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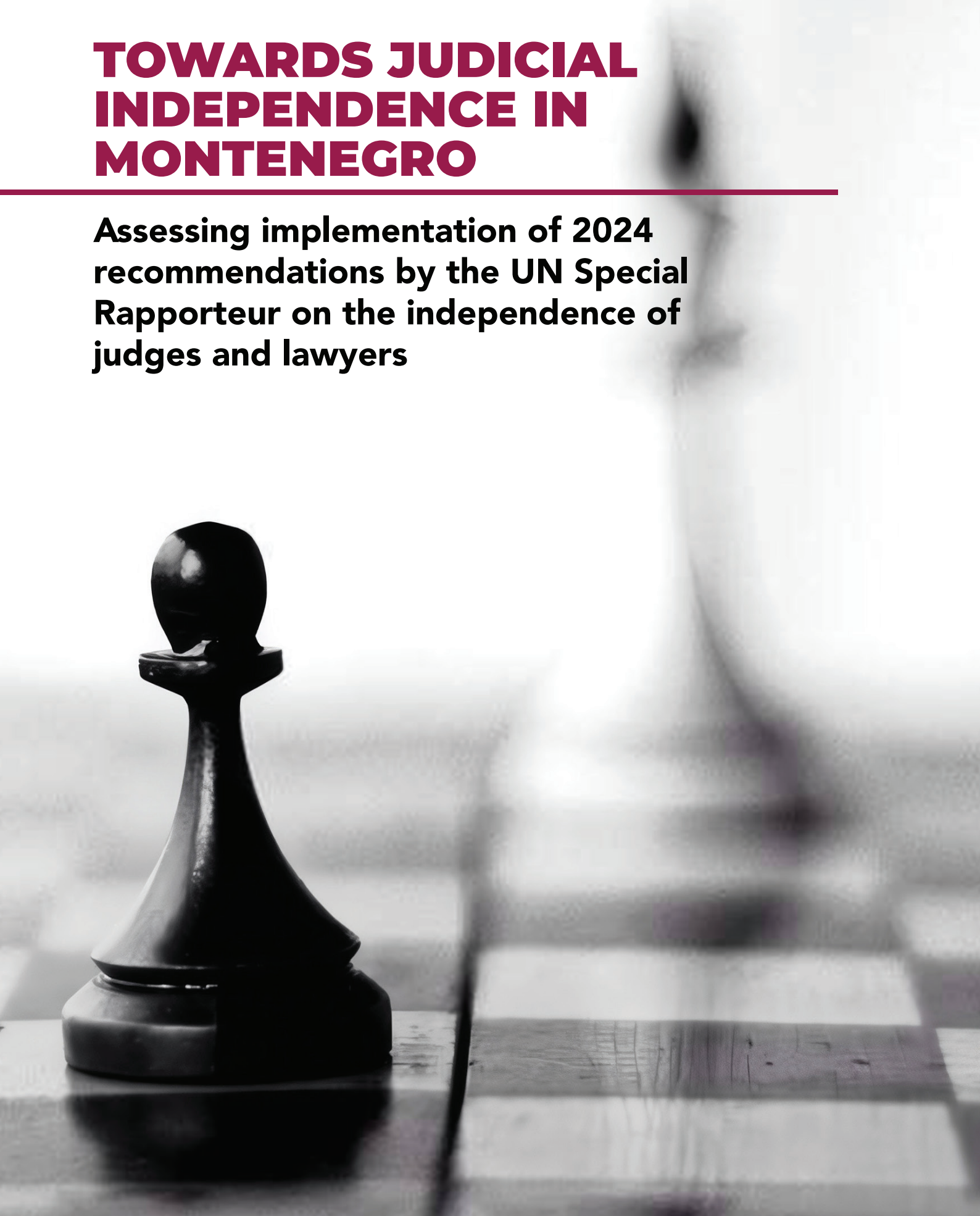
TOWARDS JUDICIAL INDEPENDENCE IN MONTENEGRO

Assessing implementation of 2024 recommendations by the UN Special Rapporteur on the independence of judges and lawyers



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Human Rights Action – HRA

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1. INTRODUCTION

The United Nations Special Rapporteur on the independence of judges and lawyers, Ms. Margaret Satterthwaite, visited Montenegro in September 2023 and presented her findings at the 56th regular session of the UN Human Rights Council in June 2024.[1]

In her report, the Special Rapporteur identified a number of serious challenges facing the Montenegrin judicial system concerning the achievement of judicial independence — ranging from inadequate salaries and working conditions for judges and state prosecutors, legislative shortcomings, blockages in the appointment of members of judicial bodies, lack of accountability for holders of judicial functions, to undue political interference with the judiciary and obstacles in access to justice for the most vulnerable. She emphasized the need for stronger protection of lawyers from pressure and intimidation, as well as the necessity for their specialization in work with vulnerable groups. She issued concrete recommendations aimed at reforming the legal framework, depoliticizing institutions, improving professional standards and guarantees of independence in the judiciary, as well as ensuring better access to justice for representatives of vulnerable groups.

Following the Special Rapporteur's presentation of her report at the Human Rights Council, Montenegro emphasized the significance of the Special Rapporteur's recommendations as important guidelines for the further development of its judicial system. The State announced its intention to continue efforts to strengthen judicial independence and integrity and expressed readiness to systematically address remaining challenges through ongoing cooperation with the Special Rapporteur and relevant UN mechanisms.[2]

This report provides an overview of the progress made in implementing the Special Rapporteur's recommendations from 2024 until June 2025. Based on available and collected data, it analyzes the normative and institutional changes that have occurred in this period, and obstacles to alignment with international standards. The purpose of the report is to inform all stakeholders involved in judicial reform, and other interested parties about the progress made and to serve as a basis for constructive dialogue with the Special Rapporteur in Podgorica on July 1, 2025 concerning further steps necessary to establish an independent and accountable judicial system.

1 Visit to Montenegro: Report of the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, Human Rights Council, Fifty-sixth session, June 18 – July 12 2024.
2 Human Rights Council, 56th session Item 3: Interactive Dialogue with the Special Rapporteur on the Independence of Judges and Lawyers, Statement by Montenegro, Geneva, June 25, 2024.

2. GENERAL OVERVIEW OF THE IMPLEMENTATION OF THE UN SPECIAL RAPPORTEUR'S RECOMMENDATIONS ON THE INDEPENDENCE OF JUDGES AND LAWYERS

	RECOMMENDATION	COMPLETED	PARTIALLY COMPLETED	NOT COMPLETED
1.	101. The Special Rapporteur (SR) encourages Montenegro to continue its ongoing reform of the justice system. This reform should be carried out in accordance with existing norms and standards relating to the independence of the judiciary, the autonomy of the prosecution service and the rule of law, as well as with the recommendations of the European Commission (EC) and expert mechanisms of the Council of Europe (CoE), such as the Venice Commission and the Group of States against Corruption.		X	
2.	102. Reform should be the result of an open, fair and transparent process, involving not only the parliamentary majority and the opposition, but also judges, prosecutors and their representative organizations, the Protector of Human Rights and Freedoms and members of civil society.		X	
3.	103. The Law on Judicial Council and Judges should be amended as a matter of priority, in accordance with the procedure outlined in para. 101 and 102 above, to bring it into line with international and regional standards on judicial independence. The amendments should be focused on those aspects of the judicial career that are not currently regulated by the current Law (adequate remuneration of judges, conditions of service, pension, age of retirement, work-related rights and political participation of judges).		X	
4.	104. The SR urges the parliament to clarify that the new retirement regime only applies to judges who took up their functions following the entry into force of the law, so as to be in line with the principle of security of tenure.			X
5.	105. The Law on the State Prosecution Service should be amended as a matter of priority, in accordance with the procedure outlined in para. 101 and 102 above, to bring it into line with international and regional standards on the autonomy of the prosecution service. The amendments should be focused on: (a) those aspects of the prosecutorial career that are not currently regulated by the current Law (adequate remuneration of prosecutors, conditions of service, pension and age of retirement); and (b) the cooperation of prosecutors with the police, the courts, the legal profession and other government agencies or institutions.	a)	X	
		b)	X	
6.	106. The SR urges all political forces to work in a fair and collaborative manner to find a durable solution to the deep institutional crises that have led to the limited operation and functioning of key justice institutions (Constitutional Court (CC), Judicial Council (JC) and State Prosecution Service (SPS)). The requirement of a qualified majority should be retained. Tailor-made, effective deadlock-breaking mechanisms should be developed to guarantee the functioning of key justice institutions in case of political impasse, while at the same time ensuring that they are not dominated by the ruling majority.		X	
7.	107. The SR urges politicians and State officials to refrain from statements concerning the judiciary and the prosecution service that could amount to interference with the work of judges and prosecutors dealing with politically sensitive cases. In order to guarantee judicial independence and maintain the public's confidence in the justice system, it is essential that politicians carry out their duties and responsibilities in a professional manner and do not create an unfounded perception that the judiciary or the prosecution service are not independent or that judges' decisions can be influenced by outside pressure.			X

8.	108. The SR recommends that the remuneration of judges and prosecutors be increased, so as to ensure that it is in conformity with the scope of their duties and commensurate with the dignity of their profession.		X	
9.	109. Additional financial resources should be allocated to the judiciary and the prosecution service in order to renovate buildings, increase and improve office space, improve security and working conditions and secure evidence and archives. Judicial vacancies should be filled rapidly, and any obstacles to recruitment, including low salaries, should be rectified.		X	
10.	110. In order to strengthen the independence of the JC and minimize the risk of political interference: (a) Its composition should be reviewed to ensure that the majority of its members are judges elected by their peers. Consideration should be given to the addition of a lawyer representative of civil society; (b) The definition of "eminent lawyer" should be reviewed, with a view to excluding active politicians and representatives of the legislative or executive branches of power from participation; (c) The procedure for the selection and appointment of lay members should be reviewed so as to eliminate interference from political parties in their selection. An appropriate anti-deadlock mechanism should be devised to ensure the functioning of the JC in case of delays in the appointment of the new lay members by the parliament. Montenegro should consider entrusting the election of lay members to a non-political authority; (d) The participation of the Minister of Justice as an ex officio member of the JC in decisions concerning essential aspects of the judicial career, not only discipline, should be expressly prohibited by law; (e) Art. 127 (3) of the Constitution should be reviewed to ensure that the President of the JC is elected by the Council itself from among its judge members. The President of the Supreme Court should be prohibited from appointment as President of the Council.	a)	X	
		b) X		
		c)	X	
		d)	X	
		e)		X
11.	111. The qualifications and procedure for the election of the Supreme State Prosecutor should be reviewed to ensure a proper assessment of the moral integrity, independence and professional qualifications of the candidates and to minimize the risk of political interference.			X
12.	112. The SR recommends that the requirements set out in art. 26 (1) of the Law on the State Prosecution Service for the selection of eminent lawyers be reviewed, with a view to excluding active defence lawyers from participation in the Council.		X	
13.	113. With regard to the appointing authority, the SR considers that it would be preferable to entrust the appointment of eminent lawyers to a non-political authority. If the parliament continues to elect them, lay members should be elected by a qualified majority of two thirds, necessitating significant opposition support, and an anti-deadlock mechanism should be devised to ensure the functioning of the Council in case of delays in the appointment of new lay members by the parliament.			X
14.	114. The Government must ensure that judges and prosecutors have adequate remuneration and sufficient professional resources to insulate them from corruption and to allow for the important work of ending impunity to be carried out.		X	
15.	115. Ethical codes for judges and prosecutors should undergo detailed scrutiny from a body that includes judges, prosecutors and civil society representatives to ensure that they are clear, current and exhaustive.		X	
16.	116. Legal ambiguities in the disciplinary and ethical legal frameworks for judges and prosecutors should be identified and amended to ensure a clear distinction between the definitions of specific disciplinary offences and ethical violations.			X
17.	117. Steps should be taken to ensure that institutions tasked with considering disciplinary allegations concerning judges and prosecutors are rigorous and fair and are seen by the public to be acting in this way. The inclusion of civil society representatives in the JC and Prosecutorial Councils (PC) could support this process, by improving transparency, as could the regular publication of appropriately anonymized data revealing the number of complaints received, the general categories of complaints and their outcome.		X	
18.	118. The JC and PC should standardize their approach to failures to comply with asset disclosure requirements.		X	
19.	119. The PC should be empowered to monitor cases where the statute of limitations is allowed to expire and should report on emerging patterns concerning such expiry.		X	

20.	120. The imposition of a vetting procedure should be used only if, after an inclusive public debate, the parliament and the Executive jointly find it to be necessary to combat systemic issues of corruption or human rights violations. If adopted, any vetting procedure must be designed in the light of the small population of Montenegro and its strong family ties. Any vetting process must: a) Be set out in law and fully consistent with human rights standards; b) Be independent, objective and temporary; c) Respect the right to a fair trial of all who are subject to vetting; d) Be carried out by vetting bodies that are judicial in nature, and not political, and whose decisions are reviewable by an appeals tribunal.			X
21.	121. The Government of Montenegro must ensure that lawyers can function without interference and intimidation. Government representatives and elected officials should refrain from making statements or otherwise associating lawyers with their clients.			X
22.	122. The complex needs of survivors of family or intimate partner violence give rise to a need for a greater specialization of lawyers in these sensitive cases. Furthermore, the expertise and dedication of non-governmental organizations working in these sectors should be recognized and funded through the government budget for free legal aid.			X
23.	123. In cooperation with the Bar Association (BA), the Government of Montenegro should ensure that legal aid providers are subject to applicable professional codes of conduct, put in place mechanisms to ensure that all legal aid providers possess adequate education, training, skills and experience that are commensurate with the nature of their work and establish appropriate oversight mechanisms for legal aid providers. The BA should increase opportunities and requirements for training in rights-sensitive lawyering. The BA should adopt provisions to suspend lawyers who have been the subject of substantiated complaints from the BA's free legal aid list.	a)	X	
		b)		X
24.	124. The BA must actively monitor compliance with the Attorneys' Code of Ethics and take steps to ensure that its members treat all people with equality and dignity.		X	
25.	125. Given the apparently very small number of lawyers coming from vulnerable and marginalized communities in Montenegro, the BA should take positive steps to enable young people from such communities to train as lawyers and dismantle any obstacles that may make integration into the profession difficult for them.			X
26.	126. The Government of Montenegro should take concrete steps to ensure equal access to justice for members of the community who are vulnerable to discrimination or abuse, especially survivors of family or intimate partner violence, individuals who are Romani or Egyptian, persons with disabilities, members of ethnic or religious minority groups; LGBTQI persons and women. The Government should consider the following specific measures: a)Judges and prosecutors should continue receiving training on reducing discrimination and protecting the rights of such individuals, with the training designed in collaboration with members of such communities; b) Additional services to support vulnerable court users should be put in place, such as increased availability of interpreters and translators and accompaniment by trained community justice workers from the communities in question; c) Courthouses, prosecutors' offices and other justice premises should be made physically accessible through the provision of ramps, elevators, adapted sanitary facilities and other adaptations recommended by organizations advancing the rights of persons with disabilities.	a)	X	
		b)		X
		c)		X
27.	127. A robust system of digitalization should be put in place to allow court users and lawyers to easily access case materials. Unless protected by judicial order, such information should be made available to the public and especially to journalists.		X	
28.	128. Data disaggregated on the bases of axes of discrimination and vulnerability must be collected to inform activities aimed at improving access to justice, reducing discrimination and tracking improvements over time.		X	
TOTAL		**2**	**23**	**11**

3. REVIEW OF PROGRESS ON SPECIFIC RECOMMENDATIONS

A. REFORM OF JUSTICE SYSTEM

101.1 The Special Rapporteur encourages Montenegro to continue its ongoing reform of the justice system. This reform should be carried out in accordance with existing norms and standards relating to the independence of the judiciary, the autonomy of the prosecution service and the rule of law, as well as with the recommendations of the European Commission and expert mechanisms of the Council of Europe, such as the Venice Commission and the Group of States against Corruption.

A.1. POSITIVE STEPS IN THE REFORM OF THE JUDICIAL SYSTEM

In 2024 and 2025, certain positive advancements were made in aligning Montenegro's legislative framework with international standards and recommendations. However, it is necessary to further intensify efforts both in the normative sphere and regarding the consistent and effective implementation of adopted solutions in practice.

The adoption of amendments and supplements to the Law on the Judicial Council and Judges, and the Law on the State Prosecutor's Office in June 2024, marked some progress towards aligning Montenegro's legislative framework with standards of judicial independence, prosecutorial autonomy, the rule of law, and recommendations of the European Commission, the Venice Commission and the Group of States against Corruption of the Council of Europe (GRECO). Additionally, the appointment of the Supreme State Prosecutor in January 2024 and the election of the President of the Supreme Court of Montenegro in November 2024 were important steps in improving the institutional stability and efficiency of the judiciary.[3]

It is encouraging that the amendments to the Law on the Judicial Council and Judges[4] and the Law on the State Prosecutor's Office[5] include enhanced safeguards to prevent conflicts of interest and political interference among council members[6], addressing key recommendations made by the European Commission[7], the Venice Commission[8], GRECO[9] and the SR.[10]

3 The President of the Supreme Court and the Supreme State Prosecutor were elected to full terms after nearly four years of serving in interim capacities.
4 Law on the Judicial Council and Judges, Official Gazette of Montenegro, no. 11/2015, … and 60/2024, Articles 15 and 16.
5 Law on the State Prosecutor's Office, Official Gazette of Montenegro, no. 011/15, … and 54/24, Articles 18 and 26.
6 Members of the Judicial and Prosecutorial Councils cannot be: 1) a spouse or common-law partner, including a) same-sex life partner, or a relative of a Member of Parliament, a member of the Government of Montenegro (hereinafter: the Government), or the President of Montenegro, or a person elected, appointed, or designated by the President of Montenegro, the Parliament of Montenegro (hereinafter: the Parliament), or the Government in a direct line regardless of degree of kinship, and in a collateral line up to the second degree of kinship, or a relative by marriage up to the first degree; 2) a person who, in the past five years, has been a high-level official of a political party (party president, member of) the presidency, deputy president or deputy member of the presidency, member of the executive or main board, member of the party council, or other party official) or has been directly elected in elections or has served as a member of the Government.
7 European Commission, Montenegro report 2022 Brussles, November 8, 2023, p. 21.
8 European Commission for Democracy through Law (Venice Commission) — Montenegro follow-up opinion on the draft amendments to the Law on the Judicial Council and Judges, Venice, March 10–11, 2023, p. 5, point 15.
9 Fourth round of evaluation, Prevention of corruption concerning members of parliament, judges, and prosecutors, evaluation report, Montenegro, adopted at the 68th Plenary Meeting of GRECO, Strasbourg, June 15–19, 2015, Chapter IV, Recommendation V, point 75.
10 Report of the UN Special Rapporteur on the Independence of Judges and Lawyers, Margaret Satterthwaite, April 12, 2024, p. 16.

A significant advancement is also represented by the proposal of the Government of Montenegro, adopted at the session of the Constitutional Committee in Parliament on June 9, 2025, to amend the Constitution regarding the composition of the Judicial Council so that the Minister of Justice is excluded from its membership, and the majority of members are judges elected by all judges.[11] This is in line with recommendations of the European Commission, the Venice Commission, GRECO and the SR.[12] However, the adoption of these constitutional amendments was foreseen in June 2025, in the Action Plan for fulfilling the final benchmarks in Chapter 23, yet they were not on the agenda of the Parliament of Montenegro by end June.[13]

Additionally, the Parliament of Montenegro[14] adopted proposals to amend the Law on the Judicial Council and Judges, the Law on the State Prosecutor's Office and the Law on the Constitutional Court of Montenegro. These amendments foresee a 30%[15] salary increase for judges and state prosecutors[16], which is of exceptional importance for improving working conditions, and in line with the recommendations of the European Commission and the SR.[17]

However, despite announcements by the Minister of Justice, Bojan Božović, that work on further amendments and supplements to the Law on the Judicial Council and Judges and the Law on the State Prosecutor's Office would continue to align with the recommendations of the Venice Commission and the European Commission, working groups for these comprehensive amendments have not yet been formed.

The Venice Commission emphasized in its opinion from March 2023 that all rights of judicial office holders — including salaries and termination of office — should be regulated by a special law.[18]The same is stated in the European Commission's report.[19] The Special Rapporteur pointed out in her report the need for these issues and other to be adequately prescribed by law and noted that the process of amending the Law on the Judicial Council and Judges represents an opportunity to do so.[20]

In April 2025, the Action Plan for Meeting the Final Benchmarks in Negotiation Chapter 23 envisaged that in the fourth quarter of 2025 a ***Draft Law on Salaries and Other Rights Related to the Performance of Judicial and Constitutional Court Functions*** would be established.[21] The working group for drafting this law was formed in December 2024[22], but its results have not yet been published.

11 Government of Montenegro, Press Release from the 77th Session of the Government of Montenegro, April 17, 2025: https://www.gov.me/clanak/saopstenje-sa-77-sjednice-vlade-crne-gore
12 Report of the UN Special Rapporteur on the Independence of Judges and Lawyers, op. cit., p. 17, para. 112.
13 Government of Montenegro, Action Plan for Meeting Final Benchmarks in Negotiation Chapter May 23, 2025.
14 Parliament of Montenegro, Eighth Session of the First Regular Meeting in 2025 Concluded, July 31, 2025; https://www.skupstina.me/me/clanci/zavrsena-osma-sjednica-prvog-redovnog-zasijedanja-u-2025-godini
15 Government of Montenegro, Draft Law on Amendments to the Law on the Judicial Council and Judges, April 17, 2025: https://www.gov.me/dokumenta/af0b1674-c511-42ee-8912-bb4767954706; Draft Law on Amendments to the Law on the Constitutional Court of Montenegro, May 15, 2025.
16 Government of Montenegro, Draft Law on Amendments to the Law on the State Prosecutor's Office, April 17, 2025: https://www.gov.me/dokumenta/54f72e2a-7e31-4eea-961d-1fce4ffad7f9
17 Report of the UN Special Rapporteur on the Independence of Judges and Lawyers, op. cit., p. 17, para. 110 and 111.
18 European Commission for Democracy through Law (Venice Commission): Montenegro Follow-up Opinion to the Opinion on the Draft Amendments to the Law on the Judicial Council and Judges, Venice, March 10–11, 2023, section B, p. 4.
19 European Commission, Rule of Law Report – Country Chapter on the rule of law situation in Montenegro, Strasbourg, July 8, 2025, p. 3.
20 Report of the UN Special Rapporteur on the Independence of Judges and Lawyers, op. cit., para. 30.
21 Government of Montenegro, Action Plan for Fulfilling the Final Benchmarks in Negotiation Chapter 23, May 5, 2025.
22 Ministry of Justice, Annual Report on the Implementation of the Action Plan for the Justice Reform Strategy 2024–2027, March 8, 2025.

A.2. KEY CHALLENGES AND NECESSARY STEPS TOWARDS ALIGNMENT WITH INTERNATIONAL STANDARDS

The Venice Commission's recommendations that the composition of the Prosecutorial Council should be regulated by the Constitution[23] and that members of the Prosecutorial Council from among distinguished legal experts should be elected by a two-thirds majority of the Members of Parliament of Montenegro[24], also remain valid. To date, no steps have been taken to implement these recommendations.

The European Commission has consistently emphasized in its reports that procedures for determining violations of the Code of Ethics and disciplinary liability, especially in cases of failure to declare assets, must be significantly more efficient.[25] However, during 2024 and 2025, there has not been a single case in which a judge or state prosecutor was disciplinarily sanctioned for failure to declare assets, although the Agency for the Prevention of Corruption issued a total of 19 decisions in the same period finding that former and current holders of judicial office violated the Law on the Prevention of Corruption (see details on p. 38).

Disciplinary responsibility was established in only two other cases – a judge for commenting on a non-final case and a state prosecutor for failing to act in four cases (later merged into a single case), which resulted in the statute of limitations for criminal prosecution coming into effect and the case ending without justice being done. When it comes to violations of the Code of Ethics, state prosecutors have not been recorded as offenders at all in the past year and a half, whereas judges were found to have breached the provisions of the Code in four cases (see pages 36-38 for more details).

In order to ensure the rule of law, the Parliament needs to be more responsible in appointing members of the Judicial Council, Prosecutorial Council and the Constitutional Court, which was particularly emphasized by the SR in her report.[26]

For over a year, Parliament failed to appoint a member from among distinguished legal experts to the Judicial Council, following the passing of lawyer Fikret Kurgaš on June 30, 2024.

The Prosecutorial Council has been missing two members for ten and nine months, respectively, due to the resignations of lawyers Siniša Gazivoda[27] and Miloš Vuksanović[28] in August and September 2024. Parliament has not elected replacements to date.

The Constitutional Court is missing three judges, while the judge who was supposed to replace Milorad Gogić — whose term officially ended in August 2024 — has not been appointed, even though the selection process began in July 2024 (more details on pages 21 and 22).

Montenegro also lacks a significant number of judicial office holders. Currently, 52 judge

23 European Commission for Democracy through Law (Venice Commission): Montenegro Urgent Follow-up Opinion to the Opinions on the Law on the State Prosecution Service, Venice, May 16, 2024, para. 23, p. 6.
24 European Commission for Democracy through Law (Venice Commission), Final Opinion on the Revised Draft Law on the Public Prosecution Office of Montenegro, adopted at the 102nd Plenary Session (Venice, March 20–22, 2015), para. 23.
25 European Commission, Montenegro report 2024, Brussels, October 31, 2024, p. 29; European Commission, Rule of Law Report - Country Chapter on the rule of law situation in Montenegro,Strasbourg, July 8, 2025, p.4
26 "There is no easy solution to the serious issue of lack of political will to find a broad agreement on appointments to key judicial institutions. As observed by the Venice Commission, it would be a sign of maturity and responsibility on the part of the political class to find consensus or agreement, in particular as to the election of Constitutional judges or the appointments of independent judicial institutions, as such political agreement is necessary for guaranteeing the independent and democratic functioning of the judiciary as a whole." Report of the UN Special Rapporteur on the Independence of Judges and Lawyers, op. cit., para. 38.
27 Vijesti: Siniša Gazivoda submitted his resignation to the Prosecutorial Council, August 14, 2024: https://www.vijesti.me/vijesti/drustvo/719855/sinisa-gazivoda-podnio-ostavku-u-tuzilackom-savjetu
28 RTCG: Vukasnović submitted his resignation from the position of member of the Prosecutorial Council, September 6, 2024: https://rtcg.me/vijesti/politika/595845/vuksanovic-podnio-ostavku-na-mjesto-clana-tuzilackog-savjeta.html

positions and 27 prosecutor positions are vacant, meaning that nearly 16% of judges and 20% of state prosecutors are missing (see pages 29 and 30 for more details).

Working conditions have not significantly improved. The Special State Prosecutor's Office has still not been relocated to the old Government building. Activities foreseen by the 2024-2027 Judicial Reform Strategy related to the preparation of project documentation for the construction of a new complex to house judicial institutions in Podgorica have not been implemented (see pages 28 and 29 for more details).

Courts efficiency is not at satisfactory level. According to available data at the end of 2024, courts in Montenegro received 94,124 new cases, and at the start of 2024 had with 67,564 unresolved cases. In 2024, 85,629 cases were resolved, leaving 74,679 cases[29] unresolved at year-end. These figures indicate a continuous increase in the number of cases without a proportional improvement in court efficiency.[30]

Coordination between the Judicial Council, the Prosecutorial Council and the executive and legislative authorities is essential. The executive and legislative authorities must ensure the timely appointment of members of judicial bodies, harmonize legislation with international recommendations, and improve working conditions and infrastructure. It is also necessary to accelerate the appointment of judges and state prosecutors who possess knowledge and high moral standing, consistently establish accountability in cases of professional standard violations, and protect judicial office holders from political pressure. Only a coordinated approach can ensure the fulfillment of recommendations and the closure of key negotiating chapters on the path to the European Union.

A.3. TRANSPARENCY OF REFORM PROCESSES

102. Reform should be the result of an open, fair and transparent process, involving not only the parliamentary majority and the opposition, but also judges, prosecutors and their representative organizations, the Protector of Human Rights and Freedoms and members of civil society.

Reform of the judiciary in Montenegro has proven to be a prolonged and ineffective process, formally initiated back in 1998.[31] Although it can now be considered as a fairly transparent process, nearly three decades later, the intended goals of independence, efficiency and accountability of the judicial system have still not been achieved.

The negotiations for accession to the European Union, which Montenegro began in June 2012, further highlighted the judiciary as a key area requiring reform. However, the reforms have been

29 Judicial Council of Montenegro, Annual Report on the Work of the Judicial Council and the Overall State of the Judiciary for 2024, Podgorica, March 2025, p. 83.
30 The report of the specialized body of the Council of Europe – the European Commission for the Efficiency of Justice (CEPEJ) for 2022 showed that the Montenegrin judiciary was untimely and that the situation significantly worsened compared to the previous period. The case resolution time increased by 136 days — nearly 50% — along with a 21% decrease in the case clearance rate. At the European level, the Administrative Court of Montenegro recorded the largest drop in timeliness at 89%. Proceedings before this court lasted on average 739 days, and such a poor situation is comparable only to Serbia. The case resolution time exceeded 300 days in civil and commercial disputes. The backlog of cases in these disputes at the Supreme Court of Montenegro is the highest in Europe, amounting to 93%. In criminal proceedings, a 15% drop in the timeliness rate was observed, with an increased duration of proceedings to 313 days. Report: European judicial systems – CEPEJ Evaluation report – 2024 Evaluation cycle (2022 data), published October 16, 2024, https://www.coe.int/en/web/cepej/special-file.
31 Newsletter No. 1, Ministry of Justice, July, August, September 2003, p. 13.

marked by irresponsible political calculations, a lack of consistent implementation and limited practical results.

During 2024 and 2025, strategic documents for judiciary reform were adopted and published: the Judicial Reform Strategy 2024–2027[32] and the accompanying Action Plan for its implementation for the period 2024–2025[33], as well as the Action Plan for Meeting the Final Benchmarks in negotiating Chapter 23.[34] The Ministry of Justice also published a semi-annual report[35] and an annual report[36] on the implementation of the Action Plan for the Judicial Reform Strategy 2024–2027.

Additionally, the Judicial Council[37] and the Prosecutorial Council[38] published annual reports on their work, reviewing the activities of all courts and state prosecutor's offices.

Throughout 2024 and 2025, the sessions of the Prosecutorial Council were open to the public, with agendas and meeting dates published several days in advance.

In contrast, during 2024, the Judicial Council often announced sessions only a day before or even on the day of the meeting, significantly limiting public attendance. From June to November 2024, due to a lack of adequate space, public representatives were prevented from attending sessions of this body. However, in 2025 this practice improved — the Judicial Council now publishes the agenda several days in advance, in accordance with its Rules of Procedure, and public attendance is allowed.

The process of elections of judges to the Constitutional Court, as well as members of the Judicial and Prosecutorial Councils, is not sufficiently transparent or fair. It remains unclear why the Parliamentary Committee on Political System, Judiciary, and Administration did not propose a candidate for the Judicial Council, nor two candidates for the Prosecutorial Council, for months.

An illustrative case occurred in July 2024, when MPs failed to elect a candidate to replace Constitutional Court judge Milorad Gogić, despite several qualified candidates meeting the requirements. Human Rights Action (HRA) protested at the time because MPs gave no explanation for this decision.[39] No MP voted against the candidates, but the majority prevented the election by abstaining from voting. Such behavior and the lack of explanation show an irresponsible approach to the general interest of the existence and uninterrupted functioning of the Constitutional Court.

32 Ministry of Justice, Judicial Reform Strategy 2024-2027, May 27, 2024: https://www.gov.me/dokumenta/812601a9-f377-40eb-9aa1-703da4f-f3c75
33 Ministry of Justice, Action Plan for the Implementation of the Judicial Reform Strategy 2024-2027 for the period 2024-2025, May 27, 2024: https://www.gov.me/dokumenta/806ed040-ca7e-4262-8bb5-85713bc04444
34 Government of Montenegro, Action Plan for Meeting the Final Benchmarks in Negotiating Chapter 23, May 23, 2025: https://www.gov.me/dokumenta/b0cc12c7-0506-4c60-943d-bbcb680f6328
35 Ministry of Justice, First Half-Year Report – Action Plan for the Judicial Reform Strategy, November 8, 2024: https://www.gov.me/dokumenta/5d-81b89e-4a1a-460f-88f6-afef0debfc92
36 Ministry of Justice, Annual Report on the Implementation of the Action Plan for the Judicial Reform Strategy 2024-2027, March 8, 2025: https://www.gov.me/dokumenta/df45c775-8a59-4ba8-b947-a6d28bfb86b3
37 Judicial Council of Montenegro, Annual Report on the Work of the Judicial Council and the Overall State of the Judiciary for 2024, Podgorica, March 2025: https://sudovi.me/static//sdsv/doc/IZVJESTAJ_O_RADU_2024.pdf
38 Prosecutorial Council, Report on the Work of the Prosecutorial Council and the State Prosecutor's Office for 2024, Podgorica, 2025: https://sudovi.me/static//tzsv/doc/Izvjestaj_DT_i_TS_za_2024._godinu.pdf
39 Failed Attempt to Complete the Composition of the Constitutional Court – Citizens Have the Right to Know Why, Human Rights Action (HRA), July 31, 2024: https://www.hraction.org/2024/07/31/propali-pokusaj-kompletiranja-sastava-ustavnog-suda-gradani-imaju-pravo-da-znaju-zasto/

A.4. PARTICIPATION OF JUDICIAL ENTITIES, CIVIL SOCIETY, AND OMBUDSPERSON IN REFORM PROCESSES

Representatives of judges and state prosecutors are involved in all bodies and working groups engaged in the drafting of laws and strategic documents related to judicial reform.

Representatives of non-governmental organizations participated in the working groups for drafting amendments and supplements to the Law on the Judicial Council and Judges, as well as the Law on the State Prosecutor's Office. Together with the Protector of Human Rights and Freedoms (Ombudsperson), they are also involved in the Working Group for the Negotiating Chapter 23.[40]

However, neither non-governmental organizations nor the Protector were part of the Working Team for drafting the Judicial Reform Strategy 2024–2027,[41] nor are they included in the Council for Monitoring its implementation,[42] although they were, like everyone else, enabled to participate in the public debate and submit their proposals.

Non-governmental organizations have their representative delegated to the Prosecutorial Council, but not to the Judicial Council.

The Protector recommended in its 2024 report that the Judicial Council more efficiently selects judges. The Protector recommended that the Prosecutorial Council should improve the efficiency of the prosecution service, particularly in relation to the lack of prosecutors, administrative support, technical resources, and the need for better work organization through a system of priorities in order to avoid the accumulation of unresolved cases. There should also be improvement in the efficiency of state prosecutors from basic prosecutor's offices in handling criminal complaints, as well as in communication with the complainants.[43]

Thanks to the joint efforts of the President of the Supreme Court, Valentina Pavličić[44], the Judges' Association of Montenegro[45] — which had announced a strike — Association of State Prosecutor's Office Employees[46], the Supreme State Prosecutor's Office[47], the Supreme State Prosecutor[48], the Association of State Prosecutors[49] and the Minister of Justice, Bojan Božović,[50] on 17 April 2025, the Government of Montenegro adopted a proposal to increase the salaries of judges and prosecutors by

40 A working team was formed for drafting the Judicial Reform Strategy 2024–2027, with an action plan for the period 2024–2025, Ministry of Justice, June 29, 2023: https://www.gov.me/clanak/formiran-radni-tim-za-izradu-strategije-reforme-pravosuda-2024-2027-sa-akcionim-planom-za-period-2024-2025?utm_

41 A working team has been established to develop the Judicial Reform Strategy 2024–2027, including an action plan for the period 2024–2025, Ministry of Justice, June 29, 2023: https://www.gov.me/clanak/formiran-radni-tim-za-izradu-strategije-reforme-pravosuda-2024-2027-sa-akcionim-planom-za-period-2024-2025?utm_

42 Decision on the Establishment of the Council for Monitoring the Implementation of the Judicial Reform Strategy 2024–2027, Government of Montenegro, September 5, 2024.

43 Protector of Human Rights and Freedoms, Annual Activity Report for 2024, Podgorica, March 2025, pp. 120, 129, and 132: https://www.ombudsman.co.me/docs/1744199272_izvjestaj%2031-03-2025.pdf

44 Pavličić sent a letter to the Prime Minister requesting an urgent salary increase for judges, Supreme Court of Montenegro, February 12, 2025: https://sudovi.me/vrhs/sadrzaj/aE9G

45 Judges announced suspension of proceedings as a warning to the Government, Vijesti, October 30, 2024: https://www.vijesti.me/vijesti/drustvo/730480/sudije-najavile-obustave-postupanja-u-znak-upozorenja-vladi

46 Selective salary increases will not contribute to strengthening the independence and integrity of the judiciary, Trade Union of State Prosecutors, December 12, 2024: https://sindupcg.me/sindikat-drzavnih-tuzilastava-selektivno-uvecanje-zarada-nece-doprinijeti-jacanju-nezavisnosti-i-integriteta-pravosudja/

47 On December 6, 2024, during a public consultation process, the Supreme State Prosecutor's Office submitted comments and suggestions on the Draft Law on Amendments to the Law on Salaries in the Public Sector, proposing increases not only for state prosecutors, but also for civil servants and staff.

48 On February 13, 2025, the Supreme State Prosecutor and the Association of State Prosecutors submitted an initiative to the Ministry of Justice, proposing urgent amendments to the Law on the State Prosecutor's Office. The aim was to introduce a functional supplement amounting to 30% of the base salary, and to extend the application of Article 67a to all prosecutors serving outside their place of residence.

49 Ibid

50 Božović: Government to decide this week on judges' and prosecutors' salaries, Dan, April 7, 2025: https://www.dan.co.me/vijesti/drustvo/bozovic-vlada-ove-sedmice-o-zaradama-sudija-i-tuzilaca-5291833

30%. This case can serve as an example of constructive cooperation, showing that through dialogue and respect for institutional roles certain advances in judicial reform can be achieved.

An appeal of the judges of the Special Department of the Higher Court in Podgorica[51], addressed, to all relevant institutions, on October 10, 2024, pointed out case overload, lack of staff, and inadequate working conditions. The judges requested amendments to the Criminal Procedure Code, the appointment of additional judges and advisors, and improvements in working conditions. The appeal resulted in a Judicial Council decision[52] to increase the number of judges in the Special Department by six and to provide one advisor per judge. Thus, part of the demands was accepted; however, the Criminal Procedure Code has not yet been amended to ensure the acceleration of criminal proceedings,[53] nor have the working conditions of judges been significantly improved.

B. LEGISLATIVE FRAMEWORK

103. The Law on Judicial Council and Judges should be amended as a matter of priority, in accordance with the procedure outlined in paragraphs 101 and 102 above, to bring it into line with international and regional standards on judicial independence. The amendments should be focused on those aspects of the judicial career that are not currently regulated by the current Law (adequate remuneration of judges, conditions of service, pension, age of retirement, work-related rights and political participation of judges).

There is no single law yet that consolidates all rights concerning the career of judges (see p. 8). Instead, some issues are partially regulated by the Law on the Judicial Council and Judges, while most rights are actually governed by other laws.

Judges' salaries are not directly regulated by the Law on the Judicial Council and Judges. Judges' salaries, as well as those of other public sector employees, are subject to the provisions of the Law on Salaries of Public Sector Employees.[54] This law also provides for compensation upon termination of office, as well as allowances for on-call duty and standby, based on which some judges during 2024 received additional monthly income almost equal to one monthly salary.[55]

However, the Government adopted a Proposal for Amendments to the Law on the Judicial Council and Judges,[56] which prescribes the right of judges and court presidents to a functional allowance amounting to 30% of the basic salary. The proposal foresees that these provisions will apply until January 1, 2026. The Parliament of Montenegro adopted the Proposal on 31 July 2025.[57]

51 Full statement by the judges of the Special Department addressed to the Judicial Council, the Supreme Court, the Ministry of Justice, the President of Montenegro, the Prime Minister of Montenegro, and the Parliament of Montenegro (all members of parliament), Higher Court in Podgorica, Special Department, October 10, 2024: https://sudovi.me/vspg/sadrzaj/g8d4
52 Press release from the 34th session of the Judicial Council, December 13, 2024: https://sudovi.me/sdsv/sadrzaj/aopP
53 Although a draft of the amendments in this regard was prepared long ago, the Ministry of Justice states that the European Commission has not yet given the green light for these changes, and that is why they have not been adopted.
54 Law on Salaries of Public Sector Employees, Official Gazette of Montenegro, no. 016/16…084/24.
55 "Are On-Call Duties Being Abused in Montenegrin Courts: Judges Received Thousands of Euros Extra, but the Accounting Is Suspicious," CINCG, May 17, 2025: https://www.cin-cg.me/da-li-se-zloupotrebljavaju-pripravnosti-u-crnogorskim-sudovima-sudije-primale-dodatno-i-hiljade-eura-a-obracun-sumnjiv/
56 Government of Montenegro, Proposal for Amendments to the Law on the Judicial Council and Judges, April 17, 2025: https://www.gov.me/dokumenta/af0b1674-c511-42ee-8912-bb4767954706
57 Parliament of Montenegro, Eighth Session of the First Regular Meeting in 2025 Concluded, July 31, 2025; https://www.skupstina.me/me/clanci/zavrsena-osma-sjednica-prvog-redovnog-zasijedanja-u-2025-godini

The Law on the Judicial Council and Judges does not systematically regulate the general working conditions of judges. The law contains only individual provisions relating to specific situations. For example, it provides that a judge elected outside his/her place of residence has the right to travel expenses, and if the court is 50 km or more away, also to an official apartment or housing allowance, costs of family visits, and separation allowance, provided that the judge does not own an apartment in the court's area.[58] Similar rights are granted to a judge transferred to a court outside his/her place of residence or stay.[59] Also, Article 53 of the Law on the Judicial Council and Judges prescribes that a candidate for judge, during the initial training period, is entitled to a salary amounting to 70% of the salary of a judge at a basic court.

Pension, retirement age and employment-related rights are regulated by the Law on Pension and Disability Insurance,[60] as well as the Law on Salaries of Public Sector Employees.

Regarding the political engagement of judges, the Law on the Judicial Council and Judges stipulates that a judge is considered to be performing his/her duties incompetently and negligently if he/she becomes a member of a political party or begins to hold a parliamentary or other public office.[61] Such conduct constitutes the most serious disciplinary offense, for which the disciplinary sanction of dismissal is imposed.[62] In addition, the law provides for additional guarantees for members of the Judicial Council who are judges to prevent conflicts of interest and political influence.[63]

Furthermore, the Judges' Code of Ethics emphasizes that a judge is obliged to refrain from any political activity or participation in events organized by political parties that could compromise impartiality.[64]

104. The Special Rapporteur urges the parliament to clarify that the new retirement regime only applies to judges who took up their functions following the entry into force of the law, so as to be in line with the principle of security of tenure.

The amendments to the Law on Pension and Disability Insurance (LPDI) from 2020 and 2023 did not contain a provision excluding the application of the new retirement age to judges who were already in office at that time. It is a fact that the purpose of the LPDI amendments was not to shorten the terms of judges and state prosecutors; rather, they were the result of prolonged negotiations between social partners, i.e., the Government of Montenegro and the unions.[65] The problem arose because the legislative authorities did not anticipate that these amendments would inevitably affect holders of judicial positions. Starting in 2024, judges began being retired based on the newly adopted legal provisions, which set the retirement age at 65.

58 Law on the Judicial Council and Judges, *Official Gazette of Montenegro*, 11/2015, 28/2015, 42/2018, and 60/2024, Art. 55a.
59 Ibid., Article 86a.
60 Law on Pension and Disability Insurance, Official Gazette of the Republic of Montenegro, no. 054/03… *Official Gazette of Montenegro*, 012/07…011/25.
61 Ibid., Article 108, paragraph 5, item 4.
62 Ibid., Article 109, paragraph 6.
63 Law on the Judicial Council and Judges, *Official Gazette of Montenegro*, nos. 11/2015, 28/2015, 42/2018, and 60/2024, Article 15: A member of the Judicial Council from among the judges cannot be: 1) a spouse or common-law partner, including a same-sex life partner, or a relative of a Member of Parliament, a member of the Government of Montenegro (hereinafter: the Government), and the President of Montenegro or a person appointed, nominated, or elected by the President of Montenegro, the Parliament of Montenegro (hereinafter: the Parliament), or the Government, in the direct line regardless of degree of kinship, and in the collateral line up to the second degree of kinship or a relative by marriage up to the first degree; 2) a person who, within the last five years, has been a high-level official of a political party (party president, member of the presidency, deputy president of the party or a member of the presidency, member of the executive or main board, member of the party council, or other party official), or has been directly elected in elections or held the position of a member of the Government.
64 Judges' Code of Ethics, *Official Gazette of Montenegro*, nos. 16/2014 and 24/2015.
65 If the Government hadn't delayed, pensions would already be higher, Vijesti, July 16, 2020: https://www.vijesti.me/vijesti/ekonomija/451637/da-vlada-nije-otezala-penzije-bi-vec-bile-vece

The Constitutional Court of Montenegro, in October 2023, annulled paragraph 1 of Article 17 of the Law on Pension and Disability Insurance (LPDI), which prescribed that men acquire the right to a pension at age 66, and women at age 64. This decision followed an initiative by the Judicial Council and several judges for a constitutional review of paras. 1 and 2 of Art. 17 of the LPDI from 2020.[66]

However, the Constitutional Court rejected the request filed by the judges' in 2021[67] to suspend the execution of the decisions on their retirement, which had been based on the contested provisions, although this request had been submitted in a timely manner.[68]

In the case of Judge Svetlana Vujanović, the Administrative Court in 2023 annulled the Judicial Council's decision terminating her function upon reaching the age of 64, ruling that such a decision was discriminatory, given that her male colleagues' functions ended at the age of 66. She subsequently continued serving as a judge until the age of 66.[69]

Following the Constitutional Court's decision, the Parliament of Montenegro, in late December 2023, adopted amendments to the LPDI, setting the right to old-age pension at the age of 65 with at least 15 years of insurance service, equally for both men and women.[70]

In line with the adopted amendments, the Judicial Council in 2024 began applying the newly established retirement age of 65 when determining eligibility for retirement.

However, this solution raised concerns regarding its potentially discriminatory nature. Specifically, under Article 121, paragraph 2 of the Constitution of Montenegro, in connection with Article 17 of the LPDI, judges' terms of office terminate on the day they meet the requirements for an old-age pension. On the other hand, holders of other public offices retain their positions until the age of 67[71], although there is no justified reason for such differentiation.

In this context, former Supreme Court judge Hasnija Simonović filed a lawsuit against the Judicial Council's decision which confirmed the end of her function based on Art. 17, para. 2 of the LPDI—upon reaching 40 years of service and at least 61 years of age. In her complaint, she argued that she was discriminated against compared to other citizens of Montenegro, as well as in relation to civil servants and employees of regular courts, whose mandates end at the age of 66 or 67.

However, the Administrative Court rejected her lawsuit, reasoning that the judicial function is a public office and not based on an employment contract, and thus the provisions of the Labor Law and the Law on Civil Servants and State Employees could not be applied to her case.[72]

66 The Constitutional Court's decision No. UI No. 30/20, 41/21, 43/21, 10/22, 11/22, dated October 24, 2023. The Judicial Council asserted that Article 17 of the Law on Pension and Disability Insurance (LPDI) is unconstitutional because it violates Arts. 8, 17, and 18 of the Constitution of Montenegro, as well as Art. 14 of the European Convention on Human Rights. It was pointed out that the application of Art. 17 LPDI would result in direct discrimination among judges on various grounds—including gender—as well as discrimination of judges compared to other public officeholders. Ultimately, it would also discriminate judges in relation to other state civil servants and employees.

67 The request was made in August 2021 by the following judges of the Constitutional Court, after the Judicial Council had established the termination of their functions: Stanka Vučinić, Petar Stojanović, Svetlana Vujanović, Lidija Ivanović, Senada Hasanagić, Miljana Pavlićević, Dragica Vuković, Dragica Stojanović, Dragica Kovačević, Vesna Šćepanović, and Vesna Pavišić.

68 Decision of the Constitutional Court of Montenegro, U-I No. 30/20, 41/21, 43/21, 10/22, and 11/22, page 34, item V.1. The Constitutional Court found that the applicants, whose judicial functions had ceased, had not made it certain that irreparable harmful consequences would occur.

69 Decision on termination of function of Supreme Court judge Svetlana Vujanović, No. 012418/231, dated April 18, 2023. See also Vujanović has the right to return to work, Antena M portal, January 18, 2023: hlttps://www.antenam.net/drustvo/273463-vujanovic-ima-pravo-da-se-vrati-na-rad

70 Decision on termination of office of the President of the Court of Appeal of Montenegro, Mušiko Dujović, No. 012301/243, dated April 29, 2024; Decision on termination of office of Judge of the Commercial Court of Montenegro, Nataša Bošković, No. 012995/241, dated June 28, 2024; Decision on termination of office of Judge of the Court of Appeal of Montenegro, Dijana Raičković, No. 016169/241, dated October 8, 2024; and so on, etc.

71 Law on State Servants and Employees, *Official Gazette of Montenegro*, Nos. 2/2018, 34/2019 and 8/2021, Article 122.

72 *Administrative Court: Simonović was not discriminated against; her function terminated due to retirement, Dan*, April 26, 2023.

105. The Law on the State Prosecution Service should be amended as a matter of priority, in accordance with the procedure outlined in paragraphs 101 and 102 above, to bring it into line with international and regional standards on the autonomy of the prosecution service. The amendments should be focused on: (a) those aspects of the prosecutorial career that are not currently regulated by the current Law (adequate remuneration of prosecutors, conditions of service, pension and age of retirement); and (b) the cooperation of prosecutors with the police, the courts, the legal profession and other government agencies or institutions.

There is no dedicated law consolidating all rights related to the careers of state prosecutors (see A2, p. 8).

The Law on the State Prosecution Service does not regulate salaries of state prosecutors m. Salaries of state prosecutors, like those of other public sector employees, are governed by the Law on Salaries of Public Sector Employees.[73] This law also provides for compensation after termination of office, as well as allowances for duty shifts and on-call availability of state prosecutors.[74]

However, the Government adopted a Draft Law on Amendments to the Law on the State Prosecution Service,[75] which stipulates the right of state prosecutors and heads of prosecution offices to a functional allowance amounting to 30% of the base salary. These provisions are proposed to remain in effect until January 1, 2026. The Parliament of Montenegro adopted the Proposal on 31 July 2025.[76]

The Law on the State Prosecution Service does not systematically regulate general working conditions of state prosecutors, but rather contains individual provisions for specific situations, such as appointments and transfers outside the place of residence or during the initial training period. For instance, a state prosecutor appointed outside their place of residence is entitled to travel expenses, and if the court is more than 50 km away, they are entitled to official accommodation or rent allowance, expenses for family visits, and compensation for living apart, provided they do not own a home or residential property in the jurisdiction of that court.[77]

Similar rights are granted to a state prosecutor who has been permanently and voluntarily transferred to another prosecution office outside their place of residence or stay.[78] Additionally, Article 65, paragraph 2 of the Law on the State Prosecution Service provides that a candidate for state prosecutor, during the initial training period, is entitled to a salary equal to 70% of the salary of the head of a Basic State Prosecution Office.

Matters such as pensions, retirement age, and employment rights are regulated by the Law on Pension and Disability Insurance and the Law on Salaries of Public Sector Employees.

Regarding cooperation between state prosecutors and the police, courts, legal professions and other institutions, the law on the State Prosecution Service stipulates that the head of a prosecution office or a state prosecutor may request files and information from courts and state bodies[79]. These bodies are obliged to provide the requested information within 15 days, which is a new provision, as

73 Law on Salaries of Public Sector Employees, *Official Gazette of Montenegro*, Nos. 16/16 … 84/24.
74 Ibid., Art. 15.
75 Government of Montenegro, Draft Law on Amendments to the Law on the State Prosecution Service, April 17, 2025: https://www.gov.me/dokumenta/54f72e2a-7e31-4eea-961d-1fce4ffad7f9
76 Parliament of Montenegro, Eighth Session of the First Regular Meeting in 2025 Concluded, July 31, 2025; https://www.skupstina.me/me/clanci/zavrsena-osma-sjednica-prvog-redovnog-zasijedanja-u-2025-godini
77 Law on the State Prosecution Service, Official Gazette of Montenegro, Nos. 11/2015, 42/2015, 80/2017, 10/2018, 76/2020, 59/2021, 54/2024, Art. 67a.
78 Ibid., Art. 86a.
79 Law on the State Prosecution Service, *Official Gazette of Montenegro*, Nos. 011/15 ... 054/24, Article 148.

no deadline was specified previously.[80] Additionally, advisory meetings can also be organized with police officers and other officials to clarify any legal uncertainties.[81] The State Prosecution Service may also engage in direct cooperation with prosecution services of other countries, in accordance with international agreements and documents.[82] However, no further legal amendments concerning cooperation have been introduced.

C. ELECTIONS AND APPOINTMENTS OF KEY JUDICIAL INSTITUTIONS

106. The Special Rapporteur urges all political forces to work in a fair and collaborative manner to find a durable solution to the deep institutional crises that have led to the limited operation and functioning of key justice institutions (Constitutional Court, Judicial Council and State Prosecution Service). The requirement of a qualified majority should be retained. Tailor-made, effective deadlock-breaking mechanisms should be developed to guarantee the functioning of key justice institutions in case of political impasse, while at the same time ensuring that they are not dominated by the ruling majority.

C.1. CONSTITUTIONAL COURT

The Constitutional Court, for which the Constitution prescribes seven judges,[83] is currently missing three judges. Of the remaining four, one judge continues to perform her function although her mandate should have ended in June 2024 when she met the retirement conditions.[84]

The procedure for selecting the three missing judges has been halted pending the opinion of the Venice Commission of the Council of Europe on the legitimacy of the decision by the Parliament of Montenegro to declare the termination of the mandate of Constitutional Court judge Dragana Đuranović, who met the retirement conditions, without a prior decision by the Constitutional Court itself. The Constitution stipulates that the Parliament may declare the termination of a judge's mandate only after the Constitutional Court notifies it that the judge's mandate has ended.[85] However, in this case, the Constitutional Court did not reach the necessary majority to make a decision on the matter and, at the request of Parliament, only provided information about the judge's age. Parliament then declared that the judge's mandate had ended due to meeting the retirement conditions. This decision triggered a political crisis and led to the blockage of Parliament.

The Venice Commission, at its session held on June 15 and 16, 2025,[86] adopted an opinion that did not resolve the dispute over this individual case but recommended clarifying the legal framework

80 Law on Amendments and Supplements to the Law on the State Prosecution Service, *Official Gazette of Montenegro*, No. 54/24, dated June 11, 2024, Article 61.
81 Ibid, art. 149.
82 Ibid, art. 150.
83 Constitution of Montenegro, *Official Gazette of Montenegro*, Nos. 1/2007 and 38/2013 (Amendments I–XVI), Article 153.
84 Judge Desanka Lopičić fulfilled the conditions for retirement in June 2024, having 40 years of insurance service and 63 years of age, in accordance with Article 154 of the Constitution of Montenegro (op. cit.) and Article 17, paragraph 2 of the Law on Pension and Disability Insurance (LPDI), op. cit. This position was supported by the minority of judges of the Constitutional Court, while the majority, without explanation, voted against it. The Venice Commission criticized in its opinion the fact that the opposing view of the majority in the Constitutional Court was not explained. See European Commission for Democracy Through Law of the Council of Europe (Venice Commission), *Montenegro, Opinion on some questions relating to the procedure of early termination of the mandate of constitutional court judges due to age limits*, June 13-14, 2025, point 54.
85 Constitution of Montenegro, op. cit., Art. 154, para. 3.
86 European Commission for Democracy Through Law of the Council of Europe (Venice Commission), *Montenegro, Opinion on some questions relating to the procedure of early termination of the mandate of constitutional court judges due to age limits*, June 13–14, 2025.

to avoid future disputes and ensure the uninterrupted and legitimate functioning of the Constitutional Court. The Venice Commission stated that the Parliament should have waited for the decision of the Constitutional Court, but also that future conflicts of interest, where judges are expected to decide on their own mandate termination, should be avoided. It was regretted that the Constitutional Court itself never provided reasons why Judge Đuranović's mandate should not end.[87]

The Venice Commission proposed that the law precisely define the age at which the mandate of Constitutional Court judges ends and introduce a simplified, automatic mechanism to formalize notification of fulfilling the conditions for retirement, to prevent similar situations in the future.[88]

Regarding the selection of new judges, the President of Montenegro, Jakov Milatović, has proposed a candidate to succeed Judge Budimir Šćepanović,[89] whose termination of function was confirmed on June 11, 2025. This proposal is currently in parliamentary procedure. Judges who would replace Judge Dragana Đuranović, whose termination of function was confirmed on December 17, 2024, and Judge Milorad Gogić, whose termination was confirmed on August 30, 2024, have not yet been appointed, as the Constitutional Committee of the Parliament has not established candidate proposals.

The Constitutional Court, at the session held on June 26, 2025, decided to notify the President of Montenegro that Judge Desanka Lopičić's term would end at the end of the year due to the expiration of her mandate,[90] although her term should have ended last year in accordance with the LPDI, when she completed 40 years of service.

C.1.1. Mechanisms for Overcoming Institutional Deadlock

During the observed period, no act was proposed or adopted that would provide additional mechanisms to overcome the deadlock of the Constitutional Court in the event of a political stalemate.[91]

The Venice Commission proposed the adoption of a provision that would allow judges of the Constitutional Court to continue performing their duties until new judges are appointed, as a mechanism to overcome the deadlock in the work of the Constitutional Court.[92] This solution is currently provided only in the case when a judge's mandate expires, but not if the judge meets the conditions for retirement.[93]

87 Ibid., para. 65, 68, 54.
88 Ibid., para. 68.
89 President Milatović submitted to the Parliament of Montenegro a proposal for the appointment of one judge to the Constitutional Court, President of Montenegro, May 15, 2025.
90 Press release from the XV session of the Constitutional Court of Montenegro, held on June 26, 2025; https://www.ustavnisud.me/ustavnisud/objava/blog/7/objava/208-saopstenje-sa-xv-sjednice-ustavnog-suda-crne-gore-odrzane-26-juna-2025-godine
91 The Constitution of Montenegro already provides for a three-fifths majority in the second round of voting as a mechanism to overcome institutional deadlock, which was also a recommendation of the Venice Commission.
92 European Commission for Democracy Through Law of the Council of Europe (Venice Commission), Montenegro, Opinion on some questions relating to the procedure of early termination of the mandate of constitutional court judges due to age limits, June 13-14, point 68.
93 Law on the Constitutional Court, *Official Gazette of Montenegro*, 11/2015, 55/2019, Art. 15.

C.2. JUDICIAL COUNCIL

The Judicial Council has been incomplete since June 30, 2024. On that date, it lost one member from among its distinguished lawyers, attorney Fikret Kurgaš, who passed away. Despite the fact that the Judicial Council timely initiated the procedure for the election of a new member, the Parliament of Montenegro had not made the appointment by the end of June 2025.

The Parliamentary Committee for Political System, Judiciary, and Administration conducted an interview on December 24, 2024, with the sole candidate for the Council member – attorney Kasim Dizdarević[94] – however, a vote on his appointment was not scheduled thereafter.

C.2.1. Mechanisms for Overcoming Institutional Deadlock

Amendments to the Law on the Judicial Council and Judges provide that distinguished lawyers in the Judicial Council may continue to perform their functions for up to two years after the expiration of their mandate if new members are not elected.[95]

Although this provision formally represents a mechanism to prevent institutional deadlock, HRA criticized its adoption, assessing that such a solution only encourages political irresponsibility and the trading of responsible public positions, which must be exclusively in the service of the public interest.[96] Additionally, the possibility of extending the mandate is not prescribed for members of the Prosecutorial Council, which calls into question the consistency of such a legislative approach.

The President of Montenegro initially refused to sign the Law on Amendments to the Law on the Judicial Council and Judges, questioning the constitutionality of the mentioned provision, considering that the Constitution stipulates that the mandate of the Judicial Council lasts four years.[97] There is no information that anyone submitted an initiative to examine the constitutionality of the mentioned provision.

The Constitution provides for a three-fifths majority in the second round of voting[98] in the plenary session when electing members of the Judicial Council from among distinguished lawyers, as a type of mechanism to overcome institutional deadlock, which was also a recommendation of the Venice Commission. However, in practice, the problem arose because candidates did not receive the required majority of votes in the parliamentary committee to even reach the plenary session.

94 Statement from the 40th session of the Committee for Political System, Judiciary and Administration, December 24, 2024: https://www.skupstina.me/me/clanci/odrzana-40-sjednica-odbora-za-politicki-sistem-pravosude-i-upravu
95 Law on the Judicial Council and Judges, *Official Gazette of Montenegro*, 11/2015, 28/2015, 42/2018, and 60/2024, Art. 16č.
96 *Enhance the texts of the judiciary laws*, HRA, June 5, 2024: https://www.hraction.org/2024/06/05/unaprijediti-tekstove-zakona-o-pravosudu/
97 *I have issued decrees on the promulgation of 10 laws that were adopted in recent days by the Parliament of Montenegro,* Official statement by the President of Montenegro Jakov Milatović, June 9, 2024: https://www.predsjednik.me/novosti/2777
98 Constitution of Montenegro, *Official Gazette of Montenegro*, No. 1/07, 38/13 – Amendments I–XVI, Article 91, paragraph 5.

C.3. PROSECUTORIAL COUNCIL

The Prosecutorial Council has been incomplete since August 2024, following resignations of its two members. As of the time of writing this analysis, the Committee for the Political System, Judiciary, and Administration had not determined candidate proposals for their replacements.

Inadequate interpretation of the law by the competent parliamentary Committee for the Political System, Judiciary and Administration led to the new members of the Council not being elected for almost nine and ten months[99].

After a lengthy delay, on May 20, 2025, the Committee for Political System, Judiciary, and Administration announced two public calls for the election of three members of the Prosecutorial Council: one for two eminent lawyers who are not attorneys[100] and the other for a member representing the NGO sector[101]. The Bar Association repeated the call for the nomination of one of its members to the Council since no one responded to the previous call.[102]

C.3.1. Mechanisms for Overcoming Institutional Blockade

When it comes to the Prosecutorial Council, to date, no act has been proposed or adopted that would provide additional mechanisms to overcome a blockade of the Prosecutorial Council in the event of a political deadlock.

D. ATTACKS AGAINST JUDGES AND STATE PROSECUTORS

107. The Special Rapporteur urges politicians and State officials to refrain from statements concerning the judiciary and the prosecution service that could amount to interference with the work of judges and prosecutors dealing with politically sensitive cases. In order to guarantee judicial independence and maintain the public's confidence in the justice system, it is essential that politicians carry out their duties and responsibilities in a professional manner and do not create an unfounded perception that the judiciary or the prosecution service are not independent or that judges' decisions can be influenced by outside pressure.

The concerning practice of political actors and public officials making sweeping comments about the work of judges and state prosecutors has continued, further undermining public trust in the independence of the judiciary and compromising the integrity of judicial office holders.

99 On December 5, 2024, the Committee for the Political System, Judiciary, and Administration sent a letter to the Bar Association with a request to announce a public call for the missing member of the Prosecutorial Council (PC). By doing so, the Committee took the position that the missing members of the Council whose mandate has not yet expired are elected according to the new provisions of the Law, even though those provisions stipulate that the Prosecutorial Council elected under previous provisions continues to work until the end of the four-year mandate (Article 184f of the Law on the State Prosecutors Service). Since these are so-called tied mandates of individual members with the mandate of the Council as a whole, the missing members should have been elected based on previously valid regulations.

100 Public call for the election of two members of the Prosecutorial Council from among distinguished legal experts who are not lawyers, Podgorica, May 20, 2025: https://www.skupstina.me/me/clanci/javni-poziv-za-izbor-dva-clana-tuzilackog-savjeta-iz-reda-uglednih-pravnika-koji-nijesu-advokati

101 Public Call for the Election of a Member of the Prosecutorial Council from Among Distinguished Lawyers – Representative of Non-Governmental Organizations, Podgorica, May 20, 2025: https://www.skupstina.me/me/clanci/odbor-za-politicki-sistem-pravosude-i-upravu-javni-poziv-za-izbor-clana-tuzilackog-savjeta-iz-reda-uglednih-pravnika-predstavnika-nevladinih-organizacija

102 Notice from the Bar Association dated May 16, 2025: https://www.advokatskakomora.me

D.1. Attacks on Judges

In October 2024, the Prime Minister of Montenegro, Milojko Spajić, stated that he is "often ashamed of some court decisions when violent offenders are released" and that "we have so many mistakes in the judiciary" that he finds it "unbelievable that this profession complains the most about salaries".[103] Also in 2024, the Deputy Prime Minister of Montenegro, Nik Đeljošaj, repeatedly attacked judge Ivana Becić on social media, accusing her of "torture" against him and his family, as well as claiming that she "already received a pre-written verdict from her principal with whom she is united in blind hatred and a vendetta against him as a politician".[104]

In November 2024, the Minister of the Interior, Danilo Šaranović, stated that the courts "release criminals from custody every day".[105] The head of the parliamentary club of the Democrats, Boris Bogdanović, emphasized that "some judges, instead of being pillars of the legal system, are becoming allied supports of crime", in the same month.[106]

Numerous other attacks by politicians on judges with similar messages and accusations have been recorded.[107]

In addition to political attacks, physical threats against judges have been reported. Judge Dubravka Popović of the Basic Court in Berane was threatened with a bomb after an accused was released from prison, in March 2024.[108]

The Judicial Council responded to statements by the Prime Minister, the Minister, and the Deputy Prime Minister,[109] while the Association of Judges of Montenegro[110] and civil society organizations[111] responded to the other attacks.

In late 2024, a Communication Strategy for the Judicial Council and Courts 2024-2026 was adopted, and on December 27, the Judicial Council adopted the Action Plan for the implementation of the Communication Strategy for 2025, which aims to ensure more effective responses to such attacks.[112]

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103 Spajić on EC criticisms related to RTCG: The Labor Inspectorate said everything is according to the law, Portal Analitika, October 30, 2024: https://www.portalanalitika.me/clanak/spajic-sramota-me-je-nekih-odluka-sudija-javnost-je-ogorcena-na-njih

104 *Đeljošaj: Institutions and a journalist are targeting me, the day will come when this 'trio' will be held accountable for their misdeeds; Portal Analitika*, March 8, 2024; *Judicial Council: Inappropriate attacks by Đeljošaj on Judge Becić, if he has evidence let him submit it to the prosecution, Portal Dan,* March 8, 2024; *Judges' Association: It is unacceptable for Đeljošaj to give himself the right to make unfounded statements about a judge,* Portal *Vijesti,* March 8, 2024.

105 *Šaranović: «It's pointless for the police to make arrests when members of criminal groups are released every day, Vijesti,* November 8, 2024: https://www.vijesti.me/vijesti/crna-hronika/731682/saranovic-dzaba-policija-hapsi-kad-se-clanovi-kriminalnih-grupa-svaki-dan-pustaju

106 *Bogdanović accused some judges of becoming "allied pillars of crime", Vijesti*, November 23, 2024.

107 *Democrats: Courts are increasingly becoming a refuge for criminals and violent offenders, who are being released with ease*, *Vijesti*, October 19, 2024: https://www.vijesti.me/vijesti/politika/729078/demokrate-sudovi-sve-cesce-postaju-utociste-za-kriminalce-i-nasilnike-koje-olako-pustaju-na-slobodu; *By overturning the sentence for the killers of policeman Leković, a message was sent that anyone can attack and kill them—and not expect the courts*, *Vijesti*, November 1, 2023: https://www.vijesti.me/vijesti/drustvo/679984/ukidanjem-presude-ubicama-policajca-lekovica-poslata-poruka-da-svako-moze-da-ih-napadne-i-ubije-na-sud-da-ne-racunaju; *For the Future of Zeta: The verdict against Krstović was written by the judge whose father is a Democratic Party official*, *Vijesti*, March 20, 2024: https://www.vijesti.me/vijesti/politika/698991/za-buducnost-zete-presudu-krstovicu-pisao-sudija-ciji-je-otac-funkcioner-demokrata?utm_source=vijesti&utm_medium=article_related&utm_campaign=article_intext_related; *Nikolić: Montenegrin judiciary no longer exists, RTCG*, July 12, 2024: https://rtcg.me/vijesti/politika/576998/nikolic-crnogorsko-sudstvo-vise-ne-postoji.html

108 *A man from Berane threatened a judge that he would throw a bomb at her when she leaves prison, Portal Analitika,* March 26, 2024: https://www.portalanalitika.me/clanak/beranac-prijetio-sutkinji-da-ce-joj-baciti-bombu-kad-izade-iz-zatvora

109 *Response of the Judicial Council*, November 8, 2024: https://sudovi.me/sdsv/sadrzaj/B2yQ; *Response – "Politicians do not recognize the position of the judiciary*, November 25, 2024: https://sudovi.me/sdsv/sadrzaj/wRzk

110 Response by the Association of Judges of Montenegro to the reaction of the Independent Police Union, November 2, 2023: https://udruzenje-sudija.me/2023/11/02/reagovanje-udruzenja-sudija-crne-gore-na-reakciju-nezavisnog-sindikata-policije/; Court decisions based exclusively on the Constitution and the law, March 31, 2024: https://udruzenjesudija.me/2024/03/21/sudske-odluke-zasnovane-iskljucivo-na-ustavu-i-zakonu/; *Association of Judges: Statement by the DPS spokesperson inappropriate,* Portal Analitika, July 15, 2024: https://www.portalanalitika.me/clanak/udruzenje-sudija-izjava-portparola-dps-a-neprijemjerena

111 *Remand detention is not a punishment – Stop the unfounded political attacks on judges*, HRA, October 22, 2024: https://www.hraction.org/2024/10/22/remand-detention-is-not-a-punishment-stop-the-unfounded-political-attacks-on-judges/?lang=en

112 Minutes from the 36th session of the Judicial Council, December 27, 2024.

D.2. Attacks on State Prosecutors

In April 2024, the spokesperson of the Democratic Party of Socialists, Miloš Nikolić, repeatedly criticized the Special State Prosecutor's Office, calling the proceedings it leads against former officials politically motivated and referring to its head as the "sky prosecutor".[113] The General Director of RTCG, Boris Raonić, accused prosecutors of having contacts with organized criminal groups, in November the same year.[114] Deputy Prime Minister Nik Đeljošaj publicly targeted State Prosecutor Ivana Petrušić, linking her actions to alleged masterminds and financial interests, in March 2024.[115]

Other similar political attacks and accusations against state prosecutors have also been recorded.[116]

The Prosecutorial Council responded to the attacks related to the initiation of proceedings against former police official Zoran Lazović and former Chief Special Prosecutor Milivoje Katnić,[117] while other attacks were mostly addressed by the Association of State Prosecutors of Montenegro[118] and the Prosecutors' Union.[119]

E. SALARIES AND WORKING CONDITIONS

108. The Special Rapporteur recommends that the remuneration of judges and prosecutors be increased, so as to ensure that it is in conformity with the scope of their duties and commensurate with the dignity of their profession.

During 2024 and the first half of 2025, the issue of judges' and prosecutors' salaries was raised multiple times, including in public appeals and warnings, and judges and prosecutors announced a possible strike, all aiming to increase pay.[120] However, the salaries of judges and prosecutors were increased at the end of July.

113 *Nikolić: The process against Katnić and Lazović is motivated by revenge*, Vijesti, April 16, 2024: https://www.vijesti.me/vijesti/politika/703018/nikolic-proces-protiv-katnica-i-lazovica-je-motivisan_osvetom?utm_source=vijesti&utm_medium=article_related&utm_campaign=article_intext_related?utm_source=vijesti&utm_medium=article_related&utm_campaign=article_intext_related; *Nikolić: Everything happening in Ulcinj is the direct responsibility of Novović, CDM,* May 29, 2024: https://www.cdm.me/politika/nikolic-sve-sto-se-desava-u-ulcinju-direktna-je-odgovornost-novovica/; *Nikolić: Nikolić called Novović a "sky prosecutor" and defends Jelena Perović, RTNK*, April 17, 2024: https://rtnk.me/crna-hronika/nikolic-nazvao-novovica-skaj-tuziocem-i-brani-jelenu-perovic/#google_vignette

114 *Raonić claims that the prosecutors who filed charges against Drljević and members of the Council had contacts with criminal groups, Vijesti*, November 24, 2024: https://www.vijesti.me/vijesti/drustvo/734062/raonic-tvrdi-da-su-tuzioci-koji-su-podnijeli-optuznicu-protiv-drljevica-i-clanova-savjeta-imali-kontakte-s-krimi-grupama

115 *Đeljošaj: Institutions and a journalist are targeting me; the day will come when this «trio" will be held accountable for their misdeeds*, Portal *Analitika*, March 8, 2024: https://www.portalanalitika.me/clanak/deljosaj-institucije-i-novinar-se-obracunavaju-sa-mnom-doci-ce-taj-dan-kada-ce-ova-trojka-odgovarati-za-nedjela

116 *Vuković Kuč: Novović's selective justice has become a political whip in the hands of the ruling majority, Vijesti,* April 19, 2024: https://www.vijesti.me/vijesti/politika/703544/vukovic-kuc-selektivna-pravda-novovica-postao-politicki-bic-u-rukama-vladajuce-vecine; *Zirojević: Which state does the Pljevlja Public Prosecutor's Office serve?, CDM*, May 9, .2024: https://www.cdm.me/hronika/zirojevic-kojoj-drzavi-sluzi-odt-pljevlja/

117 *The Prosecutorial Council opposes attempts to undermine the independence of the State Prosecutor's Office*, statement from April 25, 2024: https://sudovi.me/tzsv/sadrzaj/B9k5

118 *Public officials must respect the independence of the State Prosecutor's Office*, reaction of the Association of State Prosecutors of Montenegro, August 8, 2024: http://www.udtcg.me/post_view_mne.php?id=21

119 *Union: Raonić's sweeping statements aim to undermine the reputation and integrity of prosecutors, Vijesti,* November 25, 2024: https://www.vijesti.me/vijesti/drustvo/734118/sindikat-raoniceve-pausalne-ocjene-imaju-za-cilj-narusavanje-ugleda-i-integriteta-tuzilaca

120 Pavličić sent a letter to the Prime Minister demanding urgent salary increases for judges, Supreme Court of Montenegro, February 12, 2025; https://sudovi.me/vrhs/sadrzaj/aE9G; Judges announced work stoppages as a warning to the Government, Vijesti, October 30, 2024; https://www.vijesti.me/vijesti/drustvo/730480/sudije-najavile-obustave-postupanja-u-znak-upozorenja-vladi; Selective salary increases will not strengthen the independence and integrity of the judiciary, State Prosecutors' Union, December 12, 2024; https://sindupcg.me/sindikat-drzavnih-tuzilastava-selektivno-uvecanje-zarada-nece-doprinijeti-jacanju-nezavisnosti-i-integriteta-pravosudja/

On 31 July 2025, the Parliament of Montenegro adopted the adopted the Draft Law amending the Law on the Judicial Council and Judges, the Law on the State Prosecutor's Office, and the Law on the Constitutional Court to increase judges' and prosecutors' salaries by 30%[121] (see A1, p. 9).

The announcement of salary increases for judges and prosecutors caused dissatisfaction among over 400 civil servants and employees in judicial institutions, who, in May 2025, warned they might stop working if their own material conditions and salaries are not improved.[122] While this did not eventuate, there was no information on plans by Government to address these demands.

However, a fundamental reform of the salary system is still needed. It is important to draft a law on salaries and other rights of holders of judicial and constitutional functions as soon as possible, and establish objective and fair criteria reflecting the complexity, responsibility, and dignity of the judiciary profession.

A study by HRA, "Perception of Corruption among Judiciary Actors," showed that 41.5% of prosecutors and 75.8% of judges feel they are inadequately paid for their work. Additionally, 68.3% of judges and 61.1% of prosecutors believe that salary increases would reduce the risk of corruption[123].

E.1. WORKING CONDITIONS

109. Additional financial resources should be allocated to the judiciary and the prosecution service in order to renovate buildings, increase and improve office space, improve security and working conditions and secure evidence and archives. Judicial vacancies should be filled rapidly, and any obstacles to recruitment, including low salaries, should be rectified.

Although budget allocations for the judiciary in Montenegro gradually increased from 2023 to 2025, improvements in working conditions remain very limited. The judiciary budget rose by about 6.8% from 2023 to 2024, and by an additional 4.8% in 2025, totaling approximately an 11.9% increase. In the same period, the State Prosecutor's Office budget grew more significantly—by 20.2% between 2023 and 2024, and another 12.5% in 2025, totaling around a 35.3% increase. [124]

According to the annual report on the implementation of the Judicial Reform Strategy 2024-2027[125], certain infrastructure works have been carried out, including the reconstruction of facades, carpentry, and reception areas in six courts[126], as well as the installation of elevators[127] and access ramps[128] in four courts. Technical equipment was donated to the Supreme Court, Court of Appeal, Basic Court in Bijelo Polje, and the Misdemeanor Court in the same town. Individual furniture donations were recorded in the prosecutor's offices.[129]

121 Parliament of Montenegro, Eighth Session of the First Regular Meeting in 2025 Concluded, July 31, 2025; https://www.skupstina.me/me/clanci/zavrsena-osma-sjednica-prvog-redovnog-zasijedanja-u-2025-godini
122 Over 400 judicial employees will stop working if their salaries are not increased, Pobjeda, May 27, 2025; https://www.pobjeda.me/clanak/vise-od-400-zaposlenih-u-pravosudu-obustavice-rad-ako-im-se-ne-povecaju-zarade
123 Perception of Corruption among Justice Sector Actors, HRA, September 25, 2024: https://www.hraction.org/2024/09/25/hra-istrazivanje-pokazalo-da-je-vecina-sudija-i-tuzilaca-za-sprovodenje-vetinga-rijetki-bi-podnijeli-ostavke/
124 State Prosecutor's Office budget: €11,382,565.11 (2023), €13,685,205.38 (2024), €15,398,078.60 (2025). (Budget Law of Montenegro for 2023, 2024, and 2025)
125 Ministry of Justice, Annual Report on the Implementation of the Action Plan for the Judicial Reform Strategy 2024-2027, March 8, 2025.https://www.gov.me/dokumenta/df45c775-8a59-4ba8-b947-a6d28bfb86b3
126 Supreme Court / Court of Appeal / Higher Court in Podgorica; Higher Court / Basic Court in Bijelo Polje; Basic Courts in Podgorica, Nikšić, Berane, and Kotor.
127 Higher / Basic Court Bijelo Polje, Basic Court Nikšić, Basic Court Berane, and Basic Court Kotor.
128 Higher / Basic Court Bijelo Polje, Basic Court Nikšić, Basic Court Kotor.
129 Donation from the USA – Basic State Prosecutor's Offices in Bar and Kotor.

However, significant changes are still lacking. Courtrooms in many courts remain spatially inadequate—small and unsuitable for larger numbers of parties and the public, and completely inaccessible to persons with disabilities, directly undermining the principle of public trials. At the same time, an automatic court recording system has not yet been introduced, so minutes are still dictated, further slowing down proceedings.

As also noted in the European Commission's reports[130], the judiciary continues to be characterized by inadequate spatial and technical conditions at all levels, especially in the Special State Prosecutor's Office, the Higher Court in Podgorica, and the Supreme Court.

The Special State Prosecutor's Office has not yet been relocated to the old Government building. Furthermore, no concrete steps have been taken towards constructing the previously announced complex for judicial institutions in Podgorica.

At the conference "Towards Judicial Independence in Montenegro – Assessing Implementation of 2024 Recommendations by the UN Special Rapporteur on the Independence of Judges and Lawyers in Montenegro", held on 1 July, Minister of Justice Bojan Božović stated that new information with clear locations for the construction of the judicial quarter would be available before 15 July.[131] However, by September, that information had not been published.

E.2. UNFILLED POSITIONS IN THE JUDICIARY

Montenegro is currently lacking nearly 16% of judges (52) and 20% of prosecutors (27). The Judicial and Prosecutorial Councils regularly publish public calls for vacant positions, but the selection procedures for new judges and prosecutors should be conducted more promptly.

In 2024 and 2025, it took on average five to six months from the announcement of a public vacancy to the final decision on selecting and assigning candidates for initial judicial training.[132] After completing initial training, candidates are typically appointed to judicial positions within a few days, except in one case where the appointment took ten months. [133] The selection process for judicial promotions takes an average of nine months from the announcement of the vacancy[134], while appointments of court presidents usually take between four and five months.[135]

130 European Commission: Rule of Law non-paper regarding chapters 23 and 24 for Montenegro, May 2025, p. 5: European Commission, Rule of Law Report – Country Chapter on the rule of law situation in Montenegro, Strasbourg, July 8, 2025, p. 5.
131 The key to EU membership lies in the judiciary and the Constitutional Court; political will for essential reforms is necessary, Human Rights Action, July 2, 2025; https://www.hraction.org/2025/07/02/the-key-to-eu-membership-lies-in-the-judiciary-and-the-constitutional-court-political-will-for-key-reforms-is-essential/?lang=en
132 Decisions of the Judicial Council: No. 01-107/24 of January 12, 2024; No. 01-1962/24 of March 29, 2024; No. 01-2658/24 of June 26, 2024; No. 01-3639/24 of June 10, 2024; No. 01-3824/24 of June 18, 2024; No. 01-4057/24 of June 28, 2024; No. 01-3195/24-8 of October 7, 2024; No. 01-121/24-9 of November 8, 2024; No. 01-4136/24-7 of December 27, 2024; No. 01-5213/24-9 of December 27, 2024; No. 01-3194/24-8 of January 28, 2025.
133 Decision of the Judicial Council No. 01-98/25-2 of January 28, 2025.
134 Decisions of the Judicial Council: No. 01-734/24 of February 12, 2024; No. 01-427/24 of January 29, 2024; No. 01-1387/24 of March 8, 2024; No. 01-1390/24-3 of December, 13 2024; No. 01-1960/24 of March 29, 2024; No. 01-2337/24-3 of February 11, 2025.
135 Decisions of the Judicial Council: No. 01-3356/24 of May 31, 2024; No. 01-3111/24 of May 20, 2024; No. 01-4091/24 of June 28, 2024; No. 01-2634/24 of April 25, 2024; No. 01-425/24 of January 29, 2024; No. 01-426/24 of January 29, 2024; No. 01-7570/24 of November 29, 2024; No. 01-8659/23-1 of December 13, 2024.

In 2024 and 2025, the selection process for state prosecutor candidates—from the announcement of the public call to the decision on appointment—lasted an average of six months.[136] All candidates were appointed as state prosecutors for a four-year term within a few days after completing initial training and receiving an evaluation, except in one case where the appointment took just over two months.[137]

In the promotion procedures for state prosecutors to public office, the average time from the announcement of the vacancy to the decision was three months.[138] Regarding the selection of heads of state prosecutor's offices, the entire process—from the publication of the vacancy to the decision—took on average six to seven months.[139]

The Basic Court in Žabljak faces the most severe staffing shortage as it currently has neither a judge nor a court president. The Basic Court in Rožaje has only the court president and one judge, temporarily assigned from another court. This court is missing four judges. The Basic Court in Bar is short of six judges; the Basic Courts in Herceg Novi and Bijelo Polje both lack four judges; and the Basic Court in Berane is understaffed by five judges.

Regarding the State Prosecutor's Office, the most significant staffing shortage is at the Special State Prosecutor's Office (SPO), which is missing four special prosecutors. Three prosecutors from the Basic State Prosecutor's Office in Podgorica have been temporarily assigned to the Supreme State Prosecutor's Office. The Basic State Prosecutor's Offices in Rožaje and Berane, and the Supreme State Prosecutor's Office, each lack three prosecutors. The Basic State Prosecutor's Offices in Pljevlja and Cetinje, and the Higher State Prosecutor's Office in Podgorica, are each short of two prosecutors.

136 Decision No. TS 791/2024 of December 11, 2024.
137 Selection and assignment of 4 candidates for state prosecutors in basic state prosecutor's offices, Minutes of the 1st session of the Prosecutorial Council, January 15, 2025.; https://sudovi.me/static//tzsv/doc/Zapisnik_sa_I_sjednice_TS_odrzana_15._januara_2025.pdf
138 Decisions of the Prosecutorial Council: No. TSP 137/243 of February 26, 2024; No. TSP 140/243 of February 26, 2024; No. TSP 143/243 of February 26, 2024; No. TSP 146/243 of February 26, 2024; Selection of two state prosecutors for the Supreme State Prosecutor's Office under Public Announcement TSObr. 7/2024 of June 27, 2024.
139 Prosecutorial Council decisions: No. TSP 82/24 of February 7, 2024; No. TSP 303/24 of April 30, 2024; No. TSP 195/24 of March 14, 2024; No. TSP 2/2025 of January 15 – Minutes of the 4th session of the Prosecutorial Council dated March 20, 2025; No. TSP 1/2025 of January 15, 2025 – Minutes of the 4th session of the Prosecutorial Council dated March 20, 2025.

F. JUDICIAL COUNCIL

110. In order to strengthen the independence of the Judicial Council and minimize the risk of political interference:

a) Its composition should be reviewed to ensure that the majority of its members are judges elected by their peers. Consideration should be given to the addition of a lawyer representative of civil society;

b) The definition of "eminent lawyer" should be reviewed, with a view to excluding active politicians and representatives of the legislative or executive branches of power from participation;

c) The procedure for the selection and appointment of lay members should be reviewed so as to eliminate interference from political parties in their selection. An appropriate anti-deadlock mechanism should be devised to ensure the functioning of the Judicial Council in case of delays in the appointment of the new lay members by the parliament. Montenegro should consider entrusting the election of lay members to a non-political authority;

d) The participation of the Minister of Justice as an ex officio member of the Judicial Council in decisions concerning essential aspects of the judicial career, not only discipline, should be expressly prohibited by law;

e) Article 127 (3) of the Constitution should be reviewed to ensure that the President of the Judicial Council is elected by the Council itself from among its judge members. The President of the Supreme Court should be prohibited from appointment as President of the Council.

a) The composition of the Judicial Council has not yet been revised; it still consists of four judges, four distinguished legal experts, and ex officio members — the Minister of Justice and the President of the Supreme Court. Accordingly, judges do not yet hold the majority in the Council.

However, in April 2025, the Government of Montenegro adopted a proposal to amend the Constitution, which foresees that the majority of the Judicial Council members will be judges elected by the Conference of Judges, thereby fulfilling the requirement that judges elected by their peers form the majority in the Council.[140]

In the observed period, there were no initiatives aimed at aligning the composition of the Judicial Council with the model of the Prosecutorial Council, whose members include representatives from the non-governmental sector and the Bar Association.The Ministry of Justice stated that this alignment is a legitimate issue for consideration, especially in view of the positive experience and the significant contribution of civil society representatives to the work of the Prosecutorial Council.[141]

b) Regarding the members of the Judicial Council from among eminent legal professionals, the amendments to the Law on the Judicial Council and Judges introduce clear safeguards against political influence and conflicts of interest.

Article 16, paragraph 2 of the Law on the Judicial Council states: "A member of the Judicial Council from among eminent legal professionals cannot be a person who, in the last five years, has held a high-level political party position (such as party president, member of the presidency, deputy president or member of the presidency, member of the executive or main board, member of the party

140 Press release from the 77th session of the Government of Montenegro, April 17, 2025; https://www.gov.me/clanak/saopstenje-sa-77-sjednice-vlade-crne-gore
141 Response of the Ministry of Justice to the inquiry of Human Rights Action, No. 01-074/25-9337 of September 12, 2025.

council, or other party official), or has been directly elected in elections, or has held the position of a government minister." This legal provision fulfills the mentioned recommendation.

c) The procedure for the selection of members from among eminent legal professionals, which aims to eliminate political party interference in their appointment, has neither been changed nor proposed for modification.[142]

Amendments to the Law on the Judicial Council and Judges provide that eminent legal professionals may continue to perform their duties as members of the Council for up to two years after their mandate expires (see section C.2.1).

During the observed period, no proposals were made to assign the election of Judicial Council members from the ranks of eminent legal professionals to a non-political body. However, the Ministry of Justice considers that the composition and the method of election of the members of the Judicial Council should be in line with international standards and the recommendations of the Council of Europe, the United Nations, and the European Commission.[143]

d) During 2024 and 2025, the Minister of Justice was not formally prohibited, through amendments to laws or the Constitution, from participating in decision-making on key aspects of judges' careers. However, Ministers of Justice did not take part in such decisions in this period. As noted above, the Government adopted a proposal to amend the Constitution to exclude the Minister of Justice from the Judicial Council.[144]

e) During the observed period, no amendments were made to Article 127, paragraph 3 of the Constitution – which stipulates that holders of judicial office cannot be elected as President of the Judicial Council - to ensure that the President of the Judicial Council is elected from among the Council members who hold judicial office. [145]

G. ELECTION OF THE SUPREME STATE PROSECUTOR

111. The qualifications and procedure for the election of the Supreme State Prosecutor should be reviewed to ensure a proper assessment of the moral integrity, independence and professional qualifications of the candidates and to minimize the risk of political interference.

There were no significant changes regarding the qualifications and selection procedure for the Supreme State Prosecutor.

A candidate for Supreme State Prosecutor must meet the general requirements for a state prosecutor, have at least 15 years of professional experience as a state prosecutor or judge, or at least 20 years in other legal professions, and be distinguished by professional impartiality as well as

142 Members from among eminent legal professionals are still elected by the Parliament of Montenegro in accordance with the Constitution of Montenegro, requiring a two-thirds majority in the first vote and a three-fifths majority in the second vote. This serves as one of the mechanisms to prevent deadlock during the election of Judicial Council members.
143 Response of the Ministry of Justice to the inquiry of Human Rights Action, No. 01-074/25-9337 of September 12, 2025.
144 Government of Montenegro, Press Release from the 77th Session of the Government of Montenegro, April 17, 2025; https://www.gov.me/clanak/saopstenje-sa-77-sjednice-vlade-crne-gore
145 Constitution of Montenegro, *"Official Gazette of Montenegro"*, No. 1/07, 38/13 – Amendments I–XVI, Article 127, paragraph 3.

high professional and moral qualities.[146]

Amendments to the Law on the State Prosecutor's Office introduced two new provisions. One requires candidates for the Supreme State Prosecutor, upon applying to the public call, to submit a work program outlining his/her vision for the organization of the State Prosecutor's Office over a five-year period. The second provision stipulated that the Prosecutorial Council determines the the content of this program.[147]

The Prosecutorial Council compiles a list of candidates who meet the legal requirements for the position of Supreme State Prosecutor. This list is then submitted, along with a reasoned opinion, to the extended session of the Supreme State Prosecutor's Office. [148] Based on the candidate list, the opinion of the extended session, and interviews with the candidates, the Prosecutorial Council formulates a proposal for the appointment of the Supreme State Prosecutor, which it submits with justification to the Parliament of Montenegro.[149]

However, the Ministry of Justice shares the position of the Special Rapporteur regarding the need to revise the qualifications and procedure for the election of the Supreme State Prosecutor, and emphasizes that these recommendations will be taken into account in future amendments to the Law on the State Prosecution Service.[150]

H. PROSECUTORIAL COUNCIL

112. The Special Rapporteur recommends that the requirements set out in article 26 (1) of the Law on the State Prosecution Service for the selection of eminent lawyers be reviewed, with a view to excluding active defence lawyers from participation in the Council.

Amendments to the Law on the State Prosecutor's Office did not prohibit active defense attorneys from being members of the Prosecutor's Council. However, according to new legal provisions, only one member may be a practicing lawyer[151], as opposed to five, formerly[152]. Two esteemed legal professionals appointed by the Parliament of Montenegro upon the proposal of the competent working body, as well as one representative from non-governmental organizations, cannot any longer be selected from among practicing lawyers. [153]

This measure reduces the risk of potential conflict of interest among members of the Prosecutorial Council coming from the ranks of practicing lawyers, as practising lawyers or the law firms they work for may be defending accused individuals in criminal proceedings where the State Prosecutor's Office acts as the opposing party.

146 Law on the State Prosecution Service, *Official Gazette of Montenegro*, Nos. 011/15 ... 054/24, Article 43
147 Law on the State Prosecution Service, *op.cit.*, Articles 44 and 45.
148 Law on the State Prosecution Service, *op.cit.,* Article 46.
149 The Law on the State Prosecutor's Office, *op.cit*, Article 47.
150 Response of the Ministry of Justice to the inquiry of Human Rights Action, No. 01-074/25-9337 of September 12, 2025.
151 Law on the State Prosecutor's Office, *op.cit*., Article 18, para. 3, Item 5;
152 Law on the State Prosecution Service, *Official Gazette of Montenegro*, Nos. 011/15 ... 059/2021, Art. 18, para. 3, items 2 and 4
153 Law on the State Prosecutor's Office, *op.cit*., Article 18, para. 3, Items 2 and 4.

113. With regard to the appointing authority, the Special Rapporteur considers that it would be preferable to entrust the appointment of eminent lawyers to a non-political authority. If the parliament continues to elect them, lay members should be elected by a qualified majority of two thirds, necessitating significant opposition support, and an anti-deadlock mechanism should be devised to ensure the functioning of the Council in case of delays in the appointment of new lay members by the parliament.

The election of Prosecutorial Council members from among distinguished legal professionals has not been delegated to a non-political body and continues to take place in the Parliament of Montenegro. Moreover, it is done by a simple majority vote rather than a qualified majority, and as such carries a high risk of politicization of such appointments.

Amendments to the Law on the State Prosecutor's Office guarantee that one member from the distinguished legal professionals is nominated by the Bar Association of Montenegro[154], one by a non-governmental organization[155], and two by the relevant parliamentary committee.[156] Nevertheless, all members continue to be appointed by the Parliament of Montenegro.

During the observed period, no act was proposed or adopted that would introduce additional mechanisms to overcome a deadlock in the Prosecutorial Council in cases of a political stalemate.

We recall that in 2024, the Venice Commission, also suggested that the nomination or even direct election should be carried out by external bodies such as universities, the Bar Association, or the judiciary. Additionally, the Venice Commission emphasized that the election of members of the Prosecutorial Council should be conducted by a qualified majority.[157]

I. CORRUPTION

114. The Government must ensure that judges and prosecutors have adequate remuneration and sufficient professional resources to insulate them from corruption and to allow for the important work of ending impunity to be carried out.

The Government of Montenegro has taken certain steps toward increasing the salaries of judges and state prosecutors by formally adopting a proposal for a 30% salary increase; however, by the end of June, no actual salary increases had been implemented, nor were working conditions improved (see A1, p. 9).

154 Law on the State Prosecutor's Office,op.cit. Article 18, Paragraph 3, Item 5
155 Ibid, Article 18, Paragraph 3, Item 4
156 Ibid, Article 18, Paragraph 3, Item 2
157 European Commission for Democracy through Law (Venice Commission), Montenegro — Urgent Follow-up Opinion to the Opinions on the Law on the State Prosecution Service, Venice, June 21-22, 2024, Item. 18

115. Ethical codes for judges and prosecutors should undergo detailed scrutiny from a body that includes judges, prosecutors and civil society representatives to ensure that they are clear, current and exhaustive.

According to the Judicial and Prosecutorial Councils, work on the amendments to the Codes of Ethics for judges and state prosecutors has been intensified. With expert support from the Council of Europe, draft versions of the Judicial Code of Ethics and the Prosecutorial Code of Ethics have been prepared.

According to the Action Plan for Meeting the Final Benchmarks in Negotiation Chapter 23 – Judiciary and Fundamental Rights - the adoption of both codes was planned for the second quarter of 2025. [158]

The Judicial Code of Ethics is adopted by the Conference of Judges,[159] which is composed of all judges and court presidents, while the Prosecutorial Code of Ethics is adopted by the Conference of State Prosecutors,[160] which is composed of all state prosecutors and heads of state prosecution offices.

HRA in its reports[161] pointed to specific problems in practice and emphasized the urgent need to amend both ethical codes. In particular, it highlighted the necessity of a clearer distinction between ethical violations and disciplinary offenses, due to the overlap in their current definitions, which hinders consistent application and accountability in practice. The Venice Commission raised the same concern.[162]

However, there is no information indicating that representatives of civil society participated in the drafting of the new codes of ethics.

116. Legal ambiguities in the disciplinary and ethical legal frameworks for judges and prosecutors should be identified and amended to ensure a clear distinction between the definitions of specific disciplinary offences and ethical violations.

There has been no clear delineation between disciplinary offences and breaches of the Code of Ethics, as the amendments to the Law on the Judicial Council and the Law on the State Prosecution Service adopted in June 2024 did not address these areas, while the new Codes of Ethics for judges and state prosecutors have still not been adopted.

The only case in which a breach of the Code of Ethics for state prosecutors was established in 2023 once again highlighted this long-standing issue — the overlap between the definitions of disciplinary offences and the principles and rules set out in the Code of Ethics for state prosecutors.

In the specific case[163], where the state prosecutor showed disrespect and disregard towards the head of the Higher State Prosecutor's Office, accused her of acting under influence and attempting to blackmail him, and refused to provide requested case files for review—thereby

158 Government of Montenegro, Action Plan for the Fulfilment of Final Benchmarks in Negotiating Chapter 23 – Judiciary and Fundamental Rights, May 5, 2025. https://www.gov.me/dokumenta/b0cc12c7-0506-4c60-943d-bbcb680f6328
159 Law on the Judicial Council and Judges, Official Gazette of Montenegro, Nos. 11/2015, 28/2015, 42/2018, and 60/2024, Article 9, paragraph 3.
160 Law on the State Prosecutor's Office, Official Gazette of Montenegro, Nos. 011/15, 042/15, 080/17, 010/18, 076/20, 059/21, and 054/24, Article 20, paragraph 3.
161 *Analysis of the Procedures for the Appointment, Promotion, and Accountability of State Prosecutors in Montenegro in 2023 and 2024 and Analysis of the Procedures for the Appointment, Promotion, and Accountability of Judges in Montenegro in 2023 and 2024.*
162 European Commission for democracy through law (Venice Commission): Montenegro urgent follow-up opinion to the opinions on the Law on the State prosecution service, Venice, May 16, 2024, Item. 64.
163 TS, No. 02-9-2180-6/2021 dated March 20, 2023.

obstructing cooperation in matters concerning the examination of irregularities within the Basic State Prosecutor's Office—the Commission failed to provide justification for why the prosecutor's behavior, which corresponds to the description of disciplinary offences, was not classified as such, nor did it initiate disciplinary proceedings as the authorized proposer. [164]

117. Steps should be taken to ensure that institutions tasked with considering disciplinary allegations concerning judges and prosecutors are rigorous and fair and are seen by the public to be acting in this way. The inclusion of civil society representatives in the Judicial and Prosecutorial Councils could support this process, by improving transparency, as could the regular publication of appropriately anonymized data revealing the number of complaints received, the general categories of complaints and their outcome.

Available data indicate that the institutions responsible for handling complaints against judges and state prosecutors lack sufficient rigor. In 2024, the Prosecutorial Council reviewed 204 complaints, finding 18 to be substantiated and 5 partially substantiated.[165] Meanwhile, the Judicial Council examined 112 complaints, of which only 5 were deemed justified.[166]

Research by HRA[167] revealed that complaints concerning unlawful conduct by state prosecutors remained ineffective for establishing their disciplinary accountability. Throughout 2024 and 2025, disciplinary proceedings were initiated against state prosecutors only once—on March 28, 2025—due to a special state prosecutor's unjustified failure to act within legally prescribed deadlines, which resulted in the expiration of the statute of limitations for criminal prosecution.[168] The state prosecutor was fined 20% of her salary for three months as a disciplinary penalty.[169]

The situation is similar for judges — complaints have not been an effective tool for holding them accountable for unlawful conduct. In two cases where complaints were upheld, no disciplinary sanctions were imposed because the proceedings were terminated following the judges' resignations.[170] Nevertheless, since these resignations occurred after the initiation of disciplinary procedures, it can be inferred that the complaints contributed to the judges stepping down from their positions amid concerns over their conduct.

Disciplinary responsibility for judges was established only once during the period. On March 11, 2024, a judge was initially found liable for making a statement that the Appellate Court's verdict in the "State Coup" case was "bought." [171] However, the Supreme Court overturned this ruling and sent the case back for reconsideration. In February 2025, the Disciplinary Council again found the judge guilty of a serious disciplinary offense. The Supreme Court of Montenegro subsequently dismissed her appeal as unfounded and upheld the Disciplinary Council's decision, which imposed a disciplinary penalty consisting of a 30% salary reduction for three months and a two-year ban on promotion,

164 Analysis of the Procedures for the Selection, Promotion, and Accountability of State Prosecutors in Montenegro in 2023 and 2024, HRA, December 2024, p. 89, https://www.hraction.org/wpcontent/uploads/2025/02/Analiza-postupaka-izbora-tuzilaca-u-CG-2023-24_FINAL.pdf
165 Report on the Work of the Prosecutorial Council for 2024, pp. 29-30
166 Report on the Work of the Judicial Council for 2024, pp. 23-24
167 Analysis of Procedures for the Selection, Promotion, and Accountability of State Prosecutors in Montenegro in 2023 and 2024, HRA, December 2024, p. 63.; https://www.hraction.org/wp-content/uploads/2025/02/Analiza-postupaka-izbora-tuzilaca-u-CG-2023-24_FINAL.pdf Analysis of the procedures for the selection, promotion, and accountability of judges in Montenegro in 2023 and 2024, HRA, December 2024, p. 72., https://www.hraction.org/wp-content/uploads/2025/02/Analiza-postupaka-izbora-sudija-u-CG-2023-24-3.pdf
168 DP DV No. 1/2024 dated March 28, 2025.
169 *Ibid.*
170 Analysis of the Procedures for Selection, Promotion, and Accountability of Judges in Montenegro in 2023 and 2024, HRA, December 2024, p. 77 https://www.hraction.org/wp-content/uploads/2025/02/Analiza-postupaka-izbora-sudija-u-CG-2023-24-3.pdf
171 "Mugoša: "I am convinced that the decision of the Appellate Court was bought," *Vijesti*, November 20, 2023: https://www.vijesti.me/vijesti/crna-hronika/682599/mugosa-uvjerena-sam-da-je-odluka-apelacionog-suda-kupljena

effective from the date the ruling became final.[172]

Regarding fairness, similar or identical situations have been treated inconsistently in practice. For instance, when a prosecutor was found to have acted untimely, the complaint was sometimes upheld and the prosecutor was advised to accelerate case processing, whereas in other cases the Prosecutorial Council highlighted the legal authority of the head of the prosecution office.[173]

Similar inconsistencies have been observed in the work of the Judicial Council. Although all complaints concerned judges' failure to act and violations of legally prescribed deadlines, the Judicial Council issued varying decisions. In two cases, it accepted the court president's assessment that the complaint was well-founded; in one case, it did not initiate a verification procedure but only noted that the judge had resigned in the meantime; and in another case, it upheld the court president's view that the complaint was unfounded, reasoning that it clearly did not pertain to any legitimate ground for filing a complaint. [174]

The Prosecutorial Council already includes participation of civil society representatives, whereas such practice has not been established in the Judicial Council.

The Prosecutorial Council demonstrates a higher level of transparency regarding complaints and disciplinary proceedings. Meeting minutes regularly include brief descriptions of the complaints under review, as well as decisions on their validity. In addition, anonymised decisions of the Disciplinary Commission are also available on the official website of the Prosecutorial Council.[175]

On the other hand, the Judicial Council does not apply such a practice. Generalized data on complaints and disciplinary proceedings are available exclusively in the 2024 annual work report. Additional concern arises from the fact that the Judicial Council recently rejected a freedom of information request seeking decisions of the Disciplinary Board, which is a setback in transparency of its work.[176]

118. The Judicial and Prosecutorial Councils should standardize their approach to failures to comply with asset disclosure requirements.

The positions of the Judicial and Prosecutorial Councils regarding violations of the obligation to declare assets and income by judges and prosecutors have been aligned - judges and prosecutors should not be sanctioned for these omissions unless it is determined that both judges and lawyers did not declare property with the highest level of culpability. No judge or prosecutor has faced disciplinary sanctions for breaching this obligation. Moreover, even if establishing responsibility had previously been very difficult because of the interpretation of the law, the recent legal changes involving judges made it practically impossible.

172 The Supreme Court rejected Judge Suzana Mugoša's appeal on May 30, 2025.; https://sudovi.me/vrhs/sadrzaj/jrWk

173 Analysis of the procedures for the selection, promotion, and accountability of state prosecutors in Montenegro in 2023 and 2024, HRA, December 2024, pages 64–82.; https://www.hraction.org/wp-content/uploads/2025/02/Analiza-postupaka-izbora-tuzilaca-u-CG-2023-24_FINAL.pdf

174 Analysis of the procedures for the selection, promotion, and accountability of judges in Montenegro in 2023 and 2024, HRA, December 2024, pages 77–80., https://www.hraction.org/wp-content/uploads/2025/02/Analiza-postupaka-izbora-sudija-u-CG-2023-24-3.pdf

175 Amendments to the Rules of Procedure of the Prosecutorial Council, adopted on June 13, 2025 (Official Gazette of Montenegro, No. 59/25), introduced the requirement that all decisions of the Prosecutorial Council be published on its website after anonymisation. Previously, decisions concerning disciplinary responsibility were not made public.

176 Judicial Council Decision no. 17-2-3473/25-2 dated June 13, 2025. HRA protested this issue in a letter to the President of the Judicial Council on June 17, 2025.

Given that the Special Rapporteur has expressed concern over the low number of disciplinary proceedings initiated by both councils related to failures in asset declaration[177], we conclude that the relevant law, together with its interpretation — does not align with her recommendations.

Both Councils have rejected all proposals to date to initiate disciplinary proceeding for alleged failure to declare assets.

In 2024, the Judicial Council rejected one request to initiate disciplinary proceedings as unfounded. It explained that this disciplinary offense "implies continuous violation of the prescribed obligation, meaning that a judge fails to submit annual and other reports in accordance with the Law on Prevention of Corruption, rather than a single act consisting of failing to submit one report, or if the submitted report does not contain accurate and complete information."[178]

We considered this interpretation to be unfounded, as the law does not explicitly establish a requirement of repeated or continuous failure to submit information over time as a condition for determining responsibility. Unlike other disciplinary offenses—for example, those requiring a threshold such as "at least five cases"—this provision contains no such temporal or quantitative criteria.[179]

When it comes to state prosecutors, the Prosecutorial Council rejected a proposal to establish disciplinary responsibility because the prosecutor did not act *with intent* ("s namjerom") to conceal accurate information about income[180], although the law does not require intent.[181] Such interpretation points to a tendency to avoid sanctioning the prosecutors.

The Law on Amendments to the Law on the Judicial Council and Judges prescribed a disciplinary offense if a judge *knowingly* fails to report assets and income, with *intent to conceal* them.[182] Both requirements — introduction of awareness and intent — unduly limit the possibility of holding judges accountable for misconduct in declaration of assets, as it makes it impossible to prove such level of guilt.

Such approach undermines the principle of accountability regarding the declaration of assets and income, as they create room for even the most serious breaches—such as failure to declare high-value assets—to go unpunished.

On the other side, the Agency for Prevention of Corruption issued decisions in 2024 and 2025 establishing that 19 judges and prosecutors (7 former and 12 current) violated the Law on Prevention of Corruption by inaccurately or incompletely declaring assets or by failing to submit reports on asset increases. [183] The Agency for the Prevention of Corruption does not have the authority to impose

177 Report of the United Nations Special Rapporteur on the independence of judges and lawyers, *op. cit.*, para. 85.
178 Decision of the Disciplinary Council No. 2/24 dated June 18, 2024.
179 Law on the Judicial Council and Judges, Official Gazette of Montenegro, Nos. 11/2015, 28/2015, 42/2018, Article 108, paragraph 3, item 11: *A serious disciplinary offense by a judge occurs if they…11)accept gifts or fail to submit data on assets and income in accordance with the regulations governing the prevention of conflicts of interest.*
180 Decision of the Disciplinary Council DPDV 16/23 dated March 28, 2024
181 Law on the State Prosecutor's Office, Official Gazette of Montenegro, Nos. 011/15, 042/15, 080/17, 010/18, 076/20, 059/21, Article 108, paragraph 3, item 9: *A serious disciplinary offense of a state prosecutor shall be committed if he or she: (9) accepts gifts or fails to submit data on assets and income in accordance with the regulations governing the prevention of conflicts of interest.* According to general Law on Misdemeanors, *Official Gazette of Montenegro*, Np. 1/2017…51/2017, Art. 16 one requires deliberation (*umišljaj*) or recklessness (*nehat*) for determination of liability, and not intent (namjera), which is considered a higher degree of culpability.
182 Law on the Judicial Council and Judges, *Official Gazette of Montenegro*, Nos. 11/2015, 28/2015, 42/2018 and 60/2024, Art. 108, para. 3, item 12.
183 Decision UPI 02-03-83-22 dated December 11, 2024; Decision UPI-02-03-82-22 dated December 23, 2024; Decision UPI-02-03-36-24 dated January 29, 2025; Decision UPI-02-03-131-6-22 dated March 4, 2025; Decision UPI-02-03-278-10-21 dated March 4, 2025; Decision UPI-02-03-299-9-21 dated March 4, 2025; Decision UPI-02-03-22-24; Decision UPI-02-03-216-21 dated March 31, 2025; Decision UPI-02-03-47-22 dated April 8, 2025; Decision UPI-02-03-26-24 dated April 8, 2025; Decision UPI-02-03-307-21 dated April 8, 2025; Decision UPI 02-03-75-24 dated April

disciplinary measures or sanctions, but instead refers the responsibility to the competent bodies, i.e. to the Judicial Council and Prosecutorial Council.[184]

119. The Prosecutorial Council should be empowered to monitor cases where the statute of limitations is allowed to expire and should report on emerging patterns concerning such expiry.

The Prosecutorial Council, in accordance with the Law on the State Prosecutor's Office, is not authorized to monitor the handling of cases where there is a risk the statute of limitations will come into effect and the case expires. It can only make decisions within disciplinary proceedings if a state prosecutor, without justified reason, fails to act within the legally prescribed deadlines in at least two cases, resulting in the statute of limitations coming into effect. Such conduct constitutes a serious disciplinary offense.[185]

However, heads of state prosecutor's offices have the authority and obligation to supervise the work of state prosecutors and to take measures aimed at ensuring proper and timely conduct in all cases.[186]

During 2024, reports from basic state prosecutor's offices concerning cases against unknown perpetrators were reviewed at sessions of the Prosecutorial Council. The Council's Secretariat, through analysis, established that 2,208 such cases in Montenegrin state prosecutor's offices had become statute-barred, of which 1,958 (about 90%) were in the Basic State Prosecutor's Office in Podgorica.[187] Despite numerous and serious failures, to date no state prosecutor, head of a state prosecutor's office, or acting head has been held accountable, nor is there any known procedure initiated to determine individual responsibility.

On December 19, 2024, the Supreme State Prosecutor issued Guidelines for the future conduct of prosecutor's offices in cases against unknown perpetrators.[188]

It was also observed that the provisions of the Criminal Procedure Code are interpreted inconsistently when closing cases due to the statute of limitations for criminal prosecution. Some prosecutor's offices issued decisions to dismiss the charges, while others opted to draft official notes instead. [189]

At the session held on October 24, 2024[190], the Prosecutorial Council approved the establishment of a Case Management System designed to enhance the organization of work within state prosecutor's offices by electronically recording and monitoring case progress, with particular

8, 2025; Decision UPI-03-01-318-21 dated May 7, 2025; Decision UPI 02-03-280/11-2021 dated May 17, 2024; Decision UPI 02-03-246/16-2021 dated May 17, 2024; Decision UPI 02-03-247/13-2022 dated May 15, 2024; Decision UPI 02-01-347/11-2020 dated May 17, 2024; Decision UPI 02-03-249/19-2021 dated June 24, 2024; Decision UPI 02-03-315/15-21 dated May 17, 2024.

184 Law on the Prevention of Corruption, Official Gazette of Montenegro, Nos. 053/14, 042/17, 073/23, 054/2024, Article 45, para. 1 and 2 (new version), and Article 42 paragraphs 1 and 2 (previous version).

185 Law on the State Prosecutor's Office, *op.cit.* Article 108, para. 3, Item 1.

186 Law on the State Prosecutor's Office, *op.cit.* Article 137, para. 1 and 2.

187 Establishing responsibility for the statute of limitations on over 2,000 "forgotten" criminal offenses in the Prosecutor's Office, HRA, May 31, 2024;https://www.hraction.org/2024/05/31/utvrditi-odgovornost-za-zastarjevanje-preko-2000-zaboravljenih-krivicnih-djela-u-tuzilastvu/

188 *Until the perpetrators of criminal offenses are identified or until the eventual statute of limitations for criminal prosecution occurs, concrete actions should be taken whenever possible, and periodic reminders should be sent to the Police Directorate to undertake measures for identifying the perpetrators of criminal offenses — once every three months — noting in these reminders the deadline for the occurrence of the absolute statute of limitations for criminal prosecution; In the event of the statute of limitations for criminal prosecution, it is necessary to act in accordance with Article 271, paragraph 1 of the Criminal Procedure Code of Montenegro, and issue a decision to dismiss the criminal complaint, and in accordance with paragraph 2 of the same article, notify the complainant/victim and provide them with a copy of the decision, in order to enable the exercise of legal protection, so that through a possible appeal against the issued decision, the correctness of the decision to dismiss the criminal complaint can be reviewed at the second instance, without the right to initiate criminal prosecution.*

189 Minutes from the 5th session of the Prosecutorial Council held on March 14, 2024.

190 Minutes of the 20th Session of the Prosecutorial Council held on October 24, 2024.

emphasis on ensuring compliance with legal and internal deadlines.[191]

However, the full implementation of this system is scheduled to start only in the third quarter of 2026.[192] Once established, it is expected to enable timely identification of cases at risk of becoming time-barred, and to significantly improve the efficiency and accountability of prosecutorial work.

120. The imposition of a vetting procedure should be used only if, after an inclusive public debate, the parliament and the Executive jointly find it to be necessary to combat systemic issues of corruption or human rights violations. If adopted, any vetting procedure must be designed in the light of the small population of Montenegro and its strong family ties. Any vetting process must:

(a) Be set out in law and fully consistent with human rights standards;

(b) Be independent, objective and temporary;

(c) Respect the right to a fair trial of all who are subject to vetting;

(d) Be carried out by vetting bodies that are judicial in nature, and not political, and whose decisions are reviewable by an appeals tribunal.

After Government adoptef the Analysis on the Possibility of Implementing the Vetting Process in the Judiciary with a proposal for a phased vetting model[193] in 2023, prepared by the Ministry of Justice under Minister Marko Kovač, no activities aimed at introducing vetting have been undertaken. Although there were announcements by Minister of Justice Bojan Božović[194] and the President of the Parliament of Montenegro, Andrija Mandić[195], as well as supportive positions expressed by certain holders of judicial offices[196], no concrete steps have been recorded in practice towards the adoption of relevant legislation.

Implementing vetting requires amendments to the Constitution, as it would establish new grounds for the dismissal of judges and state prosecutors, and create special bodies authorized to carry out such procedures[197]. However, to date, no such amendments have been proposed.

A 2024 survey by HRA revealed that vetting is supported by 24.4% of prosecutors, 42.1% of judges, 72.5% of lawyers, and 66.3% of expert witnesses. Furthermore, 78% of prosecutors and 71.6% of judges expressed willingness to undergo the vetting process themselves. Additionally, 33.7% of judges and 31.7% of prosecutors believe that corruption exists within the judiciary, a view shared by 79.9% of lawyers and 63.1% of expert witnesses.[198]

191 Response of the Supreme State Prosecutor, Case No. 253/25, to the inquiry from HRA dated June 5, 2025.
192 Government of Montenegro, Action Plan for Fulfillment of Final Benchmarks in Negotiation Chapter, May 23, 2025.https://www.gov.me/dokumenta/b0cc12c7-0506-4c60-943d-bbcb680f6328
193 Information on the analysis of creating conditions for the introduction of the vetting process in the judiciary, Ministry of Justice of Montenegro, Podgorica, October 2023, pp. 101–106.
194 Božović: Vetting will be introduced during 2025, Gradski portal, October 23, 2024.; https://gradski.me/bozovic-veting-ce-biti-uveden-tokom-2025/
195 Mandić: Vetting in the judiciary should be implemented and completed by the end of the year, Pobjeda, June 9, 2025.https://www.pobjeda.me/clanak/mandic-veting-u-pravosudu-treba-da-bude-sproveden-i-zavrsen-do-kraja-godine
196 Marković: Vetting should be conducted without political influence, RTCG, September 24, 2024.; https://rtcg.me/vijesti/drustvo/603159/markovic-veting-sprovoditi-bez-politickog-uticaja.html; Ćetković: Vetting should be implemented in the judiciary and security sector, so that citizens do not suffer, City Portal, May 6, 2024; https://gradski.me/cetkovic-veting-sprovesti-u-pravosudju-i-bezbjednosnom-sektoru-gradjani-da-ne-trpe/
197 Predrag Mugoša, „Reform of the judiciary to the rule of law: Vetting in the judiciary - what can be done in Montenegro within the framework of the current constitutional norms?“, HRA, September 2024; https://www.hraction.org/wp-content/uploads/2024/10/REFORMOM-PRAVOSUDJA-DO-VLADAVINE-PRAVA-1.pdf
198 Perception of corruption by actors in the judiciary, HRA, September 25, 2024; https://www.hraction.org/2024/09/25/hra-istrazivanje-pokazalo-da-je-vecina-sudija-i-tuzilaca-za-sprovodenje-vetinga-rijetki-bi-podnijeli-ostavke/

An additional argument supporting the need to introduce vetting is the concerning fact that the Supreme Court issued 26 rulings[199] in 2024 and 2025 in which it upheld requests for protection of legality, finding that in all cases the courts violated the law to the benefit of the accused. This represents a worrying increase compared to the previous three years, when only ten such rulings were made. Such outcomes point to serious shortcomings in the work of the courts, resulting from professional incompetence or are a possible indicator of corruption.

Currently, seven criminal proceedings are underway against former and current holders of judicial office[200], underscoring the institutional need for the introduction of vetting. Final convictions have already been handed down against one judge and one state prosecutor.[201]

J. LAWYERS

121. The Government of Montenegro must ensure that lawyers can function without interference and intimidation. Government representatives and elected officialsm should refrain from making statements or otherwise associating lawyers with their clients.

During 2024 and 2025, the practice continued in Montenegro whereby lawyers were subjected not only to verbal attacks and inappropriate public remarks by politicians and government officials, but also to physical assaults.

In may 2024, Attorney Aleksandar Simonović was physically attacked inside the premises of the Basic Court in Berane, following the conclusion of a hearing, by individuals representing the opposing party in the proceedings. As a result, he sustained serious bodily injuries.[202]

Former Minister of Justice, Andrej Milović, publicly targeted several lawyers during a session of the Constitutional Committee of Montenegro in February 2024, referring to them as "mafia lawyers."[203] In November 2024, The Prime Minister of Montenegro, Milojko Spajić, stated that "lawyers are exploiting weaknesses in the system and prolonging proceedings."[204]

The Bar Association of Montenegro was the only institution that responded to these incidents.[205]

199 Kzz. no. 6/23 from April 03, 2024; Kzz. no. 5/23 of March 12, 2024; Kzz.br.7/23 of March 25, 2024; Kzz. no. 4/24 of April 3, 2024; Kzz.br.1/2024 of July 16, 2024; Kzz. no. 6/24 of July 2, 2024; Kzz. no. 12/24 of September 19, 2024; Kzz. no. 16/24 of September 7, 2024; Kzz. no. 13/24 of October 14, 2024; Kzz. no. 15/24 of November 18, 2024; Kzz. no. 20/24 of February 24, 2025; Kzz. no. 4/25 of April 14, 2025; Kzz. no. 2/24 of April 8, 2024; Kzz.br.1/25 from February 3, 2025; Kzz. no. 2/25 of March 24, 2025; Kzz. no. 7/24 of June 27, 2024; Kzz. no. 8/24 of July 2, 2024; Kzz. br.10/2024 of October 7, 2024; Kzz. no. 11/24 of October 7, 2024; Kzz. no. 14/24 of October 7, 2024; Kzz. no. 17/24 of November 18, 2024; Kzz. no. 21/24 of February 3, 2025; https://sudovi.me/vrhs/sadrzaj/pnQG; KZZ No. 6/2025 of May 19, 2025; KZZ no. 8/25 from February 6, 2025; KZZ no. 7/25 from February 6, 2025.

200 Proceedings are currently underway against the former president of the Supreme Court Vesna Medenica, former chief special prosecutor Milivoj Katnić, former president of the Commercial Court Blažo Jovanić, former special prosecutor Saša Čađenović, judge of the Commercial Court Milica Vlahović Milosavljević, former judge of the High Court in Podgorica Dragan Mrdak, and state prosecutor Srđa Jovanović.

201 State Prosecutor Lidija Mitrović was sentenced to seven months in prison for abuse of official position, and Judge Danilo Jegdić was sentenced to house arrest for the criminal offense of falsifying an official document.

202 Bar Association: Attorney Simonović brutally attacked and seriously injured in the Basic Court in Berane, Vijesti, May 13, 2024; https://www.vijesti.me/vijesti/crna-hronika/706868/advokatska-komora-advokat-simonovic-brutalno-napadnut-i-tesko-povrijedjen-u-beranskom-osnovnom-sudu

203 Milović: I disrupted someone's plans regarding Camgoz; Adžić: He is insinuating something that does not exist, Vijesti, February 1, 2024; https://www.vijesti.me/vijesti/politika/692285/milovic-nekom-sam-poremetio-planove-po-pitanju-camgoza-adzic-insinuira-nesto-sto-ne-postoji

204 Spajić: The failure to issue first-instance verdicts is the main problem—lawyers are abusing systemic weaknesses, Vijesti, November 8, 2024; https://www.vijesti.me/vijesti/crna-hronika/731804/spajic-nedonosenje-prvostepenih-presuda-je-najveci-problem-advokati-zloupotrebljavaju-slabost-sistema

205 Responses of the Bar Association of Montenegro dated February 2, 2024, and January 24, 2024; Bar Association of Montenegro strongly condemned the attack on their colleague from Berane, Portal Libertas, May 13, 2024; https://libertaspress.me/single-news/2661

Attorney Petar Martinović's car was set on fire in Cetinje, in May 2025. The Bar Association described this act as a "heinous attack on the legal profession."[206]

Furthermore, the Bar Association emphasized that, in the past 18 months, no concrete measures have been taken to protect lawyers. They pointed out that lawyers continue to be identified with their clients, which contributes to a negative perception of the legal profession as a whole.[207]

Nevertheless, the Bar Association welcomed the Minister of Justice's willingness, following their initiative, for Montenegro to begin the process of signing and ratifying the Council of Europe Convention on the Protection of Lawyers, expressing hope that this will lead to improved protection of the legal profession.[208]

122. The complex needs of survivors of family or intimate partner violence give rise to a need for a greater specialization of lawyers in these sensitive cases. Furthermore, the expertise and dedication of non-governmental organizations working in these sectors should be recognized and funded through the government budget for free legal aid.

In 2023 and 2024, CTJSP organized six training sessions for lawyers, judges and prosecutors 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 compensation and procedural guarantees.[209]

The Bar Association in a joint project with the Council of Europe and the Centre for Training in Judiciary and State Prosecution, set up a working group tasked to create a comprehensive specialization program for lawyers on providing legal assistance to victims of domestic violence and victims of human trafficking.[210] The training sessions are expected to begin in 2026.[211]

The Law on Free Legal Aid still does not recognize non-governmental organizations as entities authorized to provide free legal aid. As a result, they remain ineligible for funding from the state budget, despite their important role in assisting victims.[212] However, the Ministry of Justice announced that the recommendation for non-governmental organizations to be authorized providers of free legal aid under the Law on Free Legal Aid will be considered during the next amendments to this law.[213] For more information on this issue, please see the 2025 report by Human Rights Action on free legal aid.

The currently applicable Code of Professional Ethics for Lawyers was adopted in 1999 and is considered outdated. Although the adoption of a new Code was planned for the end of 2024,[214] this has not yet been realized. According to the Ministry of Justice, a draft Code of Professional Ethics for Lawyers has been prepared in cooperation with the Council of Europe.[215]

206 Bar Association condemned the arson of Martinović's vehicle: Heinous attack on the legal profession, Dan, May 19, 2025; https://www.dan.co.me/vijesti/hronika/advokatska-komora-osudila-paljenje-automobila-martinovica-gnusni-cin-napada-na-advokaturu-5298126
207 Response of the Bar Association dated June 27, 2025 to the inquiry from Human Rights Action dated May 30, 2025.
208 *Ibid.*
209 Information obtained based on the HRA Request for Free Access to Information dated June 10, 2025.
210 *Ibid.*
211 Response from the Centre for Training in Judiciary and State Prosecution dated June 28, 2025, regarding the inquiry by the Human Rights Action.
212 Law on Free Legal Aid, Official Gazette of Montenegro, Nos. 020/11, 020/15, 123/24, Article 30.
213 Response of the Ministry of Justice to the inquiry of Human Rights Action, No. 01-074/25-9337 of September 12, 2025.
214 Ministry of Justice, Justice Reform Strategy 2024–2027, May 27, 2024; https://www.gov.me/dokumenta/812601a9-f377-40eb-9aa1-703da4ff3c75
215 Ministry of Justice, Annual Report on the Implementation of the Action Plan for the Justice Reform Strategy 2024–2027, March 8, 2025; https://www.gov.me/dokumenta/df45c775-8a59-4ba8-b947-a6d28bfb86b3

123. In cooperation with the Bar Association, the Government of Montenegro should ensure that legal aid providers are subject to applicable professional codes of conduct, put in place mechanisms to ensure that all legal aid providers possess adequate education, training, skills and experience that are commensurate with the nature of their work and establish appropriate oversight mechanisms for legal aid providers. The Bar Association should increase opportunities and requirements for training in rights-sensitive lawyering and should adopt provisions to suspend lawyers who have been the subject of substantiated complaints from the Bar Association's free legal aid list.

As to determination of liability of lawyers who breach professional codes of conduct, please see data bellow, under recommendation in paragraph 124.

Following recommendations for additional training, several sessions have been held to strengthen lawyers' capacities in human rights protection. In cooperation with UNHCR, training on asylum and statelessness was organized, ensuring continuous education for working with vulnerable groups. Training on combating human trafficking was also held in cooperation with the Council of Europe's Program Office in Podgorica, with more planned in the future. Additionally, the Bar Association took part in training legal professionals through the HF 7 project and the Council of Europe's HELP Program, including sessions on ethics for judges, prosecutors, and lawyers.[216]

The Law on Free Legal Aid was amended in December 2024 to introduce a requirement for lawyers to undergo specialization for working with vulnerable groups.[217] No such trainings were organized in the first half of 2025 by the Center for Training in Judiciary and State Prosecution,[218] but, as above noted, a particular program in cooperation between the Bar Association, the Council of Europe and the CTJSP should provide for specialized training sessions from 2026[219].

Provisions related to the quality control of free legal aid have not been amended. The authority before which the proceedings are conducted, in which free legal aid has been approved, is obliged to monitor the quality of legal assistance provided. If it determines that the assistance has been rendered in an unsatisfactory manner, the beneficiary has the right to request the replacement of their assigned lawyer. Should the competent authority find grounds for such a replacement, it submits a proposal to the Bar Association to remove that lawyer from the list of those authorized to provide free legal aid.[220] However, in practice, no lawyer has been removed from the list on these grounds,[221] although 9 lawyers were replaced at the request of the beneficiaries.[222]

During 2024 and the first half of 2025, no amendments were made to the provisions governing the oversight of lawyers' work or their professional accountability. The regulatory framework in this area continues to rely on the Law on Advocacy, the Code of Professional Ethics for Lawyers, and the Statute of the Bar Association, none of which have been revised in recent years.

216 Response of the Bar Association dated June 27, 2025 to the inquiry from Human Rights Action dated May 30, 2025.
217 Law on Free Legal Aid, Official Gazette of Montenegro, Nos. 020/11 of April 15, 2011; 020/15 of April 24, 2015; 123/24 of December 23, 2024, Article 30, paragraph 2.
218 Information obtained from the Center for Training in Judiciary and State Prosecution (CTJSP) in response to a Freedom of Information Request submitted by HRA on June 10, 2025.
219 Response of the Bar Association dated June 27, 2025 to the inquiry from Human Rights Action dated May 30, 2025.
220 Law on Free Legal Aid, Official Gazette of Montenegro, Nos. 020/11 of April 15, 2011, 020/15 of April 24, 2015, 123/24 of December 23, 2024, Arts. 63 and 64.
221 See Human Rights Action's report on the free legal aid system in Montenegro.
222 *Ibid.*

124. The Bar Association of Montenegro must actively monitor compliance with the Attorneys' Code of Ethics and take steps to ensure that its members treat all people with equality and dignity.

The official website of the Bar Association of Montenegro does not contains any information about disciplinary proceedings, violations of the Code of Ethics, nor any reports on the Association's activities that would enable an analysis of its performance in this area.

Upon request, the Bar Association provided the following information: Between January 2024 and May 2025, a total of 67 complaints were filed against lawyers[223]. Two were dismissed due to the statute of limitations, 24 were found to be unfounded, and one was rejected Disciplinary proceedings were initiated against five lawyers[224]. In four cases, disciplinary responsibility was established and monetary fines were imposed. Three disciplinary proceedings are currently ongoing[225].

However, the Bar Association declined to provide the decisions of the disciplinary prosecutor and disciplinary courts, even in anonymized form, stating that disciplinary proceedings are not public unless so requested by the lawyer concerned. As a result, it was impossible to conduct a more detailed analysis of lawyers' compliance with professional codes of conduct.

The Protector of Human Rights and Freedoms received three complaints concerning the work of the Bar Association and individual lawyers [226], and in one case, established a violation of rights.[227] In that specific case, disciplinary complaints had been filed on April 18 and May 10, 2021. The Bar Association responded to the Protector, stating that the complaints were unfounded, but failed to inform the complainants about the outcome or its decision.

A study *"Perception of Corruption among Justice Sector Actors"* has shown that 5% of state prosecutors, 9.5% of judges, 15.2% of court experts, and as many as 36% of lawyers believe that lawyers offer bribes to judges and prosecutors[228]. Although these are perceptions rather than proven instances, it is telling that a significant percentage of lawyers believe their colleagues engage in corrupt practices.

125. Given the apparently very small number of lawyers coming from vulnerable and marginalized communities in Montenegro, the Bar Association should take positive steps to enable young people from such communities to train as lawyers and dismantle any obstacles that may make integration into the profession difficult for them.

There is no available evidence indicating that the Bar Association has undertaken any measures to facilitate access to the legal profession for young people from vulnerable and marginalized communities. However, the Bar Association considers that there are no obstacles to the integration of these groups into the legal profession.[229]

223 Response of the Bar Association dated June 27, 2025 to the inquiry from Human Rights Action dated May 30, 2025
224 *Ibid.*
225 *Ibid.*
226 Protector of Human Rights and Freedoms, Annual Report for 2024, Podgorica, March 2025, p. 131; https://www.ombudsman.co.me/docs/1744199272_izvjestaj%2031-03-2025.pdf
227 Opinion of the Protector of Human Rights and Freedoms, No. 01-05 24; https://www.ombudsman.co.me/docs/1732795765_071124_preporuka_ak.pdf
228 Perception of Corruption among Justice Sector Actors, HRA, September 25, 2024: https://www.hraction.org/2024/09/25/hra-istrazivanje-pokazalo-da-je-vecina-sudija-i-tuzilaca-za-sprovodenje-vetinga-rijetki-bi-podnijeli-ostavke/
229 Response of the Bar Association dated June 27, 2025 to the inquiry from Human Rights Action dated May 30, 2025.

K. ACCESS TO JUSTICE

126. The Government of Montenegro should take concrete steps to ensure equal access to justice for members of the community who are vulnerable to discrimination or abuse, especially survivors of family or intimate partner violence, individuals who are Romani or Egyptian, persons with disabilities, members of ethnic or religious minority groups; LGBTQI persons and women. The Government should consider the following specific measures:

(a) Judges and prosecutors should continue receiving training on reducing discrimination and protecting the rights of such individuals, with the training designed in collaboration with members of such communities;

(b) Additional services to support vulnerable court users should be put in place, such as increased availability of interpreters and translators and accompaniment by trained community justice workers from the communities in question;

(c) Courthouses, prosecutors' offices and other justice premises should be made physically accessible through the provision of ramps, elevators, adapted sanitary facilities and other adaptations recommended by organizations advancing the rights of persons with disabilities.

a) During 2024 and the first half of 2025, training sessions for judges and prosecutors continued to be organized on topics related to reducing discrimination and protecting the rights of vulnerable groups. In the first half of 2025, the Centre for Training in Judiciary and State Prosecution conducted a total of 7 trainings focused on reducing discrimination and protecting the rights of vulnerable groups, including victims of domestic and intimate partner violence, Roma and Egyptians, persons with disabilities, ethnic and religious minorities, LGBTIQ individuals, and women. These trainings were attended by 73 judges and 50 prosecutors.[230]

In 2024, three trainings were held aimed at reducing discrimination related to sexual orientation and/or gender identity, as well as handling cases motivated by hatred towards LGBTIQ persons, attended by 27 judges and 4 prosecutors. Additionally, three trainings on human trafficking took place, with participation from 6 judges and 6 prosecutors. Ten trainings dedicated to gender-based violence and domestic violence were also conducted, attended by 122 judges and 21 prosecutors. Regarding children's rights and the application of the Law on Juvenile Criminal Procedure, three trainings were held with 42 judges and 12 prosecutors participating.[231]

The Center for Training in Judiciary and State Prosecution informed us in June 2025 that the trainings have been developed in cooperation with organizations that focus on protecting the rights of vulnerable groups, such as those working on protection from domestic violence, the LGBTQ community, and others.

b) During 2024 and 2025, regarding the availability of interpreters, the recommendation was fulfilled, as a total of 41 interpreters were appointed[232], including the first interpreter for the Romani language in Montenegro.[233] However, there is no available information about the implementation of the recommendation concerning the selection or engagement of judicial assistants from vulnerable communities.

230 Information obtained from the Centre for Training in Judiciary and State Prosecution based on the request for access to information submitted by HRA, June 9, 2025.
231 Ibid.
232 Response of the Ministry of Justice to the inquiry of Human Rights Action, No. 01-074/25-9337 of September 12, 2025.
233 The first Romani language interpreter gave an official statement in the Ministry of Justice, November 5, 2024; https://www.gov.me/clanak/u-kabinetu-ministra-pravde-prvi-tumac-za-romski-jezik-u-crnoj-gori-dao-svecanu-izjavu

c) According to the annual report on the implementation of the Judiciary Reform Strategy, work was carried out in four court buildings that included the installation of elevators – at the Higher and Basic Court in Bijelo Polje, and at the Basic Courts in Nikšić, Berane, and Kotor. Access ramps were also installed at the Higher/Basic Court in Bijelo Polje, the Basic Court in Nikšić, and the Basic Court in Kotor.[234]

However, according to information from the Youth Association of Persons with Disabilities of Montenegro (UMHCG)[235], no court or state prosecutor's office in Montenegro is fully accessible according to current accessibility standards.

The Higher Court in Podgorica, as well as the Appellate and Constitutional Courts, do not have a ramp at the main entrance, while the Special State Prosecutor's Office (SDT) is completely inaccessible for persons with disabilities. Although an elevator is installed in the court building in Bijelo Polje, according to available information, it is currently not functioning.

K.1. DIGITALIZATION

127. A robust system of digitalization should be put in place to allow court users and lawyers to easily access case materials. Unless protected by judicial order, such information should be made available to the public and especially to journalists.

An effective digital system that would allow participants in court proceedings and lawyers to easily access case documents has not been established. Most documentation still exists only in printed form, is available exclusively at courts and state prosecutors' offices, and is delivered to parties in that format.

As for publicly available information, on the portal "sudovi.me", from January 1 to December 31, 2024, out of a total of 41,490 legally resolved cases, 27,866 decisions were published on the portal, which represents approximately 67% of the total number. Additionally, summaries of decisions or case proceedings are published on the websites of courts and prosecutors' offices.

The Justice System Digitalisation Strategy 2025–2028 was adopted in June 2025[236] with the ultimate goal of ensuring full alignment between the digital information system and the physical case registries and files. Only when this is achieved, one could expect easier access to documentation and increased transparency of the judiciary system.

234 Ministry of Justice, Annual Report on the Implementation of the Action Plan for the Judiciary Reform Strategy 2024–2027, March 8, 2025.
235 Response from UMHCG to HRA inquiry, June 17, 2025
236 Justice System Digitalisation Strategy 2025–2028, Ministry of Justice, June 13, 2025: https://www.gov.me/dokumenta/69568706-60d1-44bc-ba0b-99008c0b0cbe

K.2. INFORMATION ON DISCRIMINATION

Data disaggregated on the bases of axes of discrimination and vulnerability must be collected to inform activities aimed at improving access to justice, reducing discrimination and tracking improvements over time.

Some steps have been taken that will allow for better disaggregation of information in regard to cases that are handled by the justice system, but more efforts are required.

During 2024 and 2025, the Supreme State Prosecutor issued four binding instructions related to:

- threats and violence against journalists, killings of journalists, and attacks on media property[237];
- cases involving violations of Article 3 of the European Convention on Human Rights (prohibition of torture);[238]
- domestic and family violence;[239]
- hate crimes and hate speech.[240]

1. *Cases of Attacks on Journalists and Media Property*

The prescribed template for these cases includes: 1) case reference number; 2) data on the injured person and the media outlet they are affiliated with; 3) the criminal offense charged; 4) the time and place of the offense; and 5) all undertaken actions and decisions by prosecutors and courts, including rulings by misdemeanor courts.[241]

2. *Cases of Police Torture*

The tabular overview must contain: 1) case reference number; 2) date of the criminal offense; 3) initials of victims and suspects; 4) description of the event; 5) procedural steps taken and the current phase of proceedings; 6) imposed sanctions, filed appeals, and rulings of higher-instance courts; and 7) information on submitted complaints, decisions of higher prosecution offices on those complaints, and further proceedings.[242]

237 Binding instruction of the Supreme State Prosecutor for the handling of cases involving violence against journalists, killings of journalists, and attacks on media property, March 22, 2024, https://sudovi.me/static//vrdt/doc/Uputstvo_za_postupanje_u_slucajevima_napada_i_nasilja_nad_novinarima.pdf
238 Binding instruction of the Supreme State Prosecutor for handling cases where there is reasonable suspicion of a violation of Article 3 of the European Convention on Human Rights, May 23, 2024, https://sudovi.me/static//vrdt/doc/TU_254-24_uputstvo_-_cl.3_Evropske_konvencije.pdf
239 Binding instruction of the Supreme State Prosecutor for handling cases of domestic and family violence, October 11, 2024,https://sudovi.me/static//vrdt/doc/UPUTSTVO_za_postupanje_drzavnih_tuzilastava_u_slucajevima_nasilja_u_porodici_ili_porodicnoj_zajednici.pdf
240 Binding instruction of the Supreme State Prosecutor for handling hate crimes and hate speech cases, May 9, 2025, https://sudovi.me/static//vrdt/doc/Uputstvo_Tu_br_214-25.pdf
241 Binding Instruction of the Supreme State Prosecutor for the handling of cases involving violence against journalists, killings of journalists, and attacks on media property, March 22, 2024.
242 Binding Instruction of the Supreme State Prosecutor for the handling of cases with reasonable suspicion of violations of Article 3 of the European Convention on Human Rights, May 23, 2024.

3. Domestic and Family Violence

Data on these cases is collected through a special form containing: 1) case reference number; 2) data on the victim; 3) legal qualification of the offense; 4) time and place of the offense; 5) measures taken (e.g., supervision, detention, protective measures); and 6) prosecutorial and judicial decisions, including rulings by misdemeanor courts.[243]

4. Hate Crimes and Hate Speech

The mandatory form includes: 1) case reference number; 2) data on the victim; 3) the criminal offense and motive according to Article 42a of the Criminal Code (e.g., ethnicity, religion, race, sex, sexual orientation, disability, gender identity); 4) information on whether the victim belongs to a particularly vulnerable category (e.g., child, pregnant woman, person with disability, elderly person, refugee); 5) the time and place of the offense; and 6) prosecutorial actions and decisions, including those of misdemeanor courts.[244]

Instructions from the Supreme State Prosecutor have contributed to standardizing data collection in these sensitive types of cases, representing a significant step toward greater transparency and accountability of the prosecution offices. However, to ensure that this data genuinely supports improving access to justice and combating discrimination, further enhancements are necessary. Primarily, data should be systematically classified according to grounds of discrimination and vulnerability — including sex, age, disability, ethnicity, sexual orientation, and other relevant factors. This disaggregation would allow more precise analysis of institutional conduct toward particularly vulnerable groups and identify patterns of unequal treatment. Furthermore, this data should be regularly analyzed and used as the foundation for planning measures aimed at reducing discrimination, improving prosecutorial practices, and monitoring progress in upholding the rights of all citizens without exception.

243 Binding Instruction of the Supreme State Prosecutor for the handling of cases involving domestic and family violence, October 11, 2024.
244 Binding Instruction of the Supreme State Prosecutor for the handling of cases related to hate crimes and hate speech, May 9, 2025.

CONCLUSION

The UN Special Rapporteur on the independence of judges and lawyers, Ms. Margaret Satterthwaite, made an official visit to Montenegro in September 2023. After the visit, she gave 36 recommendations to the Government, which she presented in her report to the UN Human Rights Council in June 2024.

According to Human Rights Action's research, by the end of 2024 and during the first half of 2025, two of the 36 recommendations have been fully implemented. Some progress has been made on 23 recommendations, while 11 have not been implemented.

The two recommendations that have been implemented relate to stronger safeguards against conflicts of interest and political influence on members of the Judicial Council and the Prosecutorial Council. These safeguards have been included in the law. In addition, training for judges and prosecutors on preventing discrimination and protecting the rights of vulnerable groups has continued.

Progress has been made in other areas but more efforts are needed. Government adopted a proposal to amend the Constitution and to change the composition of the Judicial Council. Amendments to laws that foresee salary increases for judges and prosecutors were adopted by Parliament of Montenegro. Work is underway on a law regulating the salaries and other rights of holders of judicial and constitutional court positions.

Regarding judicial tenure, new legal rules on retirement have been applied to judges who were in office after these laws were adopted, with no exceptions for them, prosecutors, or Constitutional Court judges.

Although work on amendments to the Law on the Constitutional Court concerning the mandate of its judges has been announced, no concrete results have been achieved so far.

The criteria and procedures for selecting the Supreme State Prosecutor remain unchanged. Members of the Prosecutorial Council from among respected lawyers continue to be chosen by a simple majority. There have been no proposals to delegate this selection process to an independent body, nor to initiate mechanisms that would prevent blockages during the selection processes.

Although some investments and improvements have been made in certain judicial institutions, working conditions remain unsatisfactory, and most buildings remain inaccessible to persons with disabilities and inadequate in size. The Special State Prosecutor's Office has not yet been relocated to the former Government building. In addition, no concrete steps have yet been taken toward the construction of the previously announced complex of buildings to house judicial institutions in Podgorica.

The information system in the judiciary and public administration requires significant improvement to increase efficiency and facilitate access to data.

Efforts are made to enhance professional standards through the revision of ethical codes for judges, prosecutors, and lawyers. Disciplinary and ethical accountability of judges, prosecutors, and lawyers however, remains inadequate. The practices of the Judicial and Prosecutorial Councils

regarding the failure to report assets and income are formally aligned, but there is total lack of accountability for such omissions. The work of the Bar Association remains non-transparent, as it does not publish information about its activities.

A clear distinction between disciplinary offenses and violations of the Ethical Code for judges and prosecutors is yet to be established. Human Rights Action (HRA) has recommended the immediate initiation of amendments to the Law on the Judicial Council and Judges and the Law on the State Prosecutor's Office. However, despite announcements from the Ministry of Justice, working groups for these amendments have not yet been formed.

Despite the Special Rapporteur's appeals to officials to refrain from making statements that undermine judicial independence and lawyers' freedom, political and other pressure on judges, prosecutors, and lawyers continues unabated.

Delays and political bargaining in the appointment of Constitutional Court judges and members of judicial councils continue and directly undermine the rule of law. This demonstrates that Montenegro struggles to ensure the stability of its judicial institutions and the Constitutional Court, although this stability is critical for meeting the conditions for EU accession.

Last, but not least, non-governmental organizations are still not recognized as authorized providers of free legal aid. Although the Law on Free Legal Aid now mandates training for lawyers working with vulnerable groups, such training has yet to be organized. No measures have been introduced to encourage young individuals from these groups to pursue careers in the legal profession (further details can be found in the report on free legal aid in Montenegro).

In light of these challenges, it is evident that despite some progress, Montenegro continues to face significant obstacles in achieving judicial independence and integrity. To realize meaningful reform to abide by Montenegro's international and national human rights obligations, and to close negotiation chapters with the EU, strong political will is required in addition to coordinated, effective efforts from all State Bodiesand the Bar Association to implement all recommended changes.