



FREE LEGAL AID IN MONTENEGRO

PROGRESS, CHALLENGES AND RECOMMENDATIONS

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INTRODUCTION

The state system for providing free legal aid in Montenegro has been in effect since 2012, when it was established under the Free Legal Aid Act (FLAA).¹ The FLAA has been amended twice since its inception, in 2015 and December 2024, expanding the scope of beneficiaries and proceedings covered by free legal aid.

This report highlights key aspects of the development of the free legal aid (FLA) system in Montenegro, with a particular focus on the latest legal amendments and their implementation. Through an overview of the normative and institutional framework, as well as an analysis of the availability and quality of legal aid, the report assesses the extent to which the system ensures access to justice for those in need, especially vulnerable and marginalized groups.

The report provides an overview of the level of implementation of recommendations made to Montenegro by the UN Special Rapporteur on the Independence of Judges and Lawyers, Ms. Margaret Satterthwaite, in her 2024 report issued before the FLAA was last amended.² Her recommendations included the obligation for all legal aid providers to possess appropriate education, training, and experience; the recognition of the expertise and commitment of non-governmental organizations and their funding from the state budget through FLA-designated resources; specialization of lawyers for sensitive cases, particularly those involving victims of domestic or intimate partner violence; the establishment of oversight mechanisms and professional standards of conduct for the provision of FLA in cooperation with the Bar Association, and providing for suspension from the list of legal aid providers of lawyers failing to meet the prescribed standards.³

The aim of this report is to identify remaining challenges and propose further improvements to the FLA system in accordance with obligations Montenegro has undertaken as signatories to UN human rights instruments and as part of the European integration process.

1 Free Legal Aid Act (LFLAA), Official Gazette of Montenegro, No. 20/2011, dated April 15, 2011, Articles 66–67. Transitional and final provisions stipulated that the by-laws necessary for the implementation of the law should be adopted within nine months from the date the law enters into force (Art. 66), which is why the application of the law was postponed until January 1, 2012 (Art. 67).

2 Report of the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, on her visit to Montenegro from September 19 to 26, 2023, Human Rights Council, 56th session, 18 June–12 July, 2024, A/HRC/56/62/Add.1.

3 *Ibid.*, paras. 122–123.

1. IMPROVING ACCESS TO JUSTICE THROUGH AMENDMENTS TO THE LAW ON FREE LEGAL AID

The Parliament of Montenegro adopted the latest amendments to the FLAA in December 2024 with the aim of improving access to justice, particularly for vulnerable groups, and enhancing the quality of legal protection provided.⁴ These amendments to a large extent addressed longstanding recommendations in this regard from international bodies, including the United Nations' Committee Against Torture, the Committee on the Rights of the Child and the Human Rights Committee, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), as well as the ones of the UN Special Rapporteur on the Independence of Judges and Lawyers.

1.1. Expansion of the Scope of Free Legal Aid Beneficiaries

Prior to the 2024 amendments, the right to free legal aid was granted to: (1) Montenegrin citizens; (2) stateless persons and individuals seeking recognition of statelessness; (3) foreigners with permanent residence, approved temporary residence, or those lawfully residing in Montenegro; and (4) other persons entitled under ratified and published international treaties.⁵ These individuals were eligible for free legal aid if they were beneficiaries of material family support in accordance with the law on social and child protection; children without parental care; persons with disabilities; victims of domestic or family violence or human trafficking; and persons with low income.

In 2024, this right was extended to include: asylum seekers, recognized refugees, and foreigners with subsidiary protection; victims of torture or inhuman or degrading treatment or punishment; victims of crimes against sexual freedom; and children who initiate proceedings to protect their rights, in accordance with family law provisions⁶.

This change was in line with longstanding recommendations of the UN Committee Against Torture,⁷ UNICEF⁸ and the Committee on the Rights of the Child.⁹

4 The Act Amending and Supplementing the Free Legal Aid Act, *Official Gazette of Montenegro*, No. 123/24, dated 23 December 2024: <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/225/3384-20568-23-1-24-6-5.pdf>. Free Legal Aid Act, *Official Gazette of Montenegro*, Nos. 20/11, 20/15, 123/24.

5 FLAA, *Official Gazette of Montenegro*, Nos. 20/11 dated 15 April 2011 and 020/15 dated 24 April 2015, art. 12 and 13.

6 Articles 12 and 13 of the FLAA, *Official Gazette of Montenegro*, No. 020/11... 123/24 dated 23 December 2024.

7 Committee Against Torture, Concluding observations on the 3rd periodic report of Montenegro, 2022, para. 11.

8 UNICEF recommendations to the Proposal of the Act amending the Free Legal Aid Act with the, the Parliament of Montenegro, 29 April 2024, available at: <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/225/3384-19260-23-1-24-6.pdf>

9 Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Montenegro, 2018, para. 57c.

However, the latest amendments failed to recognize the relatives of persons who went missing during armed conflicts as a distinct category of FLA beneficiaries, despite the 2018 recommendation by the UN Committee on Enforced Disappearances to grant them access to FLA in order to exercise their rights to truth, justice and reparation.¹⁰

1.2. Expansion of the Scope of Legal Aid

In addition to expanding the scope of beneficiaries, the latest amendments to the FLAA also broadened the scope of legal proceedings covered by legal aid. Until December 2024, the FLA covered full or partial costs of legal counseling, drafting documents, representation before courts, prosecution offices and the Constitutional Court, as well as in out-of-court disputes, along with exemption from court fees.¹¹ Since December 2024, FLA is also available in administrative proceedings related to social and child protection, healthcare and pension and disability insurance — crucial for the living standard of Montenegro's most vulnerable people.¹²

The list of legal actions covered has also been expanded. In addition to representation and drafting submissions in judicial and administrative disputes, assistance is now provided for writing appeals, complaints and responses to appeals or complaints in administrative procedures.¹³ It is also specified that the right to FLA includes the costs of sign language interpretation, thereby further protecting the rights of persons with hearing impairments.¹⁴ Furthermore, the possibility to obtain legal aid in inheritance proceedings before a notary, as well as in proceedings before public enforcement officers, has been introduced—extending protection to users in both non-litigious and enforcement matters.¹⁵

1.3. Introduction of Specialized Legal Protection for Vulnerable Groups

One of the most significant advances since December 2024 is the introduction of a specialized approach to providing legal aid, especially to vulnerable groups in line with the recommendations of the UN Special Rapporteur on the independence of judges and lawyers¹⁶ and GREVIO.¹⁷

The amendment to the FLAA introduced the rule that the same lawyer must represent a vulnerable victim (meaning victims of domestic violence, human trafficking, torture or cruel, inhuman

10 Report of the Working Group on Enforced or Involuntary Disappearances, UN General Assembly, 10 September 2018, para. 31: "The WGEID recommends that a category of relative of missing person is included in Article 12 of the Law on Free Legal Aid".

11 FLAA, *Official Gazette of Montenegro*, Nos. 020/11 dated 15 April 2011 and 020/15 dated 24 April 2015, Article 2.

12 Article 2 of the FLAA, *Official Gazette of Montenegro*, No. 20/11... 123/24 dated 23 December 2024. With the adoption of this amendment, a recommendation made by Human Rights Action (HRA) in 2011—originally proposed during the drafting of this Law—was accepted after 13 years: http://www.hraction.org/wp-content/uploads/Kritika_Zakona_o_besplatnoj_pravnoj_pomoci.pdf

13 *Ibid.*, art. 23.

14 *Ibid.*, art. 2.

15 *Ibid.*

16 Report of the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, op.cit, para. 122.

17 First thematic evaluation report on Montenegro, Building trust by delivering, support, protection and justice, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), Council of Europe, Strasbourg, 22 November 2024, para. 127.

or degrading treatment or punishment, criminal offenses against sexual freedom, as well as a child seeking protection of his/her rights) in all related proceedings in order to ensure continuity of protection and reduce the risk of retraumatization.¹⁸ It is also prescribed that in proceedings involving children, victims of domestic violence, and victims of criminal offenses against sexual freedom, only lawyers with at least three years of legal practice and who have completed special training at the Judicial and Prosecutorial Training Center can be engaged.¹⁹

However, although victims of torture are now formally recognized as users of free legal aid regardless of their financial status, it has not been stipulated that they must be represented by specially trained lawyers. Considering the nature of the injuries these victims have suffered and the risks of secondary victimization, the professionals with specialized training, knowledge of international standards should provide them with legal support.

It is crucial to monitor how the new legal provisions are applied in practice — including the selection of lawyers, the quality of trainings, and whether the system is sufficiently flexible to respond to all the needs of victims. Civil society can play a significant role in this process through monitoring, training and developing standards for appropriate and sensitive representation of vulnerable groups.

1.4. Rejecting Recommendation to Allow Non-Governmental Organizations to Provide Free Legal Aid

Montenegro has not accepted the recommendation to recognize non-governmental organizations (NGOs) as providers of FLA. This recommendation was initially proposed by Montenegrin NGOs, including Human Rights Action (HRA), during the drafting of the law in 2011²⁰ and it has since been reiterated in the reports of Civic Alliance (2013 and 2019),²¹ Centre for Monitoring and Research - CeMI (2014),²² HRA (2017),²³ the UN Committee Against Torture in its 2022²⁴ concluding observations on Montenegro, the 2024 report of the UN Special Rapporteur on the Independence of Judges and Lawyers, the UN Human Rights Committee in 2025,²⁵ as well as during all public consultations on the amendments to the law in 2015 and 2024.²⁶

According to the Ministry of Justice's position from 2023, legal aid providers should be limited to lawyers in order to ensure the quality of aid provided by qualified legal representatives.²⁷ However,

18 *Ibid*, Art. 13.

19 *Ibid*, Art. 30.

20 Criticism of the FLAA, HRA, 2011: http://www.hracion.org/wp-content/uploads/Kritika_Zakona_o_besplatnoj_pravnoj_pomoci.pdf

21 Research on the Free Legal Aid System in Montenegro (2012–2019), Civic Alliance, Podgorica, 2019, p. 61: <https://gamn.org/wp-content/uploads/2019/09/GA-Istrazivanje-sistema-BPP-u-CG-2012-2019.pdf> The Civic Alliance recommended conducting an analysis of the work of NGOs that provide free legal aid, and to, based on such findings, consider the justification for amending the FLAA to define NGOs as providers entitled to compensation and reimbursement of necessary expenses.

22 Free Legal Aid in Montenegro – Systemic Effects in the Period 2012–2014, Centre for Monitoring and Research (CeMI), Podgorica, 2014, paras. 42–44: <https://cemi.org.me/storage/uploads/KuKN9u1PO8Guwqly4nAXGHTTrGWIMuVBpi3Udf6SM.pdf>

23 The Legal Profession in the Context of Judicial Reform in Montenegro, Human Rights Action (HRA), Podgorica, 2017, pp. 7–11: <https://www.hracion.org/2017/06/01/advokatura-u-kontekstu-reforme-pravosuda-u-crnoj-gori/>

24 Concluding Observations on the Third Periodic Report of Montenegro, Committee Against Torture, 10 May 2022, para. 11.

25 Concluding Observations on the Second Periodic Report of Montenegro, Human Rights Committee, 7 May 2025, para. 35.

26 Proposals on the Draft Law Amending the Law on Free Legal Aid, Human Rights Action (HRA), 2014: <https://www.hracion.org/wp-content/uploads/Predlozi-HRA-na-Nacrt-Zakona-o-BPP-.08092014..pdf>; Critique of the Law on Free Legal Aid in Montenegro, HRA, 2018: http://www.hracion.org/wp-content/uploads/2018/11/Kritika_Zakona_o_besplatnoj_pravnoj_pomoci.pdf and Proposals and Suggestions on the Draft Law Amending the Law on Free Legal Aid, HRA, 2022: <https://www.hracion.org/pravo-na-besplatnu-pravnu-pomoc/>

27 Report on the Public Consultation Conducted on the Draft Law Amending and Supplementing the FLAA, Ministry of Justice, 2023: <https://www.gov.me/dokumenta/62cd2e45-b10f-4356-bfde-a6f217447c90>

comparative practice shows that involving NGOs in legal aid provision is not only feasible but also beneficial. The example of the Republic of Croatia, which established such a model over a decade ago, demonstrates an institutional willingness to leverage civil society capacity to improve access to justice. Under current Croatian legislation, NGOs can be authorized to provide primary legal aid if they employ a person with a law degree, who has passed the bar or civil service exam and has at least two years of professional experience, or holds an equivalent academic title.²⁸ In addition, organizations must hold liability insurance for damages caused in the course of providing legal aid, amounting to at least 50% of the coverage required under the Law on the Legal Profession.²⁹

This model was further strengthened in 2023 when Croatia introduced three-year institutional funding for primary legal aid providers for the period from January 1, 2023, to December 31, 2025. This ensured the stability and sustainability of NGO operations, along with an increased overall budget and higher individual project allocations. In 2023 alone, this funding mechanism supported 23 projects.³⁰

Implementing this recommendation could significantly improve the capacity and accessibility of the FLA system — especially in the area of primary legal aid (such as providing general legal information, legal advices, but also drafting constitutional complaints or applications to the European Court of Human Rights). NGOs are often the first point of contact for citizens in need of legal support, particularly among vulnerable and marginalized groups, including victims of violence, persons deprived of liberty, asylum seekers, Roma, persons with disabilities, and others. In addition to expanding the geographic and thematic availability of services—especially in areas where state institutions are absent or difficult to access—allowing NGOs to provide FLA would allow for a higher degree of specialization, thanks to the longstanding experience of NGOs in working with particularly vulnerable clients in particular fields of law.

2. TRAINING OF LAWYERS

Despite the legal obligation for lawyers to specialize in working with vulnerable groups, introduced in December 2024,³¹ no training sessions on this topic were held by the Centre for Training in the Judiciary and State Prosecution (CTJSP) to date.³² The launch of specialization trainings is expected at the beginning of 2026.³³

In 2023 and 2024, CTJSP organized six training sessions for judges, prosecutors and lawyers on the protection of victims' rights, with 103 lawyers participating. Those trainings covered topics such as the rights of victims of human trafficking and domestic violence, child-friendly procedures, provision of free legal aid, as well as interpretation of domestic and international case law regarding

28 Free Legal Aid Act, *Official Gazette of Republic of Croatia (Narodne novine)*, Nos. 143/13, 98/19, Art. 34.

29 *Ibid.*

30 Milena Čalić-Jelić, Overview of the Free Legal Aid System in the Republic of Croatia, Law and Taxes No. 10/2019.

31 FLAA, *Official Gazette of Montenegro*, No. 020/11... 123/24, Art. 30, paragraphs 2 and 3: Free legal aid in proceedings under Article 13, paragraph 1, points 4, 4b, and 4c of this law, as a rule, may only be provided by lawyers with special knowledge in the field of protection against domestic violence, or in the field of child rights protection, with at least three years of professional experience in advocacy, according to the order on the list of the Bar Association, which is compiled with the prior consent of the lawyers based on the territorial jurisdiction of basic courts; **The special knowledge referred to in paragraph 2 of this article is acquired through special training organized and conducted by the Centre for Training in Judiciary and State Prosecution as part of the special training programs, in accordance with the law.**

32 Information obtained from CTJSP on June 10, 2025.

33 Information obtained from CTJSP on June 27, 2025.

compensation and procedural guarantees.³⁴ These trainings took place before the legal obligation for specialization came into force.

In response to an official inquiry, it was clarified that, following the legislative changes, a working group has been established by CTJSP, the Bar Association of Montenegro and the Council of Europe to develop a specialized training program and manual for lawyers.

According to the opinion of the UN Special Rapporteur on the Independence of Judges and Lawyers, such training should be made available to all, as one never knows when a lawyer might find themselves in a situation of representing a traumatised victim, even outside the scope of free legal aid. The training should be organised in cooperation with NGOs specialised in this field and should include trauma survivors speaking about their experiences, as gaining first-hand knowledge is invaluable.³⁵

The training sessions are not expected to commence before the beginning of next year, leaving a significant gap between the entry into force of the legal obligation and its practical implementation.³⁶

While it is positive that a skillful planning for quality training sessions is underway, the state should take a more proactive approach to ensure the timely implementation of legal reform.

3. SEPARATE LISTS OF SPECIALIZED LEGAL AID PROVIDERS

Free legal aid in Montenegro is provided by lawyers listed in alphabetical order on the Bar Association of Montenegro's (BAM) roster, which exists in each area of jurisdiction of basic courts and is compiled with the consent of the lawyers to provide FLA.³⁷ Since no lawyer refused to participate, by the end of 2024 the list included all 1,017 lawyers members of the BAM.³⁸ The UN Special Rapporteur on the independence of judges and lawyers was informed of the system's shortcomings by both lawyers and civil society representatives, who explained that this model has not ensured the provision of adequate specialist advice and representation in certain sensitive cases, particularly those involving individuals affected by trauma, such as victims of human trafficking and intimate partner violence.³⁹ One lawyer described being asked to represent a child victim of rape without having received any specialist training.⁴⁰

In addition to this one unified list of lawyers, the new amendments to the FLAA provide for the design of particular lists of specialised lawyers for representation of victims of criminal offenses related to domestic violence, human trafficking, sexual offenses, as well as for representation of children who initiate proceedings to protect their rights.⁴¹ These lists should include lawyers who

³⁴ Information obtained from CTJSP June 10, 2025.

³⁵ Statement of the UN Special Rapporteur expressed at the HRA conference on 1 July 2025.

³⁶ Information obtained from CTJSP on June 27, 2025.

³⁷ FLAA, Art. 30, para. 1.

³⁸ Information obtained through a telephone conversation with the Bar Association on June 24, 2025.

³⁹ Report of the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, op.cit, para. 91.

⁴⁰ *Ibid.*

⁴¹ FLAA, Art. 30, para. 2.

have at least three years of experience in advocacy and possess specialized knowledge and training to work with those vulnerable groups.⁴² However, although the law came into effect more than six months ago, the special lists have still not been formed, and the courts continue to use only the unified list of lawyers.

This practice exposes victims to the risk of not receiving adequate legal protection. It is very important that lawyers are additionally trained in communication and providing legal assistance to traumatized and particularly vulnerable individuals.

On this topic, HRA conducted research among ten basic courts in Podgorica, Kotor, Rožaje, Nikšić, Ulcinj, Bar, Herceg Novi, Pljevlja, Berane and Bijelo Polje.⁴³

Most courts consider that introducing special lists of lawyers specialized in representing victims of domestic violence and torture would be beneficial and contribute to better protection of these particularly vulnerable individuals.⁴⁴ They also emphasized the need for systemic education and certification of lawyers as a prerequisite for their inclusion on these special lists.⁴⁵ Some courts specifically highlighted the need for additional training of lawyers in the fields of torture and domestic violence, especially in areas where a lack of such specialization was observed.⁴⁶

Only one court does not support the idea of introducing special lists, expressing concern that they could excessively narrow the choice and lead to inequality among lawyers.⁴⁷

4. QUALITY OF FREE LEGAL AID PROVISION

FLA services are organized within basic courts and are responsible for handling all professional and administrative tasks related to receiving and deciding on applications and providing free legal aid.⁴⁸ The authority responsible for granting free legal aid is the president of the Basic Court or a judge delegated by them.⁴⁹ Depending on the size of the court, the FLA services are established either as a formal FLA service or as a smaller FLA unit.⁵⁰ These services are staffed by at least one employee qualified to perform duties of a court advisor, with the possibility of additional court advisors or judicial trainees being assigned to assist.⁵¹

The quality of FLA is monitored by the judge presiding over the case in which the aid is provided.⁵² If the judge notices that the lawyer is not providing legal assistance satisfactorily, they are obliged to inform the president of the basic court or the judge responsible for FLA in that court, as

42 Information obtained through discussions with representatives of basic courts in Montenegro.

43 The questionnaire was sent to 14 basic courts in Montenegro, but only nine provided responses in due time.

44 This view is shared by the courts in Podgorica, Kotor, Rožaje, Nikšić, Ulcinj, Bar, Bijelo Polje, Berane and Herceg Novi.

45 Basic Court in Herceg Novi, No. I 18 Su 24/25, dated June 12, 2025.

46 Response from the Basic Court in Pljevlja dated June 10, 2025.

47 *Ibid.*

48 FLAA, *op.cit.*, Art. 28

49 *Ibid.*, Art. 27

50 *Ibid.*, Art. 28

51 *Ibid.*

52 *Ibid.*, Art. 63.

well as the client.⁵³ The client can submit a request for a replacement lawyer. The request is decided by the court president or a judge authorized by them within eight days from the date of submission.⁵⁴

HRA's research found that all ten courts assess the quality of FLA as highly satisfactory.⁵⁵ They report that clients are generally satisfied with the availability and expertise of the lawyers providing these services,⁵⁶ that legal advice is clear, and that proceedings are efficient, contributing to greater trust in the system.⁵⁷

There is a noticeable higher level of professionalism and experience among lawyers compared to earlier periods, as well as better organization of aid provision.⁵⁸ Also, clients are now better informed about their rights and options, which further enhances the quality and effectiveness of the FLA system.⁵⁹

The courts in Podgorica, Herceg Novi and Ulcinj particularly emphasize that advisers and judges in the FLA Services communicate with clients daily and meet with them regularly and provide necessary information regarding exercising the right to FLA, regardless of the time scheduled for working with clients.⁶⁰

According to the research, it is usually the clients who request a change of lawyer in FLA cases, while such initiatives rarely come from judges.⁶¹

The number of requests to change lawyer is low, amounting to only 1.25% or 9 for the period 2023-2025, during which a total of 725 requests for FLA were approved.⁶² In 2023, five such requests were submitted to the Basic Court in Podgorica,⁶³ while in 2024, one request was registered each in Podgorica,⁶⁴ Kotor⁶⁵ and Ulcinj⁶⁶. In the first half of 2025, one more case was recorded in Podgorica.⁶⁷ All those requests were granted.

The most common reasons for these requests were dissatisfaction with the service provided,⁶⁸ inability to establish contact with the assigned lawyer,⁶⁹ absence of the lawyer at scheduled hearings,⁷⁰

53 *Ibid.*

54 *Ibid.*

55 The position of the basic courts in Podgorica, Kotor, Rožaje, Nikšić, Ulcinj, Bar, Herceg Novi, Bijelo Polje, Berane and Pljevlja.

56 Response from the Basic Court in Pljevlja dated June 10, 2025 and Basic Court in Bijelo Polje V Su 1074/25 dated 26. 06. 2025.

57 *Ibid.*

58 *Ibid.* and the Decision of the Basic Court in Kotor, V Su 202/25, June 12, 2025.

59 *Ibid.*

60 Data from the courts in Podgorica and Herceg Novi.

61 Data from the courts in Podgorica and Pljevlja.

62 Annual Report on the Work of the Judicial Council and the Overall State of the Judiciary for 2023, p. 72; Annual Report on the Work of the Judicial Council and the Overall State of the Judiciary for 2024, p. 77; and responses from Basic Courts to the HRA Request for free access to information regarding the number of submitted requests for free legal aid up to June 2025.

63 Decision of the Basic Court in Podgorica on the HRA request for free access to information, No. Su V SPI 2/25 dated February 4, 2025.

64 *Ibid.*

65 Decision of the Basic Court in Kotor, No. V-Su. 22/25, dated February 13, 2025.

66 Decision of the Basic Court in Ulcinj, No. V-Su. 3/25, dated January 24, 2025.

67 Decision of the Basic Court in Podgorica, No. Su V SPI no. 25/25 dated June 18, 2025.

68 Decision of the Basic Court in Podgorica, Bpp. No. 42/23; Su. VII No. 100/23 dated April 7, 2025; Decision of the Basic Court in Podgorica, Bpp. No. 34/23; Su. VII No. 38/23 dated February 8, 2024; Decision of the Basic Court in Podgorica, Bpp. No. 95/23; Su. VII No. 91/23 dated December 7, 2023; Decisions of the Basic Court in Podgorica, Bpp. No. 110/21; Su. VII No. 113/21 dated October 24, 2023 and November 10, 2022.

69 Decision of the Basic Court in Podgorica, Bpp. No. 46/23; Su. VII No. 51/23 dated June 13, 2023, and Decision of the Basic Court in Podgorica, Bpp. No. 111/21; Su. VII No. 2/22 dated May 3, 2023.

70 Decision of the Basic Court in Podgorica, Bpp. No. 42/23; Su. VII No. 100/23 dated April 7, 2025, and Decision of the Basic Court in Podgorica, Bpp. No. 69/22; Su. VII No. 78/22 dated November 18, 2022.

and “irreconcilable differences in the perception of the case status,” resulting in differing views on the necessary and future actions in the proceedings.⁷¹

In the case of changing a lawyer authorized to provide free legal aid, the court president or the judge— as the person responsible for implementing the free legal aid system — appointing them, submits a proposal to the Bar Association to remove that lawyer from the list of lawyers providing free legal aid (Article 63, paragraph 2 and Article 64). **Although the number of requests for lawyer replacement was small, the research showed that courts do not apply the legal obligation to propose their removal from the list of free legal aid providers.⁷² HRA pointed this out back in 2017, but nothing has changed since.⁷³ In this regard, there is a need for an additional oversight mechanism and suspension of lawyers who do not act adequately in free legal aid cases. The UN Special Rapporteur on the independence of judges and lawyers has also specifically emphasized that “the Bar Association should adopt provisions to suspend lawyers who have been the subject of substantiated complaints from the Bar Association’s free legal aid list.”⁷⁴**

4.1. Experiences of FLA Beneficiaries

An insight into the functioning of the system has been provided through interviews with 13 beneficiaries of the FLA, nine of whom were victims of domestic violence, one sought help due to peer violence against a child with a disability, while three received legal aid based on poor financial circumstances - one in proceedings related to failure to provide child support, the other in two separate civil lawsuits concerning division of property and pension rights, and the third in divorce proceedings.⁷⁵

The most common complaints relate to dissatisfaction with the appointed lawyers, who, according to the beneficiaries, delayed proceedings in which the women or their children had the status of injured parties (plaintiffs in civil cases), which in several instances led to withdrawal or the intention to withdraw from criminal or misdemeanor prosecution.⁷⁶ One user reported that after her case was transferred to the Misdemeanor Court in Danilovgrad, she had no contact with the assigned attorney for several months and was unable to find out who the attorney was from the court. “The judge in Danilovgrad told me not to worry about who my lawyer is. It’s been five months now, and I haven’t received any updates on the progress of the case. They just keep saying I’ll be called. I’m really disappointed — everything is moving far too slowly.”⁷⁷ In the context of domestic violence, such delays are particularly concerning due to the need for urgent action. Several users expressed

71 Decision of the Basic Court in Kotor, Bpp. No. 17/22; Su. VII No. 17/22 dated October 21, 2025.

72 Information collected based on the request to free access to information submitted by HRA to all basic courts in Montenegro.

73 The Legal Profession in the Context of Judicial Reform in Montenegro, *op. cit.*, pp. 7–11.

74 Report of the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, *op. cit.*, para. 123.

75 Eight of them requested free legal aid at the Basic Court in Podgorica, two beneficiaries received FLA at the Basic Court in Pljevlja, and two of them at the Basic Court in Ulcinj. One user is from Budva and sought free legal aid at the Basic Court in Kotor. The contacts were provided by the courts with the prior consent of the users.

76 X.X. (54), Podgorica, victim of domestic violence; X.X. (41), Podgorica, victim of domestic violence; X.X. (65), Podgorica, victim of domestic violence; X.X. (47), Podgorica, victim of domestic violence; interviews conducted by Maja Boričić, CINCG, June 2025.

77 X.X. (41), Podgorica, domestic violence, interview conducted by Maja Boričić, CINCG, June 2025.

a desire to be able to choose their attorney⁷⁸ but noted that they were not sufficiently informed about which lawyers had the sensitivity and expertise to work with victims of violence. They suggested that attorneys engaged in such cases should have specific knowledge and experience in this area.

While users of free legal aid express the need to choose their own lawyer, some courts do not support this option.⁷⁹ The main reasons cited are the risk of favoritism towards certain lawyers, uneven distribution of assignments, potential abuses⁸⁰ as well as previous negative experiences in criminal proceedings, where allowing defendants to choose from the list of *ex officio* lawyers (where representation is mandatory) led to significant inefficiencies. The courts reported that defendants often requested high-profile lawyers who were frequently unavailable or unwilling to take on additional cases, which caused delays and necessitated repeated reappointments. A similar dynamic in the free legal aid system could undermine its effectiveness and fairness, particularly if popular lawyers become overburdened while others remain underutilized.⁸¹ Instead, the court in Herceg Novi proposes that the selection of lawyers be carried out by a court expert team—judges or advisors—who, based on experience and the nature of the case, could assess who is most competent for the specific case.⁸² They also suggest a limitation whereby the same lawyer could not be assigned again until all others on the list have been allocated.⁸³

Additionally, the interviewees also pointed out the lack of adequate information — more than half of the respondents learned about their right to free legal aid through friends or acquaintances, while six of them said that the police did not provide information about this right when they reported violence. Thus, out of a total of 2,865 criminal and misdemeanour proceedings for acts of domestic violence in 2024, only 114 persons requested free legal aid, which amounts to just 3.9 percent.⁸⁴ In this regard, the Basic Court in Berane has emphasized the importance of raising public awareness about the right to free legal aid, especially among vulnerable groups.⁸⁵

All expressed satisfaction with the efficiency of the assignment of a lawyer and praised the work of the court staff. However, one user reported a serious concern — she informed the court that her assigned lawyer had requested money from her, despite legal aid being free of charge. The court advised her to refer the lawyer directly to them and reportedly spoke with him, but according to the user, the lawyer continued to request payment. According to the Statute of the Bar Association of Montenegro,⁸⁶ requesting a fee from a client whom the lawyer is obligated to represent free of charge constitutes a serious breach of the lawyer's duties (Article 89, paragraph 1, item 25). Such misconduct may result in penalties including a fine, temporary removal from the Register of Lawyers, or permanent deletion from the Register (Article 91).

This raises concerns about the effectiveness of the aforementioned mechanisms in place to address misconduct and protect users from potential abuse within the system.⁸⁷ In this regard, the

78 X.X. (38), Podgorica, victim of domestic violence; X.X. (44), Podgorica, child victim of peer violence; X.X. (54), Podgorica, victim of domestic violence; X.X. (41), Podgorica, victim of domestic violence; X.X. (65), Podgorica, victim of domestic violence; interviews conducted by Maja Boričić, CINCG, June 2025.

79 This view is shared by the courts in Ulcinj, Pljevlja, Bar, Bijelo Polje and Herceg Novi.

80 Response of the Basic Court in Berane, Case No. V Su 214/25, dated June 19, 2025.

81 Response of the Basic Court in Pljevlja dated June 10, 2025, Response of the Basic Court in Bar, Case No. V Su 423/25 dated June 20, 2025, and Response of the Basic Court in Ulcinj, No. V. Su. 115/25 dated June 13, 2025.

82 Basic Court in Herceg Novi, Case No. I 18 Su 24/25, dated June 12, 2025.

83 *Ibid.*

84 Annual Report on the Work of the Judicial Council and the Overall State of the Judiciary for 2024, p. 77.

85 Response of the Basic Court in Berane, Case No. V Su 214/25. See also: European Commission, Rule of Law Report 2025: Chapter on Montenegro, July 2025, p. 5.

86 Statute of the Bar Association of Montenegro, *Official Gazette of the Republic of Montenegro*, Nos. 34/05, 50/07, 60/13 and 70/15.

87 X.X. (41), Podgorica, domestic violence, interview conducted by Maja Boričić, CINCG, June 2025.

Basic Court in Berane emphasized the need to strengthen the oversight of lawyers engaged to provide free legal aid.⁸⁸

5. STATISTICAL DATA ON THE ACHIEVEMENT OF PRESCRIBED STRATEGIC GOALS

The improvement of the FLA system has been recognized by the Judiciary Reform Strategy 2024-2027 as one of its operational goals (Goal 3.2), within the broader objective of enhancing access to justice, transparency, and trust in the judicial system (Goal 3).⁸⁹ Monitoring of this goal is carried out by the Council for Monitoring the Implementation of the Judiciary Reform Strategy 2024-2027. The Council tracks progress through two specific performance indicators, both of which have been positively evaluated.⁹⁰

The first indicator relates to amendments to the law enabling the exercise of the right to free legal aid for victims of torture. This was achieved through the adoption of the Law on Amendments and Supplements to the FLAA.

The second indicator measures the percentage of approved requests for free legal aid, which, according to the report, had a baseline value of 85% for 2023, while for 2024 there was an increase to 87%, representing a 2% annual growth.⁹¹

A closer look at the actual data, however, actually shows a bigger increase in percentage of awarded legal aid than stated. In 2023, Montenegrin courts received 352 requests for FLA, of which 284 were approved, corresponding to a rate of 80.7% — nearly 5% lower than the initial value stated in the report.⁹² In 2024, the number of submitted requests increased by 5.4% (a total of 371 requests), while the number of approved requests was 324, or 87.3%. This means that **the number of approved requests rose by almost 7% compared to the previous year, not just 2% as stated in the official report**, thus exceeding the planned progress outlined in the Strategy for the 2024-2027 period by more than 5%.⁹³

88 Response of the Basic Court in Berane, Case No. V Su 214/25.

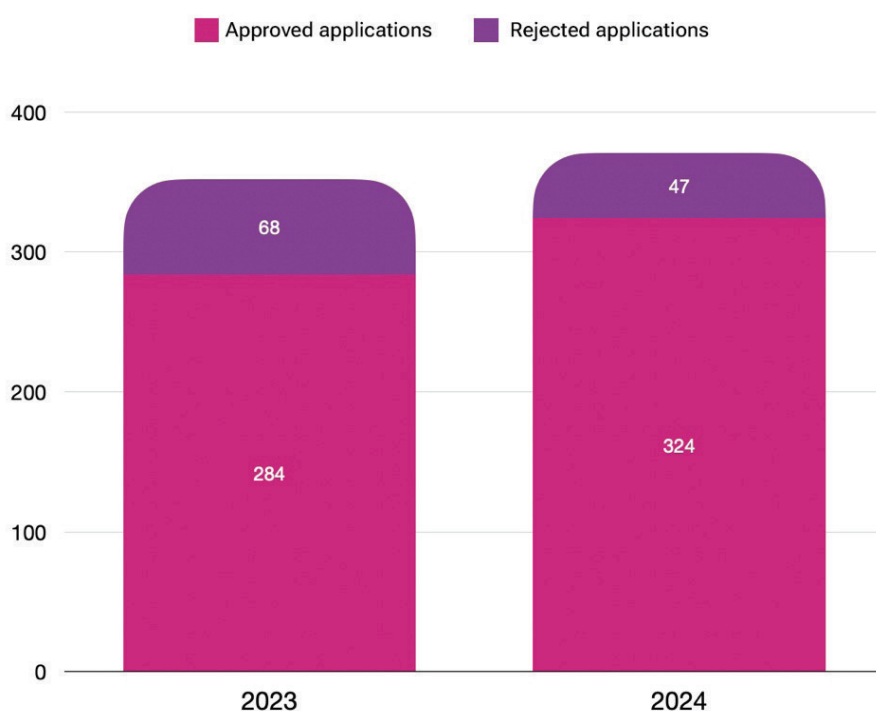
89 Judiciary Reform Strategy 2024-2027, Government of Montenegro, Ministry of Justice, Podgorica, 2024, p. 44.

90 *Ibid.* The first measures institutional and procedural improvements in the FLA system, while the second tracks the number of free legal aid beneficiaries. Although purely quantitative, this second indicator serves as a proxy to assess whether access to justice is expanding - it aims to reflect progress in access to justice by measuring the growth in the number of people receiving free legal aid services.

91 Annual Report on the Implementation of the Action Plan for the Implementation of the Judiciary Reform Strategy 2024-2027 for the period January 1, 2024 – December 31, 2024, Podgorica, March 2025, p. 24.

92 Annual Report on the Work of the Judicial Council and the Overall State of the Judiciary for 2023, p. 72.

93 *Ibid.*, p. 77.



Comparative overview of the handling of free legal aid applications in 2023 and 2024

However, the choice of indicator is dubious. While the data on more requests being submitted for FLA and more granting of FLA may be an indicator of the usefulness of the system, i.e. grater access to justice, an increase in the *percentage* of approved requests cannot show progress in access to justice as such, since the FLA can only be granted under legally established conditions, and the percentage of granted requests only shows how many of those who applied for FLA actually fulfilled those conditions. If applicants do not meet these conditions, their requests should not be approved — not even for the sake of positive statistical results. In other words, this indicator only shows an increase or decrease in well substantiated requests for free legal aid, which may point to success of the information campaign regarding conditions one needs to satisfy in order to be granted FLA, but does not show whether more people in total were granted legal aid than before.

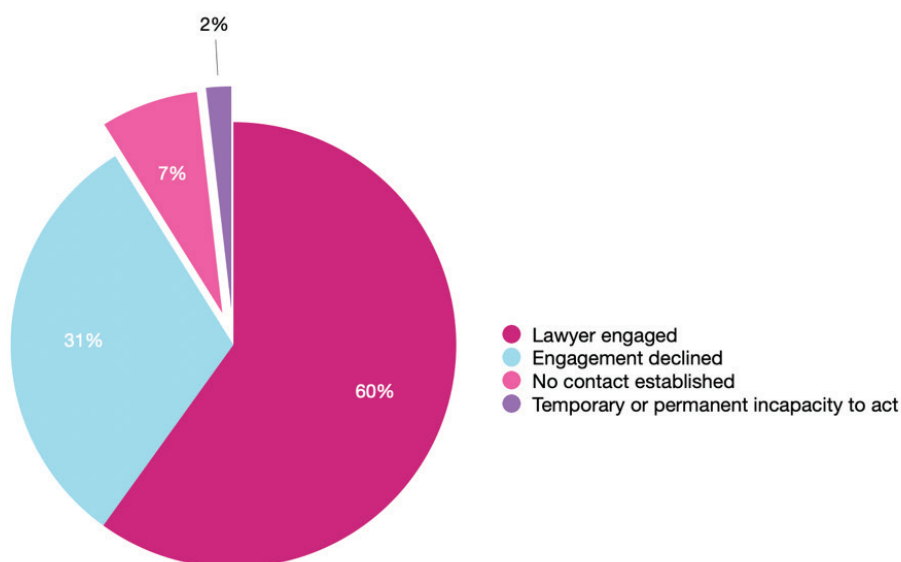
Additionally, it would be important to introduce indicators that monitor the quality of the legal aid provided. Previous research by civil society points to a high success rate of lawyers engaged in the FLA system,⁹⁴ which can serve as a good basis for developing more qualitative and relevant performance indicators for the system.

⁹⁴ Free Legal Aid in Montenegro – Systemic Effects in the Period 2012-2014, Center for Monitoring and Research, CeMI, Podgorica, 2014, p. 26.

6. ENGAGEMENT OF LAWYERS AND TRANSPARENCY

According to data published on the website of the Basic Court in Podgorica, from 2020 to 2024 lawyers were contacted a total of 879 times to provide FLA.⁹⁵ Most lawyers were contacted only once during the four-year period, while 253 lawyers were contacted twice. Repeated contacts occurred due to exhausting the list — after all lawyers on the list had been contacted once, the court started a new round of calls.⁹⁶ This pattern indicates that **there are enough lawyers willing to provide FLA in the Capital and that the number of such cases does not represent a burden for the legal profession.** However, it is important to note that these services are not provided *pro bono* — all legal aid providers are compensated by the state. In this regard, the total amount approved for free legal aid services before the Basic Court in Podgorica in 2020-2024 was €193,419.89.⁹⁷

Out of a total of 879 contact attempts, lawyers accepted the engagement in 530 cases, representing 60% in total. In 272 cases (31%) they refused the engagement — 46 of them twice — while in 61 cases (7%) contact was not established, due to unanswered calls, unavailability, or non-existent phone numbers. In the remaining 16 cases (2%), lawyers stated they were temporarily or permanently unable to act — most often due to absence (7), cessation of practicing law (2), retirement (2), temporary leave (3), or maternity leave (2).⁹⁸



Overview of lawyer engagement in Podgorica in the period 2020–2024

⁹⁵ List of lawyers with an indication of the next to be contacted, Basic Court in Podgorica, accessed on June 16, 2025: https://sudovi.me/static//osp/osp/doc/List_a_advokata_za_BPP_-_nova_lista.pdf

⁹⁶ *Ibid.*

⁹⁷ €49,274.98 in 2020, €28,729.94 in 2021, €26,011.89 in 2022, €35,403.08 in 2023, and €54,000.00 in 2024. Source: Annual Reports of the Basic Court in Podgorica, available at: <https://sudovi.me/osp/osp/sadrzaj/D8yb>.

⁹⁸ Data obtained from the analysis of the previously mentioned list.

The analysis shows that in nearly 60% of cases, cooperation with lawyers was successfully established, indicating a satisfactory response from lawyers to requests for providing FLA. However, in 40% of cases, there were obstacles in establishing or carrying out cooperation. It is important to emphasize that in all cases where it was necessary, victims still received legal assistance from other lawyers on the list. Nevertheless, the relatively high percentage of communication problems indicates the need for the Bar Association to improve the management of the lawyers' list and the organization of legal aid. It is advisable to introduce temporary or permanent removal of lawyers who repeatedly refuse to provide assistance, in order to make the system more reliable and efficient. To achieve this, courts should be encouraged to promptly notify the Bar Association's management about lawyers who fail to respond or who declare they no longer wish to provide legal aid, as this practice is currently lacking. At the same time, lawyers should be obligated to inform the Bar Association if they no longer want to participate in the FLA system. These measures would improve transparency and help maintain a functional and dependable legal aid network.

Besides the Basic Court in Podgorica, only the basic courts in Bar, Ulcinj and Rožaje publish data on lawyer engagement.⁹⁹ The court in Bar has not updated the data since 2021,¹⁰⁰ while data for Ulcinj in the last five years are recorded only for 2024.¹⁰¹

The Basic Court in Rožaje stands out as an example of good practice. Its data provide insight into the number of engagements per lawyer, the connection of each engagement with a specific court decision, as well as reasons for any inability to act. Except for 2021, when lawyers accepted 39 out of 48 contacts (81.3%), in the last three years, all contacted lawyers accepted engagement, indicating a responsible approach by the local Bar.¹⁰²

Comparisons indicate significant differences in practice and transparency among basic courts. The Court in Rožaje has shown the greatest functionality regarding record-keeping. The lack of up-to-date and publicly available data in most courts (11 out of 15) points to weak institutional practices in record-keeping and reporting, making comprehensive monitoring of the effectiveness of the free legal aid system at the national level difficult.

99 Data obtained from reviewing the websites of all basic courts in Montenegro.

100 List and decisions on the appointment of lawyers for providing free legal aid, available at: <https://sudovi.me/osbr/sadrzaj/59WM>

101 Appointed lawyers, available at: <https://sudovi.me/osul/sadrzaj/8r0M>

102 List of lawyers for free legal aid, available at: <https://sudovi.me/osro/sadrzaj/ngRm>

7. DECIDING UPON REQUESTS FOR FREE LEGAL AID

7.1. Conditions for Approving Request for Free Legal Aid

As described above, FLA is granted to individuals belonging to specific groups and to those who have low financial standing. Special rules apply to assess an applicant's financial status. These rules define what is considered as income and property, and what is excluded. For **persons of low financial situation**, the law stipulates that they must not own any "property"¹⁰³ and that their overall monthly income — combined with the income of family members — does not exceed the amount of 30% of average salary for the first family member, and 15% for each additional member.¹⁰⁴

In Croatia and Slovenia, the conditions for accessing FLA include a general provision on the maximum value of property the applicant may possess.¹⁰⁵ For example, in Croatia, there is a unified property value threshold set at €26,486.16, with the additional condition that no household member has a monthly income exceeding €441.44.¹⁰⁶ Although this threshold is not perfect due to its relatively high level, it still helps in realistically assessing the applicant's financial capacity. It is particularly important that it excludes part of the real estate in which the applicant lives with household members, if that property is owned by them or by the applicant. Furthermore, it does not include the income or assets of household members who are opponents in the legal proceedings or have conflicting interests, nor does it count certain types of income (such as child allowance).¹⁰⁷

In contrast, in Montenegro, the criteria for obtaining FLA are much stricter. Owning any type of property — even if it generates no real income, such as abandoned or uncultivated land — often automatically disqualifies the applicant. The system relies too heavily on the formal legal ownership status, regardless of the person's actual living conditions or ability to use that property. This approach ignores the specific life circumstances of individuals, especially in rural and economically underdeveloped areas, where property is often inherited, unsuitable for use, and practically unusable. Instead of providing support to the most vulnerable, the law often further marginalizes them and prevents access to justice.

¹⁰³ Pursuant to Article 14, para. 1 of FLAA, *op. cit.*, property shall not mean: An apartment or residential building up to the following size: a one-bedroom apartment for an individual, a two-bedroom apartment for a family of two or three members, a three-bedroom apartment for a family of four or more members; Agricultural land or commercial forests up to: 20 ares for an individual, 30 ares for a family of two members, 40 ares for a family of three members, 50 ares for a family of four members, 60 ares for a family of five or more members; Other land up to 2 hectares, excluding urban construction land; Securities with a market value of up to one average monthly salary; A passenger vehicle valued at up to four average monthly salaries, as assessed by the administrative authority responsible for tax affairs; Items exempt from enforcement under regulations on the enforcement of judgments in civil matters and on the securing of claims; Property from which income is generated, where such income is taken into account when assessing the financial status of the applicant for free legal aid, in accordance with this law.

¹⁰⁴ Family members include spouses, children, adopted children, other relatives living in the same household, as well as partners in same-sex unions, according to FLAA, *op. cit.*, Art. 14.

¹⁰⁵ Law on Free Legal Aid, *Official Gazette*, No. 143/13, 98/19, Article 14; Law on Free Legal Aid, *Official Gazette of the Republic of Slovenia*, No. 96/04 — consolidated text, 23/08, 15/14 — Constitutional Court decision, and 19/15, Article 22.

¹⁰⁶ *Ibid.* See also: <https://gov.hr/hr/besplatna-pravna-pomoc/1114?lang=hr>

¹⁰⁷ *Ibid.*

There is a need for greater flexibility and a more humane approach in the FLA system in Montenegro — one that looks beyond a mere register of property and takes into account the real-life conditions of applicants - enabling a fairer access to justice.

7.2. Transparency of decisions on granting FLA

The Basic Court in Podgorica is the only court that publishes anonymized decisions on the approval of free legal aid on its website. The other 14 basic courts do not do this, nor do they include such data in their annual reports. This practice hinders public oversight, prevents insight into the decision-making criteria, and increases the risk of inconsistent procedures among courts. Regular publication of decisions contributes to greater transparency and enables experts and the public to assess consistency in the application of the law and point out possible system deficiencies (more on this in the following chapter).

7.3 Compliance with Deadlines

The Article 42 of the FLAA stipulates that a decision on the request must be made within 15 days from the date of its submission. The court is obliged to observe the deadlines in the proceedings to which the request relates.¹⁰⁸

The analysis of 517 decisions published on the website of the Basic Court in Podgorica for the period from January 1, 2020, to September 2024 shows frequent violations of this statutory deadline.¹⁰⁹ In 209 cases (41.1%), the decision was made after the deadline had expired. The explanation obtained from the court is that delays mainly occur in connection with establishing the “low financial situation” of the applicant, as data is then collected from the Real Estate Administration, Tax Administration, and Central Clearing and Depository Company, which often do not provide the information in a timely manner.¹¹⁰

On the other hand, it is positive that in the majority (58.9%) or 300 cases, decisions were made within the statutory deadline, and in 181 cases (35.5%) even on the same day the request was submitted. This shows that the system functions efficiently when there is proper organization.

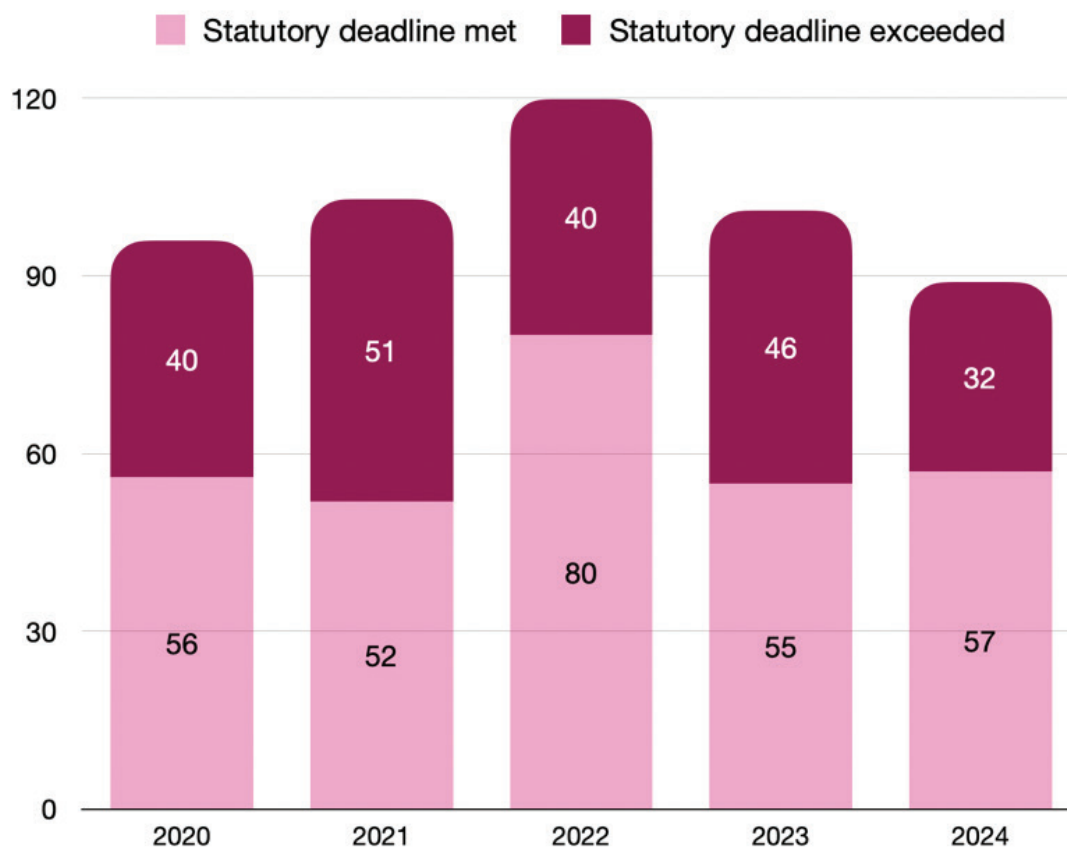
However, the evident inconsistency in handling requests highlights the need for the Ministry of Justice and the Government of Montenegro to take responsibility for the timely exchange of data between state administration bodies, as well as for accelerating the digitalization process that would facilitate this. Although the courts are responsible for providing free legal aid, delays mostly occur during the request approval process due to

¹⁰⁸ FLAA, *op. cit.*, art. 42.

¹⁰⁹ Decisions of the Basic Court in Podgorica for the period 2020–2024 are available at: <https://sudovi.me/ospg/sadrzaj/B6W5>. In eight cases, it was not possible to determine compliance with the deadline due to anonymized or incorrectly entered dates: Decisions Bpp No. 14/20; Su. VII No. 14/20 of 12.02.2020; Bpp No. 12/20; Su. VII No. 16/20 of 14.02.2020; Bpp No. 11/20; Su. VII No. 17/20 of 14.02.2020; Bpp No. 13/20; Su. VII No. 18/20 of 14.02.2020; Bpp No. 234/18; Su. VII No. 215/18 of 28.02.2020; Bpp No. 103/21; Su. VII No. 111/21 of 03.11.2021; Bpp No. 2/24; Su. VII No. 25/24 of 09.02.2024; Bpp No. 19/24; Su. VII No. 26/24 of 12.02.2024.

¹¹⁰ Information obtained by telephone from the Free Legal Aid Service at the Basic Court in Podgorica.

slow verification of applicants' financial status, which is caused by sluggish information exchange between government bodies. The Government is responsible for ensuring effective cooperation and digital solutions that speed up these processes, while the Ministry of Justice should lead the efforts to implement these improvements within the justice system.



*Compliance with decision-making deadlines on free legal aid applications
2020–2024*

CONCLUSIONS

The amendments to the Free Legal Aid Act (FLAA) from December 2024 were an important step for improving access to justice for vulnerable groups.

- **The scope of beneficiaries of free legal aid has been broadened** to automatically include victims of torture and other forms of abuse, victims of criminal offenses against sexual freedom, and children in rights protection proceedings, in accordance with the recommendations of the UN Committee Against Torture (CAT), the Committee on the Rights of the Child (CRC), UNICEF and GREVIO.
- **Measures have been introduced for the consistent and specialized provision of legal aid to vulnerable categories**, aligning with the recommendations of the UN Special Rapporteur on the independence of judges and lawyers. The FLAA now mandates continuous representation of the victim by the same lawyer throughout the entire procedure and requires that lawyers have at least three years of legal practice and special training for the representation of victims of domestic violence, criminal offenses against sexual freedom and children. However, such standards have not been prescribed for representing victims of torture, who are also particularly vulnerable and require a sensitive and informed approach.
- **The scope of free legal aid has been expanded to include administrative proceedings, which is especially significant for vulnerable groups, which is in accordance with CAT recommendations.** Additional legal actions have also been included, such as representation in inheritance and enforcement proceedings, as well as coverage for sign language interpretation costs, thereby expanding access to justice. These improvements align with the recommendation of the UN Special Rapporteur on the independence of judges and lawyers that additional services be introduced to support vulnerable court users, including increased availability of interpreters and translators, as well as accompaniment by trained community justice workers from the respective communities.

However, the FLAA still does not permit non-governmental organizations to provide free legal aid, despite repeated recommendations from relevant international bodies (CAT Committee, Human Rights Committee), the UN Special Rapporteur on the independence of judges and lawyers, and despite positive comparative experiences (e.g., Croatia), where such a model has significantly improved access to justice for marginalized groups. The absence of this reform limits the system's capacity to effectively respond to the needs of the most vulnerable users.

The FLAA also fails to recognize relatives of the disappeared as eligible for free legal aid, irrespective of their financial status, despite recommendations from the UN Committee on Enforced Disappearances.

Access to free legal aid **for individuals with low income is jeopardized by strict criteria** that do not consider the actual living conditions of applicants. Owning any property — even if it does not generate real income, such as remote plots or uncultivable land — often automatically disqualifies the applicant. The system relies on the formal legal status of ownership than on the applicant's real-life situation and the usability of the property, leaving many persons in need without free legal aid support. This approach overlooks the specific conditions in which people live, especially in rural and economically underdeveloped areas, where property is often inherited, inadequate for living, or practically unusable. In contrast, comparative solutions in the region show that it is possible to introduce more flexible models that allow for a broader and more realistic assessment of an

individual's economic status, including a general property value threshold as a guideline. Such an approach enables access to free legal aid based on actual need, rather than on formal barriers.

Despite the legal obligation for lawyers to specialize in working with vulnerable groups, which was introduced in December 2024, the Centre for Training in the Judiciary and State Prosecution has not organized any training sessions on this topic so far. Specialized trainings are expected to commence at the beginning of 2026. While it is positive that careful planning for quality trainings is underway, the state should take a more proactive approach to ensure the timely implementation of legal reform.

Although the FLAA specifically mandates the establishment of particular lists of lawyers specialized in representing victims of violence, human trafficking, criminal offenses against sexual freedom and children, this legal obligation has not yet been fulfilled in practice. Courts continue to rely on a single unified list from the Bar Association, which includes all lawyers interested in providing free legal aid, without any records of specialized knowledge or expertise.

The research conducted in the basic courts in Montenegro indicates a **positive shift in the quality of free legal aid**, particularly in terms of availability, professionalism and the organization of lawyers' work within this system. **The frequency of requests for changing the lawyers is low, amounting to only 1.25% or 9 requests, for the period from 2023 to 2025, during which 725 requests for free legal aid were approved.**

The courts generally express high satisfaction with the services provided, noting that requests to replace lawyers have been rare. When substitutions do occur, the main reasons include poor communication, failure of the lawyer to appear at hearings, and situations in which beneficiaries disagree with the lawyer's approach to representation. However, the **courts do not propose removing lawyers from the free legal aid provider list, even in cases where it is established that they did not act in accordance with professional standards.** To date, the UN Special Rapporteur's recommendation for the Bar Association to adopt provisions to suspend lawyers who have been the subject of substantiated complaints from the Bar Association's free legal aid list has not been implemented.

Interviews with 13 beneficiaries of free legal aid, although based on a small and non-representative sample, revealed some important findings. All interviewees expressed satisfaction with the speed of lawyer assignment and praised court staff. However, most complaints were related to dissatisfaction with the assigned lawyers, including concerns that some lawyers prolonged proceedings, leading beneficiaries to consider abandoning the process or withdrawing from prosecution. However, requests for replacement of lawyers are rarely submitted, mainly due to fears that this would further prolong court proceedings, as well as the mistaken belief of beneficiaries that they do not have the right to change their lawyer because they received legal aid free of charge. Several participants wished to choose their own lawyer but lacked information about which lawyers have the necessary sensitivity and expertise to work with victims of violence. Many also reported insufficient information about the right to free legal aid – more than half learned about it informally, while some were not informed by the police when reporting violence.

The response rate of lawyers to request for legal aid is high, at 60%. However, out of 879 attempts to contact lawyers in Podgorica, cooperation failed in 40% of cases due to refusals, inability to establish contact, or the lawyer's unavailability to work. These figures highlight the need for improved management and an updated roster of lawyers providing free legal aid with the Bar Association, as well as better coordination between the courts and the Bar Association to enhance the efficiency of aid granting.

The transparency of the free legal aid system is insufficient and inconsistent across courts, hampering public oversight and analysis of the consistency of court practices. Only the Basic Court in Podgorica regularly publishes decisions on awarding free legal aid (with anonymized

personal data of beneficiaries), while other courts do not make such information publicly available on their websites. The absence of easily accessible data makes it difficult to monitor and detect inconsistencies in the application of legal criteria and to identify problems in the decision-making process, such as delays in aid granting.

The majority of decisions (59%) on the requests for free legal aid by the Podgorica Basic Court were made within the statutory deadline, and in 35.5% even on the same day the request was submitted, a significant number of decisions (41%) approving aid were issued beyond the prescribed 15-day deadline. According to the courts, the delays are largely due to the Real Estate Administration, Tax Administration, and the Central Securities Depository Agency failing to deliver timely information to the courts on applicants' financial statuses. Such practices erode user trust and can cause harm, particularly in urgent cases or those subject to court deadlines.

The relevance of one out of two indicators measuring FLA, and access to justice under the Judicial Reform Strategy 2024–2027 is disputable. Specifically, an increase in the percentage of approved free legal aid requests may merely indicate that users are becoming better informed about the eligibility criteria and that public awareness campaigns are having an effect, rather than reflecting a real increase in access to justice. This increase could be measured simply by comparing numbers of approved requests over the years.

RECOMMENDATIONS

For the Parliament and Government of Montenegro, particularly the Ministry of Justice

- a) *Further amend the Free Legal Aid Act (FLAA) to:*
 - Include relatives of disappeared among the privileged categories of beneficiaries.
 - Recognize non-governmental organizations as providers of FLA in the domain of primary legal aid, in line with the recommendations of the UN Special Rapporteur on the independence of judges and lawyers;
 - Mandate specialization for lawyers representing victims of police torture, who constitute a particularly vulnerable group often traumatized and exposed to secondary victimization during criminal proceedings.
 - Specify the mechanism for oversight, performance evaluation, and possible suspension of lawyers providing FLA, particularly in sensitive cases, as per the recommendations of the UN Special Rapporteur.
 - Alleviate eligibility criteria for FLA for individuals with low financial situations. Consider introducing a specific property value threshold that applicants may possess (as is the case in Croatia), with the possibility of adjusting this threshold to reflect the economic and social living conditions in Montenegro.
- b) Facilitate easy access to data on the material status of free legal aid applicants for the courts' free legal aid offices from the Real Estate Administration, Tax Administration, and Central Securities Depository Agency. This should be done through integrated IT systems to automate and accelerate the decision-making process.
- c) Redefine the indicators in the 2024–2027 Judiciary Reform Strategy and focus on measuring the quality of legal aid provided, ensuring an accurate evaluation of progress and promoting substantive rather than merely formal improvements.

For the Centre for Training in Judiciary and State Prosecution

- Urgently develop and implement a mandatory professional training program, including assessment of lawyers' acquired knowledge and competencies, to ensure effective specialization in working with vulnerable groups. The representatives of non-governmental organizations should also be included in these trainings, as well as trauma survivors who can share their experiences.

It is essential that such programs are planned and established before new legal obligations enter into force, so that the system is ready for their immediate and effective implementation.

For the Courts and the Bar Association of Montenegro:

- a) Design a list of specialized lawyers to represent victims of violence, trafficking in human beings, sexual offences, and crimes against children, in line with the legal obligation.

- b) Regularly update the list of attorneys available to the courts, including accurate contact information and current availability status (active, on leave, retired, ceased practice).
- c) Introduce clear procedures requiring Courts to notify the Bar Association of lawyers who do not respond or decline to provide legal aid, and obligate lawyers to formally report if they no longer wish to participate in the free legal aid system.
- d) Implement mandatory recording of reasons for declining engagement, which would allow for deeper analysis of barriers and promote a more balanced distribution of workload among attorneys.
- e) Standardize the method of maintaining and publishing data on the websites of all basic courts to enable transparent and comparable reporting. Establishing a centralized electronic registry will allow for regular and detailed monitoring of data across all basic courts, including the publication of decisions and attorney engagement records. This would support more effective analysis, increase transparency, and enhance resource management.
- f) Ensure that adherence to the legal 15-day deadline for decisions on free legal aid applications is standard practice in all courts, with internal oversight mechanisms established. In cases of missed deadlines, the reasons for delays must be clearly explained. The Ministry of Justice should be informed to exert pressure where necessary so that applicants do not suffer harm due to administrative inefficiencies.
- g) Ensure that the Bar Association includes non-governmental organizations in the process of drafting the new Code of Ethics, allowing them to provide comments on the draft in order to ensure greater transparency and to address the needs of vulnerable groups of legal aid users.

For the Police:

- Ensure that all police officers provide information on the right to free legal aid to the victims of domestic violence, victims of torture, and children.

For the civil society:

- a) Continue monitoring the implementation of the FLAA and representing users, especially in cases of domestic violence, torture, discrimination and proceedings before domestic and international bodies.
- b) Advocate for renewed legislative amendments toward a more inclusive system that recognizes the role of NGOs as state partners in ensuring access to justice.

For the EU Delegation and international organizations:

- a) Include the assessment of the availability and quality of free legal aid in reports on Montenegro's progress toward EU membership.
- b) Support projects involving the civil sector in training, provision of primary legal aid, and analysis of the implementation of the FLAA.