of the audits, Institution reports to the Assembly, by filing an annual report. The annual report is submitted to the Assembly and the Government by the end of October.

A2. Please indicate the sources for answering questions 6 to 14:

Sources: The Secretariat of the Judicial Council, Secretariat of the Prosecutorial Council

1.1.3. Budgetary data concerning the whole justice system

015-1. Annual (approved and implemented) public budget allocated to the whole justice system, in € (this global budget includes the court system as defined under question 6 and also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.).

	Approved budget (in €)	Implemented budget (in €)
Total annual public budget allocated to the whole justice system in €	49223592 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Please indicate any useful comment to explain the figures provided above and specify if a large portion of the budget allocated to the

whole justice system comes from an international organisation. Moreover, if the annual public budget allocated to the whole justice system actually implemented is different from the approved annual public budget allocated to the whole justice system, please indicate the main differences: Due to the increase of the budget for Judiciary and State Prosecution Office in 2016, total annual public budget allocated to the whole justice system amounted to the stated sum.

Judiciary - 28,812,837.96€ of which, the Judicial Council 761,955.83,€ and courts 11,253,723.75.€

Prosecution - 8,379,408.13€ of which, for Prosecutorial Council 451,074.72€ Judicial Training Centre and the State Prosecution - 399,724.00.€

Ministry of Justice - 10,446,787.92€ of which the prison system - 8,873,624.75€

Constitutional Court - 1,184,834.55€

015-2. (Modified question) Please indicate the budgetary elements that are included in the whole justice system by specifying on the one hand the elements of the judicial system budget (please check the consistency with questions 6, 12 and 13). (Note: NAP means that the element does not exist in your system):

	Included
Court (see question 6)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Legal aid (see question 12)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Public prosecution services (see question 13)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments:

015-3. (Modified question) On the other hand, please specify the other budgetary elements included in the whole justice system budget. (Note: NAP means that the element does not exist in your system):

	Included
Prison system	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Probation services	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Council of the judiciary	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Constitutional court	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Judicial management body	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP

State advocacy	() Yes (X) No [] NAP
Enforcement services	() Yes (X) No [] NAP
Notariat	() Yes (X) No [] NAP
Forensic services	() Yes (X) No [] NAP
Judicial protection of juveniles	(X) Yes () No [] NAP
Functioning of the Ministry of Justice	(X) Yes () No [] NAP
Refugees and asylum seekers services	() Yes (X) No [] NAP
Immigration Service	() Yes (X) No [] NAP
Some police services (e.g. : transfer, investigation, prisoners' security)	() Yes (X) No [] NAP
Other	() Yes (X) No [] NAP

Comments - If "other", please specify:

A3. Please indicate the sources for answering questions 15-1, 15-2 and 15-3:

Sources: Ministry of Justice

2. Access to justice and all courts

2.1. Legal Aid

2.1.1. Scope of legal aid

016. Does legal aid apply to:

Criminal cases	Other than criminal cases
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Representation in court	(X) Yes () No [] NA [] NAP	(X) Yes () No [] NA [] NAP
Legal advice	(X) Yes () No [] NA [] NAP	(X) Yes () No [] NA [] NAP

Comments Within one and the same case, legal aid may be granted for:

- 1) legal counselling;
- 2) preparation of pleadings; 3) legal advice and representation in extrajudicial procedure; 4) legal advice and representation in a procedure before the State Prosecution; 5) legal advice and representation in proceedings before first and second instance courts; 6) legal advice and representation in reference to extraordinary remedies; 7) legal advice and representation in reference to constitutional complaint.

017. Does legal aid include the coverage of or the exemption from court fees?

(X) Yes

() No

Comments - If yes, please specify: Free legal aid implies the provision of resources for full or partial coverage of costs for legal counselling, preparation of pleadings, representation in proceedings before the court, the State Prosecution and the Constitutional Court of Montenegro and any procedure for out-of-court dispute settlement and in proceedings involving bailiffs, as well as exemption from payment of the costs of court proceedings.

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

(X) Yes

() No

Comments - If yes, please specify: Free legal aid in proceedings before the bailiffs imply exemption from the cost of drafting proposals for the enforcement and advance payment of the costs to the bailiffs.

019. Can legal aid be granted for other costs (different from those mentioned in questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc.)?

	Criminal cases	Other than criminal cases
Legal aid granted for other costs	() Yes (X) No [] NA [] NAP	() Yes (X) No [] NA [] NAP

Comments - If yes, please specify:

2.1.2. Quantitative information on legal aid

020. (Modified question) Please indicate the number of cases for which legal aid has been granted:

Cases brought to court	Cases not brought to court / non-litigious cases
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TOTAL	772 <input type="checkbox"/> NA <input type="checkbox"/> NAP	642 <input type="checkbox"/> NA <input type="checkbox"/> NAP
In criminal cases	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	40 <input type="checkbox"/> NA <input type="checkbox"/> NAP
In other than criminal cases	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	602 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Please specify when appropriate:

021. In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer?

	Assisted by a free of charge lawyer
Accused individuals	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Victims	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments - If yes, please specify: Criminal Procedure Code states that at the request of the accused person, they may be appointed a defense attorney if they are not able to bear the costs of defense under their financial situation. When there are no conditions for mandatory defence, and it is required by the interests of rightness, the defendant that is financially incapacitated for the defence costs, shall be appointed a attorney at his request.

When the procedure is conducted under the charges of the subsidiary prosecutor for a criminal offence punishable under law by imprisonment for a term exceeding five years, the court may upon the request of the subsidiary prosecutor appoint a proxy to him/her if that is to the benefit of the procedure and if the subsidiary prosecutor is financially unable to meet the expenses of legal representation. In cases when the criminal procedure is conducted for a criminal offence punishable by an imprisonment sentence exceeding three years and the injured party can not bear representation expenses according to his/her financial standing, s/he may be appointed a proxy at his/her request if the representation of the injured party by the proxy is in the interest of fairness. The right to legal assistance shall be exercised by the injured party in line with a separate law.

022. If yes, are individuals free to choose their lawyer within the framework of the legal aid system?

Yes

No

Comments

023. (Modified question) Does your country have an income and assets evaluation for granting (full or partial) legal aid to the applicant? The answer NAP means that there is no income and/or assets evaluation system for granting legal aid.

	Annual income value (for one person), (in €)	Annual assets value (for one person), (in €)
Full legal aid for criminal cases	1800 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Full legal aid for other than criminal cases	1800 [] NA [] NAP	[X] NA [] NAP
Partial legal aid for criminal cases	[X] NA [] NAP	[X] NA [] NAP
Partial legal aid for other than criminal cases	[X] NA [] NAP	[X] NA [] NAP

Comments - If yes, please indicate if any other criteria are taken into account for the granting of legal aid and any comment that could explain the figures provided above: The right to free legal aid under the conditions stipulated by this Law may be exercised by: a Montenegrin national; a stateless person lawfully residing in Montenegro and a person seeking asylum in Montenegro; an alien with permanent residence or approved temporary residence and other person legally residing in Montenegro; and other person in terms with ratified international treaties.

These persons shall have the right to legal aid provided that he is: a beneficiary of family cash benefits or other social security right pursuant to the law governing social and child protection, a child without parental care, a person with special needs, a victim of the crime of family or domestic violence and of human trafficking, a person of unfavourable financial situation.

A person of unfavourable financial situation shall mean a person owning no property whose monthly income and overall monthly income of his family members does not exceed the amount of 30% of average income in Montenegro for one member and 15% of average income for each subsequent member. Legal aid may also be granted to a person whose income and the income of his family members do not exceed twice the amount, whose assets do not exceed twice the volume, surface, or the value of the property if that is a person or member of his family: provided that the said person and his family members are:

1) economically disadvantaged due to family circumstances, medical condition or other reasons beyond the control of the Applicant and his family members.

2) have come into a state of vulnerability due to non-resolution of cases which resulted in a violation of the right to trial within a reasonable time, and related items that have been requested for legal aid.

Family members shall mean spouses or common-law-marriage partners and their children, adopted children, and other relatives living in the same domestic unit that he is obliged to support.

Pursuant to this Law, property shall not mean: 1) flat or residential building in the extent to:

- one-bedroom apartment for an individual,
- two-bedroom apartment for a family of two or three members,
- three-bedroom apartment for a family of four or more members;

2) agricultural land or commercial forest area up to:

- 20 a (are) for an individual,
- 30 a (are) for a family with two members,
- 40 a (are) for a family of three members,
- 50 a (are) for a family of four members,
- 60 a (are) for a family of five or more members;

3) other land area up to 2 hectares, other than urban construction land

4) securities having a market value up to one average monthly income;

5) personal passenger vehicle up to the value of four average monthly incomes established by the estimation of the competent tax authority;

6) the items exempt from enforcement as per legislation governing judgment enforcement in civil matters and securing of claims;

7) property used for generating income which is, pursuant to this Law, considered when assessing the financial situation of the Applicant for legal aid.

Pursuant to this Law, income shall not mean:

- 1) care and support allowance and other care and support benefits and care-giver allowance; 2) child benefit; 3) newborn allowance; 4) commuting allowance, meal allowance and per diem for business travel; 5) scholarships and other income intended for training and education; 6) income from the work of people with disabilities receiving institutional care, obtained not applying the criteria for regular employment; 7) funds intended for recovery from natural disasters and other accidents; 8) foster child allowance received by the Applicant's family; 9) compensation for non-pecuniary damages due to the reduced daily living activities 10) child maintenance based on the law.

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

Yes

No

Comments - If yes, please explain the exact criteria for denying legal aid: Legal aid shall not be provided in proceedings before commercial courts and in the procedure for registration of a commercial activity, in criminal proceedings and the indemnification proceedings concerning defamation and libel, proceedings as per action to reduce the amount of child support in a case of the person obliged to pay support who failed to do so, unless in default of such obligation without any fault of his own.

The case in relation to which an Application was filed is deemed as manifestly unfounded if:

- 1) the value of the claim is disproportionate to the actual state of affairs,
- 2) the Applicant is abusing the possibility of being granted legal aid for a legal matter for which the Applicant would not have otherwise sought legal services even if his financial situation would allow that, or
- 3) it is contrary to the case law in legal matters with similar factual state and legal grounds.

Legal aid shall not be granted to an Applicant for a case in which he has previously desisted from complaint or pursuant to Law it is believed that he has desisted from the complaint.

025. In other than criminal cases, is the decision to grant or refuse legal aid taken by (one option only):

the court

an authority external to the court

a mixed authority (court and external bodies)

Comments

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

Yes

No

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

027. Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared:

	Judicial decisions direct how legal costs will be shared
in criminal cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
in other than criminal cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments

B1. Please indicate the sources for answering questions 20 and 23 :

Sources: Basic Court Podgorica

2.2.Users of the courts and victims

2.2.1.Rights of the users and victims

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

	Yes, please indicate the internet adresse(es)	No
legal texts (e.g. codes, laws, regulations, etc.)	<input checked="" type="checkbox"/> www.sudovi.me; www.pravda.gov.me www.sluzbenilist.me http://www.tuzilastvocg.me/	<input type="checkbox"/>
case-law of the higher court/s	<input checked="" type="checkbox"/> www.sudovi.me	<input type="checkbox"/>
other documents (e.g. downloadable forms, online registration)	<input checked="" type="checkbox"/> www.sudovi.me; www.pravda.gov.me	<input type="checkbox"/>

Comments - Please specify what documents and information the addresses for "other documents" include:

029. (Modified question) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?

Yes, always

No

Yes, only in some specific situations

Comments - If yes, only in some specific situations, please specify:

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

Yes

No

Comments - If yes, please specify:

031. Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism	Special arrangements in hearings	Other specific arrangements
Victims of sexual violence/rape	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Victims of terrorism	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Minors (witnesses or victims)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Victims of domestic violence	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Ethnic minorities	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Disabled persons	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Juvenile offenders	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Other (e.g. victims of human trafficking, forced marriage, sexual mutilation)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments - If “other vulnerable person” and/or “other special arrangements”, please specify: The Criminal Procedure Code stipulates that the injured party who is the victim of a criminal offense against sexual liberty shall be entitled to hearing and the procedure conducted by a judge of the same sex, if it allows the personnel composition of the court.

Injured parties who are victims of a criminal offence against sexual liberty, as well as children being examined as witnesses, shall be entitled to testify in separate premises before a judge and a court reporter, whereas the Prosecutor, accused person and defense attorney shall be given the possibility to view the course of hearing from other premises and to put questions to the witness, after having been duly instructed by the court thereon. The instruction shall be entered in the record. The court may decide that the provision of paragraph 5 of this Article be also applied to the testimony of the injured party who is the victim of discrimination. Also, Criminal Procedure Code stipulates specific rules for the hearing of the accused or a witness who is deaf or dumb. Thus, the hearing of these persons shall be conducted through an interpreter who took an oath. If the defendant or witness is a person with impaired hearing, the questions shall be in writing, and if it is a person with impaired speech, shall be asked to answer in writing. If the hearing can not be conducted in this way, an interpreter shall be summoned to communicate with defendant or witness.

A person with special needs, a victim of a crime of family or domestic violence and of human trafficking is entitled to free legal aid which implies the provision of resources for full or partial coverage of the costs for legal counseling, preparation of pleadings, representation in proceedings before the court, the State Prosecution and the Constitutional Court of Montenegro and any procedure for out of court dispute settlement, as well as exemption from payment of the costs of court proceedings.

In Montenegro, there is a special law that applies to juvenile offenders. - The law on Treatment of Juveniles in Criminal Proceedings. This law regulates the treatment of a minor as an offender, child and juvenile as a participant in the proceedings, which is based on respect for human rights and fundamental freedoms taking into account the best interests of minors, their maturity, level of development, abilities and personal capacities, as well as the severity of the crime, with the aim of their rehabilitation and social reintegration.

031-1. Is it possible for minors to be a party to a judicial proceeding:

Yes

No

Comments - If yes, please specify which procedures can be concerned (civil, criminal, administrative / normal or accelerated procedure) and at which conditions (can children benefit from legal aid, be represented by a lawyer, etc.): Criminal Procedure:

Law on Treatment of Juveniles in Criminal Proceedings regulates the treatment of a minor offender, child and juvenile as a participant in the proceedings.

Proceedings involving minor offenders or proceedings with juveniles as victims in such proceedings is always urgent. A minor must have a defense counsel during the first hearing and throughout the proceedings and the defense counsel may only be a lawyer. When juvenile trial, the court will always exclude the public.

Civil Procedure:

Any natural and legal person may be a party in the civil proceedings. A juvenile who has not acquired full legal competence shall be considered to have litigation capacity within the limits of his/her recognized legal competence. A party that does not have litigation capacity shall be represented by its legal representative.

In the course of proceedings, the court shall, ex officio have due regard to whether the person acting as a party in the proceedings is eligible to be a party in the proceedings and whether that person has litigation capacity, whether a party with no litigation capacity is represented by its legal representative and whether the legal representative has special authorizations when necessary. These rules also apply to administrative dispute.

032. Does your country allocate compensation for victims of crime?

(X) Yes, please specify for which kind of offences: The defendant in the criminal proceedings has the right to submit a motion for the enforcement of a claim on property, which is a result of the commission of the criminal offense, and the same court will discuss it if it does not substantially delay the criminal proceedings. The property claim may, inter alia, relate to the compensation of damage. In civil proceedings the injured party may bring an action for pecuniary or non-pecuniary damage

() No

Comments

032-1. (New question) Is a court decision necessary in the framework of the compensation procedure?

(X) Yes

() No

Comments

033. If yes, does this compensation come from:

[] a public fund

[X] damages and interests to be paid by the person responsible

[] a private fund

Comments

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

() Yes

(X) No

Comments - If yes, please illustrate with available data concerning the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

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

(X) Yes

() No

Comments - If yes, please specify: When a State Prosecutor establishes that there is no basis for prosecution for a criminal offence that is prosecuted by virtue of office or that there is no basis to prosecute someone of reported accomplices, s/he shall inform the injured parties thereon within eight days, instruct them that they may take over the prosecution themselves and deliver them a decision on the rejection of the criminal charge. State Prosecutors shall proceed in this manner when they issue an order on the cessation of investigation.

The injured party shall have the right to undertake, i.e., continue prosecution, within 30 days as of the receipt of notification from the State Prosecutor.

In the process of postponed criminal prosecution as an alternative for solving criminal case, the public prosecutor shall obtain a consent from the injured party for the application of the institute of postponed prosecution and, in certain cases, mediate between the injured party and the suspect.

036. Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a case? Please verify the consistency of your answer with that of question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a decision by a judge". (The answer NAP means that the public prosecutor cannot decide to discontinue a case on his/her

own. A decision by a judge is needed.)

Yes

No

NAP

Comments - If necessary, please specify: When the prosecutor dismisses or drops the criminal charges, the injured party is entitled to request for reconsideration of his decision by initiating the criminal proceeding against the suspect before the competent court.

The Amendments to the Criminal Procedure Code from 01 July 2015, Article 271a - introduces new institute "Complaint against a Decision on Dismissal of Criminal Charges" which states that the injured party, or the applicant who filed criminal charges in case when there is no injured party or where the injured party is unknown, shall be entitled, within eight days of receipt of the notice on dismissal of criminal charges, to file a complaint to immediately higher State Prosecution Office, requesting reconsideration of the decision on dismissal of criminal charges.

2.2.2. Confidence of citizens in their justice system

037. (Modified question) Is there a system for compensating users in the following circumstances:

	Number of requests for compensation	Number of condemnations	Total amount (in €)
Total	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Excessive length of proceedings	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Non-execution of court decisions	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Wrongful arrest	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Wrongful conviction	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	727236 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Other	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Where appropriate, please give details on the compensation procedure and the calculation method for the amount of the compensation (e.g. the amount per day for unjustified detentions or convictions): According to the Article 498 of the Criminal Procedure Code the right to compensation of damages for unjustifiable conviction shall be held by a person against whom a criminal sanction was imposed by a final decision or who was pronounced guilty but whose punishment was remitted, and subsequently, upon an extraordinary legal remedy, the new proceedings was finally discontinued or the convicted person was acquitted by a final decision or the charge was rejected, except in the following cases.

1) if the proceedings was discontinued or the charge was dismissed because in the new proceedings the subsidiary prosecutor or private prosecutor waived the prosecution, provided that the waiver occurred on the basis of an agreement with the accused person, 2) in the new proceedings the charge was dismissed by a ruling because the court lacked jurisdiction and the authorized prosecutor has initiated prosecution before the competent court.

A convicted person i.e. an acquitted person, is not entitled to compensation of damages if he caused the criminal proceedings through a false confession in the investigatory procedure or otherwise, or caused his conviction through such statements during the proceedings, unless he was forced to do so.

In the case of conviction for offences committed in concurrence, the right to compensation of damages may also relate to respective criminal offences in regard to which the conditions for approving compensation are met.

038. (Modified question) Did your country implement surveys aimed at legal professionals and court users to measure their trust in justice and their satisfaction with the services delivered by the judicial system? If yes, how frequently and up to what level?

	National level	Court level
1. (Satisfaction) surveys aimed at judges	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
2. (Satisfaction) surveys aimed at court staff	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
3. (Satisfaction) surveys aimed at public prosecutors	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
4. (Satisfaction) surveys aimed at lawyers	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
5. (Satisfaction) surveys aimed at the parties	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
6. (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
7. (Satisfaction) surveys aimed at victims	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
8. Other not mentioned	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc

Comments - Please, indicate the references and links to the satisfaction surveys you mentioned above:

<http://www.udruzenjesudija.me/index.php/aktuelnosti/94-objavljeni-rezultati-druge-anonimne-ankete-o-stavovima-gradana-i-sudija-ostanju-u-sudstvu>

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

Yes

No

Comments

041. (Modified question) If yes, please specify certain aspects of this procedure:

	Authority responsible for dealing with the complaint	Time limit for dealing with the complaint
Court concerned	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Higher court	(X) Yes () No	(X) Yes () No
Ministry of Justice	(X) Yes () No	() Yes (X) No
Council of the Judiciary	(X) Yes () No	(X) Yes () No
Other external bodies (e.g. Ombudsman)	(X) Yes () No	() Yes (X) No

041-1. (Modified question) Please specify further certain aspects of this procedure:

	Number of complaints	Compensations amount granted to users
Court concerned	263 [] NA [] NAP	[] NA [X] NAP
Higher court	[] NA [X] NAP	[X] NA [] NAP
Ministry of Justice	142 [] NA [] NAP	[] NA [X] NAP
Council of the Judiciary	203 [] NA [] NAP	[X] NA [] NAP
Other external bodies (e.g. Ombudsman)	[X] NA [] NAP	[X] NA [] NAP

Comments - If possible, please give information concerning the efficiency of this complaint procedure and any useful comment: Law on Judicial Council and Judges states that, the Judicial Council considers complaints against the work of judges and court presidents. Courts Rules of Procedure states that the chief judge shall examine, either personally or through a person duly assigned by him, every customer complaint concerning the work of either the court or individual judges, officers, and employees. Before responding to the complaint in the shortest time possible, a chief judge shall notify of the complaint the person whose work it refers to, request from that person an explanation verbally or in writing, review the case files, and take other steps necessary to assess the validity of the complaint. Response to complaints and petitions shall be submitted no later than 30 days from the date of filing.

Conditions, the manner and the procedure of realization of judicial protection of right to trial within a reasonable time, as well as fair redress in the event of violation of right to trial within a reasonable time shall be enforced through a special Law.

Legal remedies for the protection of right to trial within a reasonable time are:

1) Request to accelerate the proceedings (the request for control), 2) Action for fair redress.

Cases dealing with the protection of right to trial within a reasonable time shall be dealt with urgency by the court. The president of the court shall make a decision on the request for control.

In courts having more than ten judges, a judge who will decide about requests for control apart from the president of the court, may be appointed under the annual schedule of assignments. President of the court or a judge shall not decide on the request for control in the case they act or were acting in the capacity of judge. If the president of the court, is not allowed to decide in the case, the president of the next higher court shall decide about the request for control.

The Protector of Human Rights and Freedoms is empowered to deal with complaints relating to the work of the courts in the event of delays in the proceedings, misuse of procedural powers or non-execution of court decisions.

In 2016, the Supreme Court of Montenegro received 263 citizens' applications, of which 31 were founded, 125 were unconstituted, 11 were administratively completed, and 16 unsuccessful. Most of the reports relate to the dissatisfaction of the parties with the decisions of the lower instance courts, while the smaller part relates to the inadequacy of the proceedings of individual judges in the cases of the parties submitting the petition.

The Ministry of Justice, through the judicial inspection, carries out inspection supervision in courts in relation to organization of work in courts in accordance with this law, as well as over the implementation of Court Rules of Procedure in the part of the judicial administration, and in particular in relation to:

- 1) random case assignment;
- 2) work of administrative office and archives;
- 3) keeping of official records;
- 4) other activities related to the proper functioning and performance of court administration

3. Organisation of the court system

3.1. Courts

3.1.1. Number of courts



042. Number of courts considered as legal entities (administrative structures) and geographic locations

	Number of courts
42.1 First instance courts of general jurisdiction (legal entities)	15 <input type="checkbox"/> NA <input type="checkbox"/> NAP
42.2 First instance specialised courts (legal entities)	5 <input type="checkbox"/> NA <input type="checkbox"/> NAP
42.3 All the courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	25 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments In the previous report we stated Commercial Court in Podgorica, Commercial Court in Bijelo Polje and Administrative Court . Law on Courts from 2015 abolished the Commercial Court in Bijelo Polje and Commercial Court in Podgorica became Commercial Court of Montenegro. Three Misdemeanour Courts were established.

043. Number (legal entities) of first instance specialised courts (or specific judicial order)

	Number of courts
Total (must be the same as the data given under question 42.2)	5 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Commercial courts (excluded insolvency courts)	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Insolvency courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Labour courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Family courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Rent and tenancies courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Enforcement of criminal sanctions courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Fight against terrorism, organised crime and corruption	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Internet related disputes	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Administrative courts	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Insurance and / or social welfare courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Military courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Other specialised 1st instance courts	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other specialised 1st instance courts", please specify: In the previous report we stated Commercial Court in Podgorica, Commercial Court in Bijelo Polje and Administrative Court . Law on Courts from 2015 abolished the Commercial Court in Bijelo Polje and Commercial Court in Podgorica became Commercial Court of Montenegro. Three Misdemeanour Courts were established.

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

Yes

No

Comments - If yes, please specify: According to the Mid - Term Rationalization Plan of the Judicial Network 2017 - 2019, the process of rationalizing the network of courts is ongoing. In the forthcoming period, a decision of suspending the specific courts is expected.

045. Number of first instance courts (geographic locations) competent for a case concerning:

	Number of courts
a debt collection for small claims	15 <input type="checkbox"/> NA <input type="checkbox"/> NAP
a dismissal	15 <input type="checkbox"/> NA <input type="checkbox"/> NAP
a robbery	17 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

045-1. (New question) Is your definition for small claims the same as the one in the Explanatory

note?

(X) Yes

() No, please give your definition for small claims:

Comments

045-2. (New question) Please indicate the value in € of a small claim:

[1000]

Comments According to the Law on Civil Procedure, small claims disputes are those with the pecuniary claim that not exceed 1,000 Euro. Small claim disputes shall also include disputes which are not of pecuniary nature but for which the plaintiff has stated in the complaint that he will accept certain monetary sum that does not exceed the amount of 1,000 Euro

Small claim disputes shall also include those disputes in which the main subject matter is not of pecuniary nature but the transfer of a moveable asset with value, as stated in the complaint by the plaintiff, that does not exceed the amount of 1,000 Eur.

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

Sources: Supreme Court of Montenegro

3.2. Court staff

3.2.1. Judges and non-judge staff



046. Number of professional judges sitting in courts (if possible on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	318 [] NA [] NAP	132 [] NA [] NAP	186 [] NA [] NAP
1. Number of first instance professional judges	224 [] NA [] NAP	93 [] NA [] NAP	131 [] NA [] NAP
2. Number of second instance (court of appeal) professional judges	76 [] NA [] NAP	33 [] NA [] NAP	43 [] NA [] NAP
3. Number of supreme court professional judges	18 [] NA [] NAP	6 [] NA [] NAP	12 [] NA [] NAP

Comment - Please provide any useful comment for interpreting the data above: With the adoption of Law on Courts (2015) three Misdemeanor Courts and High Misdemeanor Court entered in the composition of regular courts, they were established and started with work and election of judges and court presidents. A number of judges terminated term of office due to retirement age or at personal request, while some judges were promoted to higher instance courts, which led to the appointment of new judges in lower instance courts.

047. Number of court presidents (professional judges). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts

	Total	Males	Females
Total number of court presidents (1 + 2 + 3)	25 [] NA [] NAP	17 [] NA [] NAP	8 [] NA [] NAP
1. Number of first instance court presidents	20 [] NA [] NAP	13 [] NA [] NAP	7 [] NA [] NAP
2. Number of second instance (court of appeal) court presidents	4 [] NA [] NAP	4 [] NA [] NAP	0 [] NA [] NAP
3. Number of supreme court presidents	1 [] NA [] NAP	0 [] NA [] NAP	1 [] NA [] NAP

Comments With the adoption of Law on Courts (2015) in the composition of regular courts entered 3 Misdemeanour Courtst and the High Minesdemanour Court of Montenegro, as the second instance court to decide on appeals in misdemeanor proceedings. The presidents of the Misdemeanour Courts n Podgorica and Budva are women, while the President of the High Misdemeanour Court of Montenegro is a man.

048. Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December of the reference year):

	Figure
Gross figure	[] NA [X] NAP
In full-time equivalent	[] NA [X] NAP

Comments - If necessary, please provide comments to explain the answer provided: In annual report year, there was not engagement of judges on occasional basis.

048-1. (New question) Do these professional judges sitting in courts on an occasional basis deal with a significant part of cases?

- () Yes, please give specifications on the types of cases and an estimate in percentage.
 (X) No

Comments

049. (Modified question) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December of the reference year) (e.g. lay judges and “juges consulaires”, but not arbitrators and persons sitting in a jury):

Figure

Gross figure	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
In full time equivalent	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments

049-1. If such non-professional judges exist in first instance in your country, please specify for which types of cases:

	Yes	No	Echevinage
in criminal law cases	()	(X)	()
- severe criminal cases	()	(X)	()
- misdemeanour and/or minor criminal cases	()	(X)	()
in family law cases	()	(X)	()
in civil cases	()	(X)	()
in labour law cases	()	(X)	()
in social law cases	()	(X)	()
in commercial law cases	()	(X)	()
in insolvency cases	()	(X)	()
other	()	(X)	()

Comments - If "other", please specify:

050. Does your judicial system include trial by jury with the participation of citizens?

() Yes

(X) No

Comments

050-1. (New question) If yes, for which type of case(s)? (Please, for severe criminal cases and misdemeanour cases refer to the CEPEJ definitions)

Severe criminal cases

Misdemeanour cases

Other cases

Comments

051. Number of citizens who were involved in such juries for the year of reference:

[]

[] NA

[X] NAP

Comments

052. Number of non-judge staff who are working in courts (on 31 December of the reference year) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled)

	Total	Males	Females
Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)	958 [] NA [] NAP	281 [] NA [] NAP	677 [] NA [] NAP
1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP
2. Non-judge staff whose task is to assist the judges such as registrars (case file preparation, assistance during the hearing, court recording, helping to draft the decisions)	629 [] NA [] NAP	94 [] NA [] NAP	535 [] NA [] NAP
3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
4. Technical staff	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
5. Other non-judge staff	329 [] NA [] NAP	187 [] NA [] NAP	142 [] NA [] NAP

Comments - If "other non-judge staff", please specify: This category includes court advisers, secretaries, technical assistants, delivery officers and accountants that can not be differentiated in categories 3 and 4 that are NA.

053. (Modified question) If there are Rechtspfleger (or similar bodies) in your judicial system, please specify in which fields do they have a role:

[] legal aid

[] family cases

[] payment orders

[] registry cases (land and/or business registry cases)

[] enforcement of civil cases

[] enforcement of criminal cases

other cases not mentioned (please describe in comment)

non-litigious cases

Comments - Please briefly describe their status and duties:

054. Have the courts outsourced certain services, which fall within their powers, to private providers?

Yes

No

Comments

054-1. (New question) If yes, please specify which services have been outsourced:

IT services

Training of staff

Security

Archives

Cleaning

Other types of services (please specify):

Comments

C1. Please indicate the sources for answering questions 46, 47, 48, 49 and 52

Sources: Secretariat of the Judicial Council

3.3. Public prosecution

3.3.1. Public prosecutors and staff



055. Number of public prosecutors (on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts.

	Total	Males	Females
Total number of prosecutors (1 + 2 + 3)	103 <input type="checkbox"/> NA <input type="checkbox"/> NAP	37 <input type="checkbox"/> NA <input type="checkbox"/> NAP	66 <input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Number of prosecutors at first instance level	68 <input type="checkbox"/> NA <input type="checkbox"/> NAP	26 <input type="checkbox"/> NA <input type="checkbox"/> NAP	42 <input type="checkbox"/> NA <input type="checkbox"/> NAP
2. Number of prosecutors at second instance (court of appeal) level	27 <input type="checkbox"/> NA <input type="checkbox"/> NAP	7 <input type="checkbox"/> NA <input type="checkbox"/> NAP	20 <input type="checkbox"/> NA <input type="checkbox"/> NAP

3. Number of prosecutors at supreme court level	8 [] NA [] NAP	4 [] NA [] NAP	4 [] NA [] NAP
--	------------------------	------------------------	------------------------

Please indicate any useful comment for interpreting the data above: The Department for Combating Organized Crime, was established at the Supreme State Prosecutor's Office in 2004 until 2015, when Special State Prosecutor's Office was established, under the Law on the Special State Prosecutor (2015). After the election of the Chief Special Prosecutor and special prosecutors, the Special State Prosecutor's Office in accordance with the Law, took over the activities of the Department for Combating Organized Crime, employees in these jobs, as well as equipment, tools and official documentation. That is why there is a difference in the number of prosecutor in relation to the previous questionnaire.

056. Number of heads of prosecution offices (on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions.

	Total	Males	Females
Total number of heads of prosecution offices (1 + 2 + 3)	17 [] NA [] NAP	11 [] NA [] NAP	6 [] NA [] NAP
1. Number of heads of prosecution offices at first instance level	13 [] NA [] NAP	8 [] NA [] NAP	5 [] NA [] NAP
2. Number of heads of prosecution offices at second instance (court of appeal) level	3 [] NA [] NAP	2 [] NA [] NAP	1 [] NA [] NAP
3. Number of heads of prosecution offices at supreme court level	1 [] NA [] NAP	1 [] NA [] NAP	0 [] NA [] NAP

Please provide any useful comment for interpreting the data above: The Special State Prosecutor's Office, established in 2015 (comment on question 55), is led by the Chief Special Prosecutor, in accordance with the Law on State Prosecution Office and the Law on Special Prosecutor's Office. Due to this, the response differs from the number of heads of state prosecutors.

057. Do other persons have similar duties to public prosecutors?

() Yes, please specify their number (in full-time equivalent):

(X) No

Comments - If yes, please specify their title and functions:

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

() Yes

(X) No

Comments

059-1. Do prosecution offices have specially trained prosecutors in domestic violence and sexual violence etc.?

() Yes

(X) No

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

	Total	Males	Females
Number of staff (non-public prosecutors) attached to the public prosecution service	189 [] NA	52 [] NA	137 [] NA

Comments

C2. Please indicate the sources for answering questions 55, 56 and 60

Sources: Supreme State Prosecutor's Office
Secretariat of the Prosecutorial Council

3.4. Management of the court budget

3.4.1. Court budget

061. Who is entrusted with responsibilities related to the budget within the court?

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

Comments - If "other", please specify: Within the Secretariat of the Judicial Council there is a Department of Finance and Accounting which performs payment of bills for all courts in Montenegro. In this way, the budget execution is also controlled.

3.6. Performance and evaluation

3.6.1. National policies applied in courts and public prosecution services

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

(X) Yes

No

Comments - If yes, please specify:

067. Do you have specialised court staff that is entrusted with these quality standards?

Yes

No

Comments

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

Yes

No

Comments

068-1. (New question) If yes, please specify the frequency of this evaluation:

Annual

Less frequent

More frequent

Comments - If "less frequent" or "more frequent", please specify:

069. Is there a system for monitoring and evaluating the performance of the public prosecution service?

Yes

No

Comments - If yes, please give further details: The State Prosecutor's Performance Assessment System is carried out through annual reports on the work, special reports on work and immediate insight into work.

3.6.2. Performance and evaluation of courts



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

number of incoming cases

number of decisions delivered

number of postponed cases

length of proceedings (timeframes)

age of cases

other (please specify):

Comments

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

civil law cases

criminal law cases

administrative law cases

Comments

072. Do you have an evaluation process to monitor waiting time during court procedures?

Yes

No

Comments - If yes, please specify: The functionality of PRIS allows all court presidents, through control screens, to monitor phase of proceedings and work in cases.

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

Yes

No

Comments

073-0. (New question) If yes, please specify the frequency:

Annual

Less frequent

More frequent

Comments - If "less frequent" or "more frequent", please specify: 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.

073-1. Is this evaluation of the court activity used for the later allocation of means to this court?

Yes

No

Comments

074. Are there performance targets defined at the level of the court?

Yes

No

Comments

075. (Modified question) Please specify the main targets applied to the courts:

to increase efficiency / to shorten the length of proceedings

to improve quality

to improve cost efficiency / productivity

Other (please specify):

Comments

076. Who is responsible for setting the targets for the courts?

Executive power (for example the Ministry of Justice)

Legislative power

Judicial power (for example High Judicial Council, Higher Court)

President of the court

Other (please specify):

Comments

077. Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 79)

Yes

No

Comments

078. If yes, please select the main performance and quality indicators that have been defined:

incoming cases

length of proceedings (timeframes)

closed cases

pending cases and backlogs

productivity of judges and court staff

percentage of cases that are processed by a single sitting judge

enforcement of penal decisions

satisfaction of court staff

satisfaction of users (regarding the services delivered by the courts)

judicial quality and organisational quality of the courts

costs of the judicial procedures

number of appeals

other (please specify):

079. Who is responsible for evaluating the performance of the courts (multiple options possible) :

High Council of judiciary

Ministry of Justice

Inspection authority

Supreme Court

External audit body

Other (please specify):

Comments

3.6.3. Court activity and administration

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

Yes (please indicate the name and the address of this institution):

No

Comments Judicial Council Secretariat, Miljana Vukova bb. st., Podgorica.

080-1. Does this institution publish statistics on the functioning of each court:

Yes, on internet

No, only internally (in an intranet website)

No

Comments

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

Yes

No

Comments - If yes, please describe the content of the report and its audience (i.e. to whom the report is intended):

081-1. If yes, please specify in which form this report is released:

Internet

Intranet (internal) website

Paper distribution

Comments The Law on Courts provides that the President of the court shall be obliged to report on work of the court to the Judicial Council and the Ministry, not later than 10 February of the current year for the previous year, and to publish it on the website of the court. The contents of the annual report on the work of the court is prescribed by the Court Rules of Procedure. The report contains: the total workload of each department or individual councils and single sitting judge, the number of pending cases at the beginning of the reporting period, the number of cases filed, the number of closed cases and the way of dealing with, the number of unfinished cases at the end of the reporting period, the number of decisions performed after termination of the legal deadline, length of the exceeded deadline and number of the adopted control requirements, analysis of the work of the court, observed problems and deficiencies, as well as measures to be taken to remove them in order to achieve efficiency.

081-2. (New question) If yes, please, indicate the periodicity at which the report is released:

Annual

Less frequent

More frequent

Comments

082. (Modified question) Is there a process or structure of dialogue between the public prosecutor service and courts as regards the way cases are presented before courts (for example the organisation, number and planning of hearings, on-call service for urgent cases, selection of simplified procedures of prosecution...)?

Yes

No

Comments - If yes, please specify: According to Criminal Procedure Code the Chair of the Panel shall, if necessary, set a preparatory

hearing for the purpose of determining the future course of the main hearing and planning as to which evidence, in what manner and at what time shall be presented at the main hearing, summon to a preparatory hearing the parties, defense attorney, injured party, proxy of the injured party, and, as needs be, an expert witness and other persons.

Preparatory hearing is held without the presence of the public and of which records are made and signed by the parties and other persons present, the Chair of the Panel shall inform the participants of the future course of the main hearing and ask for their comments thereon and for their proposals as to evidence, and shall invite them to state whether they are available to appear at the main hearing at the time planned by the Chair of the Panel. At the preparatory hearing the parties shall particularly be cautioned that they must, as a rule, make all evidentiary proposals at the preparatory hearing and that if they submit new proposals at the main hearing they shall justify in detail why they did not do so at the preparatory trial, as well as that the court shall reject such proposals unless the parties demonstrate that at the time of the preparatory hearing they did not know or could not have known of certain evidence or facts that should be proven.

Persons referred to in previous paragraph may at the preparatory hearing be orally informed as to the time of holding one or more planned hearings of the main hearing, which shall be entered in the records, in which case these persons shall be considered duly summoned to the main hearing

082-1. (Modified question) Is there a process or structure of dialogue between lawyers and courts as regards the way cases are presented before courts in other than criminal matter (e.g. organisation, number and planning of hearings, on-call service for urgent cases)?

Yes

No

Comments - If yes, please specify: See the answer to the previous question.

Also, except in criminal proceedings, the court shall schedule the preparatory hearing upon the receipt of the response to the complaint in civil procedure, too. Except in cases where upon the examination by the court of the complaint and response to the complaint it determines that there are no disputable facts between the parties or when due to the simplicity of the case, the court determines that the preparatory hearing is unnecessary.

In the summons for the preparatory hearing, the court shall inform the parties of consequences should they fail to appear at the preparatory hearing and that they are obliged to present all facts on which the claims are based and disclose all the evidence that they want to present in the course of proceedings and to bring to the preparatory hearing all the documents and items that they want to use as evidence.

Issues related to any obstacles to further course of the proceedings shall be heard after the presentation of the complaint and the response to the complaint. Evidence related to these issues can be presented at the preparatory hearing when necessary.

In the course of preparatory hearing, court shall try, by asking questions, to present all decisive facts, complement all incomplete information on important facts, to specify or supplement evidence related to the allegations of the parties and provide all clarifications needed for the establishment of facts.

Based on the deliberations at the preparatory hearing, the court shall decide and give directions on the issues to be discussed and the evidence to be presented at the main hearing.

3.6.4. Performance and evaluation of judges

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

Yes

No

Comments

083-1. Who is responsible for setting the targets for each judge?

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 (please specify):

Comments

New node

4.Fair trial

4.1.Principles

4.1.1.Principles of fair trial

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

NA

NAP

Comments

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

Yes, number of successful challenges in a year 998

No

Comments - Please could you briefly specify:

086. Is there in your country a monitoring system for the violations related to Article 6 of the European Convention on Human Rights?

	Monitoring system
For civil procedures (non-enforcement)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
For civil procedures (timeframe)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
For criminal procedures (timeframe)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments - Please, specify what are the terms and conditions of this monitoring system (information related to violations at the State/courts level; implementation of internal systems to remedy the established violation; implementation of internal systems to prevent other violations (that are similar) and if possible to measure an evolution of the established violations: The Law on the Protection of the Right to Trial Within a Reasonable Time provides mechanisms for the protection of this right. The party may file a request for control to the President of the court i.e. an action for fair redress shall be brought before the Supreme Court. Statistical data on cases and duration of any other case can be obtained through the Judicial Information System (PRIS).

D1. Please indicate the sources for answering questions in this chapter.

Sources: Supreme Court of Montenegro

4.2. Timeframe of proceedings

4.2.1. General information

087. Are there specific procedures for urgent matters as regards:

- civil cases
- criminal cases
- administrative cases
- There is no specific procedure

Comments - If yes, please specify: Detention cases and cases of criminal offenses with juvenile offenders shall be urgent.

In civil proceedings, the procedure by the so-called. lawsuits per instance, labor disputes, trespassing, proceedings for enforcement and claims securing, physical divisions, disputes for child maintenance support, are urgent.

In Administrative disputes upon request of the plaintiff, the authority whose act is executed, respectively the authority competent for the execution if it is an act of an organization that is not authorized for the execution, shall defer the execution pending the validity of the court decision, if the execution might cause a damage to the plaintiff which could hardly be redressed, and if the deferment is not against the public interest or would not cause any major irreparable damage to the opposing party.

088. Are there simplified procedures for:

- civil cases (small disputes)
- criminal cases (misdemeanour cases)
- administrative cases
- There is no simplified procedure

Comments - If yes, please specify: In the small claim disputes proceedings, the record of the main hearing, in addition to the information required also contains the following: if the court schedules the main hearing and the plaintiff fails to appear at the hearing in spite of being duly summoned, the court renders a judgment by which it shall dismiss the statement of claims (the judgment based on waiver), the judgment in the small claim disputes proceedings is rendered immediately after conclusion of the main hearing, special rules on refuting decisions, shorter deadlines for the execution of the period of the sentence ordered by decision.

Summary procedure is prescribed for the offenses for which the main prescribed punishment is a fine or imprisonment of up to five years. Compared with the regular criminal proceeding, this form of the process has certain characteristics such as. in the indictment not charges, already indictment by a state prosecutor, or an indictment of an injured or private lawsuit; grounds for detention; duration of detention; Preliminary Examining indict; hearing for conciliation.

Also, the offenses for which, as punishable by fine or imprisonment up to three years, at the proposal of the state prosecutor and with the consent of the victim, the judge may issue a decision on punishment without trial.

In addition, the procedure for the imposition of judicial admonition is a different procedure. Thus, judicial admonition is imposed solution which shall be issued immediately after the end of the trial, with relevant reasons, grounds for contesting are differently placed in relation to the regular procedure, and on appeal, if an appeal against the decision on judicial admonition was pronounced by the prosecutor at the expense the accused, the appellate court may render a judgment finding the defendant guilty and impose a fine or a suspended sentence if it finds that the Trial court correctly established the relevant facts and the proper application of the law can impose a fine or a suspended sentence.

In the administrative procedure, in the event that the court finds that the challenged administrative act or other administrative activity

contains such deficiencies that prevent the assessment of legality, it may annul the act or other administrative activity by a verdict and without the submission of a delivery of the charges.

088-1. (Modified question) For these simplified procedures, may judges deliver an oral judgement with a written order and dispense with a full reasoned judgement?

- civil cases
- criminal cases
- administrative cases

Comments - If yes, please specify: Criminal Procedure Code states possibility for parties and injured party to waive the right to appeal immediately after the judgment was delivered to him/her. In such case copy of the decision shall be delivered only upon request of the parties. If the both, defendant and injured party, waived the right to appeal upon the announcement of the decision, and no party requested delivery of the judgment, written copy of the judgment doesn't have to contain statement of reasons.

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

- Yes
- No

Comments - If yes, please specify:

4.2.2. Case flow management – first instance



091. (Modified question) First instance courts: number of other than criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court (Please insert NA for category 2)
Total of other than criminal law cases (1+2+3+4)	27204 <input type="checkbox"/> NA <input type="checkbox"/> NAP	55675 <input type="checkbox"/> NA <input type="checkbox"/> NAP	55520 <input type="checkbox"/> NA <input type="checkbox"/> NAP	27359 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)	20916 <input type="checkbox"/> NA <input type="checkbox"/> NAP	29686 <input type="checkbox"/> NA <input type="checkbox"/> NAP	29219 <input type="checkbox"/> NA <input type="checkbox"/> NAP	21383 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
2. Non litigious cases (2.1+2.2+2.3)	1437 <input type="checkbox"/> NA <input type="checkbox"/> NAP	9981 <input type="checkbox"/> NA <input type="checkbox"/> NAP	10083 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1335 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)	821 [] NA [] NAP	3206 [] NA [] NAP	3097 [] NA [] NAP	930 [] NA [] NAP	[X] NA [] NAP
2.2. Registry cases (2.2.1+2.2.2+2.2.3)	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP
2.2.1. Non litigious land registry cases	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP
2.2.2 Non-litigious business registry cases	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP
2.2.3. Other registry cases	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP	[] NA [X] NAP
2.3. Other non-litigious cases	616 [] NA [] NAP	6775 [] NA [] NAP	6986 [] NA [] NAP	405 [] NA [] NAP	[X] NA [] NAP
3. Administrative law cases	2158 [] NA [] NAP	4691 [] NA [] NAP	4130 [] NA [] NAP	2719 [] NA [] NAP	[X] NA [] NAP
4. Other cases	1256 [] NA [] NAP	1336 [] NA [] NAP	2005 [] NA [] NAP	587 [] NA [] NAP	[X] NA [] NAP

Comments Transferred cases to other courts or cases transferred to notaries are considered solved. The increase in the category other (and in total) is because of including in this cycle execution cases after a misdemeanour case fine not paid and also after government body request from a court to change a non-paid fine into a prison sentence.

092. If courts deal with “civil (and commercial) non-litigious cases”, please indicate the case categories included:

. Succession cases, cases on appeals of notary's decisions, cases on appeals on civil and non-contentious decisions, serious non-contentious cases.

093. Please indicate the case categories included in the category "other cases":

. Execution cases (I)

094. (Modified question) First instance courts: number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court
Total of criminal law cases (1+2)	23072 [] NA [] NAP	38551 [] NA [] NAP	44113 [] NA [] NAP	17510 [] NA [] NAP	[] NA [X] NAP
1. Severe criminal cases	2094 [] NA [] NAP	3849 [] NA [] NAP	4246 [] NA [] NAP	1697 [] NA [] NAP	[] NA [X] NAP
2. Misdemeanour and / or minor criminal cases	20978 [] NA [] NAP	34702 [] NA [] NAP	39867 [] NA [] NAP	15813 [] NA [] NAP	[] NA [X] NAP

Comments - If you cannot make a distinction between misdemeanour criminal cases and severe criminal cases (according to the CEPEJ definitions), please indicate the categories of cases reported in the category "serious offences" and cases reported in the category "minor offences":

4.2.3. Case flow management – second instance 

097. (Modified question) Second instance courts (appeal): Number of “other than criminal law” cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court (Please insert NA for category 2)
Total of other than criminal law cases (1+2+3+4)	2453 [] NA [] NAP	11038 [] NA [] NAP	11587 [] NA [] NAP	1904 [] NA [] NAP	[X] NA [] NAP
1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[] NA [X] NAP
2. Non litigious cases (2.1+2.2+2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[] NA [X] NAP

2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2. Registry cases (2.2.1+2.2.2+2.2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.1. Non litigious land registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.2 Non-litigious business registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.3. Other registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.3. Other non-litigious cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
3. Administrative law cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
4. Other cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[] NA [X] NAP

Comments Appeal cases for civil and commercial cases have been registered in the single registry in second instance courts, and can't be separated on sub categories.

098. (Modified question) Second instance courts (appeal): number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court
Total of criminal law cases (1+2)	248 [] NA [] NAP	3963 [] NA [] NAP	4131 [] NA [] NAP	80 [] NA [] NAP	[X] NA [] NAP
1. Severe criminal cases	189 [] NA [] NAP	2016 [] NA [] NAP	2125 [] NA [] NAP	80 [] NA [] NAP	[X] NA [] NAP
2. Misdemeanour and / or minor criminal cases	59 [] NA [] NAP	1947 [] NA [] NAP	2006 [] NA [] NAP	0 [] NA [] NAP	[X] NA [] NAP

Comments For cases in which the First Instance Court has jurisdiction, the Supreme Court decides in the appeals proceedings, whereas in

the cases where the first instance court is competent for the first instance, the Appellate Court of Montenegro is competent. The variation appears because this cycle misdemeanour court cases were included for the first time.



4.2.4. Case flow management – Supreme Court

099. (Modified question) Highest instance courts (Supreme Court): number of “other than criminal law” cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the Supreme court (Please insert NA for category 2))
Total of other than criminal law cases (1+2+3+4)	236 [] NA [] NAP	1933 [] NA [] NAP	1964 [] NA [] NAP	205 [] NA [] NAP	[X] NA [] NAP
1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)	198 [] NA [] NAP	1474 [] NA [] NAP	1526 [] NA [] NAP	146 [] NA [] NAP	[X] NA [] NAP
2. Non litigious cases (2.1+2.2+2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[] NA [X] NAP
2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[] NA [X] NAP
2.2. Registry cases (2.2.1+2.2.2+2.2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.1. Non litigious land registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.2 Non-litigious business registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.3. Other registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.3. Other non-litigious cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[] NA [X] NAP

3. Administrative law cases	38 [] NA [] NAP	459 [] NA [] NAP	438 [] NA [] NAP	59 [] NA [] NAP	[X] NA [] NAP
4. Other cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[] NA [X] NAP

Comments

099-1. At the level of the Highest court (Supreme Court), is there a procedure of manifest inadmissibility?

(X) Yes, please indicate the number of cases closed by this procedure:

() No

Comments

100. (Modified question) Highest instance courts (Supreme Court): number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the Supreme court
Total of criminal law cases (1+2)	6 [] NA [] NAP	98 [] NA [] NAP	97 [] NA [] NAP	7 [] NA [] NAP	[X] NA [] NAP
1. Severe criminal cases	6 [] NA [] NAP	98 [] NA [] NAP	97 [] NA [] NAP	7 [] NA [] NAP	[X] NA [] NAP
2. Misdemeanour and / or minor criminal cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[] NA [X] NAP

Comments

4.2.5. Case flow management – specific cases



101. (Modified question) Number of litigious divorce cases, employment dismissal cases, insolvency, robbery cases, intentional homicide cases, cases relating to asylum seekers and cases relating to the right of entry and stay for aliens received and processed by first instance courts.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec ref. year
Litigious divorce cases	442 [] NA [] NAP	1379 [] NA [] NAP	1433 [] NA [] NAP	388 [] NA [] NAP
Employment dismissal cases	18 [] NA [] NAP	13 [] NA [] NAP	19 [] NA [] NAP	12 [] NA [] NAP
Insolvency	380 [] NA [] NAP	597 [] NA [] NAP	660 [] NA [] NAP	317 [] NA [] NAP

Robbery case	6 <input type="checkbox"/> NA <input type="checkbox"/> NAP	5 <input type="checkbox"/> NA <input type="checkbox"/> NAP	11 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Intentional homicide	20 <input type="checkbox"/> NA <input type="checkbox"/> NAP	22 <input type="checkbox"/> NA <input type="checkbox"/> NAP	15 <input type="checkbox"/> NA <input type="checkbox"/> NAP	21 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Cases relating to asylum seekers (refugee status under the 1951 Geneva Convention)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Cases relating to the right of entry and stay for aliens	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments Procedures relating to divorce proceedings, as well as employment dismissal cases are impossible to present separately because they are stated in PRIS and in courts under a unique code "P" and thus became part of the ordinary civil cases. Also, bankruptcy cases are kept together with liquidation cases in statistics, and their number for 2016 is shown in the table under serial number 91, while for asylum seekers Asylum Directorate is competent for asylum seekers.

101-1. (New question) Could you briefly describe the system in your country dealing with judicial remedies relating to asylum seekers (refugee status under the 1951 Geneva Convention) and the right of entry and stay for aliens:

. The procedure for granting asylum is a administrative procedure and body of the state administration charged with interior affairs shall conduct the procedure in the first instance, receive applications and take decisions on applications, conduct the procedure and take decisions on the cessation and revocation of asylum and perform other tasks. The State Asylum Appeals Commission shall adjudicate appeals lodged against decisions of the first-instance body. The State Commission shall take a decision on each appeal by a majority of votes of the total number of members, within two months from the day on which the appeal was lodged, unless a shorter period is provided by this Law. The State Commission is made up of a president and four members. The president, deputy president and members of the State Commission shall be appointed by the Government of the Republic of Montenegro (hereinafter: Government) for a four-year term. An administrative dispute can not be initiated against the decision of the second-instance body. The Law on Aliens regulates conditions for the entry, movement and the work of aliens and the conditions of stay and work. An administrative dispute may be started against an administrative or other act that has been passed in second instance before the Administrative Court of Montenegro. An administrative or other act may be disputed: in the case of violation of the codes of procedure, in the case of inaccurate and incomplete establishment of the facts; in the case of inaccurate application of the material law. The complaint shall be accepted, or refused as unsubstantial by a judgment. If the complaint is accepted, the Administrative Court shall nullify the disputed act. When found that the disputed act shall be nullified, the Administrative Court may, if the character of affairs allows so and if the established facts offer a reliable ground for it, settle the matter by a judgment, under the rules stated in Law on Administrative Dispute. Against the legally binding decision of the Administrative Court the following extraordinary legal remedies may be submitted: a request for exceptional reconsideration of a court decision and request for repeat of the procedure. The request for extraordinary reconsideration of a court decision shall be decided on by the Supreme Court in a panel of three judges, in a non public session, The request for extraordinary reconsideration of a court decision may be filed in the following cases: violation of the material law; violation of the codes of procedure in the administrative dispute, which might affect the deciding on the matter. Upon request for a repeat of the procedure decides Administrative Court ,in a panel of three judges , in a non public session. A procedure concluded by a judgment or a decision shall be repeated upon request of a party: if the party discovers new facts, or finds or acquires the possibility to use new evidence, on which grounds the dispute might be settled more favorably for him/her, had these facts, i.e. evidence been put forward or used in the previous court procedure; if the court decision was reached due to a criminal act of the judge or an employee of the court, or the decision was achieved by deceit of the representative or attorney of the party, his/her opponent or the opponent's representative or attorney, and such a proceeding represents a criminal act; if the decision had been based on a judgment passed in a criminal or civil matter, and this judgment was later cancelled by another legally binding court decision; if a document, on which the decision is based, was false or altered falsely, or if a witness, assessor or party, has given a false statement

during the hearing before court, and the court decision is based on that statement; if a party finds or acquires the possibility to utilize an earlier decision passed in the same administrative dispute; if an interested party had not been granted the possibility to participate in the administrative dispute; if the decision of the Administrative Court contradicts the judgment of the European Court of Human Rights in the same matter.

102. Average length of proceedings, in days (from the date the application for judicial review is lodged). The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure.

	% of decisions subject to appeal	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)	% of cases pending for more than 3 years for all instances
Litigious divorce case	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
Employment dismissal case	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
Insolvency	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
Robbery case	72 <input type="checkbox"/> NA <input type="checkbox"/> NAP	155 <input type="checkbox"/> NA <input type="checkbox"/> NAP	25 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	211 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
Intentional homicide	64 <input type="checkbox"/> NA <input type="checkbox"/> NAP	349 <input type="checkbox"/> NA <input type="checkbox"/> NAP	73 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	459 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The average length of proceedings is counted from the date of filing a request to initiate court proceedings until the day of the decision, not taking into account the enforcement procedure.

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

. Pursuant to the provisions of the Family Law, proceedings in marital disputes shall be initiated by a lawsuit. The procedure for the divorce agreement is initiated by the joint proposal of the spouses (the proposal for an agreement on divorce). If a spouse has filed a lawsuit for divorce and the other person expressly declares that he does not dispute the merits of the lawsuit at the latest until the conclusion of the main hearing, the spouses shall be deemed to have proposed a divorce agreement. In marital disputes initiated of one of the spouses, a mediation procedure shall be conducted in accordance with the Law on Mediation, unless there are circumstances indicating the existence of any form of domestic violence. Upon receipt of the lawsuit, the court shall convene a hearing and ask spouses to immediately disclose which mediator they wish to address for the purpose of conciliation or reaching agreement on the legal consequences of divorce.

If a spouse does not reach a mediator agreement, he or she shall be assigned by a court. The court shall, without delay, provide the mediator with a lawsuit, an act on his / her appointment to the mediator, the names and addresses of the spouses and the data of the joint children, if any. The mediator shall, within eight days from the receipt of the act, invite spouses, under the terms of personal

delivery, to attend a mediation procedure without attorneys in which they will attempt to terminate the disputed relationships without conflict and without divorce.

The mediation procedure for attempting reconciliation shall be carried out within one month of the day the lawsuit has been filed with the mediator and the mediation procedure for reaching an agreement on the consequences of divorce within 60 days of the date of termination of the conciliation procedure. The marriage agreement of the spouses about sharing the common property shall enter in the sentence of marriage divorce. The spouses' agreement on the exercise of parental rights is included in the sentence of marriage divorce if the court finds that the agreement is in the best interest of the child. During the entire divorce proceedings, the court shall be obliged to cooperate with guardianship authorities and other professional services dealing with marriage and family issues, especially when spouses have joint children. During the proceedings in marital disputes, the court may, by means of a decision, impose provisional measures in order to provide support to the spouse and to accommodate his / her proposal. In marital disputes, no judgment can be made for omission or judgment on the basis of recognition or renunciation. In martial law parties can not conclude court settlement.

**104. How is the length of proceedings calculated for the five case categories of question 102?
Please give a description of the calculation method.**

. The length of the proceedings shall be counted from the moment when the judge is charged with a single subject until the moment of hand in.

4.2.6. Case flow management – public prosecution

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

[X] to conduct or supervise police investigation

[X] to conduct investigations

[X] when necessary, to request investigation measures from the judge

[X] to charge

[X] to present the case in court

[X] to propose a sentence to the judge

[X] to appeal

[] to supervise the enforcement procedure

[X] to discontinue a case without needing a decision by a judge (ensure consistency with question 36!)

[X] to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision

[X] other significant powers (please specify): Under the Criminal Procedure Code the state prosecutor issues binding orders or directly manages the activities of the administrative authority competent for police affairs in the preliminary investigation and submits a request for the protection of legality against the final decision, and also concludes plea bargain agreements with the accused after collection of evidence according to the law.

Comments

106. (Modified question) Does the public prosecutor also have a role in:

- civil cases
- administrative cases
- insolvency cases

Comments - If yes, please specify: Filing a claim for the protection of legality against a final court decision (Article 416 of the Criminal Procedure Code), filing a lawsuit against the Administrative Court of Montenegro (Article 3, Paragraphs 3 and 4 of the Law on Administrative Disputes), proposal for annul decision (Article 261 and void Article 260 of the LAP) the authority to file a lawsuit for determining the nullity of the contract under the Law on Obligations and powers for initiating of legal actions under the provisions of the Family Law to protect the interests of the child etc.

107. Cases processed by the public prosecutor - Total number of first instance criminal cases:

	Received during the reference year	Discontinued during the reference year (see Q108 below)	Concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases brought to court
Total number of first instance cases processed by the public prosecutor	9141 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3203 <input type="checkbox"/> NA <input type="checkbox"/> NAP	730 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3502 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments According to the Article 300, paragraph 3 of the Criminal Procedure Code, the plea agreement must be concluded in writing and signed by the parties and the defense counsel, and may be filed, at latest, at the first hearing for the main trial before the first instance court, while Article 302 paragraph 1 of the same the Law stipulates that a plea agreement shall be decided upon by the court that can dismiss, reject or adopt the agreement. 139 plea agreements were concluded in the Basic and High State Prosecution Offices and 28 in the Special State Prosecutor's Office.

107-1. (Modified question) If the guilty plea procedures exist, how many cases were brought to court by the prosecutor through this procedure?

	Number of guilty plea procedures
Total	139 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Before the court case	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
During the court case	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments Resolving cases through applying the institution of plea agreements was gradually introduced at the State Prosecution Office. Experiences acquired through practice and the results achieved by applying this institution ensured increase in a number of successfully resolved cases in this way. The Law on Amendments to the Criminal Procedure Code, which came into effect on 15 August 2015 changed Article 300, paragraph 3 of the Criminal Procedure Code, the plea agreement must be concluded in writing and signed by the parties and the defense counsel, and may be filed, at latest, at the first hearing for the main trial before the first instance court, while Article 302 paragraph 1 of the same the Law stipulates that a plea agreement shall be decided upon by the court that can dismiss, reject or adopt the agreement. 139 plea agreements were concluded in the Basic and High State Prosecution Offices and 28 in the Special State Prosecutor's Office.

108. Total cases which were discontinued by the public prosecutor:

	Number of cases
Total cases which were discontinued by the public prosecutor (1+2+3)	3242 [] NA [] NAP
1. Discontinued by the public prosecutor because the offender could not be identified	39 [] NA [] NAP
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	2612 [] NA [] NAP
3. Discontinued by the public prosecutor for reasons of opportunity	591 [] NA [] NAP

Comments

109. Do the figures include traffic offence cases?

Yes

No

Comments

D2. Please indicate the sources for answering questions 91, 94, 97, 98, 99, 100, 101, 102, 107, 107-1 and 108.

Sources: Judicial Council
Prosecutorial Council
Supreme State Prosecution Office

5. Career of judges and public prosecutors

5.1. Recruitment and promotion

5.1.1. Recruitment and promotion of judges

110. (Modified question) How are judges recruited?

mainly through a competitive exam (open competition)

mainly through a recruitment procedure for experienced legal professionals (for example experienced lawyers)

a combination of both (competitive exam and working experience)

other (please specify):

Comments Judicial Council is an independent body regulates appointment and termination of office of judges in Montenegro.

Article 128 of the Constitution of Montenegro states the jurisdiction of the Judicial Council.

Article 28 of the Law on Judicial Council states that judges and Presidents of the Courts are elected on the bases of public announcement.

The candidates' applications shall be submitted to the Judicial Council within 15 days as of the day of the public announcement.

Article 32 of the Law determines criteria for elections of judges to be appointed for the first time, namely: 1. Acquired knowledge with established subcriteria; 2. Ability to perform judicial function on the basis of established subcriteria; 3. Worthiness to perform judiciary function being valued based on established subcriteria .

For judges to be elected for the first time, the law prescribes the written examination of candidates by the Commission. Written examination shall be anonymous, and potential questions can be found on the Judicial Council website.

After the written examination conducted, interviews shall be organized with the candidates who passed the written test. Members of the Judicial Council evaluate candidates based on the interview, applicants' documentation and opinions, applying the criteria and sub-criteria from Article 32, 32a and 32b of the Law on Judicial Council and shall fill out standardized candidate assessment forms, which they submit to the Commission. The Commission establishes the average number of points, based on the evaluation of each member of the Judicial Council.

Based on an average score, the Commission makes a list of candidates for election to be submitted to the Judicial Council for decision-making. The Decision on the Selection The Judicial Council issues a secret ballot and the same has to hold a written statement of reasons. Each candidate shall have the right to inspect his documentation, as well as a written test, the opinion and the final grade of other candidates who have applied for the selection of the judge within 30 days from the date after the decision.

The decision of the Judicial Council on the election of a judge is final and an administrative dispute can be initiated against it.

The Judicial Council publishes an internal notices for filling vacancies of judges on its website.

The right to apply for an internal vacancy shall have judges who want to be permanently allocated to another court of the same or lower instance.

The Judicial Council shall form a list of candidates for deployment from paragraph 2 of this Article, according to the results of the work in the last three years, or according to the evaluation of the work performed by the judge in accordance with this Law.

The Judicial Council on the basis of a list of candidates referred to in paragraph 3 of this Article, shall decide on the assignment of judges to another court of the same instance, taking into account the needs of the court in which a judge performs a judicial function and court in which it is seconded.

110-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting judges?

Yes

No

Comments - If yes, please specify:

111. Authority(ies) responsible for recruitment. Are judges initially/at the beginning of their career recruited and nominated by:

an authority made up of judges only

an authority made up of non-judges only

an authority made up of judges and non-judges

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles: The Judicial Council of Montenegro decides on the election of judges and presidents of all courts.

The Law on the Judicial Council regulates the procedure and criteria for the selection of judges for the first time elected. (the procedure described in the answer to question 110 above)

112. Is the same authority (Q111) competent for the promotion of judges?

Yes

No

Comments

112-1. Are there specific provisions for facilitating gender equality within the framework of the

procedure for promoting judges?

Yes

No

Comments - If yes, please specify: Law on Judicial Council stipulates that when deciding on election of a judge and a Court President, the Judicial Council shall take into account the proportional representation of minorities and gender balanced representation.

113. What is the procedure for judges to be promoted? (multiple answers possible)

Competitive test / Exam

Other procedure (interview or other)

No special procedure

Comments - Please specify how the promotion of judges is organised (especially if there is no competition or examination):

113-1. Please indicate the criteria used for the promotion of a judge? (multiple answers possible)

Years of experience

Professional skills (and/or qualitative performance)

Performance (quantitative)

Assessment results

Subjective criteria (e.g. integrity, reputation)

Other

No criteria

Comments - Please specify any useful comment regarding the criteria (especially if you have checked the box "performance" or "other"):
State prosecutor, i.e. judge shall be entitled to promotion to the state prosecution or court of a higher rank if given the grade excellent or good in the performance evaluation and if he/she meets the specific requirements stipulated for the election to that court.

State prosecutor, i.e. judge shall be entitled to be promoted to the Supreme Court if given the grade excellent and if he/she meets the specific requirements for the election to the Supreme Court.

Criteria for the selection of judges who are advancing are:

- 1) the performance of the judge or the state prosecutor;
- 2) ratings of the interview with the candidate.

114. (Modified question) Is there a system of qualitative individual assessment of the judges' work?

Yes

No

Comments

114. If yes, please specify the frequency of this assessment:

Annual

Less frequent

More frequent

5.1.2. Status, recruitment and promotion of prosecutors

115. What is the status of prosecution services?

- statutory independent
- under the authority of the Minister of justice or another central authority
- other (please specify):

Comments - When appropriate, please specify the objective guarantees of this independence (transfer, appointment...). According to the Constitution The State Prosecution Office is unique and independent state body.

115-1. Does the law or another regulation prevent specific instructions to prosecute or not, addressed to a prosecutor in a court.

- Yes
- No

Comments - If yes, please specify:

116. How are public prosecutors recruited?

- mainly through a competitive exam (open competition)
- mainly through a recruitment procedure for experienced legal professionals (for example experienced lawyers)
- a combination of both (competitive exam and working experience)
- other (please specify):

Comments With the new Law on State Prosecution Office from 2015. the procedure has been defined in more details. Vacancies for State Prosecutors in Basic state prosecution office shall be filled by internal notice for voluntary reassignment of public prosecutors from one basic state prosecution office to another. Free positions for the basic state prosecutors shall be filled through public announcement of state prosecutor’s vacancies

Vacancies of the state prosecutors in the basic state prosecution offices on the level of Montenegro shall be advertised by the Prosecutorial Council in the Official Gazette of Montenegro and in one of the printed media with the headquarters in Montenegro. The following shall be criteria for election of the state prosecutor to be elected for the first time:

- 1) the grade given in written examination referred, i.e. the grade given in the judicial examination in line with the law regulating the judicial examination, 2) the grade given in the candidate interview. Criteria for election of state prosecutors to High or Supreme state prosecutors office shall be: 1) the grade given in written examination;
- 2) the grade given in the candidate interview.

117. Authority(ies) responsible for recruitment. Are public prosecutors initially/at the beginning of their career recruited by:

- an authority composed of public prosecutors only
- an authority composed of non-public prosecutors only
- an authority composed of public prosecutors and non-public prosecutors

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles: Prosecutorial Council elect and dismissed heads of state prosecutorial office and state prosecutors. Prosecutorial Council shall have a president and ten members.

The Supreme State Prosecutor shall be the President of the Prosecutorial Council.

The following shall be the members of the Prosecutorial Council:

- 1) five state prosecutors who hold permanent office and have at least five years of experience in discharging the prosecutorial duties; four of whom from the Supreme State Prosecution Office, Special State Prosecution Office and high state prosecution offices, and one from basic state prosecution offices elected and dismissed by the Prosecutorial Conference;
- 2) four eminent lawyers elected and dismissed by the Parliament of Montenegro (hereinafter referred to as "the Parliament") upon proposal of the relevant working body;
- 3) one representative of the state administration body responsible for judicial affairs (hereinafter referred to as: "the Ministry of Justice")

appointed by the Minister of Justice from among the employees of the Ministry of Justice.

117-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting prosecutors?

Yes

No

Comments - If yes, please specify: When deciding on election of Heads of State Prosecution Offices and state prosecutors, the Prosecutorial Council shall take into account the proportional representation of minorities and gender balanced representation

118. Is the same authority (Q.117) formally responsible for the promotion of public prosecutors?

Yes

No, please specify which authority is competent for promoting public prosecutors

Comments

119. What is the procedure for prosecutors to be promoted? (multiple answers possible)

Competitive test / exam

Other procedure (interview or other)

No special procedure

Comments - Please, specify the procedure (especially if it is a procedure different from a competitive test or an exam): According to the Plan of Public Prosecutors' vacancies, public announcement for state prosecutors in High and Supreme Public Prosecution Office shall be conducted, through promotion system.

The election of the state prosecutor in State Prosecution Office is conducted on the bases of evaluation of previous work of the state prosecutor and grade given in the candidate interview.

119-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting prosecutors?

Yes

No

Comments - If yes, please specify: When deciding on election of heads of state prosecution offices and state prosecutors, the Prosecutorial Council shall take into account the proportional representation of minorities and gender balanced representation.

119-2. Please indicate the criteria used for the promotion of a prosecutor:

Years of experience

Professional skills (and/or qualitative performance)

Performance (quantitative)

Assessment results

Subjective criteria (e.g. integrity, reputation)

Other

No criteria

Comments - Please, specify any useful comment regarding the criteria (especially if you have checked the box "performance" or "other"): The criteria for election to the position of a head of state prosecution office shall comprise performance evaluation of work of of the State Prosecution Office or judge who applied and evaluation in the candidate interview. Criteria for evaluation of his/her work in the position

of a state prosecutor shall be expertise and general ability to exercise prosecutorial functions.

Expert knowledge of the state prosecutor shall be evaluated on the basis of:

- 1) the quantity and quality of his/her work;
- 2) ability to plan and effectively conduct procedural actions
- 3) skills for preparing and keeping case files;
- 4) skills for using prosecutorial knowledge;
- 5) skills for conducting proceedings and
- 6) professional advancement.

120. Is there a system of qualitative individual assessment of the public prosecutors' work?

Yes

No

Comments

5.1.3.Mandate and retirement of judges and prosecutors

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

Yes, please indicate the compulsory retirement age:67

No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: The judge ceases to be in office if he or she so requests, when he or she fulfills the conditions for entitlement to the retirement and is sentenced to a unconditional sentence.

In the exercise of judicial office, or in a public place, brings himself / herself into a state or behaves in a manner that is not appropriate to the exercise of judicial office;

A judge shall be dismissed if he has been convicted of an offense which makes him unworthy of performing his judicial officen; unprofessional or negligent performance of judicial office or if permanently incapacitated for the performance of judicial office.

121-1. Can a judge be transferred (to another court) without his/her consent:

For disciplinary reasons

For organisational reasons

For other reasons (please specify modalities and safeguards):

No

Comments

122. Is there a probation period for judges (e.g. before being appointed "for life")? If yes, how long is this period?

Yes, duration of the probation period (in years):

No

NAP

Comments

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

Yes, please indicate the compulsory retirement age:67

() No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: The function of the state prosecutor is permanent. Exceptionally, the person that is elected the state prosecutor for the first time shall be elected for the period of four years. The head of the state prosecution office and the state prosecutor shall be released from duty if they are convicted to effective prison term by the final and binding judgment. State prosecutor shall be released from duty for committing the most severe disciplinary offence if:

- 1) he/she is convicted of an offence which makes him/her unworthy of performing prosecutorial function;
- 2) he/she performs prosecutorial function unprofessionally or unconscientiously.

State prosecutor's function shall be terminated in the following cases:

- 1) upon expiry of the term of office;
- 2) by resignation;
- 3) by fulfilment of requirements for old age pension;
- 4) by termination of citizenship.

The function of the head of the state prosecution office shall be terminated in the following cases:

- 1) upon expiry of the term of office he/she was elected to;
- 2) if his function of the state prosecutor is terminated;
- 3) upon his/her request or due to closing or merging of state prosecution offices.

124. Is there a probation period for public prosecutors? If yes, how long is this period?

(X) Yes, duration of the probation period (in years):4

() No

Comments

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

() Yes, what is the length of the mandate (in years)?

(X) No

Comments

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

() Yes, what is the length of the mandate (in years)?

(X) No, what is the length of the mandate (in years)?67 retirement age

Comments

5.2. Training

5.2.1. Training of judges

127. Types of different trainings offered to judges

	Compulsory	Optional	No training proposed
Initial training (e.g. attend a judicial school, traineeship in the court)	(X) Yes () No	() Yes (X) No	() Yes (X) No
General in-service training	(X) Yes () No	() Yes (X) No	() Yes (X) No

In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	(X) Yes () No	() Yes (X) No	() Yes (X) No
In-service training for management functions of the court (e.g. court president)	(X) Yes () No	() Yes (X) No	() Yes (X) No
In-service training for the use of computer facilities in courts	(X) Yes () No	() Yes (X) No	() Yes (X) No

Comments The Law on Judicial Training Center and the State Prosecutor's Office, which entered into force in October 2015, stipulates that judges and state prosecutors shall have the right and obligation to professional training in accordance with this Law. Training for judges and prosecutors is organized and implemented as initial and continuous.

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

	Frequency of the judges training
General in-service training	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	<input type="checkbox"/> Regularly (for example every year) <input checked="" type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for management functions of the court (e.g. court president)	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for the use of computer facilities in courts	<input type="checkbox"/> Regularly (for example every year) <input checked="" type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed

Comments - Please indicate any information on the periodicity of the continuous training of judges: The Law on Judicial Training Center and the State Prosecutor's Office, which entered into force in October 2015, stipulates that judges and state prosecutors shall have the right and obligation to professional training in accordance with this Law. Training for judges and prosecutors is organized and implemented as initial and continuous.

Initial training is organized and conducted for the candidates for judges and public prosecutors, and continuous training for judges and public prosecutors, according to the training programs to be adopted and implemented in accordance with the previously mentioned Law. Initial training is organized for the purpose of acquiring practical and theoretical knowledge and skills of candidates for judges in Misdemeanor courts, the Basic Courts, Commercial Court of Montenegro and Administrative Court of Montenegro and the candidates for state prosecutors in Basic State Prosecution offices. Continuous training is organized for professional development and professional development of judges and prosecutors and is carried out through training programs. Judges and state prosecutors shall have the right and obligation to attend continuous training, and shall apply according to their own interests, at least two working days a year. The content of continuous training depends on whether a judge or prosecutor holds office for less than four years, more than four years, whether they are court presidents or heads of state prosecutor's offices; the judge or state prosecutors who have been assessed as "unsatisfactory". In addition, specific content of continuous training is planned for the judge or state prosecutors who get promoted in the course of exercising their office, change the legal field or specialize in a particular legal field..

Judicial Training Center organizes and conducts training of judges and state prosecutors.

Training at the Center is carried out in accordance with the annual training program, which includes the areas for which the training is conducted in one calendar year, the dynamics and deadlines for the implementation, the structure and number of participants, the

professional structure of the lecturer, the resources required, as well as the program activity method assessment., Initial trainings programs programs for and programs for continuous training are made. based on the annual training program.

- <http://sudovi.me/cenp/izvjestaji-o-radu-centra/>

The Training Center in the Judiciary and the State Prosecution continuously conducts trainings of judges and state prosecutors on an annual basis, in accordance with the Annual Training Program. 80 training activities of the continuous training (conferences, seminars, workshops, round tables, trainers trainings etc.) has been organized in 2016.

<http://sudovi.me/cenp/izvjestaji-o-radu-centra/>

5.2.2. Training of prosecutors

129. Types of different trainings offered to public prosecutors

	Compulsory	Optional	No training proposed
Initial training	(X) Yes () No	() Yes (X) No	() Yes (X) No
General in-service training	(X) Yes () No	() Yes (X) No	() Yes (X) No
In-service training for specialised functions (e.g. public prosecutors specialised on organised crime)	(X) Yes () No	() Yes (X) No	() Yes (X) No
In-service training for management functions in the courts (e.g. Head of prosecution office, manager)	(X) Yes () No	() Yes (X) No	() Yes (X) No
In-service training for the use of computer facilities in office	(X) Yes () No	() Yes (X) No	() Yes (X) No

Comments The Law on Judicial Training Center and the State Prosecutor's Office, which entered into force in October 2015, stipulates that judges and state prosecutors shall have the right and obligation to professional training in accordance with this Law. Training for judges and prosecutors is organized and implemented as initial and continuous.

130. Frequency of the in-service training of public prosecutors :

	Frequency of the in-service training
General in-service training	[X] Regularly (for example every year) [] Occasional (as needed) [] No training proposed
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	[] Regularly (for example every year) [X] Occasional (as needed) [] No training proposed
In-service training for management functions in office (e.g. Head of prosecution office, manager)	[X] Regularly (for example every year) [] Occasional (as needed) [] No training proposed

In-service training for the use of computer facilities in office	<input type="checkbox"/> Regularly (for example every year) <input checked="" type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
---	--

Comments - Please indicate any information on the periodicity of the in-service training of prosecutors: Judicial Training Centre conducts continuous training of judges and state prosecutors annually, according to the Annual training program. In 2016, 80 activities of continuous training have been organized (conferences, seminars, workshops, round tables, trainings etc)- <http://sudovi.me/cenp/izvjestaji-o-radu-centra/>

131. Do you have public training institutions for judges and / or prosecutors?

	Initial training only	Continuous training only	Initial and continuous training
One institution for judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
One institution for prosecutors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
One single institution for both judges and prosecutors	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments

131-0. (Modified question) If yes, what is the budget of such institution(s)?

	Budget of the institution for the reference year, in €
One institution for judges	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
One institution for prosecutors	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
One single institution for both judges and prosecutors	379724 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

131-1. If judges and/or prosecutors have no compulsory initial training in such institutions, please indicate briefly how these judges and/or prosecutors are trained?

. Judges and prosecutors have compulsory initial training.

5.3.Practice of the profession

5.3.1.Salaries and benefits of judges and prosecutors



132. Salaries of judges and public prosecutors on 31 December of the reference year:

	Gross annual salary, in €	Net annual salary, in €	Gross annual salary, in local currency	Net annual salary, in local currency
First instance professional judge at the beginning of his/her career	20669 [] NA [] NAP	13607 [] NA [] NAP	20669 [] NA [] NAP	13607 [] NA [] NAP
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	38457 [] NA [] NAP	25170 [] NA [] NAP	38457 [] NA [] NAP	25170 [] NA [] NAP
Public prosecutor at the beginning of his/her career	21438 [] NA [] NAP	14105 [] NA [] NAP	21438 [] NA [] NAP	14105 [] NA [] NAP
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Attorney General).	37749 [] NA [] NAP	24710 [] NA [] NAP	37749 [] NA [] NAP	24710 [] NA [] NAP

Comments Law on wages of civil servants and state employees defines wages and positions in public sector as well as coefficients of wages of judges and state prosecutors. There have been an increase of coefficients for judicial office holders and thus increase of annual salaries. This applies to Presidents of Courts as well as to heads of public prosecution offices.

133. Do judges and public prosecutors have additional benefits?

	Judges	Public prosecutors
Reduced taxation	() Yes (X) No	() Yes (X) No
Special pension	() Yes (X) No	() Yes (X) No
Housing	() Yes (X) No	(X) Yes () No
Other financial benefit	(X) Yes () No	(X) Yes () No

Comments

134. If “other financial benefit”, please specify:

. In The Supreme Public Prosecutor's Office, entitled to a special bonus in the amount of 45% of the basic salary achieved is: - the public prosecutor acting on cases of organized crime, corruption, money laundering, terrorism and war crimes; The Special State Prosecutor, the right to a special bonus in the amount of 45% of the basic salary achieved is: - Chief Special Prosecutor; - Special prosecutors; - The state prosecutor sent to the Special Public Prosecutor's Office; In the Supreme Court of Montenegro, the Appellate Court of Montenegro and the High Court in Podgorica entitled to a special bonus in the amount of 45% of the basic salary achieved are: - judges acting in cases of organized crime, corruption, money laundering, terrorism and war crimes.

135. Can judges combine their work with any of the following other functions/activities?

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

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please specify. According to the Constitution of Montenegro, a judge can not perform a post or other public function or professionally perform any other activity. At the request of a court president or judge, the Judicial Council gives an opinion on whether certain activities shall be considered as a professional performance of an activity incompatible with the performance of a judicial function.

The judge who performs scientific, educational and artistic activities as well as activities protected by copyright shall not be deemed to professionally perform other activity within the meaning of the Constitution.

137. Can public prosecutors combine their work with any of the following other functions/activities?

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

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please

specify. According to the Constitution Head of State Prosecutor's Office and the Public Prosecutor may not be delegates and perform other public

function, or professionally perform another activity.

At the request of the Head of State Prosecutor's Office or the State Prosecutor Prosecutorial Council gives an opinion on whether certain activities are considered professional performing other activities incompatible with the exercise of prosecutorial functions.

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

Yes

No

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

5.4. Disciplinary procedures

5.4.1. Authorities responsible for disciplinary procedures and sanctions

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

Court users

Relevant Court or hierarchical superior

High Court / Supreme Court

High Judicial Council

Disciplinary court or body

Ombudsman

Parliament

Executive power (please specify):

Other (please specify):

This is not possible

Comments The motion for establishing disciplinary liability of the judge may be filed by the court president, the president of the immediately higher court and the President of the Supreme Court, and for the President of the Supreme Court or a General Session of the Supreme Court. The Commission for Monitoring the Implementation of the Code of Ethics for Judges shall file motion for establishing disciplinary liability of a judge and President of the Court for contempt of judicial function in cases specified by law.

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

Citizens

Head of the organisational unit or hierarchical superior public prosecutor

Prosecutor General /State public prosecutor

Public prosecutorial Council (and Judicial Council)

Disciplinary court or body

Ombudsman

- Professional body
- Executive power (please specify):
- Other (please specify):
- This is not possible

Comments Minister of Justice and Commission for monitoring of implementation of Code of Ethics of Judges

142. Which authority has disciplinary power over judges? (multiple options possible)

- Court
- Higher Court / Supreme Court
- Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power (please specify):
- Other (please specify):

Comments The investigation on the submitted motion for establishing disciplinary liability shall be conducted by the disciplinary prosecutor, who shall also represent the indictment in the procedure of establishing disciplinary liability of the judge. Disciplinary prosecutor shall have a deputy. Disciplinary prosecutor and his /her deputies shall be appointed by the Judicial Council for time limit of two years. President of the Disciplinary Committee shall be appointed from among the members of the Judicial Council who are not judges, and two members from among the judges who are not members of the Judicial Council with at least 15 years of work experience. The Judicial Council issued a brochure for applicants complaints against judges and court president in 2017. The same can be found at the following link: <http://sudovi.me/podaci/sscg/dokumenta/5566.pdf>

143. Which authority has disciplinary power over public prosecutors? (multiple options possible):

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

Comments The procedure for determining disciplinary liability for minor and severe disciplinary offenses performs a disciplinary panel after indictment proposal of Disciplinary prosecutor.

The Disciplinary Panel consists of three members of the Prosecutorial Council, two members of the state prosecutor's office, and one member of the rank of distinguished lawyers who is the chair of the disciplinary panel.

The Supreme State Prosecutor can not be a member of the Disciplinary panel. Members of the Disciplinary panel and their deputies are appointed by the Prosecutorial Council upon the proposal of the President of the Prosecutorial Council.

The procedure for determining disciplinary liability for the most serious disciplinary offenses undertakes Prosecutorial Council upon indictment of Disciplinary prosecutor.

5.4.2.Number of disciplinary procedures and sanctions



144. Number of disciplinary proceedings initiated during the reference year against judges and public prosecutors. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)

	Judges	Prosecutors
Total number (1+2+3+4)	2 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Breach of professional ethics	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
2. Professional inadequacy	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
3. Criminal offence	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
4. Other	2 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If “other”, please specify: In course of 2016, one indictment for establishing disciplinary liability of a judge was filed to Disciplinary prosecutor.

Upon conducted procedure of establishing disciplinary liability, Disciplinary panel rejected bill of indictment and found that it is to consider as Initiative for determining breach of Code of Ethics of Judges, and it was jurisdiction of Commission for Code of Ethics of Judges.

In the course of 2017, one bill of indictment was filled for establishing disciplinary liability of judges, and was finalised, disciplinary sanction was fine in amount of 20% of the salary, lasting up to 3 months.

In 2016, one indictment was issued for establishing disciplinary liability of a state prosecutor, for a severe disciplinary offence Article 108 paragraph 3 item 8 of the Law on State Prosecution Office, relating to not submitting income and property reports in accordance to regulations stipulating the area of prevention of conflicts of interests.

145. Number of sanctions pronounced during the reference year against judges and public prosecutors:

	Judges	Prosecutors
Total number (total 1 to 9)	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Reprimand	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
2. Suspension	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
3. Withdrawal from cases	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
4. Fine	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

5. Temporary reduction of salary	1 [] NA [] NAP	0 [] NA [] NAP
6. Position downgrade	0 [] NA [] NAP	0 [] NA [] NAP
7. Transfer to another geographical (court) location	0 [] NA [] NAP	0 [] NA [] NAP
8. Resignation	0 [] NA [] NAP	0 [] NA [] NAP
9. Other	0 [] NA [] NAP	0 [] NA [] NAP

Comments - If “other”, please specify. If a significant difference exists between the number of disciplinary proceedings and the number of sanctions, please indicate the reasons.

E3. Please indicate the sources for answering questions 144 and 145:

Sources: Secretariat of the Judicial Council,
Secretariat of the Prosecutorial Council

6.Lawyers

6.1.Profession of lawyer

6.1.1.Status of the profession of lawyers

146. Total number of lawyers practising in your country:

[831]
[] NA
[] NAP

Comments

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

Yes ()

No (X)

Comments

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

[]
[] NA

Comments

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

	First instance	Second instance	Highest instance court (Supreme Court)
Civil cases	() Yes (X) No [] NAP	() Yes (X) No [] NAP	() Yes (X) No [] NAP
Dismissal cases	() Yes (X) No [] NAP	() Yes (X) No [] NAP	() Yes (X) No [] NAP
Criminal cases - Defendant	(X) Yes () No [] NAP	(X) Yes () No [] NAP	(X) Yes () No [] NAP
Criminal cases - Victim	() Yes (X) No [] NAP	() Yes (X) No [] NAP	() Yes (X) No [] NAP
Administrative cases	() Yes (X) No [] NAP	() Yes (X) No [] NAP	() Yes (X) No [] NAP
There is no monopoly	() Yes (X) No [] NAP	() Yes (X) No [] NAP	() Yes (X) No [] NAP

Comments - Please, indicate any useful clarifications regarding the content of lawyers' monopoly:

149-0. (New question) If there is no monopoly, please specify the organisations or persons that may represent a client before a court:

	First instance	Second instance	Highest instance court (Supreme Court)
Civil society organisation	() Yes () No [X] NAP	() Yes () No [X] NAP	() Yes () No [X] NAP
Family member	() Yes () No [X] NAP	() Yes () No [X] NAP	() Yes () No [X] NAP
Self-representation	() Yes () No [X] NAP	() Yes () No [X] NAP	() Yes () No [X] NAP
Trade union	() Yes () No [X] NAP	() Yes () No [X] NAP	() Yes () No [X] NAP
Other	(X) Yes () No [] NAP	(X) Yes () No [] NAP	(X) Yes () No [] NAP

Comments - If "other", please specify. In addition, please specify for the categories mentioned, the types of cases concerned by this/these

representation(s): Special types of representation deal with the special laws, for different types of procedures - different representations are provided, so it is not possible to give a concrete answer to this question, in relation to the offered answers.

149-1. In addition to the functions of legal representation and legal advice, can a lawyer exercise other activities?

- Notarial activity
- Arbitration / mediation
- Proxy / representation
- Property manager
- Real estate agent
- Other law activities (please specify):

Comments

149-2. What are the statuses for exercising the legal profession in court?

- Self-employed lawyer
- Staff lawyer
- In-house lawyer

Comments The Law on solicitors of Montenegro do not state the above categories of lawyers.

According to the Law, an attorney shall practice law independently or in a law firm or in a partnership law firm.

Two or more attorneys may have one joint law firm. A joint law firm shall be established under a contract that regulates mutual business and property relations. A joint law firm shall be enrolled in the register of joint law firms. An attorney shall represent in any instance court and in any type of proceedings, regardless his practice in the previously stated categories.

150. Is the lawyer profession organised through:

- a national bar association
- a regional bar association
- a local bar association

Comments

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

- Yes
- No

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

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

- Yes
- No

Comments

153. Is the specialisation in some legal fields linked to specific training, levels of qualification, specific diploma or specific authorisations?

- Yes

() No

Comments - If yes, please specify: There have been amendments to some relevant laws since 2014 and the reply was updated.

1) a lawyer as a defense attorney of a juvenile, in criminal proceedings, who is ex officio appointed by a court or a state prosecutor (since the defense is mandatory and the juvenile or his legal representative does not elect a lawyer) must have special knowledge in the area of the protection of juvenile delinquency in criminal proceedings, and the same advocacy specialty is being implemented through training.
2) in family law disputes - the case for the protection of the rights of the child and the dispute over the exercise of parental rights, the temporary agent is appointed from the rank of attorneys from the list of attorneys who have undergone training in the representation of children in family law proceedings, conducted by the Ministry of Justice.

F1. Please indicate the sources for answering questions 146 and 148:

Sources: Bar Association of Montenegro

6.1.2. Practicing the profession

154. Can court users establish easily what the lawyers' fees will be (i.e. a prior information on the foreseeable amount of fees)?

(X) Yes

() No

Comments

155. Are lawyers' fees freely negotiated?

(X) Yes

() No

Comments

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

[X] Yes laws provide rules

[] Yes standards of the bar association provide rules

[] No neither laws nor bar association standards provide rules

Comments

6.1.3. Quality standards and disciplinary procedures

157. Have quality standards been determined for lawyers?

(X) Yes

() No

Comments - If yes, what are the quality criteria used? Provided by Code of Professional Ethics for Lawyers independence of attorneys, expertise, conscientiousness, professional reputation, the ban on advertising...

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

the bar association

the Parliament

other (please specify):

Comments

159. Is it possible to file a complaint about:

the performance of lawyers

the amount of fees

Comments - Please specify: The right to file a disciplinary appeal against a lawyer shall have any person who considers that an attorney in the performance of an activity has violated any of the lawyer's duties, and this also applies to the amount of remuneration. Such appeals shall be submitted, in the form of disciplinary appeal, to the Disciplinary Prosecutor of the Criminal Records Chamber of Montenegro.

160. Which authority is responsible for disciplinary procedures?

the judge

the Ministry of Justice

a professional authority

other (please specify):

Comments The Disciplinary Court of the Bar Association is the body responsible for conducting disciplinary proceedings, who are acts in a panel of three members: the president and two judges, and upon the indictment of the Disciplinary Prosecutor of the Bar Association.

161. Disciplinary proceedings initiated against lawyers. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)

	Number of disciplinary proceedings
Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	4 <input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Breach of professional ethics	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP
2. Professional inadequacy	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
3. Criminal offence	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
4. Other	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other", please specify:

162. Sanctions pronounced against lawyers.

Number of sanctions

Total number of sanctions (1 + 2 + 3 + 4 + 5)	2 [] NA [] NAP
1. Reprimand	0 [] NA [] NAP
2. Suspension	0 [] NA [] NAP
3. Withdrawal from cases	0 [] NA [] NAP
4. Fine	2 [] NA [] NAP
5. Other	0 [] NA [] NAP

Comments - If "other", please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons. In one disciplinary proceeding the indictment was dismissed while the other proceeding was suspended for the reason of seized performance of duty according to the Law.

7. Alternative dispute resolutions

7.1. Mediation

7.1.1. Details on mediation procedures and other ADR



163. Does the judicial system provide for judicial mediation procedures? If this is not the case you will go directly to question 168.

(X) Yes

() No

Comments When compared with number of mediations in 2014 (1906), and 601 in 2016 , it should be noted because in one city in 2014, due to problems with Electric Distribution Company, the number of mediations was high and never repeated again in following years.

163-1. In some fields, does the judicial system provide for mandatory mediation procedures?

[] Before going to court

[X] Ordered by a judge in the course of a judicial proceeding

Comments - If there are mandatory mediation procedures, please specify which fields are concerned: The Law on Mediation provides for the possibility and obligation of referring judges for individual cases to mediation proceedings before the licensed Mediators of the Mediation Center, which implies the obligation of referring a party to a mediator meeting, in family disputes, when the judge decides that it is in the best interest of the child , in economic disputes, low value litigation, disputes against the state of Montenegro and other. Judges are obliged that when assessing that it is a case for mediation, to give instructions on mediation.

When it comes to criminal mediation, the State Prosecutor may, on the basis of opinions and suggestions of the High State Prosecutor Professional Service, order the juvenile perpetrator of the criminal offense of "indemnification for damages", and therefore the juvenile / perpetrator and the injured party to the mediator, with the consent of the parties and previous statement of confession of the criminal offense.

In the divorce disputes the claims of one of the spouses is carried out through mediation in accordance with the Law on Mediation and Family Law, except in cases where there are circumstances that point to the existence of any form of domestic violence.

Also, in Article 27a of the Law on Mediation it is stipulated in which cases the court is obliged to refer the parties to a meeting with the mediator:

1. when provided for by a special law
2. when he or she determines that it is in the best interest of the child whose rights and interests it decides
3. when litigation in property law litigation is initiated requiring fulfillment of the obligation to perform, in:
 - the disputes in which Montenegro is liable
 - small claims
 - Economic disputes
 - disputes involving more than five parties on one side
 - disputes concerning the division of property of spouses.

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

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

Comments

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

- () Yes
(X) No

Comments - If yes, please specify:

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

- [117]
[] NA
[] NAP

Comments

167. Number of judicial mediation procedures.

	Number of judicial mediation procedures
Total number of mediation cases (total 1 + 2 + 3 + 4 + 5)	601 [] NA [] NAP
1. Civil and commercial cases	288 [] NA [] NAP

2. Family cases	231 [] NA [] NAP
3. Administrative cases	0 [] NA [] NAP
4. Employment dismissal cases	41 [] NA [] NAP
5. Criminal cases	41 [] NA [] NAP

Comments - Please indicate the source: Centre for Mediation

168. Does the legal system provide for the following alternative dispute resolutions (ADR):

- mediation other than judicial mediation
- arbitration
- conciliation
- other ADR (please specify):

Comments Parties in labor disputes - both individual and collective, may, in accordance with the Law on Peaceful Settlement of Disputes, voluntarily decide to settle the dispute to the arbitrator or arbitrator.

A facilitator is a person who provides assistance to parties in a collective dispute and gives a recommendation with the aim of concluding a dispute settlement agreement, and the arbitrator is the person who leads the dispute and decides on the subject of an individual dispute.

For the purpose of conducting professional tasks related to the peaceful settlement of labor disputes, the Agency for the Peaceful Settlement of Labor Disputes was founded.

Interested parties may agree to the Mediation Center in mediation to settle their dispute and before the court proceeding.

G1. Please indicate the source for answering question 166:

Source: Centre for Mediation

8.Enforcement of court decisions

8.1.Execution of decisions in civil matters

8.1.1.Functioning

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

- Yes
- No

Comments

170. Number of enforcement agents

[30]



NA

NAP

Comments

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

judges

bailiffs practising as private professionals under the authority (control) of public authorities

bailiffs working in a public institution

other

Comments - Please specify their status and powers: A Bailiff carries out activities as a public service, independently, professionally and as sole interest, in accordance with the Law on Enforcement and Security and the Law on Bailiffs.

171-1. Do enforcement agents have the monopoly in exercising their profession?

Yes

No

Comments - Please indicate any useful clarifications regarding the content of the enforcement agents' monopoly or on the opposite regarding the competition they have to deal with: Authorizations under the jurisdiction of public enforcement is established with the Law on Enforcement and Securities and the Law on Bailiffs, and shall apply exclusively to these public servants.

171-2. Can the enforcement agent carry out the following civil enforcement proceedings:

	Option
Seizure of movable tangible properties	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
Seizure of immovable properties	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
Seizure from a third party of the debtor claims regarding a sum of money	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
Seizure of remunerations	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
Seizure of motorised vehicles	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
Eviction measures	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP

Enforced sale by public tender of seized properties	(X) Yes with monopole () Yes without monopole () No [] NAP
Other	() Yes with monopole () Yes without monopole () No [X] NAP

Comments

171-3. Apart of the enforcement of court decisions, what are the other activities that can be carried out by enforcement agents?

- Service of judicial and extrajudicial documents
- Debt recovery
- Voluntary sale of moveable or immoveable property at public auction
- Seizure of goods
- Recording and reporting of evidence
- Court hearings service
- Provision of legal advice
- Bankruptcy procedures
- Performing tasks assigned by judges
- Representing parties in courts
- Drawing up private deeds and documents
- Building manager
- Other

Comments In accordance with Article 3 of The Law on Enforcement and Securing of Claims, which prescribes competences of bailiff, apart from the enforcement of court decisions the bailiff shall order and levy enforcement on the basis of enforceable authentic document which can be subsumed under point Other. All authentic documents are stated in the Article 25 of the he Law on Enforcement and Securing of Claims.

172. Is there a specific initial training or exam to become an enforcement agent?

- Yes
- No

Comments

172-1. Is there a system of mandatory general continuous training for enforcement agents?

- Yes
- No

Comments

173. Is the profession of enforcement agents organised by (the answer NAP means that the profession is not organised):

a national body

a regional body

a local body

NAP

Comments

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

Yes

No

Comments

175. Are enforcement fees freely negotiated?

Yes

No

Comments

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

Yes

No

Comments

H0. Please indicate the sources for answering question 170

Source: Association of bailiffs

8.1.2. Efficiency of enforcement services



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

Yes

No

Comments

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

a professional body

the judge

the Ministry of Justice

the public prosecutor

other (please specify):

Comments

179. Have quality standards been determined for enforcement agents?

Yes

No

Comments - If yes, what are the quality criteria used?

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

a professional body

the judge

the Ministry of Justice

other (please specify):

Comments

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

Yes

No

Comments - If yes, please specify:

182. Is there a system for monitoring how the enforcement procedure is conducted by the enforcement agent?

Yes

No

Comments - If yes, please specify: The Ministry shall perform supervision over the legality of work of bailiffs and of the Chamber ex officio or upon a proposal of a president of a court for whose territory the bailiff is appointed, as well as upon a proposal of parties and participants to the proceedings.

An authorized person of the Ministry may order measures, as part of performing the supervision over the legality of work of the bailiff and of the Chamber, to remove the shortcomings in the work of bailiff and define the deadline for acting in line with such measures.

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

no execution at all

non execution of court decisions against public authorities

lack of information

excessive length

unlawful practices

insufficient supervision

excessive cost

other (please specify):

Comments

184. Has your country prepared or established concrete measures to change the situation

concerning the enforcement of court decisions – in particular as regards decisions against public authorities?

Yes

No

Comments - If yes, please specify: All courts in Montenegro annually issue a Resettlement Action Plan and Program, and within the PRIS, there is a statutory monitoring of backlog of cases in the courts. In connection to this, the Basic Court in Podgorica as court with highest number of backlog cases, adopted the Strategy of reducing the number of cases for enforcement, which is to help to significantly reduce the backlog of enforcement cases.

185. Is there a system measuring the length of enforcement procedures:

	Existence of the system
for civil cases	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
for administrative cases	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments

186. As regards a decision on debt collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits (one option only):

between 1 and 5 days

between 6 and 10 days

between 11 and 30 days

more (please specify):

Comments

187. Number of disciplinary proceedings initiated against enforcement agents. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)

	Number of disciplinary proceedings initiated
Total number of initiated disciplinary proceedings (1+2+3+4)	7 [] NA [] NAP
1. For breach of professional ethics	0 [] NA [] NAP
2. For professional inadequacy	5 [] NA [] NAP
3. For criminal offence	0 [] NA [] NAP

4. Other	2 [] NA [] NAP
----------	------------------------

Comments - If "other", please specify: Interpretation of Law in a wrong way

188. Number of sanctions pronounced against enforcement agents:

	Number of sanctions pronounced
Total number of sanctions (1+2+3+4+5)	5 [] NA [] NAP
1. Reprimand	0 [] NA [] NAP
2. Suspension	2 [] NA [] NAP
3. Withdrawal from cases	1 [] NA [] NAP
4. Fine	2 [] NA [] NAP
5. Other	0 [] NA [] NAP

Comments - If "other", please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons: A total of 5 disciplinary proceedings were initiated against 2 bailiffs during the same period, which resulted in temporary dismissal from post-release duty and the other resigned.

H1. Please indicate the sources for answering questions 186, 187 and 188:

Source: Association of Bailiffs

8.2. Execution of decisions in criminal matters

8.2.1. Functioning of execution in criminal matters

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

- Judge
- Public prosecutor
- Prison and Probation Services
- Other authority (please specify):

Comments - Please specify his/her functions and duties (e.g. initiative or monitoring functions).

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

Yes

No

Comments

191. If yes, what is the recovery rate?

80-100%

50-79%

less than 50%

Comments - Please indicate the source for answering this question:

9. Notaries

9.1. Profession of notary

9.1.1. Number and status of notaries

192. Number and type of notaries in your country. If you do not have notaries skip to question 197.

	Number of notaries
TOTAL	53 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Private professionals (without control from public authorities)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Private professionals under the authority (control) of public authorities	53 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Public agents	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Other	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - If "other", please specify the status:

192-1. What are the access conditions to the profession of notary:

diploma

payment of a fee (e.g. purchasing office)

co-opting of peers

other

Comments

192-2. (Modified question) What is the duration of appointment of a notary?

- Limited duration, please indicate it in years:
- Unlimited duration

Comments

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

- within the framework of civil procedure
- in the field of legal advice
- to certify the authenticity of legal deeds and certificates
- in the field of mediation
- other (please specify): Succession proceedings

Comments Succession proceedings

194-1. Do notaries have the monopoly when exercising their profession:

- in civil procedure
- in the field of legal advice
- to authenticate deeds/certificates
- in the field of mediation
- other

Comments - Please indicate any useful clarifications regarding the content of the notaries' monopoly or on the opposite regarding the competition they have to deal with: Succession proceedings and estate brokerage

194-2. As well as these activities, what are the other ones that can be carried out by notaries?

- Real estate transaction
- Settlement of estates
- Legality control of gambling activities
- Authentication of documents
- Translations
- Signatures
- Other

Comments The Law has been amended in 2016 and settlement of estates was added.

195. Is there an authority entrusted with supervising and monitoring the notaries' work?

- Yes
- No

Comments Chamber of Notaries

196. If yes, which authority is responsible for supervising and monitoring notaries?

- a professional body
- the judge

the Ministry of Justice

the public prosecutor

the Ministry of Interior

other (please specify):

Comments Chamber of Notaries

196-1. Is there a system of general continuous training mandatory for all notaries?

Yes

No

Comments

11. Please indicate the sources for answering question 192:

Sources: Chamber of Notaries

10. Court interpreters

10.1. Details on profession of court interpreter

10.1.1. Status of court interpreters



197. Is the title of court interpreters protected?

Yes

No

Comments

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

Yes

No

Comments

199. Number of accredited or registered court interpreters:

[573]

NA

NAP

Comments

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

Yes

() No

Comments - If yes, please specify: Court interpreter shall be a person who:

- is a Montenegrin citizen or a national of a Member State of the European Union; - with general health and capacity to act; - which has not been convicted for a criminal act that makes him unworthy of performing the duties of an interpreter;
- against whom no criminal proceedings for a criminal offense which is prosecuted ex officio, is undergoing;
- has a higher education qualification VIII level of education;
- with at least five years of experience with higher education;
- besides knowledge of the Montenegrin language has excellent performance in language from which translates oral or written text; - is familiar with the organization of public authorities, the judiciary and state administration and procedural legal terms.

The interpreter is bound to translate conscientiously, impartially and in accordance with the rules of translation and science.

Court interpreter is considered unprofessional if he gives incomplete, vague, contradictory or inaccurate translations, and if performs translation that does not meet professional standards in the field of translation.

201. Are the courts responsible for selecting court interpreters?

[] Yes, for recruitment and/or appointment for a specific term of office

[] Yes, for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

[X] No, please specify which authority selects court interpreters

Comments Ministry of Justice

J1. Please indicate the sources for answering question 199

Sources: Ministry of Justice

11. Judicial experts

11.1. Profession of judicial expert

11.1.1. Status of judicial experts

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

[X] "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation,

[X] "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal,

[] "legal experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision).

[] Other (please specify):

Comments

202-1. Are there lists or databases of technical experts registered?

(X) Yes

() No

Comments - Please, indicate any useful comment regarding these lists of experts if they do exist (e.g. : who decide of the registration on

the list ? Is the registration limited in time ? does the expert take the oath ? how is his/her skill evaluated ? by whom ?) Judicial Experts Commission shall decide on the appointment of an expert witness, who is bound to take an oath before the Ministry of Justice.

203. Is the title of judicial experts protected?

Yes

No

Comments - If appropriate, please explain the meaning of this protection:

203-1. Does the expert have an obligation of training?

	Obligation of training
Initial training	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Continuous training	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments

203-2. If yes, does this training concern:

the proceeding

the profession of expert

other

Comments The Law on Court Experts has been amended in 2016.

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

Yes

No

Comments

204-1. On the occasion of a mission entrusted to him/her, does the expert have to report any potential conflicts of interest?

Yes

No

Comments

205. Number of accredited or registered judicial / technical experts:

[1042]

NA

NAP

Comments

205-1. Who sets the expert remuneration?

- Judge

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

Yes

No

Comments - If yes, please specify, in particular the given time to provide a technical report to the judge: The term shall be determined by the judge in the decision on the engagement of the expert.

207. Are the courts responsible for selecting judicial experts?

Yes, for recruitment and/or appointment for a specific term of office

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

No, please specify which authority selects judicial experts

Comments The Law on Court Experts has been amended in 2016 and responsible is the Judicial experts Commission of the Ministry of Justice

207-1. Does the judge control the progress of investigations?

Yes

No

Comments

K1. Please indicate the sources for answering question 205

Sources: Ministry of Justice

12.Reforms in judiciary

12.1.Foreseen reforms

12.1.1.Reforms

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

1. (Comprehensive) reform plans In the previous period, the semi-annual reports on the implementation of the Action Plan for monitoring of implementation of the Judiciary Reform Strategy for the period 2014-2018, adopted by the Government, continuously monitor the implementation of this strategy.

This Action Plan referred to the two-year period (2014-2016), and in 2017, the Government adopted a new Action Plan for Implementation of the Judiciary Reform Strategy (2017-2018). This document identifies the measures, activities, results and impacts indicators, deadlines, competent bodies and sources of funding needed for the implementation of the strategic guidelines defined by the Judiciary Reform Strategy 2014-2018.

2. Budget /

3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings) New legislation in the field of justice adopted in 2015 (Law on Courts, Law on Judicial Council and Judges, Law on State Prosecution Office) shall be continuously implemented. With the entry into force of the Law on Courts, three basic Misdemeanor courts (with departments) and the High Court of Misdemeanors were established.

After the entry into force of the Law on Judicial Training Centre and the Law on State Prosecutor's office, the bodies of the Centre were founded - Management Board and Program Council, Chairman of the Board as well as Director of the Secretariat were elected, Statute of the Centre was adopted, administrative capacities were reinforced and provided with budget funds necessary for the Center. Initial and continuing education of judges and public prosecutors is carried out in accordance with the new legal solutions.

In 2016, the Law on Trainees in Courts and State Prosecutor's Office and the judicial exam, was adopted. It regulates the system of employment of trainees in courts and public prosecutor's offices, their professional training, and establishes a new concept of taking the bar examination in accordance with European standards.

Government adopted the Strategy for ICT Judiciary 2016-2020 and Action Plan for its implementation, according to which in future shall carry out activities aimed at establishing a new improved information system in the judiciary. Strategy for management and development of human resources in the judicial institutions 2016-2018, as well as Mid-term rationalization plan for the judicial network (2017-2019), were adopted.

3.1. Access to justice and legal aid /

4. High Judicial Council /

5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education and training, etc. The Law on Amendments to the Law on Solicitors, the Law Amending the Law on Notaries, the Law Amending the Law on Bailiffs, the Law on Judicial Experts and the Law on Interpreters were adopted in 2016

The Law Amending the Law on Solicitors removed the deficiencies noted in the previous implementation and harmonization with the legal framework of the European Union by providing conditions for attending advocacy activities for lawyers from EU Member States, and from the aspect of free competition a specific norm was introduced which foresees the Government's approval for passing a lawyer's fee.

The Law Amending the Law on Notaries has improved the existing legal solutions with the aim of equal workload of notaries, strengthening the system of accountability and eliminating the deficiencies observed in practice.

The Law Amending the Law on Bailiffs removed the shortcomings noted in practice in the work of public enforcement officers in the previous period, improved conditions for appointing bailiffs and their system of accountability and allowed equal workload.

The Law on Judicial Experts establishes more effective control of the work of court experts, more effective measures are introduced to initiate their accountability, which contributes to the more efficient work of judicial and other bodies conducting a procedure requiring the appointment of experts of a particular profession, and ensuring a better and faster drafting of their findings.

The Law on Interpreters shall improve the manner of appointing and dismissing the interpreters, the system of liability with the aim of improving the quality and efficiency of the interpreter's work.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities Law Amending the Law on Obligations, Law Amending the Law on Enforcement and Securities, Law Amending the Criminal Procedure Code and Law on Administrative Disputes were adopted.

Law Amending the Law on Obligations specifies the provisions regulating the concept of rights of non-pecuniary damage and the improvement of provisions relating to the civil legal aspect of the protection of personality rights has been improved.

The Law Amending the Law on Enforcement and Securities introduced new solutions that have been pointed out by the case law and which will make the enforcement process faster, better and more efficient, the rules related to the anti-enforcement and the terminology harmonization with the Law on Payment Transactions.

The Law Amending the Criminal Procedure Code further harmonized with the conventions of the Council of Europe and the United Nations, the legal standards of the European Court of Human Rights and other international documents, as well as the provisions concerning the types of sanctions.

The Law on Administrative Dispute harmonized this Law with the new concept of administrative procedure, which was established by the new Law on Administrative Procedure.

7. Enforcement of court decisions /

8. Mediation and other ADR /

9. Fight against crime /

9.1. Prison system In 2016, the Government adopted the Strategy for the Execution of Criminal Sanctions (2017-2021), setting strategic goals for the reform of the criminal sanctions, and at the beginning of 2017, the Action Plan for the Implementation of the Strategy for the Execution of Criminal Sanctions 2017-2021 was adopted. The Action Plan includes detailed measures, deadlines and competent bodies for the implementation of strategic goals for improving the system of criminal prosecution, in particular with regard to the protection of human rights of persons deprived of liberty, the promotion of human resources and infrastructure in prison, as well as the promotion and more effective execution of alternative sanctions, with the ultimate goal of reducing prison population and the

purpose of sanctions.

9.2 Child friendly justice By adopting the Law Amending the Family Law in 2016, it has been fully aligned with the contemporary concept of the child's rights and international standards and fair trial standards established by the European Convention for the Protection of Human Rights and Freedoms and Practice of the European Court of Human Rights.

9.3. Violence against partners /

10. New information and communication technologies /

11. Other /