

Montenegro Draft Questionnaire Input for the 2024 JLS SC and Rule of Law Report
General reference period for the reply to the written questions: July 2023 – March 2024

JUSTICE SYSTEM REFORM

Introduction: Can you provide general information about the judicial system of Montenegro? How many courts and prosecution offices are there, and can you describe their jurisdictions? What is the composition and competencies of the Constitutional Court of Montenegro? Please describe organisation and competencies of the BAR Association of Montenegro.

Independence

1. Can you please provide detailed information about key management bodies in the judicial system of Montenegro – the Judicial Council and the Prosecutorial Council, including working bodies (commissions, committees, etc.) operating under their jurisdiction? Please provide an update on the work of the Judicial and Prosecutorial Councils in 2023.

Judicial Council:

Judicial Council of Montenegro was established in the Constitution of Montenegro, amendments to the Constitution from 2013 and Law on Judicial Council and Judges (Official Gazette of Montenegro 11/2015, 28/2015 and 42/2018) as an independent and autonomous authority that secures and guarantees independence, autonomy, responsibility and professionalism of courts and judges.

Judicial Council composes an annual report on work that contains data about the work of the Judicial Council, description and analysis of situation in the judiciary, detailed data for every court: number of received and solved cases within the year that the report is composed for, problems and deficiencies in their work, as well as measures that should be undertaken to remedy the identified deficiencies. Judicial Council sends the draft annual report on work to all courts so that they can give their opinion thereon.

The annual report on work is submitted to the Parliament, not later than on 31 March of the current year for the previous year. After it is adopted in the Parliament's session, it is published on the website of the Judicial Council.

To ensure efficient work on the tasks within its competences, Judicial Council establishes commissions. President of the Judicial Council can be neither a president nor a member of such commissions. The Law establishes the following commissions: Commission for testing, Commission for promotion, Commission for appraisal, Commission for voluntary permanent assignment of judges. The members of these commissions are members of the Judicial Council. The Law also stipulates a disciplinary panel that is also composed of members of the Judicial Council.

Rules of Procedure of the Judicial Council stipulate formation of the Panel for appraisal, Commission for legislative activity and Commission for acting upon complaints against the work of judges.

Commission for testing is elected for the period of 2 years.

Members of the Commission for testing are elected in a secret ballot where all members of the Judicial Council can vote for two members of the Council elected from among judges and one member elected from among reputable lawyers.

The scope of competences of the Commission for testing includes reviewing applications, composing a written test for the area that the election is organized for, conducting the test for the candidates, assessing the tests and establishing proposal of grades in line with the scores. Such proposal of grades is then submitted to the Judicial Council to continue the procedure of election of judges that are elected for the first time.

Commission for permanent voluntary assignment of judges is elected for the period of 2 years. The Commission is composed of three members of the Judicial Council, two from among judges and one from among reputable lawyers.

The scope of competences of the Commission for permanent voluntary assignment of judges includes checking whether the applications were submitted timely and whether the requirements are met, composing a list of candidates and analysing the needs of the court where the judge holds an office as well as the court to which he/she is to be assigned.

Commission for promotion is elected for the period of 2 years. The Commission is composed of three members of the Judicial Council, two from among judges and one from among reputable lawyers

Competences of the Commission for promotion:

- it checks whether the applications to advertisements for promotion, for election of court presidents and for election of judges of the Supreme Court referred to in Article 38 paragraph 9 of the Law on Judicial Council and Judges were submitted timely and whether they are complete
- it composes a proposal of a ranking list in these procedures,
- it develops a draft of the decision on promotion, i.e. election of judges and court presidents.

Commission for appraisal is formed to appraise work of judges. The Commission for appraisal is composed of the President of the Supreme Court and four members of the Judicial Council, three of them from among judges and one of them from among reputable lawyers.

Decision on appraisal of the work of a judge is rendered by the Commission, upon proposal of the panel of judges for appraisal of work of a judge composed by the president of the court where the judge who is appraised works and four judges from higher instance courts.

Panel of judges for appraisal of judges is established by the Judicial Council.

Bodies in charge of establishing disciplinary liability

Disciplinary prosecutor and his deputy are elected by the Judicial Council from among judges with at least 15 years of experience in the position of a judge, upon proposal of the General Session (all judges) of the Supreme Court.

Disciplinary panel – Disciplinary panel is composed of three members of the Judicial Council, two from among judges and one from among reputable lawyers who is the president of the disciplinary panel. Members of disciplinary panel and their deputies are appointed by the Judicial Council, upon proposal of the President of the Judicial Council.

Scope of competences:

Procedures for establishing disciplinary liability for minor and severe disciplinary offences are conducted by the Disciplinary panel upon a bill of indictment of the disciplinary prosecutor.

Procedures for establishing disciplinary liability for the most severe disciplinary offences are conducted by the Judicial Council upon a bill of indictment of the disciplinary prosecutor.

Commission for legislative activities is elected by the Judicial Council upon proposal of the President of the Judicial Council. The Commission has a president and two members.

The Commission for legislative activities develops drafts of legal documents upon order of the Judicial Council.

President and members of the Commission for legislative activity do not have to be members of the Judicial Council.

Secretariat of the Judicial Council: Secretariat of the Judicial Council is established with a view to ensuring performance of expert, financial, administrative, IT, analytical and other tasks of the Judicial Council and tasks of common interest for the courts.

On 31 December 2023 there were 43 officers employed in the Secretariat of the Judicial Council. They are assigned to the following organizational units: Secretary of the Secretariat of the Judicial Council (1), Department for expert support to the work of the Judicial Council (4), Department for Information and communication technologies and multi-media (20), Department for internal audit (3), Service for general affairs and human resources (9), Service for finances and accountancy (6).

From 1 January 2023 to 22 December 2023 the Judicial Council held 27 sessions, seven of which electronically (former composition of the Council).

New composition of the Council held the 2nd Constitutive session and the First session on 29 December 2023.

According to the Plan of Sessions, the sessions of the Council take place two times a month (every other Friday), and more frequently if needed. Minutes are composed after each session, as well as transcripts of audio recordings of the sessions where interviews are conducted with the candidates for judges, candidates for presidents of courts and candidates for candidates for judges. Agendas, minutes and decisions, as well as statements given after the sessions are published on the website of the Judicial Council after the sessions, i.e. after the minutes and decisions were adopted.

Prosecutorial Council:

Under the Constitution of Montenegro, the Prosecutorial Council secures the independence of the State Prosecutor's Office. The Prosecutorial Council has formed a Commission for considering complaints of heads of state prosecutor's offices and state prosecutors in relation to threats to their independence.

Also, the Law on the State Prosecutor's Office has established internal mechanisms to safeguard the autonomy and independence of state prosecutors. These provisions regulate the procedures for giving instructions for work and withdrawing cases from the state prosecutor.

The Statute of the Association of State Prosecutors outlines the goals of the Association, which include advocating for the independence and autonomy of state prosecutors, improving professional ethics, and promoting human rights in line with the Constitution and international standards.

2. Please provide updates on:

- a. the state of play of the 2024-2027 Justice Reform Strategy;

Ministry of Justice:

In June 2023, the Ministry of Justice formed an interdepartmental Working Team which, with the expert support of the EUROL3 project, prepared the Draft of Strategy for Judicial Reform 2024-2027, with the accompanying action plan for the period 2024-2025. The Draft of the Strategy and Action Plan, during January they were given to a public hearing that lasted 20 days. As part of the public hearing procedure on January 24, 2024, the Ministry of Justice organized a Round Table, where the Draft Strategy and Action Plan were presented and opinions, proposals and suggestions for the improvement of the aforementioned strategic document were exchanged with the interested public. The budgeted version of the Draft Strategy and Action Plan was sent to the European Commission on February 26, 2024. The adoption of the Strategy for Judicial Reform 2024-2027, with the accompanying Action Plan for the period 2024-2025 by the Government is expected after obtaining the opinion of the European Commission.

- b. tangible results of the implementation of the 2019-2022 Strategy for the Reform of the Judiciary;

Ministry of Justice:

On June 12, 2023, the Government adopted the Final Report on the Implementation of the Judicial Reform Strategy 2019-2022. The final report contains information on the results of activities from 2022, but it specifically deals with the level of fulfilment of operational and strategic goals for the entire period of the strategic document, i.e. for the period from 2019 to 2022. In addition, the Final Report contains the findings of the independent external evaluation of this Strategy, an overview of planned and spent financial resources, as well as recommendations for the next policy planning cycle in the area of justice.

- c. the state of play on the Law on Judicial Council and Judges and the Law on the State Prosecution Service;

Ministry of Justice:

Law on Judicial Council and Judges

The Government of Montenegro at the session held on June 1, 2023 adopted the Proposal for the Law on Amendments to the Law on the Judicial Council and Judges, on which text the Venice Commission previously gave an opinion twice. On June 15, 2023, the draft law was submitted to the Parliament of Montenegro for further procedure. After the election of the new, 44th Government of Montenegro, the new Government withdrew the proposal of this law from the parliamentary procedure. In order to harmonize the proposed law with the recommendations of the Venice Commission, work on amendments to the law continued. In order to be inclusive, the working group includes representatives of courts of different levels, as well as a representative of the Association of Judges.

The working group has finalized the work on the draft law. The draft law was sent for an opinion to the Secretariat for Legislation, with which body we have intensive cooperation in order to obtain an opinion. After obtaining the opinion of the Secretariat for Legislation, we plan to send the consolidated version of the Draft law with explanations of the articles in English to the European Commission and the Venice Commission for their opinion by the end of March.

Law on State Prosecution Service

The working group for amendments to the Law on State Prosecution Service worked intensively these days (meetings of the working group were held on March 19 and 20). It is expected that the work of the working group will be completed within the next week, after which the Draft law will be send to the Secretariat for Legislation for an opinion. After we receive the opinion of the Secretariat for Legislation, we will send the consolidated version of the law with the explanation for translation. We plan to send the consolidated version of the Draft law with explanations of the articles in English to the European Commission and the Venice Commission for their opinion by April 12 at the latest. Also, we emphasize that before the adoption of the draft law by the Government, it is necessary to have a public discussion (which according to the law should last at least 20 days), as well as to obtain opinions of the Ministry of Finance and the Ministry of European Affairs on the draft law.

- d. the state of play of any other relevant legislative drafts currently discussed in Parliament (e.g., amendments to the Criminal Procedure Code) or further plans or initiatives envisaged by the Government.

Ministry of Justice:

The Strategy for Judicial Reform 2024-2027, with the accompanying action plan for the period 2024-2025, planned the activity to draft the law that will regulate the salaries and other remuneration of judges and state prosecutors and other rights based their function (in accordance with the recommendations of the Venice Commission).

3. Can you provide updates on the procedures for the appointment and selection of judges, prosecutors, and court presidents, including any mechanisms for judicial review to ensure fairness and transparency in the process? Please provide an update on the appointment by the Judicial Council of a new Supreme Court President.

Judicial Council:

Plan of vacant positions of judges on the level of Montenegro for the two-year period 2022/2023. In 2023, the Judicial Council published 13 internal advertisements for voluntary transfer to courts of the same or lower level. The published internal advertisements referred to the procedure of voluntary assignment for several judicial places in basic courts and in high courts in Podgorica and Bijelo Polje. Out of 13 internal advertisements, the Council completed election in four procedures by voluntary transfer of two judges from the High Court in Bijelo Polje to the High Court in Podgorica and two judges from the Basic Court in Nikšić to the Basic Court in Podgorica. The procedures within the remaining internal advertisements were not fully conducted, because no candidates applied.

In 2023. the Judicial Council published 23 open (public) advertisements. These were the advertisements for election of court presidents, judges of the Supreme Court, Court of Appeals, and high courts, as well as for election of the candidates for judges of basic courts, misdemeanour courts, Administrative and Commercial court of Montenegro.

In 2023 the total of 50 judicial positions were filled in:

- Five (5) court presidents were elected – of the Commercial Court of Montenegro and basic courts in Bijelo Polje, Ulcinj, Kotor and Herceg Novi;
- Four (4) judges were assigned on the basis of permanent voluntary assignment;
- 32 candidates for judges were elected and assigned to the judicial offices: four (4) as judges of the Administrative Court of Montenegro; 21 as judges of basic courts; and seven (7) as judges of misdemeanour courts (first elections);
- In the reporting period, in the procedure of promotion, the Council rendered decisions on election of three (3) judges of the Court of Appeals of Montenegro, and three (3) judges of the High Court in Podgorica.
- Three (3) judges of the Misdemeanour Court of Montenegro were elected.

Under the seventh public call for election of the President of the Supreme Court, in its 6th session held on 9 and 10 February 2024, the Judicial Council composed the List of Candidates for the Election of the President of the Supreme Court of Montenegro which it submitted to the General Session (all judges) of the Supreme Court of Montenegro to conduct interviews with the candidates.

The General Session of all judges of the Supreme Court of Montenegro will take place on March 15, 2024, after all requirements provided for in the internal procedures are met. After the interviews are conducted, the General session will through a secret vote adopt a proposal of one candidate and send it to the Judicial Council for further procedure.

In the period January - March 2024 five (5) vacant judicial positions were filled in:

- One (1) judge was transferred from the Basic Court in Cetinje to the Basic Court in Podgorica, on the basis of permanent voluntary transfer;
- Three (3) judges of the Supreme Court and two (2) judges of the High Court in Bijelo Polje were elected in the procedure of promotion.
- Two (2) presidents of courts were elected, for the basic courts in Nikšić and Danilovgrad;

Twelve (12) candidates for candidates for judges of basic court were elected and referred to 18-month-long training in the Centre for Training in Judiciary and State Prosecution Service.

In 2023, the Judicial Council noted termination of judicial office for 36 judges:

- 21 upon personal request,
- 14 since they met requirements for old-age retirement, and
- 1 due to death.
- In the period January - March 2024 the Judicial Council noted termination of judicial office for 4 judges:
 - 1 upon personal request,
 - 2 since they met requirements for old-age retirement, and
 - 1 due to a transfer to other public office.

Prosecutorial Council:

On January 25, 2023, the Head of the Basic State Prosecutor's Office in Cetinje was elected, which advertisement was published in 2022. Also, on June 23, 2023, one state prosecutor was elected in the High State Prosecutor's Office in Bijelo Polje according to promotion system. The public advertisement for the election of the Supreme State Prosecutor was published on January 4, 2023, and the decision on the election of the Supreme State Prosecutor was made by the Parliament on January 27, 2024. Furthermore, the Prosecutorial Council conducted an internal advertisement for permanent voluntary transfer between basic state prosecutor's offices and made a decision on June 23, 2023.

- On April 12, 2024, the Prosecutorial Council published a public advertisement for the election of 7 state prosecutors in basic state prosecutor's offices and made a decision on November 24, 2023.
- On July 3, 2023, the Prosecutorial Council made a decision on the election of a special state prosecutor, and on November 17, 2023 a decision on the election of the Head of the Basic State Prosecutor's Office in Ulcinj.
- On November 28, 2023, the Prosecutorial Council published an advertisement for the election of state prosecutors for a permanent function, namely for 3 state prosecutors in the Basic State Prosecutor's Office in Podgorica, 2 state prosecutors in the Basic State Prosecutor's Office in Bar, 2 state prosecutors in the Basic State Prosecutor's Office in Bijelo Polje and one state prosecutor in the Basic State Prosecutor's Office in Nikšić, according to which advertisement a decision on the election was made in February of the current year.

Supreme Court:

At the General Session of the Supreme Court on March 15, 2024, the proposal of a candidate for the election of the President of the Supreme Court was not determined, because none of the registered candidates received the necessary majority.

4. Can you detail the composition, nomination, and dismissal procedures of the Judicial Council? How are its powers defined to ensure the independence of the judiciary? (incl. recent statistics)

Judicial Council:

In line with constitutional powers and powers provided by the law, the Council, inter alia, elects and dismisses President of the Supreme Court; elects and dismisses President of the Judicial Council; submits to the Parliament its annual report on the work of the Judicial Council and general state of affairs in the judiciary; elects and dismisses judges, court presidents and lay judges; considers reports on the work of courts, applications and complaints against the work of courts and takes positions thereon; establishes termination of the judicial office; establishes the number of judges and lay judges; proposes to the Government the amount of funds for the work of courts; decides on disciplinary liability of judges and presidents of courts; secures use, functionality and uniformity of the judicial information system in the part that refers to judges; takes care of training of judges and presidents of courts; keeps records of data about judges and presidents of courts; considers complaints against the work of judges and presidents of courts; considers complaints of judges and takes positions regarding threats to their independence and autonomy; proposes framework criteria for the required number of judges and other civil servants and state employees in courts; gives opinions on incompatibility of certain activities with a judicial function; establishes a Commission for appraisal of judges; elects a disciplinary prosecutor; adopts the Rules of Procedure of the Judicial Council; adopts methodology for developing report on the work of courts and annual schedule of tasks in the court; issues official identification documents for judges and presidents of courts and keeps records of official identification documents; gives opinions on drafts of legislation in the field of judiciary; and performs other tasks defined in the law.

The Council has 10 members. Two of the members, President of the Supreme Court, and Minister in charge of the field of judiciary, are members of the Council ex constitutione. Out of the remaining eight members, four are judges elected by the Conference of Judges and four are reputable lawyers elected by the Parliament of Montenegro.

In June 2022 the Conference of Judges elected four judges to be members of the Council: Predrag Tabaš, judge of the Court of Appeals of Montenegro; Radonja Radonjić, judge of the High Court in Podgorica; Sanja Konatar, judge of the High Court in Bijelo Polje and Rade Četković, judge of the Basic Court in Podgorica. One member from among reputable lawyers, Prof Radoje Korać PhD, was promulgated on 1 October 2022 in the Edict of the President of Montenegro to be a member of the Council from among reputable lawyers. The remaining three members from among reputable lawyers: Fikret Kurgaš, Miodrag Iličković and Dražen Medojević were elected by the 28th convocation of the Parliament of Montenegro in the Fifth meeting of the Second regular session in 2023, on 21 December 2023 and promulgated as members of the Council in the Edict of the President of Montenegro on 27 December 2023.

Members of the Council ex constitutione are Vesna Vučković, PhD, acting President of the Supreme Court of Montenegro and Andrej Milović, Minister of Justice.

Constitutive session of the Judicial Council was held on 29 December 2023. In that session Prof Radoje Korać PhD was elected to the position of the President of the Judicial Council, while Dražen Medojević was elected to the position of his Deputy.

Judicial Council works and renders decisions in its sessions. A session of the Judicial Council may be held if a majority of the total number of the Judicial Council members are present.

President of the Judicial Council convenes and chairs the sessions, and he/she is responsible for efficient and timely work of the Judicial Council.

To ensure efficiency of work, upon proposal of the President of the Judicial Council, the Judicial Council designates a member of the Judicial Council from among reputable lawyers to substitute the President in case that he/she is absent or cannot do the work and other activities defined in the Rules of Procedure of the Judicial Council

Decisions of the Judicial Council are final and no administrative dispute can be conducted against them, unless otherwise stipulated in this Law.

When rendering decisions on the election of judges and court presidents, the Judicial Council is obliged to take into account proportionate representation of the members of minority nations and other minority national communities, as well as gender balance.

5. What measures are in place to ensure the irremovability of judges, including considerations such as transfers as part of judicial map reform, dismissal, and retirement regimes? Additionally, could you elaborate on any judicial review processes involved in these procedures?

Judicial Council:

Law on Judicial Council and Judges (Article 82) stipulates that a judge performs his function in the court that he/she was elected in. The Judicial Council may deploy a judge, with his/her consent, to another court of the same or lower instance for a period of up to one year in the cases stipulated in the Law (e.g. if the judges there cannot adjudicate due to recusal, if there is a large backlog, etc.). In 2023, the Judicial Council deployed 2 judges to the period of up to 1 year from the Basic Court in Nikšić to the Basic Court in Podgorica.

The Council can also deploy a judge, with his/her consent, to another state body, for the period of up to 3 years. In that case, the judicial office of that judge shall stand for the period of deployment. In 2023, no deployment of this type took place.

6. How are judges and prosecutors promoted within the judicial system, and what safeguards exist to ensure fairness in these processes, including mechanisms for judicial review?

Judicial Council:

Every judge has the right to be promoted by being elected into a court of a higher instance, if his/her work is appraised by the grade excellent or good, in line with the criteria stipulated in the law and if he meets the special requirements stipulated for election into that particular court (the required years of experience vary depending on the level of the court). The judge, i.e. the state prosecutor, can be promoted to the Supreme Court if appraised by the grade excellent and if he/she meets the special requirements for election into the Supreme Court (at least 15 years of experience in the position of a judge/prosecutor).

After an advertisement is published for filling in a judicial office in the procedure of promotion, the Judicial Council conducts interviews with the candidates who meet the requirements explained in advance. After assessing the interview, i.e. obtaining the total average grade in the interview, the Commission for promotion develops a Ranking list of candidates using the total score they earned. The election is then done following the order on the list. A judge who is not satisfied with the decision can initiate an administrative procedure before the Administrative Court of Montenegro.

Prosecutorial Council:

The plan for vacant prosecutorial posts, adopted by the Prosecutorial council in accordance with the provisions of the Law on State Prosecutor's Office at the end of the year, prescribes the filling of vacant posts in the Supreme State Prosecutor's Office and High State Prosecutor's Office according to the promotion system for the next two years. The proceedings for publishing the public advertisements, the procedure to be implemented, as well as the election criteria are also prescribed by the Law. The criteria for electing the state prosecutor according to promotion system are the performance evaluation, which is scored by a certain number of points (60 points if his/her grade is good, 80 points if his/her grade is excellent) and the interview evaluation, which is scored up to 20 points. It should be noted that the sessions of the Prosecutorial Council are open to the

public and representatives of the media and NGO sector are present very often during the interviews with candidates. The minutes of the sessions are also published on the website of the Prosecutorial Council after their adoption. Against the decisions of the Prosecutorial Council on the elections of state prosecutors according to the promotion system, an action can be filed with the Administrative Court of Montenegro within 20 days of receiving the decision on election, so judicial protection is secured.

7. How are cases allocated within courts to ensure equitable distribution and efficient management of workload? Are there any recent developments or reforms in this area? Are there courts where this is not done automatically based on objective rules and what is the reason for it?

Judicial Council:

Montenegro is actively working to strengthen the system of random distribution of cases in all courts that have three or more judges, in accordance with the interim benchmark IB8. The current practice of random allocation of cases is efficiently implemented through the Judicial Information System (PRIS), in accordance with the annual work schedule. This process is supported by a mathematical algorithm that is closely related to the Allocation Plan, which serves as a simulation of the annual plan for the distribution of judges by subject matter and the definition of judges responsible for acting in certain registers.

The distribution plan enables the definition of one or more judges for a specific register, with the possibility of defining a load reduction from 1% to 100%, directly affecting the distribution of cases. The workload of judges, recorded in the allocation plan, is crucial for the record of the number of cases assigned to each judge, which together with the allocation plan and the workload of judges introduces a factor of unpredictability in the allocation of cases when there are more judges defined in the plan.

However, there are challenges in courts such as the Basic Court in Žabljak, the Basic Court in Plav and the Basic Court in Rožaje, where in certain registers there is no possibility for the factor of unpredictability of allocation due to the lack of the required number of judges.

In addition, the system of immediate assignment to judges on duty is also applied in practice, which is activated after working hours, in accordance with the defined duty shifts in relation to matters and the judges who act in them.

As part of the upgrade to the version of the Judicial Information System (PRIS v2), a revision of the existing algorithm for the random assignment of cases is planned. Although previous judicial inspections showed that no anomalies were found in the operation of the algorithm, this step aims to further improve the efficiency and transparency of the distribution process. The revision of the algorithm aims to further optimize the system in order to ensure the highest possible fairness and impartiality in the assignment of court cases, which is in line with efforts to make the judicial system of Montenegro even more accessible and efficient. This process will further confirm Montenegro's commitment to continuous improvement of the judicial system, ensuring that PRIS v2 reflects the latest technological standards and best practices in the management of judicial processes.

8. What measures are in place to ensure the accountability of judges and prosecutors, including disciplinary regimes, relevant oversight bodies, ethical rules, and considerations regarding judicial immunity and criminal/civil liability? Are there mechanisms for judicial review in place for these processes? What measures are in place on verification of asset declarations of judges and prosecutors (including recent statistics)?

Judicial Council:

In the reporting period, 3 disciplinary proceedings were conducted, upon proposals for establishing disciplinary liability of judges that were submitted in 2023. In two procedures the proposals for

establishing disciplinary liability were refused as ill-founded, since they were initiated due to the failure to submit full data about property and incomes in line with the legislation regulating prevention of conflict of interests.

One procedure that was initiated near the end of 2023 is in progress.

In 2023, the 3 procedures that were started in 2020 and 2021 were finished. They were terminated because the offices of the judges that these proposals referred to were terminated upon personal request. One procedure initiated in 2021 is still pending because the decision is not final. An appeal was lodged, namely, against the decision of the Disciplinary panel.

In the period January-March 2024, one (1) proposal for disciplinary proceedings was submitted. One case from 2023 was finished, where the judge was convicted of committing a severe disciplinary offence. She was imposed the sentence of 30% reduction of salary in the period of three months and prohibition of promotion in the following two years. If not satisfied with this decision, the sanctioned judge, has the right to appeal to the Supreme Court of Montenegro.

Ethical Responsibility of Judges:

The Commission for ethical responsibility of judges has not worked since 3 July 2022, due to the fact that it was incomplete, since the elections for the President of Association of Judges failed, and the quorum did not exist for the Conference of Judges to take place.

In the meantime, in October 2023, the Association of Judges elected the President of the Association of Judges. The Conference of Judges is scheduled for 23 March 2024 and there they are to elect the president of the Commission for the code of ethics. Judicial council proposed members from among reputable lawyers to be the candidates for the position of the President of the Commission for code of ethics: Miodrag Iličković and Dražen Medojević. After these elections the Commission will be complete.

There are 19 pending initiatives: 7 from 2022 and 9 from 2023.

In the period from January to 15 March 2024 two initiatives were submitted.

Prosecutorial Council:

The Law on State Prosecutor's Office prescribes the method of professional evaluation of state prosecutors. Certain challenges arose in the practical application of this Law. I would like to mention that work is underway on the amendments to the Law on the State Prosecutor's Office. The President of the Association of State Prosecutors is a member of this Workgroup, and the Association contributes to the development of high-quality legal solutions.

State prosecutors need to be aware that with their integrity, conscientious actions, and professional work, they must contribute to raising the reputation of the State Prosecutor's Office and contribute to preserving the dignity of the prosecutor's office.

Moreover, the Prosecutorial Council has adopted a work plan until the end of April 2024, which foresees that the Association of State Prosecutors will organize a Conference on discipline and ethical accountability in April. The Conference will discuss the previous work in this area.

Supreme Court:

The Conference of Judges was held on Saturday, March 23, 2024, and Dražen Medojević, a member of the Judicial Council from the ranks of distinguished legal professionals, was elected as the President of the Commission for the Code of Ethics for Judges.

9. How is the independence and autonomy of the prosecution service safeguarded within the legal framework? Are there any recent developments in this regard?

Ministry of Justice:

The Constitution of Montenegro prescribes that the State Prosecution shall be a unique and independent state authority that performs the affairs of prosecution of the perpetrators of criminal offenses and other punishable acts who are prosecuted ex officio (article 134 of the Constitution). The Prosecution Council shall ensure the autonomy of the state prosecution (article 136). The head of the state prosecution office and the state prosecutor shall enjoy functional immunity and may not be invited to account for an opinion given or a decision made in performing their duties, except in the case of a criminal act (article 137).

Also, the Law on the State Prosecutor's Office, in Article 130, prescribes that the State Prosecutor is responsible for the work in the case assigned to him and is independent in his work and decision-making, except in the cases prescribed in Article 131 of this law (mandatory instructions for work by the Supreme State Prosecutor prosecutor).

The duties of the State Prosecution Service shall not be carried out under any influence and no person shall exert any influence on the State Prosecution Service in carrying out its duties (article 3 of the Law on the State Prosecution Office). Amendments to this law are in progress, which are carried out with the aim of strengthening the independence, accountability and efficiency of the State Prosecution Office and the Prosecutorial Council. Namely, the purpose of the amendments to this regulation is to improve the legal provisions related to the recruitment of state prosecutors and heads of state prosecution offices, their assignment and transfer, their performance evaluation and ethical and disciplinary responsibility, the composition and work of the Prosecutorial Council, as well as the harmonization of this Law with international standards and recommendations of the Venice Commission and European Commission.

10. What measures are in place to uphold the independence of the Bar, including chambers or associations of lawyers, and the autonomy of individual lawyers? How are potential threats to independence addressed within the legal profession? What measures are in place to ensure the accountability of lawyers? Please include statistics on track-record on ethical/disciplinary liability of lawyers.

The BAR Association:

The Montenegrin legal profession is regulated, except by the Law on legal profession, which protects its autonomy and independence, also as a constitutional category by which stipulates that advocacy is an independent and autonomous profession that is provided by lawyers and other services. By that, a valid legislative framework was created which provides a certain degree of autonomy and independence as an individual lawyer, as well as the Bar Association, the umbrella institution for registration and regulation relations of lawyers in the territory of Montenegro.

Specifically, the measures that are in force and concern the preservation of the independence of the legal profession are related to the actions of lawyers before state authorities, the court, the prosecutor's office, international institutions and in that sense lawyers have in their own domain independent powers to act and protect the interests of their parties, and exclusively under the guise of defending rights, as well as the right to a fair trial.

The Law on Advocacy foresees a number of provisions that could be interpreted as

certain illegal actions by the state, i.e. exerting pressure on certain lawyers in the manner provided for in Article 23 of the Law on Advocacy that the lawyer may be deprived of liberty for criminal acts related to the performance legal practice only by decision of the panel of the competent court. Also, a lawyer cannot be deprived of liberty or detained without giving notice about it to the Bar Association. By the same article of the mentioned law it is stipulated that the search of the lawyer's office can be done only based on a court decision and in the presence of a representative of the Bar Association, determined by its President. Also, information obtained during the search of law offices, cannot be used for conducting proceedings against any party of that law firm. Although the mentioned provisions do not protect to the end and do not guarantee absolute independence and autonomy of the legal profession, we appreciate that these are good solutions that should be upgraded in the future, of course, with consent of the state as a guarantor of the legal profession as independent and autonomous profession.

Bearing in mind the above, the Bar Association provides to its members legal protection in proceedings initiated by state authorities against attorneys individually, and in addition and makes a public appearance every time the independence and self-reliance of the legal profession is threatened. In addition, the legal profession that inherits its own tradition on the territory of Montenegro for more than a century, during 2021 was forced to take the most radical step in its history by suspending the provision of legal aid on the territory of Montenegro, and that decision was adopted at the assembly of the Bar Association, by voting almost unanimously by 900 and more lawyers registered at that time within the Bar Association. This decision was passed because of the Law on Fiscalization on the circulation of goods and services, which did not treat the legal profession or its specificities in an acceptable way.

After 74 days from the beginning of the suspension of work, the Bar Association concluded The Protocol with the Ministry of Finance and the Ministry of Justice, from which it can be unequivocally established that the Law in question is no applicable to the legal profession and its specificities, which is why the mentioned two Ministries will consider all our proposals and specifics and determine a common solution acceptable to all parties.

As for the measures that are in force to ensure responsibility of lawyers, the duties of lawyers are stipulated by the Code of professional ethics of lawyers, the Statute of the Bar and the Law on Legal Practice in terms of performance of the profession, in which violation lawyers are subject to disciplinary liability before the Disciplinary Court of the Bar Association. In that sense, after the implementation of disciplinary procedure, in case the responsibility of the lawyer is proven to be found guilty of the disciplinary offense charged against him, the measures that can be imposed on him by the disciplinary court are: warning, fine, temporary removal from the Register of lawyers and as the most severe measure - permanent deletion from the Register of Lawyers of the Bar Association of Montenegro. In the last three years, 15 disciplinary proceedings against lawyers were conducted, of which in a third of the cases, some of the disciplinary measures were pronounced.

Quality

11. What is available budget for judiciary in 2024 (trends and comparisons with 2023 and 2024)? Please provide information about budget of individual courts/prosecution offices, Judicial Council, Prosecutorial Council, Judicial Training Centre.

Special State Prosecutor's Office:

The Special State Prosecutor's Office receives financial resources from the budget allocation for State Prosecutor's Office. According to the Law on the Budget of Montenegro for 2023, activity - performance of prosecutorial activity in the Special State Prosecutor's Office allocated funds in the

amount of 2,139,671.15 euros, which was insufficient to cover the regular costs necessary for the performance of the prosecutorial function and other tasks of this prosecutor's office, given that the Special State Prosecutor's Office proposed the amount of 2,335,322.70 euros.

By the end of 2023, the Special State Prosecutor's Office had executed 96.93% of its budget.

The Special State Prosecutor's Office's planned budget for 2024 is 2,949,228.05 euros.

Judicial Council:

The Law on Budget of Montenegro for 2023 approved the funds for the Spending unit „JUDICIAL COUNCL“ in the amount of 30,634,137.74€.

- The budget for the Judicial Council with the Secretariat amounted to 2,648,609.00 €.
- The budget for 25 courts amounted to 27,985,528.74 €.

The Law on Budget of Montenegro for 2024 approved the funds for the Spending unit „JUDICIAL COUNCIL“ in the amount of 32,719,904.17 €. The requested amount in the Proposed Budget for 2024 was 42,504,356.32 €.

The budget for the Judicial Council with the Secretariat amounts to 3,145,917.08€.

- The budget for 25 courts amounts to 29,573,987.09 €.
- The budget for 2024 is by 2,085,766.43 € higher than in 2023.
- The increase of 497,308 € in the position Judicial Council refers to the position of construction works that the courts do not have in their budgets
- The increase of 1,588,458.26 € in the position of 25 courts refers to current costs and covering the outstanding liabilities from previous years.

Approved budget by courts:

Supreme Court of Montenegro	€1,664,334.36
Court of Appeals of Montenegro	€ 1,285,886.85
Administrative Court of Montenegro	€ 1,261,059.79
Commercial Court of Montenegro	€ 1,750,420.32
High Court in Podgorica	€ 3,605,573.53
High Court in Bijelo Polje	€ 1,469,240.68

Basic Courts:

Podgorica	€ 3,837,976.82
Bijelo Polje	€ 1,015,824.17
Kolašin	€ 340,848.25
Žabljak	€ 235,456.12
Plav	€ 317,784.25
Bar	€ 1,022,059.10
Cetinje	€ 517,667.17
Pljevlja	€ 523,756.92
Danilovgrad	€ 406,026.71
Ulcinj	€ 471,321.53
Kotor	€ 1,293,536.34
Herceg Novi	€ 645,867.45
Nikšić	€ 1,293,911.20
Berane	€ 733,488.23
Rožaje	€ 390,562.71

High Misdemeanour Court of Montenegro	€ 540,440.07
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Misdemeanour Court PG	€ 2,604,733.32
Misdemeanour Court BP	€ 1,144,790.63
Misdemeanour Court Budva	€ 1,201,420.56

Supreme Court:

In 2023, the Supreme Court of Montenegro had a Budget of 1.741.671,72 eur; For 2024, the Court requested a Budget of 2.286.055,40 eur and finally was approved a Budget of 1.664.334,36 eur. Please find attached the current Budget for 2024 (Annex 1).

Prosecutorial Council:

The Act on systematization of workplaces was amended during 2023, which foresees a new organizational unit and four new staff posts. The total number of systematized workplaces is 31, and up until December 31, 2023, 24 posts were filled, while advertisements for three staff posts are ongoing. Regarding the Budget, the Prosecutorial Council requested the funds in the amount of 14.351.618 EUR and the amount of 11.382.565 EUR was approved by the Budget Law. While for 2024 it was requested the amount of 18.935.882 EUR, and it was approved 13.685.205 EUR. The approved funds are insufficient to fill prosecutorial posts, as well as vacant posts in the state prosecutorial organization.

12. Are there any other bonuses available for judges and prosecutors apart from their normal salary? Have there been any observed changes (significant and targeted increase or decrease over the past year) concerning the remuneration/bonuses/rewards for judges and prosecutors?

Judicial Council:

The Law on Salaries in Public Sector defines salaries in classes that depend on the level of the court the judges work in.

The Law also stipulates additions to a judge's salary that depends on the substance that the judges deal with. Thus, the judges of the Special Division of the High Court in Podgorica, of the Court of Appeals and Supreme Court are entitled to the so-called special addition in the amount of 60%. The judges who complete more cases on a monthly basis through overtime work are entitled to a remuneration for the overtime work.

The judges of all levels that are assigned as judges on stand-by in the Annual plan of work are entitled to remuneration for the hours of being on duty (on stand-by) i.e. proceeding in cases of investigation, imposing detention, extending detention, and other cases that are urgent.

Prosecutorial Council:

State prosecutors receive their salary in accordance with the Law on salaries of employees in the public sector. The Law prescribes the salary structure in such way that the salary consists of the basic salary, a special part of the salary, an allowance to the basic salary and a variable part of the salary.

The employee's basic salary for full-time work and standards work performance is determined by multiplying the coefficient provided for the groups and subgroups into which his title is assigned with calculation value of the coefficient determined by the Government of Montenegro.

A special part of the salary includes meal and holiday allowance.

Employees receive basic salary as well as a special part of their salary every month, while allowances to the basic salary such as:

- 1) Compensation for night shifts, working on national and religious holidays and working longer than full time (overtime);
- 2) Special allowance;
- 3) On-call and standby compensation,
- 4) are obtained depending on the needs of the work process.

The special allowance is benefited by the state prosecutors in the Supreme State Prosecutor's Office, as well as special state prosecutors.

13. Can you provide an update on the accessibility of courts, including factors such as court and legal fees, availability of legal aid, and language support services for individuals navigating the justice system?

Supreme Court:

As of October 2021, the Supreme Court started with the implementation of the information campaign for free legal aid to the victims of domestic violence "Tell the story to the end", in cooperation with the Ministry of Justice and non-governmental organizations. In order to enable high-quality visibility of victims' rights to free legal aid, representatives of the judiciary participated in the promotion of victims' rights in the media, and all details about the campaign are presented on the website: <https://besplatnapravnapomoc.me/>, where victims and potential victims can timely inform about their rights. In addition to the information campaign, the focus of this Project was on the improvement of the work of the Victim Support Service with regard to creating a Protocol for the service's performance, informative material on the availability of the Support Service, as well as the training of officers who act in the service. In order to consider the above-mentioned issues, and in the context of strengthening the comprehensive protection of the rights of injured parties and victims, a meeting of court presidents was held, which was also attended by representatives of the Juvenile Service at the High Court in Podgorica. The presidents of the courts agreed that it is necessary to invest additional efforts in order to improve the capacities of the services, and to ensure that the wider public is familiar with their work and the support they can provide. The meeting was an opportunity to discuss the results of work and the possibilities of improving the work of the Free Legal Aid Service, especially in the context of the rights of victims of criminal acts of violence in the family and family community and human trafficking.

All mechanisms provided by the Law on free legal aid are in force. The Judicial Council has detailed data about the funds spent on providing free legal aid by the basic courts. Court fees are also implemented in court proceedings, as well as language support. Currently, the Supreme Court is working on providing better quality access to the Court to the persons with disabilities, in terms of infrastructure and availability of court judgments/documents.

14. What is the current status of the resources allocated to the judiciary, encompassing human resources, financial allocations, and material provisions necessary for the efficient functioning of the courts? Could you please update us on the human, financial and material resources for the judiciary including on infrastructure and IT systems?

Special State Prosecutor's Office:

According to the Rulebook on Internal Organization and Systematization, the Special State Prosecutor's Office has systematized 60 civil officials - executors for an unlimited amount of time. The total number of engaged public servants at the end of 2023 is 47, whereas the present amount is 51.

The number of state prosecutors in the Special State Prosecutor's Office was determined by the Decision on the number of state prosecutors ("Official Gazette of Montenegro", no. 21/15, 13/18,

and 7/23), which was applied until November 23, 2023 and included the chief special prosecutor and twelve (twelve) special prosecutors and by the Decision on Amending the Decision of the Prosecutorial Council TS No. 21/15, which went into effect on November 24, 2023, the number of state prosecutors working in the Special State Prosecutor's Office included the Chief Special Prosecutor and sixteen (sixteen) special prosecutors.

As of December 31, 2023, in the Special State Prosecutor's office, the prosecutorial duty is being performed by the Chief Special Prosecutor together with thirteen special prosecutors and state prosecutors who have been seconded to the Special State Prosecutor's Office, and currently, the prosecutorial duty is being discharged by chief special prosecutor, 9 special prosecutors and 5 state prosecutors assigned to the Special State Prosecutor's Office

As mentioned, the approved budget for the Special State Prosecutor's Office for 2024 is 2,949,228.05 euros.

The Special State Prosecutor's Office procures computer and other IT equipment predominantly through donations. As a result, the renewal of licenses for forensic software, the development of a project and plan pertaining to the implementation of analytical software and the training of financial investigators, as well as the provision of automatic management of SDT cases with the implementation of electronic analysis and processing of data, information, and documentation to generate diverse types of reports—which would serve as a basis for monitoring the extent to which the desired outcomes are executed.

15. Could you detail the ongoing initiatives related to the training of justice professionals, such as judges, prosecutors, lawyers, court staff, and clerks, including any programs designed to enhance their skills and expertise?

Center for Training in The Judiciary and State Prosecutor's Office:

The annual training programme of the Centre for Training in Judiciary and State Prosecution for 2023 was prepared in accordance with the Report on Training Need Assessment that had been carried out in relation to judges and state prosecutors in Montenegro.

The aforementioned report had been approached comprehensively, in accordance with the revised Methodology for Training Need Assessment related to training of judges and state prosecutors that was prepared in 2021, owing to the support of the Programme Office of the Council of Europe in Podgorica, within the project HF6 "Accountability and professionalism in the judicial system in Montenegro", which is a part of the joint programme of the European Union and the Council of Europe entitled "Horizontal Facility for the Western Balkans and Turkey II".

In order to use a comprehensive approach to training need assessment for 2023 (as it was done in 2022), a combination of several methods and tools was implemented with the aim of collecting the most relevant information:

- questionnaires were sent to all courts and state prosecution offices by fax (since due to a cyber attack that occurred in 2022 the courts and state prosecution offices were unable to receive questionnaires via e-mail addresses);
- three focus groups consisting of judges and state prosecutors were organized for the purpose of discussing civil, criminal and misdemeanour law issues;
- interviews were carried out with the representatives of the Commercial Court of Montenegro and the Administrative Court of Montenegro, in order to collect qualitative data and gain a deeper insight into their attitudes, perceptions and opinions;
- a review of legislation, reports and strategic documents was carried out;
- letters were sent to national institutions and organizations, professional associations and NGOs with which the Centre has established cooperation, in order to obtain their opinion on needed training activities.

This approach enabled comparison of data collected through focus groups and interviews with the data collected through questionnaires and letters, as well as with the analysis of legislation and other strategic documents and reports that serve as a basis for determining priorities in the context of training content and methods.

On the basis of the annual training programme of the Centre for Training in Judiciary and State Prosecution for 2023 that was prepared in accordance with the Report on Training Need Assessment related to judges and state prosecutors, the **Program for In-Service Training of Judges and State Prosecutors for 2023** was prepared. According to this programme, the total of 83 training activities had been planned. When it comes to implementation of training activities envisaged by the aforementioned programme, in addition to judges and state prosecutors, representatives of other legal professions connected with judiciary (lawyers, notaries, enforcement officers etc.) may participate herein.

In accordance with the Law on Trainees from the Courts and the State Prosecution Offices and the Bar Exam ("Official Gazette of Montenegro" No. 55/2016 and 57/ 2016), the Centre for Training in Judiciary and State Prosecution **implements the theoretical part of professional training of trainees from courts and state prosecution offices**. The Centre implements the aforementioned theoretical part of professional training of trainees in accordance with its Programme for Training of Trainees from Courts and State Prosecution offices that was adopted at the session of the Centre's Steering Committee held on 15 January 2018. This is a comprehensive programme that covers all areas relevant for preparation of the bar exam. (In 2023, the Centre organized training activities for the total of **135 trainees** – 110 trainees from courts and 25 trainees from state prosecution offices. The trainees were divided into six groups. **In total**, in 2023, the Centre organized **33 training activities**, that is, **83 training days**.)

The training programme for advisors from courts and state prosecution offices was proposed by the Centre's Programming Council and adopted by the Centre's Steering Committee, at the session held on 23 December 2019. According to the training need assessment for 2024, five modules/training activities will be implemented in accordance with the aforementioned programme – two training activities on criminal law issues, two training activities on civil law issues, whereas one joint training activity on communication skills and forensic psychology will be organized for all advisors.

16. How is the digitalisation of the justice system progressing, specifically regarding the adoption of digital technology and electronic communication tools? Furthermore, what measures are in place to ensure access to judgments online and the adherence to procedural rules in the digital environment?

Ministry of Justice:

Significant results in the digitization of the judicial system in Montenegro were implemented through the implementation of the Judiciary ICT Development Programme 2021-2023. The final Report on the implementation of the Judiciary ICT Development Programme 2021-2023 was prepared, the adoption of which is expected by the Government in the first week of April of the current year. An ex-post evaluation of the Judiciary ICT Development Programme 2021-2023 was carried out, the findings and recommendations of which were included in the final report, while the recommendations of the evaluation will be used in the development of the new Justice Digitalization Strategy 2024-2027.

In order to continue the digitization process of the business processes of the Ministry of Justice, the courts, the State Prosecutor's Office and the Institute for the Execution of Criminal Sanctions, an interdepartmental Working Team was formed for the development of a new Justice Digitalization

Strategy 2024-2027, with an Action Plan for the period 2024-2025, and the dynamics of the work on the development of the strategic document was determined.

Eight meetings of the Working Team have been held so far, where the strategic and operational goals of the Strategy were defined, along with performance indicators and key activities. It is planned that the first draft of the Strategy with the Action Plan will be ready by the end of April. The public debate on the document and adoption of the Strategy by the Government of Montenegro is planned for the second quarter of 2024.

Currently, anonymized final court judgments are published on the judicial web portal from the judicial PRIS information system.

17. What assessment tools and standards are being used within the justice system, particularly in terms of ICT systems for case management, transparency in court statistics, and mechanisms for monitoring and evaluating the efficiency of judicial processes? Are there any ongoing surveys or evaluations conducted among court users or legal professionals to gather feedback?

Ministry of Justice:

The current system for managing court cases called PRIS represents a key component for the efficiency and transparency of court processes in Montenegro. The reporting module within the PRIS system provides mechanisms for court statistics, monitoring and measuring the efficiency of court processes, as well as up-to-date case management. The integration of all cases before the courts in Montenegro in the PRIS system enables different types of assessments and reporting based on certain parameters. Transparency is additionally encouraged by publishing work reports and final anonymized decisions on the web portal, enabling the public to see the work of the courts. The current phase of the revision of the PRIS system to the PRIS v2 version and direct cooperation with users in the courts indicates the need and aspiration for continuous improvement and preparation for digitization of the process, as well as increasing the transparency of court proceedings. This approach should improve the efficiency and transparency of the system, as well as strengthen public confidence in the judicial system.

The plan is to improve the judiciary portal with the aim of automating surveys, through which information on the satisfaction of users of the judiciary would be collected.

18. Can you provide an overview of the geographical distribution and number of courts/jurisdictions, commonly referred to as the "judicial map"? Additionally, could you elaborate on any specialisation within courts or chambers designated to handle cases related to fraud and corruption, including measures taken to ensure effective adjudication in these specific areas? Could you please outline the organisation of the justice system and the prosecution system in Montenegro (number of basic courts, special courts, highest courts and jurisdiction, number of prosecution offices and structure of prosecution service)?

Supreme Court:

There are 25 courts within the judicial network: Supreme Court, Appellate Court, Administrative Court, Commercial Court, 2 High Courts, of which one - the High Court in Podgorica has a Specialized department for hearing cases of high-level corruption, organised crime, money laundering, terrorism and war crimes, 15 basic courts, High Misdemeanour Court and 3 misdemeanour courts.

Efficiency

19. What is the standard length of proceedings at the different courts?

Supreme Court:

Please see the data submitted to CEPEJ:

<https://public.tableau.com/app/profile/cepej/viz/EfficiencyEN/Efficiency>

Administrative Court:

The average duration of an administrative dispute in 2023 was 516.46 days. In 4785 cases the procedure lasted over one year, in 609 cases the procedure lasted up to one year, in 588 cases up to nine months, in 546 cases up to six months, while in 553 cases the procedure lasted up to three months.

The average duration of an administrative dispute in 2022 was 532.4 days. In 3883 cases the procedure lasted over one year, in 453 cases the procedure lasted up to one year, in 330 cases up to nine months, in 420 cases up to six months, while in 201 cases the procedure lasted up to three months.

The average duration of an administrative dispute in 2021 was 521.3 days. In 4902 cases the procedure lasted over one year, in 375 cases the procedure lasted up to one year, in 316 cases up to nine months, in 228 cases up to six months, while in 243 cases the procedure lasted up to three months.

- a. Are there any initiatives or measures in place to address delays or inefficiencies in the judicial process to ensure timely resolution of cases?
- b. Please provide an update on any other measures taken for the reduction of backlog since the last enlargement report.

Supreme Court:

Other than the ordinary measures taken to reduce the backlog of cases within the courts (including: Plans for resolving old cases, judges reporting on old cases to the Court Presidents, overtime work), the Supreme Court developed a special Plan for improving the efficiency of the High Court in Podgorica - Specialized department. Please find attached the Plan for improving the efficiency of the High Court in Podgorica (Annex 2).

Administrative Court:

When it comes to reducing the number of cases and making the work of the court more efficient, the Work Plan of the Administrative Court of Montenegro is adopted at the court level, which through four units, which refer to general data on the work of the Administrative Court, analysis and organization of the work of the Court, ensures the conditions for timely, efficient and quality performance of the court's work. Part of the Work Plan is the Program for solving backlog cases, in accordance with Article 30 of the Law on Courts and Article 8, Paragraph 3 of the Court's Rules of Procedure, given the fact that the number of pending cases in the Court is greater than the three-month inflow.

20. Have any measures been taken to enhance transparency and strategic communication of the judicial system (e.g. unified online access to court data)? Please provide a short update on the transparency of administrative decisions and sanctions, including their publication and rules regarding the collection of related data. What is the general regime for the judicial review of administrative decisions, including details such as the competent court, scope, suspensive effect, interim measures, and any specific rules or exceptions from the general regime? Is there a specific mechanism in place to monitor and/or ensure the follow-up by public authorities to final court decisions concerning them (and if yes, could you elaborate on its functioning)?

Judicial Council:

In its 6th session, on 9 and 10 February 2024, the Judicial Council adopted the Communication Strategy for Courts and Judicial Council for the period 2024-2026, with the Action Plan. The Strategy has been developed with the support of the Council of Europe Office in Podgorica, within the programme of „Strengthening accountability of the judicial system and enhancing protection of victims' rights in Montenegro“ 2023-2026 that is implemented within the joint programme of the European Union and Council of Europe „Horizontal Facility for the Western Balkans and Turkey“. This Strategy was published in the website of the Judicial Council and courts.

All the decisions of the Judicial Council, as well as analyses, announcements of sessions, statements for the public and similar outputs, are timely published in the portal of the Judicial Council.

Prosecutorial Council:

The current Prosecutorial Council has changed the previous practice, so now the sessions are open to the public for all interested representatives of the civil sector and the media. Compared to the former practice, representatives of the civil sector and the media can use mobile phones and computers to make it easier for them to take notes.

The agenda for each session is published in advance on the website so that representatives of the interested public know in advance which topics will be discussed at the session of the Prosecutorial Council.

For transparency, the practice regarding the content of the minutes of the Council's sessions has also been changed. It used to be that the minutes contained only information about the decisions made, while now the minutes contain all the discussions in detail (a transcript of the audio recording is made).

After adoption (at the next session), the minutes are published on the website.

The previous practice has been changed, so when deciding on complaints about the work of state prosecutors in terms of legality (complaints from citizens), a notification with details is sent to the person who filed the complaint. Previously, a notification was only provided as to whether the complaint was founded or not.

The website also publishes the decisions of the Prosecutorial Council on the election of state prosecutors, promotion, voluntary transfer, temporary removal, termination of office, etc.

Decisions on disciplinary accountability are published in the form of an overview of the number of procedures, type of disciplinary offense and outcome, while details on factual aspects are not published to protect the dignity of state prosecutors.

Supreme Court:

The Supreme Court decides upon the request for the revision of the decision of the Administrative Court. It is an extraordinary remedy in administrative dispute, that can be submitted on the decisions of the Administrative Court. All decisions are published on the Court's website. Data can be collected from PRIS (information case management system) and they are regularly analysed through the Court's Annual reports.

For other information, please refer to the Administrative Court.

Administrative Court:

The Administrative Court of Montenegro informs the public about its work by regularly publishing all relevant information regarding the court's activities on its website. All relevant documents are made available to the public in a timely manner. Guided by the idea that the transparency of the work of the Court is a way to increase citizens' trust in its work, but also to control the Court's work, in the previous year special attention was paid to the openness and transparency of the work of the

Administrative Court of Montenegro. The website of the Administrative Court of Montenegro features daily postings of court decisions, information about scheduled hearings, selected verdicts of the European Court of Human Rights against Montenegro and other signatory states of the Convention relevant to the practice and work of the Administrative Court, court acts, as well as important public announcements. Also, the portal contains information about the Court and judges, information on how to initiate an administrative dispute, submit a request for speeding up the procedure, instructions for accessing information, as well as Legal Opinions, Rules of Procedure and other information related to the work of the Court. Information about judges is also available on the website (names and biographies of judges, their contacts, list of employees, lists of scheduled hearings, Annual work schedule, Reports on the work of the Court).

Also, the Court's website contains both the data and contact information of the Court's spokesman, as well as the persons authorized to act on the Request for free access to information, which enables faster communication between the Court and the public.

In addition to publishing information on the court's website, the Administrative Court of Montenegro is also present on the social network LinkedIn, through which it also communicates with the public, in such a way that it publishes the most important information about the court's activities and thus makes its work even more transparent.

Free access to information transparency, efficiency and effectiveness in work, were all ensured by the Administrative Court in cases formed upon requests for free access to information. Citizens can obtain information about the types of available information and the procedure for exercising the right to access information through the Guide for Access to Information held by the Administrative Court, decisions made in response to requests, Public registries and records maintained by the court, lists of staff with their positions, lists of public officials (Administrative Court judges) and their salaries, as well as the person responsible for handling requests for free access to information, all of which are available on the court's website.

The Court informs the public about the most significant events and activities through the Annual and Semi-Annual Report on the Court's Work, all of which is published on the Court's website.

The following can be filed against the final decision of the Administrative Court:

- 1) a request for review of a court decision (on the request for review of the court decision, which is decided by the Supreme Court of Montenegro, via council composed of three judges, in a closed session as a rule); - Article 42 of the Law on Administrative Disputes. The request for review of the court decision is submitted to the Supreme Court within 20 days from the date of receipt of the final decision of the Administrative Court - Article 44 of the Law on Administrative Disputes.
- 2) a request to repeat the procedure (a request to repeat the procedure can also be submitted against the decision of the Supreme Court made on the request for review of the court decision. Article 40 of the Law on Administrative Disputes)

When it comes to an administrative dispute, a lawsuit, as a rule, does not delay the execution of an administrative act, that is, the legal effect of another administrative activity against which the lawsuit was filed, but at the request of the prosecutor, the court may postpone the execution of the administrative act or the legal effect of another administrative activity until the court decision is made, if the execution of the administrative act or the legal effect of another administrative activity would cause irreparable damage to the plaintiff, and the delay is not against the public interest, nor would a delay cause damage that would be difficult to compensate the opposing party, that is, an interested person.

21. Please provide information about the development and implementation of Alternative dispute resolution (ADR) in Montenegro.

Administrative Court:

Alternative dispute resolution is still not possible/prescribed for administrative disputes. However, on the initiative of the President of the Administrative Court of Montenegro, and with the support of the EUROL-3 project for Montenegro, a Working Group was formed, which will work on the Analysis of whether certain methods of alternative dispute resolution can represent a useful approach to the resolution of administrative disputes, since their application can prevent the emergence of disputes in administrative matters.

Ministry of Justice:

By passing the Law on Alternative Dispute Resolution and Amendments to the Law on Civil Procedure, they significantly increased the number of cases referred to the Center for Alternative Dispute Resolution, both by courts and by citizens. The law in question has been in force since August 2020, and it significantly improved access to justice for citizens and legal entities, and enabled more efficient and timely settlement of disputes out of court. The justification of reforming in this sphere is shown by the achieved results. In July 2023, the Government of Montenegro, at the proposal of the Ministry of Justice, adopted the strategic document Program for the Development of Alternative Dispute Resolution 2023-2025, which should answer key questions and provide guidelines for more effective application of mediation and other alternative dispute resolution methods, such as and to clearly determine the tasks and responsibilities of all relevant entities responsible for achieving the defined goals. As part of the European Union's Support Project for the Rule of Law in Montenegro (EUROL3), the Center enabled the drafting of the Commentary on the Law on Alternative Dispute Resolution, which is primarily intended for employees of the judiciary, judges, lawyers, other legal practitioners in state administration and local self-government, and protectors of property and legal interests. at the central and local level, as well as students and teachers at law faculties, representatives of civil society, and citizens themselves and the so-called to the lay public who find themselves in need of professional support in the sphere of alternative dispute resolution. The Center regularly promotes alternative dispute resolution, while with the support of the European Bank for Reconstruction and Development and the International Organization for the Development of Law, a 60-minute film on commercial mediation was made, which will be used for educational purposes, as well as a shorter film lasting 20 minutes that will be used for promotional purposes.

ANTI-CORRUPTION POLICY

22. How is cooperation facilitated among domestic and foreign authorities?

Police Administration:

The police administration cooperates with other countries through:

- Department for international operational police cooperation (Interpol, Europol, SIRENE, CARIN, ARO, GlobE and other channels)
- Sector for financial intelligence through the EGMONT network and OTHER channels.

Agency for Prevention of Corruption:

The Agency is the national coordinator in the following international organizations:

- Regional Anti-Corruption Initiative (RAI),
- Group of States against Corruption of the Council of Europe (GRECO),
- United Nations Convention against Corruption (UNODC),

- Anti-Corruption Network for Eastern Europe and Central Asia of the Organization for Economic Cooperation and Development (ACN OECD).

The Agency is a member of the following international organizations:

- Network of Corruption Prevention Authorities (NCPA),
- Regional Good Governance Public-Private Partnership Platform (R2G4P),
- The Network of European Integrity and Whistleblowing Authorities (NEIWA).

Additionally, the Agency has established cooperation with the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO).

The mandate of the Agency is clearly defined by a set of 3 Laws: the Law on Prevention of Corruption as the umbrella law, as well as the Law on Lobbying and the Law on Financing of Political Entities and Election Campaigns.

The Law on Prevention of Corruption, among other things, includes a set of internationally adopted standards and norms ensuring the Agency's functional, institutional, personnel, and financial independence.

There are no procedural or legislative shortcomings between the Agency and other institutions dealing with the prevention and fight against corruption.

However, there is room for improvement in terms of coordination among various stakeholders working in this field. Therefore, the Agency welcomes the Government of Montenegro's Decision to establish the National Council for the Fight against Corruption. This Council's primary task is to adopt the National Strategy for the Fight against Corruption, as well as the accompanying action plan, and to coordinate among the relevant authorities responsible for the prevention and fight against corruption.

23. Can you provide an update on the work for the adoption of an anticorruption strategy based on European standards? Is the structure and functioning of the National council for the fight against high level corruption suitable to ensure follow up and monitoring of the strategy and action plan? How are the objectives and indicators being defined to assess progress in its implementation (including institution responsible to monitor implementation, and whether public reports are regularly issued)?

Agency for Prevention of Corruption:

The Government of Montenegro, at the session held on February 22, 2024, adopted the decision on the establishing of the National Council for the fight against corruption ("Official Gazette of Montenegro," No.16/2024).

This decision outlines clear composition, role and mission of the National Council, thereby recalling the previous Decision on the establishment of the National Council for the Fight Against Corruption ("Official Gazette of Montenegro," No. 86/2022, 33/2023, and 46/2023).

The latest Decision outlines clear composition, role and mission of the National Council.

The composition of the National Council for the Fight against Corruption is specified by the Art. 3 of the Decision, which states that National Council is presided over by the Deputy Prime Minister for the Political System, Judiciary and Anti-Corruption and consisting of 22 members, including 3 representatives of non-governmental organizations.

The role of the National Council is outlined in Article 5 of the Decision, stating the tasks of the National Council as follows:

- preparing strategy for combating corruption with accompanying action plans in collaboration with the Ministry of Justice;
- monitoring implementation of the strategy;
- organizing, synchronizing, and monitoring the priorities, dynamics, and deadlines for the implementation of activities carried out by state bodies, bodies of state administration, local self-government bodies, local administration bodies, and other relevant institutions, and assessing the achieved results in realizing the goals of the strategy;
- submitting reports to the Government on the implemented activities, along with an assessment of the situation and proposals for further measures to enhance the successful implementation of the strategy, at least twice a year;
- proposes to the Government to undertake other measures and activities of importance for the fight against corruption when it is necessary in certain areas, and
- makes recommendations to the Government in order to improve the normative framework for the prevention of corruption

On March 5, 2024 Deputy Prime Minister for the Political System, Judiciary and Anti-Corruption and the President of the National Council for the Fight against Corruption brought the Decision on establishing the working group for drafting the Strategy for the fight against corruption.

The working group consist of 16 members from following institutions:

- Cabinet of the Deputy Prime Minister for the Political System, Judiciary and Anti-Corruption (3 members);
- Supreme Court of Montenegro;
- Supreme State Prosecutor's Office;
- Ministry of Justice;
- Ministry of Finance;
- Agency for Prevention of Corruption (4 members);
- Ministry of Interior;
- Ministry of Health;
- Ministry of Education, Science and Innovation;
- Customs Administration, and
- Police Department.

Decision states that the working group has the obligation to develop the Strategy for the fight against corruption by April 1, 2024.

Ministry of Justice:

The New National Council for The Fight Against Corruption has been established by Government on 24 February. One of the main tasks of the Council is to prepare a new Anti-Corruption Strategy with an action plan. The draft strategy, which was drafted in cross-sectoral cooperation between the Office of the Deputy Prime Minister responsible for anti-corruption and all relevant institutions, was submitted on 15 February to the Council of Europe for the purpose of hiring an expert who will comment on the text of the Strategy. An expert of the Council of Europe has been engaged to develop the Strategy, and an operational working group has been established by all relevant bodies (Ministry of Justice, Interior, Education, Health, Spatial Planning and Urban Planning, Supreme State Prosecutor's Office, Supreme Court, Customs Administration, Police Directorate, Ministry of Finance) which will work on the text on a daily basis, the two-year action plan has started. The first comments of the Council of Europe experts are expected by March 18.

The Cabinet of the Deputy Prime Minister has drawn up a draft action plan that will be submitted by the end of this week to the expert and members of the working group, in order to complement the activities of all institutions.

After the expert's comments, they will be submitted to the working group, the National Council for the Fight against Corruption, as well as the EU Delegation by the end March in order to adopt the final positions and could go towards finalization of the text of the Strategy. Also, the draft strategy was submitted on February 15, for opinion to the General Secretariat of the Government regarding the compliance of the strategy with the Government methodology for drafting strategies. The General Secretariat has received guidelines for the development of documents that will be put together in the final adoption of the strategy. The Government is expected to adopt the Strategy by April 15, with a two-year action plan.

The National Council for The Fight Against Corruption is responsible for monitoring the Strategy.

Prevention of corruption

24. How transparent is public decision-making, including rules on lobbying, enforcement of those rules, asset disclosure requirements and enforcement, gifts policies, auditing of public institutions' finance, and transparency of political party financing (including information on electoral campaigns)?

Agency for Prevention of Corruption:

At the request of Hertie School in Berlin, the Agency collected data related to the newly formed Transparency Index (T-Index), which measures the availability of public information significant for prevention of corruption and strengthening of accountability.

In June 2023, the report "Transparency in the Time of War: T-Index 2023" was published, according to which Montenegro was ranked 17th out of 143 countries, with a score of 17 out of a possible 20 (85%). This represents progress compared to last year's first edition of the T-Index, where Montenegro ranked 20th with 15.5 points (out of 19).

Among the indicators used to measure transparency of states, for which Montenegro received points, are: public availability of court decisions, budget execution reports, data on current budget expenditure, public procurement portals, audit reports, reports on the income and assets of public officials, requests for building permits, as well as the availability of issued building permits.

Article 51 of the Law on Public Administration ("Official Gazette of Montenegro", No. 78/2018, 70/2021 and 52/2022) prescribes the obligation of state authorities and holders of public authority to have an official website where they publish information about their work. Pursuant to Article 52 of the Law on Public Administration, ministries are obliged to conduct a public consultation procedure in the preparation of laws and strategies, for consulting the interested public. Article 53 of the Law on Public Administration prescribes that domestic and foreign natural and legal persons have the right to free access to information held by state authorities.

According to Articles 166-168 of the Law on Local Self-Government ("Official Gazette of Montenegro", No. 2/2018, 34/2019, 38/2020, 50/2022, 84/2022 and 85/2022), the participation of the local population in decision-making in matters of direct and common interest is ensured, among other things, by providing access to information about activities planned and to be implemented during the year at the municipal level, as well as by conducting a public consultation procedure.

According to the Law on Lobbying ("Official Gazette of Montenegro", No. 2/2018, 34/2019, 38/2020, 50/2022, 84/2022, and 85/2022), lobbying is defined as an activity which influences government bodies (legislative and executive authorities at the state or local level, state administration bodies,

independent bodies, regulatory bodies, public institutions, public enterprises, and other legal entities exercising public powers or activities of public interest or have the majority of state ownership) in the process of adopting regulations and other general acts within the jurisdiction of these authorities, in order to achieve the interests of a lobbying client.

Activities related to lobbying are public. The Agency maintains a register of lobbyists and legal entities engaged in lobbying activities. The lobbyist register is public and published on the Agency's website. The lobbied entity is required to create an official record containing information about the lobbyist who contacted them and to provide a copy of the official record to the Agency. The lobbied entity is also required to keep records of lobbying contacts, and government bodies must publish information about lobbying contacts on their websites. Lobbyists and legal entities engaged in lobbying activities are required to submit a written activity report to the Agency no later than January 31 of the current year for the previous year.

According to the current legal solution, the Agency has the authority to request the initiation of misdemeanor proceedings or issue misdemeanor orders based on reports of unauthorized lobbying submitted to the Agency by lobbied entities. So far, the Agency has not received any reports regarding unauthorized lobbying.

Currently, there are 12 lobbyists and one legal entity conducting lobbying activities registered in the lobbyist register. The Agency has been informed of one lobbying procedure carried out by a registered lobbyist in December 2018.

Preparation of the Draft Law on Lobbying is ongoing, along with the final harmonization of the legal text with the recommendations of the European Commission, aiming to improve the institute of lobbying in Montenegro and align this law with the legal framework of the European Union.

During the preparation of the Draft Law, findings and recommendations from the Peer Review mission on the functioning of the APC held in April 2021 were taken into account, as well as GRECO recommendations. The Agency and the law proposer received expert assistance from the Council of Europe in amending the regulatory framework in this area.

The scope of lobbying activities has been significantly expanded in the Draft Law on Lobbying, to include, not only the actual influence, but also the intention to influence, and to extend the subject of lobbying beyond regulations to include the adoption of other relevant acts. The Law also introduces the category of in-house lobbyists and amends the scope of activities not considered lobbying, so under the proposed legal text, submitting proposals and expert opinions to government bodies can be categorized as lobbying activities, which is not the case under the current law.

The Proposal also introduces a definition of lobbying contact, encompassing not only lobbyist visits but also contacts via phone, video calls, and other forms of direct communication through communication means.

Significant improvements have been made to the transparency provisions in the Draft Law, taking into account recommendations from the Peer Review mission and GRECO. Namely, it precisely specifies the data that must be included in the official record of lobbying contact and the record of lobbying contacts, as well as the data on lobbying contacts that the government body is obliged to publish on its website. The Draft Law also introduces the obligation for authorities to publish documents that lobbyists have submitted to the lobbied entity on their website. On the other hand, the content of the lobbyist and legal entity activity report has been expanded in the Draft Law.

The Draft Law adds to the Agency's jurisdiction the authority to investigate suspicions regarding lobbying ex officio. Namely, it is envisaged that the procedure for determining whether unauthorized lobbying has occurred will be initiated by the Agency ex officio, based on its own findings, upon a report from a natural or legal person, or based on information received from the lobbied entity.

- Through the Verification of Reports on Income and Assets of public officials and civil servants who are required to submit reports according to specific laws, verification of data from reports of the subjects to the law and their spouses, unmarried partners, and children living in the same household is conducted.

One of the key objectives in this regard is transparency, ensured in two ways:

- Public officials and civil servants are legally obliged to regularly report their income and assets in the Reports, which are published on the Agency's website as prescribed by law.
- The availability of the Reports on Income and Assets at the Agency for Prevention of Corruption website provides the public with the opportunity to submit complaint to the APC based on their own knowledge of any violations of legal provisions.

The Agency, in collaboration with the Council of Europe, developed a new Methodology for verifying Reports on Income and Assets in 2023, which represents a roadmap of steps that Agency employees will follow during verification, as well as another way to ensure impartiality in work, since the Methodology will also serve as a formula for the selection of cases ex officio, based on previously identified risks. Previously, a Regulation on the detailed procedures for officials during report control was prepared, and based on the regulation and methodology, a report control plan will be developed, which will take into account high-risk areas for corruption.

- When it comes to gifts - Receiving gifts by public officials carries the risk of corruption, and the Law on Prevention of Corruption regulates this area. Specifically, receiving gifts may negatively affect legal regulations, thereby compromising the independence and impartiality of the work of public officials, civil servants, and state authorities benefiting from these gifts. Therefore, the LPC prescribes the obligation of the Agency, as the central anti-corruption body, to maintain, regularly update, and publish on the website of the Agency a catalogue of all received gifts to ensure a high level of transparency, integrity, and trust in the work of state authorities.

A public official, in connection with exercise of public function, may not accept money, securities, or precious metals, regardless of their value. A public official, in connection with the exercise of public function, may not accept gifts except for protocol and appropriate gifts. Protocol gift shall mean a gift from representatives of other states or international organizations, which is given when paying or receiving a visit, or on other occasions, as well as other gifts presented in similar circumstances. Protocol gifts, regardless of their value, become the property of the state or municipality. Appropriate gift shall mean a gift to the value of € 50.

Received gifts and their value are recorded in the gift register maintained by the government body in which the public official serves. Government bodies are required to extract from the gift register they maintain and submit to the Agency by the end of March of the current year for the previous year.

The Agency shall prepare a catalogue of gifts that the public officials received in the previous year and publish it on its website. This catalogue includes information about the state authority where the public official performs the function, the public official who received the gift, the donor, as well

as the description and type of gift, the date of receipt, the value of the gift, and in whose ownership the gift is (state or personal).

Acting preventively, the Agency sends letters and notifications to state authorities about their legal obligation to timely submit excerpt from the gift register by the end of March of the current year for the previous year. The Agency also informs state authorities about this obligation in a timely manner through announcements on the official website of the Agency. Based on information that a public official has received a gift contrary to the law, the Agency conducts proceedings in accordance with the law. In case the Agency determines that a public official has received a gift contrary to the law, the public official is obliged to hand over the gift, or the equivalent monetary value of the gift, to the state authority in which they serve, which then becomes state property or municipal property.

If a state authority fails to submit an excerpt from the gift register within the legal deadline, the Agency initiates misdemeanor proceedings, which may result in the imposition of fines by the misdemeanor court ranging from €1,000 to €20,000. A public official may be fined €500 to €2,000 for a misdemeanor if he:

- Accepts money, securities or precious metal, regardless of their value, or accepts a gift that is not a protocol or appropriate one
- Receives more than one gift from the same donor within a year, the total value of which exceeds the amount of € 50, or if he receives gifts from several donors in this period, the value of which exceeds € 100
- Does not prepare or submit, within eight days of the offer made, a written report on the offer of a gift they are not allowed to accept, to the authority in which he exercises a public function
- In the case of receiving a gift they are not allowed to accept, where he could not refuse the gift, or return it to the donor, does not hand over the gift to the authority in which he exercises the public function
- In the case where the Agency determines that he received gifts, does not hand over the gift, or the equivalent monetary value of the gift to the authority where he performs the function, for its disposal.

The Agency has made a crucial contribution to strengthening the integrity and transparency of financing political entities and the electoral process as a whole, through efficient monitoring and providing access to data on funds collected and spent by political entities, as well as the use of public resources in campaigns.

In the period from 2022 to 2023, a total of 137,772 reports were submitted to the Agency by the subjects to the Law on Financing of Political Entities and Election Campaigns regarding their regular activities and during election campaigns.

All submitted reports have been controlled and published (on the Agency's website or on the websites of state authorities and linked in tables on the Agency's website, in accordance with the Law). The availability of these documents, tabular and analytical presentations of data from reports prepared by the Agency, has enabled the public to have full insight into the use of public resources so that they could file objections in case of any suspicions of misuse.

In this context, it is particularly encouraging that such efforts by the Agency are recognized by the public, as confirmed by the findings of public opinion surveys conducted during the period 2020-2022, according to which cumulatively over 70% of respondents believe that the Agency has contributed to strengthening the transparency of the use of public resources and the financing of political entities during election campaigns.

On the other hand, the audit of the financial reports of political entities falls under the jurisdiction of the State Audit Institution (SAI), which publishes Summary reports on the audit of the Annual Financial Reports of political entities.

The State Audit Institution:

The State Audit Institution regularly informs the public about the results of its work in a timely and clear manner, following the internationally recognized principles of transparency and responsibility. The Institution submits the Audit reports to the management of the audited entities, the bodies responsible for the work of the audited entity and representatives of the Parliament and publishes the audit reports on the Institution's website, making them available to other external stakeholders. As a rule, the Institution submits the audit report to the audited entity after its approval by the competent Auditing Board and, in accordance with the Rules of Procedure, publishes it on its website no later than 7 days from the date of approval. By disclosing the audit findings, the Institution tries to point out systemic weaknesses and act preventively on irregularities resulting from inadequate management of public funds. In addition, the audit reports with adverse opinions are submitted to the Parliament and the Supreme State Prosecutor's Office based on the decision of the competent Auditing Board in accordance with the signed Protocols.

25. What rules and measures are in place to prevent and address conflicts of interest in the public sector (also in terms of training and public awareness programs deployed), including the categories of officials concerned (public officials at large, police, judicial authorities, top level executives/Ministers, and Members of the Parliament), types of checks, and corrective measures?

Agency for Prevention of Corruption:

- The Law on Prevention of Corruption prescribes that, among other things, tasks related to prevention of public and private interest, restrictions in the exercise of public functions, as well as other activities in accordance with the present Law, shall be performed by the Agency as an independent and autonomous body.

The law regulates potential conflict of interest, ad-hoc and actual conflicts of interest, as well as restrictions in the exercise of public function: Performing other public duties, transfer of managerial rights in companies, Holding managerial and other positions in a public company, Holding public functions in public enterprises and institutions, entering into contracts for services and business cooperation, as well as restrictions upon termination of public functions. In addition to the Law on Prevention of Corruption, conflict of interest in Montenegro is also regulated by numerous laws governing specific areas, which the Agency applies in the field of prevention of conflict of interest concerning specific situations that public officials may encounter.

All provisions of the Law on Prevention of Corruption related to the field of conflict of interest apply to all categories of public officials, in accordance with the definition of a public official from Article 3 of the Law on Prevention of Corruption: For the purpose of the present Law, public officials shall refer to the persons elected, appointed or assigned to a post in a state authority, state administration body, judicial authority, local self-government body, local government body, independent body, regulatory body, public institution, public company or other business or legal person exercising public authority, i.e. activities of a public interest or state-owned (hereinafter: authority), as well as the person whose election, appointment or assignment to a post is subject to consent by an authority, regardless of the duration of the office and remuneration." In this way, public officials at the high and middle levels of executive, legislative, and judicial authorities are covered, as well as all other categories of officials.

Additionally, the Agency has compiled a list of public functions at the local level, containing all public functions at the local level in each municipality in Montenegro, which has been published on the Agency's website, while the final stage of drafting lists of public functions at the state level is ongoing, and these lists will be regularly updated in accordance with positive regulations.

One of the most significant preventive mechanisms of the Agency in the area of prevention of conflict of interest is the issuance of opinions on the existence of conflicts of interest in the exercise of public functions, in accordance with the provisions of the Law on Prevention of Corruption, which are binding for public officials. It is considered that a public official has violated the provisions of the LPC if they do not act according to the opinion of the APC (negligent performance of public functions). The procedure upon request for an opinion is confidential according to the provisions of the LPC. In order for the APC to provide instructions in the form of an opinion on how to act in a given situation to avoid or resolve a conflict of interest, the APC interprets, in each individual case, not only the provisions of the LPC but also specific laws and by laws (statutes, work regulations, internal organization and systematization rulebooks, etc.) that regulate conflicts of interest in the respective area. The opinion of the APC is of a preventive and corrective nature because it prevents the occurrence of situations of conflict of interest in the case of potential conflicts and, in the case of incompatible functions and actual conflicts of interest, entails administrative and misdemeanor sanctions, considering its binding nature.

Regarding the types of verification in this area, it should be noted that the APC conducts direct verification based on requests for opinions, verification of submitted reports on the income and assets of public officials, acting upon complaint or ex officio. During the control of income and asset reports through verification of the completeness and accuracy of data (membership in working bodies, holding multiple public functions, membership in management or supervisory bodies of companies, etc.), the competent department forwards all types of identified irregularities for further action to determine the basis for initiating administrative or misdemeanor proceedings.

In terms of raising awareness among public officials about the institute of conflict of interest, the Agency regularly conducts educational activities and training, especially for public officials who have recently assumed public office. Over the past four years, the APC has conducted 18 training sessions on prevention of conflict of interest, attended by a total of 190 participants - newly appointed public officials, employees of the Parliament of Montenegro, employees of the State Audit Institution, and integrity managers from different state authorities.

Additionally, through its intersectoral cooperation, the APC contributes to regulating rules on conflict of interest in areas where it is not regulated at all or not sufficiently regulated. For example, based on requests for opinions in specific situations, through an analysis of existing regulations, the APC determines that certain behaviors related to conflicts of interest are not sufficiently regulated, which may be a corruption risk. In such cases, besides the binding opinion of the APC for the specific situation, another competent department of the APC provides, through an analysis of relevant regulations, recommendations to the authority how the said matter should be regulated.

- a) How is the enforcement of the existing measures ensured, by the different entities responsible for the prevention of conflict of interest?

Agency for Prevention of Corruption:

Opinions of the Agency for the Prevention of Corruption are binding for public officials, and if a public official fails act in accordance with the given opinion, the APC initiates the appropriate misdemeanor procedure in accordance with the provisions of the Law on Prevention of Corruption.

Furthermore, according to Article 42 of the LPC, a violation of the provisions regarding prevention of conflict of interest in the exercise of public functions and restrictions in the exercise of public functions, established by a final decision, is considered negligent performance of public function. The Agency informs the authority in which the public official exercise a public function and the authority responsible for the appointment, election, or assignment of the public official, in order to initiate the procedure of dismissal, suspension, or imposition of disciplinary measures.

The relevant authority is obliged to inform the Agency about the measures taken on the basis of the decision of the Agency establishing that a public official has violated the provisions of the present Law relating to the prevention of conflict of interest in the exercise of public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations and reports on income and assets of public officials, as well as of special laws determining the powers of the Agency, within 60 days of receipt of that decision, with written reasoning. If a public official is dismissed, suspended, or imposed a disciplinary measure due to negligent performance of public functions, the authority responsible for the election, appointment, or assignment of the public official shall notify the Agency thereon, within 30 days of adoption of the decision.

A public official who is dismissed for these reasons may not exercise a public function or duties of a civil servant for a period of four years from the date of dismissal. This limitation does not apply to a public official who is elected by direct vote. Additionally, the authority responsible for the election, appointment or assignment shall verify with the Agency, before deciding on the election, appointment or assignment of a public official, whether the proposed candidate was dismissed as a public official due to a decision of the APC establishing a violation of the provisions of the LPC within the last four years prior to candidacy.

In parallel, due to violations of the provisions of the LPC regarding conflict of interest, the APC initiates misdemeanor proceedings resulting in the imposition of fines by the competent courts for misdemeanors in the amount from 500 to 2,000 euros.

When it comes to the area of prevention of conflict of interest in the public sector, in a broader sense, the Agency for Prevention of Corruption in February 2022 has prepared an Analysis of regulations at the level of state administration in order to improve the solution for prevention of conflict of interest. This analysis regulates the organization of the area of conflicts of interest for state officials and employees. The aim of the Analysis was to provide guidelines for upgrading of the legal framework governing the prevention of conflicts of interest at the state administration level, so that the final implementation of this policy would strengthen integrity and increase public confidence in public administration.

The subject of the Analysis included the texts of: the Labor Law, the Law on Civil Servants and State Employees, the Code of Ethics for Civil Servants and Employees, the Law on Public Procurement, e Rulebook on Records and Methodology of Risk Analysis in Public Procurement Control, the Rulebook on the Procedure for Conducting Simple Procurements, the Law on Internal Affairs, the Code of Police Ethics, the Law on Defense, the Law on Army of Montenegro, Decree on List of Military Equipment and Products, the Procedure and Manner of Conducting Public Procurement in the Field of Defense and Security, Law on Customs Service, Law on Tax Administration and Law on Inspection. The Analysis was submitted to the Parliament and the Government of Montenegro, as well as to the ministries responsible for monitoring and implementation of the analyzed regulations.

In this way, the goal of the Analysis was to test the synergy of the mentioned laws, their consistency, and to assess how specific provisions contribute to strengthening the policy of prevention of conflict of interest in order to ensure their effectiveness. This Analysis was submitted to the Parliament and the Government of Montenegro, as well as to the ministries responsible for monitoring and

implementing the analyzed regulations, so that the recommendations could be taken into account during work on improving these legal texts.

- b) Does this entity have the sufficient human, financial and technical resources to effectively implement its competences?

Agency for Prevention of Corruption:

The Law establishing the Agency for Prevention of Corruption, the Law on Prevention of Corruption, contains a set of internationally adopted standards and norms that guarantee the Agency's functional, institutional, personnel, and financial independence. The principle of financial independence is fully implemented in Article 95 of this Law, as the approved funds for the functioning and operation of the Agency cannot be less than 0.2% of Montenegro's current budget. In terms of financial independence, through this legal solution, the Agency is enabled to independently manage the financial resources necessary for carrying out its tasks in an adequate and legally prescribed manner.

However, due to the vagueness of Article 96 of the Law on Prevention of Corruption, in which the rights, obligations and responsibilities of the employees of the Agency are discussed and the interpretation of this article by the Ministry of Public Administration and Ministry of Justice, followed by Ministry of Finance procedural requests, the Agency for Prevention of Corruption is unable to even initiate employment procedure, without Ministry of Finance approval and through the Human Resources Administration (within Ministry of Public Administration) even though the Agency has enough financial resources.

In the opinion of the executive authority, the provisions of the Law on Civil servants and State employees are applied to the employees of the Agency. In practice this means, that in order for a certain person to be employed in the Agency, the approval of the Ministry of Finance is required, and the employment procedure is carried out by the Ministry of Public Administration through its Human Resources Administration.

This leads to the conclusion that the Agency is not controlling employment procedure and it has operational problems due to the impossibility of staffing. Currently the Agency employs 61 people (out of 75 foreseen by Act on internal organization and systematization).

The same conclusion was drawn by GRECO, which within the V evaluation round report recommended (recommendation VII) "that, in order to ensure its full operational independence, the administrative capacities independence and efficiency of the Agency for Prevention of Corruption (ASK) be further strengthened by ensuring independent merit-based recruitment procedures providing for integrity testing of new staff, and to ensure that the number of permanent staff of the ASK is increased to a level that is in accordance with its rules and foreseen workload".

In order to fulfil this recommendation, together with the Council of Europe expert, the Agency started preparing the Checklist for integrity testing of new staff through the regular recruitment procedure in the case of Agency for Prevention of Corruption.

And finally, to summarize, employment in the Agency has to be carried out in accordance with the Labor law, in order to achieve full operational independence.

- c) Could you provide figures on their application, such as the number and types of ethics advice provided, number of detected breaches/irregularities and the follow-up actions taken (including number and types of sanctions issued)?

Agency for Prevention of Corruption:

During the period from 2020 to 2023, the Agency initiated 164 administrative procedures in the field of prevention of conflict of interest and restrictions in the exercise of public function out of which, 159 procedures were concluded, with violations of the Law being established in 112 cases.

Among the cases with established violations are 7 ministers and the President of the 41st Government of Montenegro, who simultaneously held incompatible functions of Members of Parliament after the parliamentary elections and the validation of mandates on September 23, 2020. Additionally, in 2023, the Agency found that 6 ministers and the Prime Minister of the 43rd Government of Montenegro violated the Law on Prevention of Corruption by simultaneously exercising functions of Members of Parliament.

After the completion of administrative procedures and the issuance of final decisions by the APC regarding prevention of conflict of interest and restrictions in the exercise of public functions, authorities provided 30 responses regarding administrative or disciplinary sanctions against public officials from 2020 to 2023:

- 1 public official was dismissed from public function;
- In 2 cases, a public official resigned;
- In 1 case, a disciplinary measure was imposed – a fine amounting to 20% of monthly earnings for one month;
- In 11 cases, a disciplinary measure – a warning was issued;
- 3 cases were forwarded to another authority;
- In 4 cases, authorities informed about the intention for further action;
- For 4 public officials, the authority noted the termination of public office;
- In 2 cases for councillors, their mandate ceased with the election of a new assembly;
- In 1 case, a decision on postponement was made;
- In 1 case, the authority concluded it was not competent to conduct a disciplinary procedure.

From 2021 to 2023, the Agency provided a total of 621 opinions in the field of prevention of conflict of interest and restrictions in the exercise of public functions, of which 143 concluded the presence of limiting factors concerning the requests for opinions.

Based on the opinions given and decisions made by the APC, a total of 111 resignations of public officials from functions or duties incompatible with public office were recorded in the past four years, along with five dismissals from public office. Additionally, after issuing opinions, four transfers of managerial rights in companies, one termination of a service contract due to a conflict of interest, and one termination of an employment contract in a state-owned company were noted.

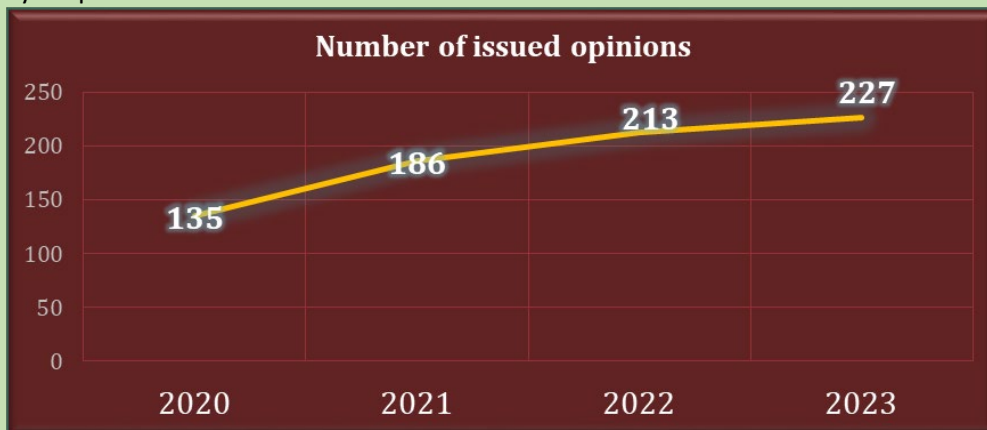
Due to violations of the provisions of the Law on Prevention of Corruption regarding restrictions in the exercise of public functions, the Agency submitted 34 requests for initiating misdemeanor proceedings to the competent misdemeanor courts from 2020 to 2023, including 8 requests for confiscation of assets gained through criminal activity. During this period, 28 proceedings were concluded (including those from previous years), with sanctions imposed in 24 cases. The total amount of fines imposed was €5,330. Based on proposals for the confiscation of unlawfully acquired assets, in addition to fines, courts confiscated unlawfully acquired assets in a total amount of €15,098 in 5 cases from 2020 to 2023.

- d) Please provide further information on the trends relating to conflict of interest cases and asset declaration and verification cases since 2020.

Agency for Prevention of Corruption:

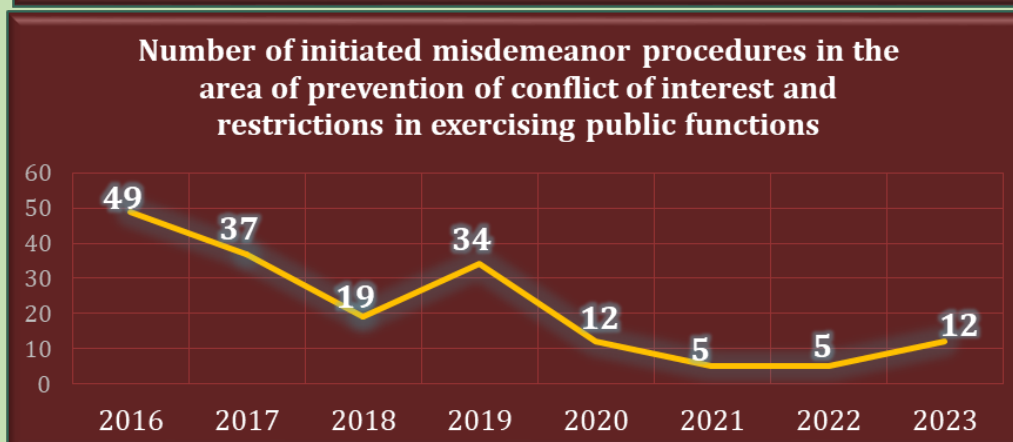
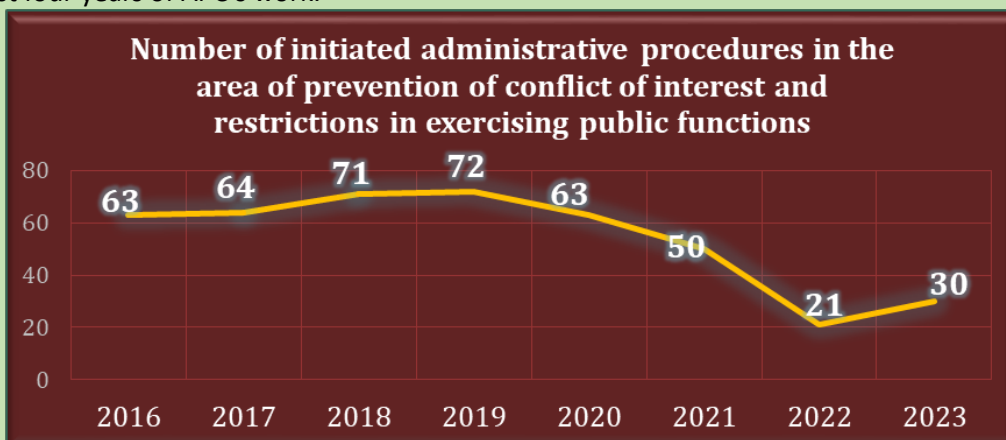
As a result of an intensive educational activities aimed at strengthening the awareness of public officials regarding compliance with the obligations prescribed by the Law on the Prevention of Corruption, but also the growth of trust in the Agency for Prevention of Corruption, its importance and the quality of work, there has been a trend of growth in the number of requests for opinions in

the field of prevention of conflict of interest and restrictions in the exercise of public functions from 2020 to 2023. Specifically, acting upon all requests, the Agency provided a total of 761 opinions over the four-year period.



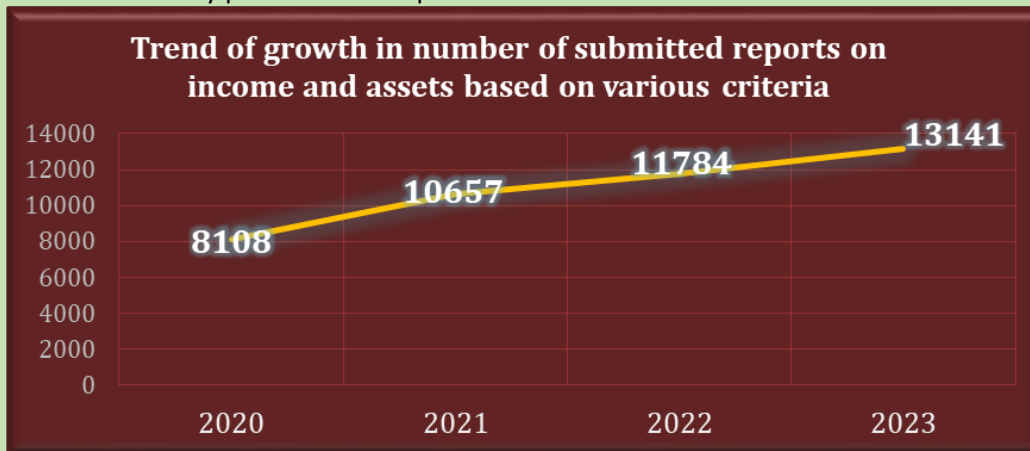
At the same time, along with the increase in the number of requests for opinions and the opinions provided, there has been a decrease in the number of initiated proceedings due to violations of the Law on Prevention of Corruption in the field of prevention of conflict of interest. This confirms the high percentage of compliance with the opinions provided and the preventive role and nature of the Agency for Prevention of Corruption regarding compliance with provisions on conflicts of interest by public officials.

Namely, from 2020 to 2023, the Agency initiated 39.3% less administrative procedures and 75.5% less misdemeanor proceedings in the field of prevention of conflict of interest and respecting restrictions in the exercise of public function compared to the number of proceedings initiated in the first four years of APC's work.

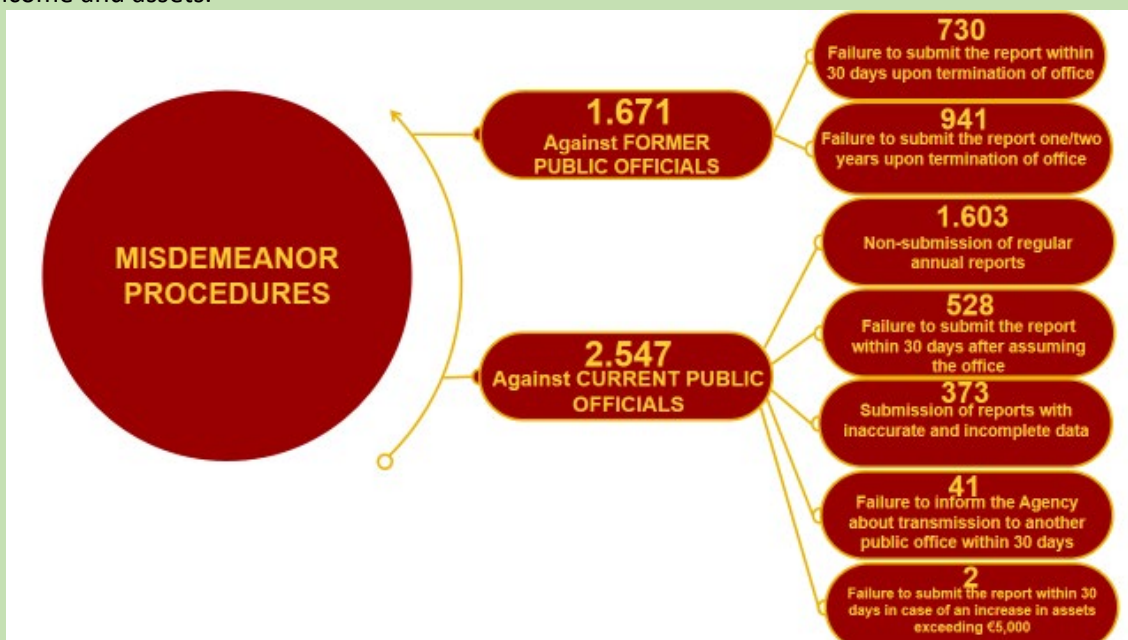


In the past four years, there has been a trend of increasing reports on income and assets. Specifically, in 2023, a total of 13,141 reports on income and assets were submitted to the Agency, based on

various submission criteria, representing an increase of 11.5% compared to the previous year and the highest number since the Agency's establishment. The rise in the number of submitted reports is a result of the growing number of newly appointed public officials, as well as an increased number of reports submitted by public officials upon termination of their functions.



During the period 2020-2023, the Agency significantly intensified its work in verifying the accuracy and completeness of data in reports on income and asset. In addition to increasing the number of planned verifications of accuracy and completeness in its annual plans (2020 - 872; 2021 - 884; 2022 - 1,330; 2023 - 1,496), the Agency exceeded the planned number of verifications (2020 - 905; 2021 - 974; 2022 - 1,742; 2023 - 1,764). The number of verified reports for accuracy and completeness is also higher, considering that the Agency verified reports both ex officio and upon request. Acting non-selectively, the Agency initiated misdemeanor proceedings against both current and former public officials for violating the provisions of the Law relating to the obligation to submit reports on income and assets.

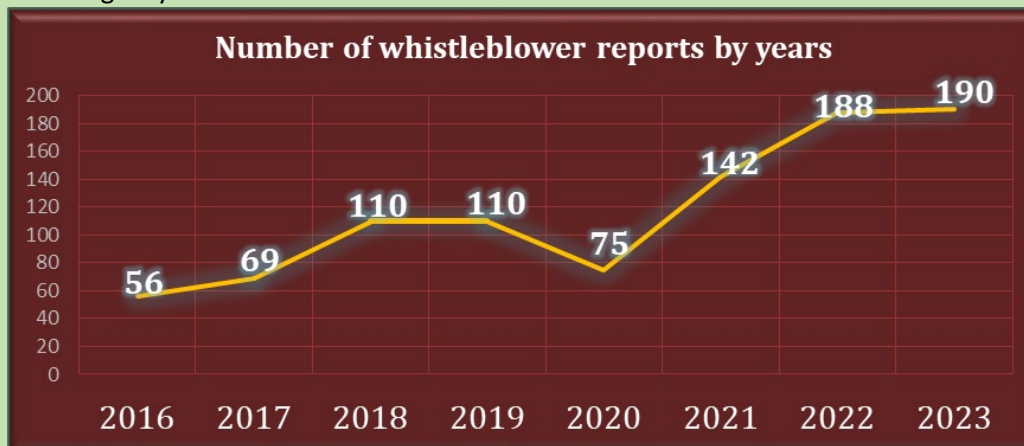


26. Which measures are in place to provide an effective whistleblower protection and encourage reporting of corruption? Are they effective?

Agency for Prevention of Corruption:

Since its establishment in 2016 until 2023, a total of 940 whistleblower reports have been submitted to the Agency. In the last three years (2021-2023), there has been a trend of increasing the number

of reports, with nearly 24% more compared to the total number of reports received in the first five years of the Agency's work.



The trend of growth in the number of reports indicates a growing trust in the Agency's work, which has consistently ranked first among institutions in Montenegro to which citizens would report corruption, according to public opinion surveys conducted for several years.

Since the establishment of the Agency in 2016 until 2023, a total of 38 requests for whistleblower protection have been submitted to the Agency (2016-9, 2017-2, 2018-1, 2019-4, 2020-3, 2021-5, 2022-7, and 2023-7). The Agency has so far issued 12 Opinions in the process of handling requests for whistleblower protection, determining that damage has occurred or that there is a possibility of damage to the whistleblower.

Since its establishment, the Agency has conducted intensive campaigns to raise public awareness about the problem of corruption and encourages citizens to report corruption to the relevant authorities. In 2020, a new TV commercial was prepared with the slogan "Report corruption, because the society you want starts with you," which began broadcasting in 2021 on TV stations with national coverage before or during prime-time evening news programs. The commercial, along with accompanying visuals, was also posted on the Agency's social media accounts. Additionally, billboards and city light posters with the Agency's contact information for reporting corruption have been placed in numerous locations throughout Montenegro.

In order to promote reporting of corruption and inform the public about whistleblower protection, within the framework of the project "Zero Tolerance to Corruption: Strengthening Integrity, Transparency, and Accountability in Public Administration in Montenegro," financed and implemented by UNDP in Montenegro, a video spot was prepared in 2022. This spot was then posted on the Agency's website in 2023, as well as on the Agency's YouTube channel and social media accounts.

Additionally, as part of the three-year RAI project on whistleblowers, "Breaking the Silence: Enhancing the Whistleblowing Policies and Culture in Western Balkans and Moldova" (in which Montenegro was a beneficiary through the Agency), Agency representatives participated in an educational anti-corruption performance called "Whistle for the End!" in Podgorica in 2021. The aim of this performance was to encourage the public to take concrete action and utilize the regulatory and institutional framework of the whistleblower institution in the fight against corruption.

Within the framework of Phase III of the Project to fight Corruption, Economic, and Organized crime "The Horizontal Facility for the Western Balkans and Turkey," the analysis of the Law on Prevention of Corruption has been finalized. This analysis included the segment on reporting corruption and whistleblower protection to align it with Directive (EU) 2019/1937 on the Protection of Persons Who

Report Breaches of Union Law. The analysis of the Law regarding whistleblowers resulted in the development of a Technical Document - A Review of the Legislative Framework of Montenegro on Whistleblower Protection, providing a detailed overview of the provisions contained in the Law on Prevention of Corruption, along with 30 recommendations for improving the legislative framework in this area.

Ministry of Justice:

The protection of whistleblowers in Montenegro is regulated by systemic, as well as a number of substantive laws.

The aforementioned systemic law is the Law on Prevention of Corruption, in which the protection of whistleblowers is regulated within articles:

- 56, which regulates the duty of the government body, company, other legal entity or entrepreneur that employs the whistleblower to provide protection against all forms of discrimination, restrictions and denial of his rights, as well as obligation to protect whistleblower's identity and confidentiality of all the data contained in his report;
- 59-63 which regulate the right of the whistleblower to seek protection if he has been harmed or if there is the possibility of harm due to the submitting of the report. According to the aforementioned articles the whistleblower can submit the protection request to the Agency for the Prevention of Corruption within the six months of harm being done, and the Agency is obliged to assess the veracity of the allegations contained in the request. If the Agency concludes that these allegations are true, it will make an opinion which contains the recommendation on the measures to be taken in order to remove or prevent the resulting damage, as well as the deadline for removing the harmful consequences, or preventing the possibility of damage. If the government body, company, other legal entity or entrepreneur who employs the whistleblower does not act as recommended within the deadline, the Agency will inform the authority that supervises their work and submit a special report to the Parliament of Montenegro and inform the public.

Apart from the provisions of the systemic Law on the Prevention of Corruption, the protection of the whistleblowers, to a certain extent, is prescribed by other laws, including:

- article 173 of the Labor Law which stipulates that a justified reason for termination of an employment contract, does not consider the employee to address the competent state authorities due to a justified suspicion of corruption or to file a report on that suspicion made in good faith;
- The Law on Prohibition of Harassment at Work, which in Article 14 stipulates that an employee who commits mobbing, that is, he does not report behavior that may represent mobbing or abuse the right to protection from mobbing, is responsible for non-compliance with work discipline, i.e. violation of work duties;
- The Law on Civil Servants and State Employees, in Article 95, prescribes the restriction or denial of rights of a civil servant among serious violations of official duty, that is, to an employee who files a report for a criminal offense against official duty or a criminal offense or action with characteristics of corruption;

- article 224 of the Criminal Code, in Chapter X - criminal offenses against labor rights, stipulates that whoever terminates an employee's employment contract who, due to a justified suspicion that a criminal offense with features of corruption has been committed, has filed a report or addressed the competent persons or bodies, shall be punished by imprisonment for a term not exceeding three years;
- The Criminal Procedure Code, in Articles 120 and 121, which prescribes provisions on witness protection, it is prescribed that protection may also be provided to a whistleblower when heard as a witness, at his request;
- The Law on Prohibition of Discrimination, in Article 4, stipulates that no one can suffer harmful consequences due to the reporting of a case of discrimination, giving evidence before the competent authority or offering evidence in a procedure in which a case of discrimination is examined. Persons shall be protected from any harmful conduct or consequence in response to a report or proceeding conducted in breach of the principle of non-discrimination. Analyzing the relationship between the Law on Prohibition of Discrimination and the Law on Prevention of Corruption, it is evident that judicial protection does not exclude administrative protection before the Agency and vice versa. This allows the whistleblower to have the right to initiate proceedings before the competent court at any time, without waiting for the results of the work of the Agency for Prevention of Corruption;
- The Law on Public Procurement, in Article 39, prescribes the obligation to report corruption, in the manner that a person employed in public procurement or another person engaged with the procuring entity, who has knowledge of corruption in public procurement, is obliged to, depending on whom the knowledge relates, without delay inform the authorized person of the procuring entity, the Ministry, the body responsible for preventing corruption and the competent state prosecutor.

The aforementioned measures of the whistleblower protection, especially those contained within the Law on Prevention of Corruption are not considered to be particularly effective, wherefore the new law that is being drafted will broaden the area of the protection of whistleblowers by expanding the category of persons that will enjoy protection (whistleblower's helpers, colleagues, cousins,...), providing the possibility of the whistleblowers to seek protection before the courts as well as application of the interim measures in such cases.

27. Which sectors are identified as having high risks of corruption, and what measures have been taken or planned to monitor and prevent corruption and conflicts of interest in public procurement? Additionally, could you list other sectors with high risks of corruption and the relevant measures taken or planned to prevent and address corruption in those sectors, such as healthcare, citizen/residence investor schemes, urban planning, disbursement of EU funds, and measures to combat corruption committed by organized crime groups infiltrating the public sector?

Agency for Prevention of Corruption:

The Government of Montenegro adopted the Operating Document for Prevention of Corruption in the Areas Exposed to Special Risk in July 2016 as an annex to the Action Plan for Chapter 23 - Judiciary and Fundamental Rights. On that occasion, seven areas particularly vulnerable to corruption were identified: Public Procurement, Privatization, Urban Planning, Education, Healthcare, Local Government, and Police.

The current priority of the Government of Montenegro in the strategic part, in line with the recommendation from the European Commission's Report for the year 2023, is the adoption of the Anti-Corruption Strategy. It is planned that, within the framework of drafting the Strategy, areas particularly vulnerable to corruption will be identified.

The Agency believes that the following eight areas should be prioritized and addressed through the Anti-Corruption Strategy as areas particularly vulnerable to corruption:

- 1) Judiciary (work of prosecutors and courts);
- 2) Work of the Police and Customs Administration;
- 3) Healthcare;
- 4) Education;
- 5) Environment, urbanism and spatial planning;
- 6) Public procurement;
- 7) Work of local self-government;
- 8) Work of state-owned enterprises or those owned by local self-governments.

These observations have particularly developed from the work of several departments within the Agency, and these areas have been identified as needing additional efforts to raise the threshold of tolerance for corruption, both by improving the regulatory framework and by strengthening the assessment of corruption risks and other unethical and unprofessional behavior. Thus, in several areas recognized as especially vulnerable to corruption, anti-corruption legislative assessments have been conducted. Since the Agency's establishment, a total of 76 regulations have been analyzed. Although the opinions we provide in carrying out these responsibilities are not binding, their influence on decision-makers has become increasingly noticeable year by year, and the implementation of enhanced regulations in certain areas is already having positive effects.

For example, the Decision on the manner and criteria for solving the housing needs of officials, as a powerful tool for extending political influence, was put out of force in 2022 based on the Agency's opinion, which highlighted several disputable provisions it contained. Recognizing several articles with higher risk of corruption, the Agency proposed in its opinion that the Decision should be put out of force until an adequate model for allocating apartments and loans for solving the housing needs of public officials and employees in public administration could be found, which would be transparent, fair, merit-based, and also serve as an incentive for attracting the best personnel.

Furthermore, in 2021, the Government of Montenegro adopted a new Decision on the establishment of the National Council for the Fight against Corruption, putting out of force the Decision on the National Council for the Fight against High-Level Corruption, which was the subject of the Agency's analysis. The Agency's opinion noted that several provisions of the primary Decision, due to insufficient precision, could lead to potential risks of threatening to the public interest, and a lack of transparency was noted, as well as broad discretionary powers in certain procedures. The new, valid Decision that followed the Agency's opinion met anti-corruption standards in this area.

The Agency paid special attention to the Draft Law on Amendments to the Law on Prevention of Corruption, as well as the Parliament's Conclusion on the establishment of a Working Group for drafting the Draft Law on Amendments to the Law on Prevention of Corruption, particularly considering that in this process the legislative power intended to swiftly implement amendments to a delicate and complex law. Thus, the Agency's intention was to insist that the solutions arising from this process address the shortcomings of the existing legal framework identified through a seven-year practice. To ensure alignment with international standards in the field of prevention of corruption, primarily with the United Nations Convention against Corruption, the EU

Whistleblowing Directive, and the GRECO recommendations from the Fifth Round Evaluation Report on Montenegro, and that the future implementation of the Law further empowers the Agency in implementing anti-corruption mechanisms. At the end, this process was stopped, and the Ministry of Justice conducted amendments to the Law on the Prevention of Corruption in a multidisciplinary process, taking into account the inclusion of recommendations from relevant international partners in the text of the amendments.

Additionally, on two occasions, the Agency provided opinions on the Draft Law on Government, both containing several recommendations related to addressing anti-corruption risks in norms, as well as incorporating GRECO recommendations into the proposed norms' text.

The Prosecutorial Legislation were analyzed five times, both in their integral form and with a specific focus on provisions related to the appointment of prosecutors to the Special State Prosecutor's Office and the termination of mandates and prohibition of re-election to prosecutorial functions. Furthermore, an opinion was provided on the relevant provisions of the regulations governing the General Session of the Supreme Court of Montenegro and the Judicial Council concerning the selection of candidates for the President of the Supreme Court of Montenegro.

In 2021, the Agency issued an opinion on the Law on National Public Broadcaster (RTCG), detecting several corruption risks. After that, a Draft Law on Media was prepared, on which the Agency issued an opinion earlier this year, noting significant improvements regarding the regulation of this area. Commending the fulfilment of almost all recommendations given in the previous opinion, the Agency once again urged the legislator to consider the need to incorporate the missing recommendations of the APC. From the same perspective, the Decision on the establishment of a limited liability company, the Local Public Broadcaster Radio and Television Nikšić, was also analyzed.

Also, the Law on Healthcare and the Draft Law on Healthcare were analyzed, and several areas for improvement were identified. The recommendations from the Opinion on the Law on Healthcare, issued by the Agency in 2022, were largely integrated into the text of the Draft Law on Healthcare. In the new Opinion on the Draft Law, the Agency reiterated a recommendation that was not included in the text and further explained its importance.

Simultaneously, in the field of education, the Law on General Education and Upbringing, as well as the Draft Law on Higher Education, were analyzed, and several shortcomings were identified in the mentioned regulations from an anti-corruption perspective. The subject of the APC's analysis was the Public Procurement Law on two occasions, as well as the Law on Free Access to Information, the Law on Montenegrin Citizenship, the Law on Electronic Communications, the Law on Local Self-Government, the Law on Civil Servants and State Employees, the Labor Law...

Finally, two particular novelties in this area marked the end of 2023. Namely, the Agency had a special impact in the area of repression of "normative" corruption, where, with consultations with the Agency, the Government of Montenegro adopted, at the session on December 29, 2023, the Decision on Amendments to the Rules of Procedure of the Government of Montenegro, proposing the introduction of a preliminary control for corruption risks - CPL, as mandatory in the procedure for drafting proposals for laws and other regulations determined by the Government, in accordance with the act of the Ministry of Justice regulating the content of the CPL form. Corruption proofing of legislation, as binding in the legislative process, represents an efficient model for repression of "normative" corruption, especially considering that the norms under the Agency's attention within this jurisdiction are those that can cause significant societal harm, i.e., leave room for individual abuses and the possibility of systemic corruption.

At the same time, and to fulfil the GRECO recommendations, the Government, in consultation with the Agency, adopted the Decree on Amendments to the Decree on the Government of Montenegro, introducing mandatory integrity checks for advisors to the Prime Minister, Chief of the Prime Minister's Cabinet, Deputy Chief of the Prime Minister's Cabinet, and advisors to the Deputy Prime Minister as part of their employment procedure, so that the Secretary-General of the Government requests the Agency for Prevention of Corruption to verify whether there are ongoing or concluded proceedings against the mentioned individuals for violations of laws regulating the prevention of corruption.

Regarding conflict of interest in public procurement, it is important to emphasize the legal obligation - according to Article 43, paragraph 4 of the Law on Public Procurement, the contracting authority is required to record requests for exemption due to conflict of interest in the register of conflict of interest and to promptly inform the Ministry and the authority responsible for prevention of corruption about it.

State authorities, as part of the integrity plan, assess the risks of corruption at the level of positions and work processes within the institution. The Agency has categorized all authorities into ten systems/sectors to enable a more detailed and relevant analysis of integrity plans. According to the risk assessment conducted by the authorities within the integrity plans, the highest risk intensity was noted in the judiciary sector.

In 2021, the Agency, in collaboration with the United Nations Development Programme (UNDP) in Montenegro, developed a Methodology for assessing the application of anti-corruption measures to enhance the content and effects of integrity plans. The Methodology involves developing criteria and indicators for scoring and ranking state authorities in relevant sectors.

When selecting sectors subject to the Methodology, the Agency considers the intensity of corruption risks in the sectors, sensitivity to corruption, as well as the success and challenges of authorities in implementing integrity plans and other anti-corruption measures, and ensures whether the sectors are already covered by other support programs. For the first phase, two sectors were selected: public administration and social and child welfare, and for the second phase, judiciary.

Each indicator carries a certain number of points, depending on its importance. Indicators relate to: the development and implementation of specific procedures, transparency, education, consistent application of relevant regulations, the quality of integrity plans, and other aspects. A specific group of indicators for deducting points has been defined if certain irregularities, violations of laws, or judgments against authorities are identified during the monitoring period.

The Agency has prepared individual and sectoral reports containing key findings and recommendations at the level of the public administration sector, as well as the social and child welfare sector, with the preparation of a report for the judiciary sector ongoing. The reports also include a list of all authorities in the sector, ranked by performance.

In the upcoming period, the Methodology is planned to be applied to state authorities from the remaining seven systems: local self-government, education, healthcare, culture, state-owned enterprises, enterprises owned by local self-government units, and independent and regulatory bodies, with adapting the Methodology to the specificities of the selected system and subsystems.

As part of the project "Southeast Europe - Together Against Corruption," implemented by the Regional Anti-Corruption Initiative (RAI), the sectors of higher education and public enterprises were selected as two sectors particularly vulnerable to corruption. The project aimed to improve the areas of Corruption Risk Assessment (CRA) and Corruption Proofing of Legislation (CPL) in Montenegro and at the regional level. RAI representatives developed Guidelines with checklists separately for CRA and CPL in 2022, based on input provided by anti-corruption institutions of RAI member states, including the Agency for Prevention of Corruption. National trainings for representatives of the two selected sectors were held in Podgorica in 2022, followed by regional trainings in Belgrade in 2023.

The main objective of the Guidelines is to assist countries in the region in identifying and reducing corruption risks and risk factors in the sectors of higher education and public enterprises. All RAI member states participating in the project identified education and public enterprises as particularly vulnerable to corruption and asked for additional interventions to reduce corruption risks.

28. Is the Code of Ethics for top executive officials effective, and are disciplinary sanctions being imposed?

Agency for Prevention of Corruption:

Strengthening the ethics and integrity of high-ranking executive officials has been particularly significantly and repeatedly recognized as a deficiency through the work of the Agency for Prevention of Corruption, which is why the Agency recommended that the Draft Law on the Government be initiated as soon as possible, and adopt the Code of Ethics for the performers of the highest functions of the executive power, in order to contribute to the elimination of possible risks of corruption by regulating this issue, and thus protect the public interest, as an imperative of any democratic society.

In this regard, although the Draft Law on the Government of Montenegro, to which the Venice Commission, at its 136th plenary session held on 6-7 October 2023, adopted an opinion, foresees the adoption of the Code of Ethics, what the Agency recommended in the Opinion on the Draft Law on the Government of Montenegro on 9 November 2023 is that in the future Law on government it is necessary to provide for and who would supervise the application and monitoring of compliance with the Code of Ethics and the composition of the competent the public and the public's mandatory principle.

In the second quarter of 2020, within the second phase of the Project against Corruption, Economic and Organized Crime - "Horizontal Support Program for the Western Balkans and Turkey", through joint efforts of experts and officials in the Agency, prepared a Proposal of ethics code for holders of the highest offices of executive power in Montenegro, with guidelines, which proposes the text of the Code of Ethics for this category of persons (https://www.antikorupcija.me/media/documents/Prijedlog_Etickog_kodeksa.pdf), which was submitted to the Government of Montenegro.

Following the above, the Government of Montenegro, at its 40th session of 23 September 2021, adopted the Guidelines for strengthening the ethics and integrity of senior executive officials, as a document aimed at supporting high officials of the executive power in respecting standards of integrity in order to strengthen public confidence in the performance of their duties, affirmation and improvement of dignity and reputation in order to achieve the common good and public interest, as well as strengthening citizens' trust in the work of state

The guidelines refer to the President, Deputy Prime Minister and Members of the Government, State Secretaries in Ministries, Advisors to the President and Deputy Prime Ministers, senior stakeholders of administrative bodies, as well as persons whose function has ceased two years after the termination of office.

Parliament of Montenegro (Committee on Human Rights and Freedoms):

The 26th Convocation of the Parliament of Montenegro, at the Tenth Sitting of the First Ordinary (Spring) Session in 2019, on 31 July 2019 passed a new Code of Ethics for Members of Parliament, which was published in the "Official Gazette of Montenegro", No. 46/19 dated 7 August 2019.

The new Code of Ethics for MPs was passed to implement the GRECO recommendations, given in the Fourth Round of Evaluation - Prevention of Corruption concerning MPs, judges, and prosecutors dated 18 October 2017, which recommended to:

- "- Provide a mechanism that would simultaneously promote the Code of Ethics of MPs and raise their awareness of the standards expected of them, as well as the application of such standards where the need arises;
- Introduce the condition of giving an ad-hoc statement when there is a conflict between the private interests of individual MPs and issues that are considered in the parliamentary procedure".

The mentioned Recommendations issued by GRECO were implemented in Article 10 of the Code of Ethics of MPs, which stipulates that:

"Each MP shall comply with regulations related to the prevention of conflicts of public and private interest.

Members of Parliament who participate in the discussion and decision-making in a matter in which they or persons related to them have a legal interest shall submit a declaration to the Committee on Human Rights and Freedoms (hereinafter referred to as "the Committee") about the existence of private interest before participating in the discussion or at the latest before the commencement of decision-making."

In addition, Article 15 of the Code of Ethics for Members of Parliament prescribes:

"The Committee shall adopt an annual training plan for MPs on the compliance with and application of the Code, no later than until 31 March of the current year.

The draft Annual Training Plan for MPs concerning the compliance with and application of the Code, following the Rules of Procedure of the Parliament, the Rulebook on the organization and systematization of job positions at the Parliamentary Service, and the Integrity Plan, are prepared by the Parliamentary Service responsible for human resources management in cooperation with the Secretariat of the Anti-corruption Committee.

The draft Annual Training Plan for MPs referred to in paragraph 2 above shall be submitted to the Committee in January of the current year.

The Committee shall keep records of all activities and prepare an Annual Report (hereinafter referred to as "the Report").

The Parliament considers the Report once a year.

The Committee prescribes the form of the solemn declaration on the acceptance of the Code by the MPs and keeps records of the signed declarations.

The Code of Ethics for Members of Parliament stipulates that the Committee on Human Rights and Freedoms is responsible for overseeing the application and monitoring the compliance with the Code, and it is also stipulated that the Deputy Chairperson of the Committee convenes meetings of the Committee regarding reports of violations of the Code of Ethics for Members of Parliament, while an unblocking mechanism has also been established if the Deputy Chairperson of the Committee fails to convene a meeting of the Committee. It is stipulated that in such a situation the Committee meeting is convened by the Speaker of the Parliament.

On this occasion, during the 28th Convocation of the Parliament of Montenegro, the opposition did not submit a proposal for the Deputy Chairperson of the Committee on Human Rights and Freedoms. In addition, during the previous 27th Convocation of the Parliament of Montenegro, no proposal was submitted for the Deputy Chairperson of the Committee.

Since the adoption of the new Code of Ethics for Members of Parliament, the Committee on Human Rights and Freedoms has not received any report on violation of the Code of Ethics for Members of Parliament.

In addition, under Article 10 paragraph 2 of the Code of Ethics for Members of Parliament, the MPs submitted to the Committee no declaration on the existence of private interest when participating in the discussion and decision-making in a matter in which they or persons related to them had a legal interest.

Concerning the current 28th Convocation of the Parliament of Montenegro, the Committee on Human Rights and Freedoms, at its first meeting held on 6 December 2023, prescribed the form of the Solemn Declaration on the acceptance of the Code by the MPs, which was delivered to the chairpersons of all MP Groups in the Parliament of Montenegro and one MP who was not a member of the group for signing.

Until 12 March 2024, 52 MPs have signed solemn declarations. (MP Group of Europe Now - 20 MPs; MP Group of Democrats - 7 MPs, MP Group of the political coalition "For the Future of Montenegro" - Democratic People's Party- 4 MPs; MP Group of the political coalition "For the Future of Montenegro"- New Serb Democracy- 8 MPs, MP Group of the Civic Movement URA- 4 MPs; MP Group of the Socialist People's Party (SNP)-CIVIS- 3 MPs; MP Group of the Albanian Forum- Forumi Shqiptar - 2 MPs; MP Group of the Democratic Union of Albanians and Croatian Civic Initiative - 1 MP, and the Special MP Group - 3 MPs).

Ministry of Justice:

In the Criminal Code of Montenegro, there is no separate chapter which regulates criminal acts of corruption, and there are no criminal acts that are so named, but there are criminal acts that can be brought under this area. Criminal acts of corruption in the CC are:

- bribery of domestic public officials - in the Criminal Code of Montenegro, these actions are criminalized within the criminal offense of accepting a bribe (Article 423) and the criminal offense of giving a bribe (Article 424);
- bribery of foreign public officials and officials of public international organizations - in the Criminal Code of Montenegro, these actions are criminalized within the criminal offense of accepting a bribe (Article 423) and the criminal offense of giving a bribe (Article 424), because the perpetrators of these criminal offenses are officials, and the definition of officials is given in Article 142 paragraph 3 of the Criminal Code, in which a special point 5a is prescribed which defines the concept of foreign public officials and officials of public international organizations;
- embezzlement, misuse or other illegal use of property by a public official - the following criminal offenses are prescribed in the Criminal Code of Montenegro: embezzlement (Article 420) and embezzlement (Article 421);
- abuse of influence - the following criminal offenses are prescribed in the Criminal Code of Montenegro: unlawful influence (Article 422) and incitement to unlawful coercion (Article 422a)
- abuse of office - the Criminal Code of Montenegro prescribes the criminal offense of abuse of office (Article 416);
- fraud in service (419);
- illegal enrichment - this criminal offense is not prescribed in the Criminal Code of Montenegro;
- bribery in the private sector - the following criminal offenses are prescribed in the Criminal Code of Montenegro: accepting bribes in business operations (Article 276a) and giving bribes in business operations (Article 276b);

- embezzlement of property in the private sector - the Criminal Code of Montenegro prescribes the criminal offense of abuse of position in business operations (Article 272 paragraph 2);
- money laundering - money laundering is prescribed as a criminal offense in the Criminal Code of Montenegro (Article 268);
- concealment - the Criminal Code of Montenegro prescribes the criminal offense of concealment (Article 256);
- obstruction of justice - the Criminal Code of Montenegro prescribes the following criminal acts: preventing evidence (Article 390 paragraph 1) and obstruction of justice (396a).

Repression of corruption

29. Please provide information on the legislative framework in place for the fight against corruption and related offenses, including foreign bribery.

Police Administration:

In this area, the legislative framework is regulated through:

- The Criminal Code of Montenegro
- Law on Seizure and Confiscation of Material Benefit Derived from Criminal Activity
- Law on the Prevention of Money Laundering and Terrorist Financing
- Law on the Special State Prosecutor's Office
- Law on Prevention of Corruption

Ministry of Justice:

Amendments to the CC adopted in December 2023 introduced five new criminal offenses in this area: Fraud in the performance of business operations, Insurance fraud, Misuse in privatization process, Passive and active bribery in bankruptcy process, Misuse related to public procurement.

"Fraud in the Performance of Business Operations

Article 272a

(1) Whoever in the performance of business operations misleads another person or keeps him misled by false representation or concealment of facts, inducing him thereby to act or refrain from acting to the detriment of the property of a business entity for which or in which he works or of another legal person, with the intention to obtain unlawful material benefit for himself or another, shall be punished by a prison term from six months to five years and a fine.

(2) Where the offence referred to in paragraph 1 of this Article results in material benefit or causes damage exceeding three thousand euro, the perpetrator shall be punished by a prison term from one to eight years and a fine.

(3) Where the offence referred to in paragraph 1 of this Article results in material benefit or causes damage exceeding thirty thousand euro, the perpetrator shall be punished by a prison term from two to ten years and a fine.

(4) Where the offence referred to in paragraph 1 of this Article was committed to the detriment of the financial interests of the European Union, the perpetrator shall be punished by the punishment prescribed for that offence.

Insurance Fraud

Article 272b

(1) Whoever destroys, damages or hides an insured thing, and then reports the damage, with the intention to collect the agreed sum from an insurance company, shall be punished by a prison term from three months to three years.

(2) The punishment referred to in paragraph 1 of this Article shall also be imposed on whomever, with the intention to collect the agreed sum from an insurance company in case of bodily damage, bodily injury or health impairment, causes such damage, injury or health impairment to himself, and then submits a claim to the insurance company.

(3) Where the offence referred to in paragraphs 1 and 2 of this Article results in material benefit or causes damage exceeding three thousand euro, the perpetrator shall be punished by a prison term from one to eight years.

(4) Where the offence referred to in paragraphs 1 and 2 of this Article results in material benefit or causes damage exceeding thirty thousand euro, the perpetrator shall be punished by a prison term from two to ten years.

Misuse Related to Public Procurement

Article 272c

(1) Whoever, in relation to public procurement, submits a bid based on false data or, in violation of the law, colludes with other bidders or undertakes other unlawful actions with the intention to influence the decision-making of the contracting authority, shall be punished by a prison term from six months to five years.

(2) The punishment referred to in paragraph 1 of this Article shall also be imposed on a person who, at the contracting authority, violates the law or other regulations on public procurement by misusing his position or authority, overstepping the limits of his authority or refraining from performing his duty, and thereby causes damage to public funds.

(3) The punishment referred to in paragraph 1 of this Article shall also be imposed on a person who adjusts the conditions of public procurement to an entity or concludes a contract with a bidder whose bid is contrary to the conditions set out in the tender documentation.

(4) The punishment referred to in paragraph 1 of this Article shall also be imposed on a person who by misusing his position or authority, overstepping the limits of his authority or refraining from performing his duty, gives, takes over or contracts jobs for his activity or the activity of a person in relation to whom there is a conflict of interest.

(5) Where the offence referred to in paragraphs 1 to 4 of this Article was committed in relation to public procurement the value of which exceeds one hundred thousand euro, the perpetrator shall be punished by a prison term from one to ten years.

(6) Where the offence referred to in paragraphs 1 to 4 of this Article was committed to the detriment of the financial interests of the European Union, the perpetrator shall be punished by the punishment prescribed for that offence.

(7) The perpetrator referred to in paragraph 1 of this Article who voluntarily reveals that the bid is based on false data or on collusion with other bidders or that he has undertaken other actions with the intention to influence the decision-making of the contracting authority before the public procurement contract is concluded, may be released from punishment.

Misuse in Privatisation Process

Article 272d

(1) Whoever, in the privatisation process, by submitting an offer based on false data or by unlawfully colluding with other participants in the process or by undertaking other unlawful actions influences the course of the process or decision-making by the authority in charge of implementation of the privatisation process, shall be punished by a prison term from six months to five years.

(2) The punishment referred to in paragraph 1 of this Article shall also be imposed on an official who by misusing his position or authority, overstepping the limits of his authority or refraining from performing his duty violates the law or other regulations on privatisation and thereby causes damage to the capital or impairs the assets which are the subject of privatization.

(3) Where the offence referred to in paragraphs 1 and 2 of this Article was committed in relation to privatisation the estimated value of which exceeds one million euro, the perpetrator shall be punished by a prison term from one to ten years.”

“

Passive and Active Bribery in Bankruptcy Process

Article 276c

(1) A creditor or a member of the committee of creditors who, for himself or for another, solicits or receives a bribe or accepts the offer or promise of a bribe to vote in a certain way or not to vote or to undertake other action in order to cause damage to any of the creditors in the bankruptcy proceedings,

shall be punished by a prison term from one to eight years.

(2) If the offence referred to in paragraph 1 of this Article was committed by a bankruptcy administrator, bankruptcy judge or expert witness,

the perpetrator shall be punished by a prison term from two to ten years.

(3) Whoever promises or gives a bribe to a creditor, a member of the committee of creditors, bankruptcy administrator, bankruptcy judge or expert witness in order to commit the offence referred to in paragraphs 1 and 2 of this Article,

shall be punished by a prison term from one to eight years.

(4) The perpetrator of the offence referred to in paragraph 3 of this Article who gave a bribe at the request of a creditor, a member of the committee of creditors, bankruptcy administrator, bankruptcy judge or expert witness, where he reported the offence before he learned it had been detected, may be released from punishment.

(5) The bribe given shall be confiscated.”

30. Can you provide data on the number of detections (also through auditing), investigations, prosecutions, final judgments, and application of sanctions for corruption offenses, including differentiation by type of corruption offense, involvement of legal persons of high-level and complex corruption cases? Additionally, how transparent is the process, especially regarding the implementation of EU funds?

Supreme Court:

In the reporting period, the High Court in Podgorica has 72 pending cases against 256 defendants (246 natural persons and 10 legal entities) for the criminal offences in the field of high-level corruption. In the structure of those cases, 27 (new) cases against 96 defendants were received in the reporting period (2023).

Out of the total number of cases, 25 cases against 72 defendants were resolved, in a following manner: in 4 cases acquittals were passed against 17 defendants (in one case the verdict is final); in 5 cases convictions were passed against 5 defendants (one conviction is final); in 5 cases against 12 defendants, a judgment was passed rejecting the charge (in 4 cases there were final decisions), in 5 cases against 29 defendants the charge was dismissed (in 4 cases final decision); while the remaining cases (6 cases against 9 defendants) were resolved in another way (suspension of proceedings, sent back for additional investigation, established jurisdiction of another court).

In the reporting period, in 3 cases, the High Court in Podgorica adopted temporary security measures. In one case, the Court issued a decision temporarily suspending the execution of monetary transactions (in the amount of 11,000.50 euros on the account); in the second case, the Court issued a decision that determined a temporary security measure - prohibition of alienation and encumbrance with immovable property in relation to one residential space (P 42 m2); while in the third case, for the criminal offences of abuse of authority in business and money laundering, the court issued a decision that determined a temporary security measure - a ban on the disposal and

use of immovable property, with the recording of the ban in the cadastre of immovable property, which is owned or with the right to use the legal entity AD "Vektra Boka".

Special State Prosecutor's Office:

From July 1st to December 31st, 2023, a total of 645 individuals were reported for corrupt criminal acts. The highest number of reports were filed for the following criminal offenses:

Abuse of official position under Article 416 of the Criminal Code of Montenegro (CCM) – against 352 individuals.

Misuse of official position under Article 416 of the CCM and forming a criminal organization under Article 401a of the CCM – against 24 individuals.

Abuse of position in economic activities under Article 272 of the CCM – against 22 individuals.

Abuse of official position under Article 416 of the CCM and negligence in official duties under Article 417 of the CCM – against 55 individuals.

During the same period, special prosecutors issued investigation orders against 7 individuals for corrupt acts. In 2023, there were a total of 16 ongoing cases from previous periods involving 143 individuals for criminal offenses, resulting in 24 ongoing investigations against 162 individuals. Of these, 12 investigations involving 26 individuals were resolved. Following the completion of investigations, 7 indictments were filed against 15 individuals, proceedings were terminated in two cases involving 6 individuals, while in three cases involving 5 individuals, investigations were transferred to another prosecution office for further action and decision-making. Consequently, at the end of 2023, there were 12 ongoing investigations against 136 individuals.

As of the reporting date in 2024, 5 new investigations have been initiated, with two existing ones expanded.

In the section of the response concerning final judgments and imposed penalties, we emphasize the jurisdiction of the judiciary.

Furthermore, in addition to human resources, key challenges in investigating complex corruption cases include provisions regarding statutes of limitations (short deadlines for relative statutes of limitations), as well as extremely slow international cooperation in obtaining relevant evidence.

Please find attached the Special State Prosecutor's Office's answers to the interlocutors during their Visit to Montenegro from 11-15 March (Annex 3).

Police Administration:

In the course of 2023, 56 criminal charges and supplementary charges against 79 individuals and 4 legal entities were submitted to the relevant prosecutors. The reported persons committed 104 criminal acts of corruption. In 2 cases, which refer to criminal acts of corruption, there are elements of organized crime.

Structure of corrupt criminal offenses in submitted criminal reports:

- Abuse of position in business operations - 59 criminal acts;
- Abuse of a position in business for an extended period of time - 2 criminal acts;
- Abuse of position in business operations in co-perpetration - 1 criminal act;
- Abuse of official position - 15 criminal acts;
- Abuse of official position for an extended period of time - 2 criminal acts;
- Abuse of official position in co-perpetration - 5 criminal acts;
- Abuse of official position in co-perpetration for an extended period of time - 2 criminal acts;
- Abuse of official position through incitement - 1 criminal act;
- Abuse of official position by assisting for an extended period of time - 1 criminal act;

- Unconscionable work in the service - 4 criminal acts;
- Accepting a bribe - 4 criminal acts;
- Giving a bribe - 4 criminal acts;
- Giving a bribe in an attempt – 1 criminal act;
- Creditor's damages – 3 criminal acts.

The total material damage caused by corruption crimes amounts to 42,564,717 euros, 241,642 USD, 125,000 CHF and 32,570 GBP.

22 cases of corruption were discovered in the public sector. 32 cases of corruption were discovered in the private sector.

33 persons from the public sector were prosecuted. Among the persons prosecuted are 4 public officials - the Director of the Police Administration, the Minister of Defense, the State Secretary in the Ministry of Defense and the Executive Director of the Environmental Protection Fund.

On account of high-level corruption, 6 criminal reports were submitted to the Special State Prosecutor's Office, 2 of which had elements of organized crime, and corruption was registered and implemented in 3 cases primarily due to other criminal acts with elements of organized crime. With these criminal reports, 14 persons were prosecuted for committing 13 corrupt criminal acts – 7 criminal offenses related to abuse of official position (Article 416 of Criminal Code: 2 for abuse of official position, 2 for abuse of official position in extended duration, 2 for abuse of official position in co-perpetration in extended duration and 1 for assisting in abuse of official position in extended duration), 2 criminal offenses related to abuse of position in business operations (Article 272 of Criminal Code: 1 abuse of official position in economic operations and 1 abuse of official position in economic operations in co-perpetration), 3 for accepting bribe (Article 423 of Criminal Code) and 1 for giving bribe (Article 424 of Criminal Code). Among the reported persons are 4 customs officers, 3 police officers, as well as 4 public officials (two more public officials were prosecuted and deprived of liberty - Acting Assistant director of the Sector for the fight against crime was prosecuted for participating in a criminal organization and providing secret information to members of a criminal organization, while the president of the Municipality of Budva is accused of organizing international cocaine smuggling as the organizer of a criminal group.), while, by order of the acting special prosecutor, only one more former director of the Police Administration, who was a public official at the time of the crime, was deprived of his liberty, due to well-founded suspicion that he abused his official position and smuggled (cigarettes).

The State Audit Institution:

In 2021, the Special State Prosecutor's Office initiated criminal proceedings against 14 persons on reasonable suspicion of abuse in the office in the case of guarantees issued for the Podgorica Aluminium Plant (KAP). The criminal proceedings were initiated based on the findings from the audit of the "State Guarantees of the Government of Montenegro in 2010 and 2011". The Special State Prosecutor's Office also filed a case against the previous management of AD "13. jul Plantaže", which, inter alia, was initiated based on the findings identified in the audit of the Annual Financial Statement and business operations of the company for 2018.

31. Further to human resources in the relevant institutions and specialisation, what key potential obstacles exist to investigating and prosecuting high-level and complex corruption cases, such as regulations on political immunity, procedural rules, statute of limitations, cross-border cooperation, and pardoning, use of special investigative measures etc?

Special State Prosecutor's Office:

What special prosecutors have identified as a potential obstacle is the lack of capacity within the judicial system to handle trials for indictments related to high-level corruption crimes, as well as evident challenges in adopting modern standards of evidence, particularly in ongoing trials involving former high-ranking judicial officials.

When it comes to the key challenges for our work, one of them is also the lack of a centralized database. This forces employees to obtain every piece of information and data, and consequently evidence, through lengthy processes, mainly by requesting them on paper, which undoubtedly consumes a significant amount of time. Introducing a centralized database would streamline the data acquisition processes.

However, Montenegro is establishing initial records of effective and efficient investigations, prosecutions, and convictions in cases of corruption, including high-level cases. In the Special State Prosecutor's Office, all data, information, and documentation from cases are entered into the IBM application, designed for electronic case management.

To facilitate the collection of data for regular and annual reporting to the European Commission within Chapters 23 and 24, and to identify trends more easily, relevant Commission services (DG NEAR, in cooperation with DG HOME and DG JUST) have developed a new e-platform. This platform is tailored to users in state institutions, including the Special State Prosecutor's Office. Authorized personnel in the Special State Prosecutor's Office will enter data and information into the existing e-platform. The goal is to input quantitative data for the last five years into the e-platform by the end of 2024. Additionally, quantitative data will be entered into the platform in collaboration with the national coordinator for data input into the e-platform.

To more effectively combat high-level corruption, the Special State Prosecutor's Office has been granted access to certain data from the Administration for Cadastre and State Property. This access is facilitated through the use of a special token assigned to the Special State Prosecutor's Office. This mechanism serves as a temporary solution until a secure data exchange system is fully established, enabling more efficient investigations and prosecution of high-level corruption cases.

32. What are the existing non-criminal measures and sanctions, such as recovery measures and administrative sanctions, and how effective are they in addressing corruption by both public and private offenders?

Agency for Prevention of Corruption:

Article 42 of the Law on the Prevention of Corruption stipulates that violations of the provisions of the law related to the prevention of conflicts of interest in the exercise of public functions, restrictions in the exercise of public functions, gifts, sponsorships and donations, and reports on the income and assets of public officials, as well as special laws which are established competences of the Agency determined by a final or legally binding decision will be considered negligent performance of a public function, about which the Agency informs the authority in which the public official performs a public function and the authority competent for the election, appointment or appointment of the public official, in order to initiate the procedure for dismissal, suspension or imposition of disciplinary measures. In 98 administrative proceedings initiated against public officials, the Agency made decisions in which it found violations of the Law in the area of declaration of income and property and restrictions on the exercise of public functions/conflicts of interest. After completing the administrative procedures, the authorities submitted 40 responses in 2023:

- 3 dismissals (income and assets);
- in 19 cases, a disciplinary measure was issued - warning (17 income and property; 2 income and property and conflict of interest);
- 9 cases forwarded to another authority (8 income and property, 1 conflict of interest);
- in 1 case, the disciplinary procedure is ongoing (income and property);
- in 8 cases, the proposal to impose a disciplinary measure (income and property) was rejected.

During the year 2023, in three cases, the Agency demanded from the competent courts for misdemeanors the confiscation of the property benefit that was acquired by committing a misdemeanor, in the area of restrictions on the performance of public functions. On the basis of the proposal of the ASK for confiscation of the property benefit acquired by committing a misdemeanor, in addition to the imposition of a fine, the court confiscated property benefit in the amount of €3,077 in one case from the previous period.

Other

33. Can you update us on any progress made based on the recommendations from the TAIEX Case-based Peer Review Mission Report on Countering organised crime and corruption carried out in Montenegro between 30 May to 3 June 2022?

MEA: We will subsequently provide an overview of the implementation status of the recommendations outlined in the Peer Review Mission Report on Countering Organized Crime and Corruption."

Supreme Court:

The relevant recommendations will be implemented, they are addressed through the Plan for improving the efficiency of the High Court in Podgorica. The Supreme Court developed the Guidelines for implementation of plea bargains and the courts' practice remains to be seen.

Special State Prosecutor's Office:

All of the recommendations in the TAIEX Report on the Suppression of Organised Crime and Corruption in Montenegro for the period May 30 to June 30, 2022 are currently being implemented. Specifically, the majority of the recommendations related to the improvement of financial and human resources for real proactive police and investigative work in order to conduct financial investigations, individual specialisation of special prosecutors, reduction of competences in the SDT, increase of personnel capacities in the SDT, and establishment of an interoperable base data do not depend on the involvement of the SDT to carry them out,

Namely, most of the recommendations related to the improvement of financial and human resources for real proactive police and investigative work in order to conduct financial investigations, individual specialization of special prosecutors, reduction of competences in the SPO, increase of personnel capacities in the SPO, establishment of an interoperable base data, are recommendations that do not depend on the involvement of the SPO, but rather on the Ministry of Justice and the Parliament of Montenegro in establishing sufficient legal measures as outlined in the TAIEX report. The recommendation for the establishment of the Case Management System is still in the works. On a daily basis, data and information from criminal cases are loaded into the IBM application system at all phases of the procedure in the SPO. The project will then define the method for securing the integration of the entered data, information, and documentation from the case's criminal files into an appropriate application form (via a specific software solution) in order to generate various types of reports that will be used to monitor the level of achieved results.

The recommendation related to the implementation of the Project with the aim of developing modern analytical software, which will ensure the successful conduct of financial investigations by specialised financial investigators in the SDT, as well as the recommendation related to the establishment of detailed records of achieved results in cases related to the prosecution of perpetrators of the criminal offence of money laundering, is ongoing and the specified recommendations are related to the level of implementation of the previously mentioned recommendation for the construction of the Case Management System. To be more specific, Working Groups will be constituted in April 2024 with the goal of implementing the proposals indicated above.

Ministry of Justice:

Regarding the jurisdiction of the Directorate for Criminal and Civil Legislation, we inform you that the recommendations from the Peer Review Mission Report on Countering Organized Crime and Corruption will be discussed at the working group meetings for drafting the proposed laws to which the recommendations relate (Draft Law on Amendments to the Criminal Procedure Code, Draft Law on Amendments to the Law on Prevention of Corruption, Draft Law on Amendments to the Law on Seizure and Confiscation of Material Benefit Derived From Criminal Activity).

34. Can you provide an update on the work for amending the SPO law and narrow down its mandate?

Special State Prosecutor's Office:

With reference to the foregoing, the Ministry of Justice established a Working Group for Amending the Law on SPO on February 1, 2024, and the group is working intensively on amendments to the Law on Special State Prosecutor's Office.

In addition, the Supreme State Prosecutor's Office (VDT) issued a request to the Ministry of Justice of Montenegro for urgent revisions to the SPO's competence, including limiting the SDT's competence in criminal crimes involving high corruption.

Ministry of Justice:

The working group for amendments to the Law on Special State Prosecution Office worked intensively these days (the last meeting of the working group was held on March 18). It is expected that the work of the working group will be completed within the next week, after which the Draft law will be sent to the Secretariat for Legislation for an opinion. After we receive the opinion of the Secretariat for Legislation, we will send the consolidated version of the law with the explanation for translation. We plan to send the consolidated version of the Draft law with explanations of amended articles in English to the European Commission for their opinion by mid-April.

Also, we emphasize that before the adoption of the draft law by the Government, it is necessary to have a public discussion (which according to the law should last at least 20 days), as well as to obtain opinions of the Ministry of Finance and the Ministry of European Affairs on the draft law.

FREEDOM OF EXPRESSION AND MEDIA FREEDOM

Media authorities and bodies

35. What measures have been implemented to ensure the independence, enforcement powers, and adequacy of resources (financial, human, and technical) of media regulatory authorities and bodies?

Agency for Electronic Media:

LEM regulates AEM's funding sources (fees payable by AVM service providers), freedom to define internal organization and hire staff, as well as rules about adoption and publication of its annual operational and financial plans and reports .

The Law provides that AEM is funded from two types of fees: non-recurrent fees for registration of audiovisual media service providers and annual fees payable as per issued licences for audiovisual media service provision (transmission fee, on-demand audiovisual media service provision fee). The Law also allows other sources of funds if those defined in primary legislation. The amount of the fees is determined on the basis of AEM's annual operation and financial plan. All AEM's revenues and expenditures, also final accounts of AEM are subject to annual audit by an independent authorised auditor.

Besides the obligation to make them available to the public, AEM is required to submit its financial plans and reports for approval of the Parliament. This means that the final budget of AEM can be altered in the process of endorsement by the Parliament.

Independence of AEM regarding organisational autonomy, right to organise its departments and recruitment processes is ensured. AEM Director is responsible for all administrative functions of AEM including the staffing issues like proposing a general act on AEM's internal organisation and job systematisation to the Council and Council is entitled by the LEM to adopt the general legal act on internal organisation salaries and job systematisation.

AEM is subject to the Law on Salaries for Employees of Public Sector. General labour legislation is applicable on AEM staff, except for maximum level of salaries for AEM Director, because for the regulatory authorities' staff there is a cap applicable, and subsequently the salaries of remaining staff can't exceed salary of AEM Director.

AEM has 29 staff members, 7 of them involved in economic and legal matters, 8 – in monitoring and supervision. The Rulebook on Internal Organization and Systematization of Workplaces in AEM is proposed by the AEM Director and adopted by the AEM Council according to the AEM Statute.

The current staff fulfils AEM's obligations. Once the draft Audiovisual Media Services Law is adopted, AEM will have new responsibilities related to video-sharing platforms and therefore additional staff's recruitment is expected.

AEM monitors 46 radio programs (30 commercial, 3 non-profit, 16 public service) and 25 TV programs (15 commercial, 10 public service).

The 2018 Audiovisual Media Services Directive will be transposed with draft Audiovisual Media Services Law is adopted, expected to be adopted by mid 2024).

Ministry of Culture and Media:

The recommendation of the EC is that Montenegro should ensure the operational independence of the media regulator, as well as make progress in providing AEM with the possibility of imposing a complete set of measures, including warnings, financial penalties, suspensions, revocation of the license, which would ensure proportionality and effectiveness. In the Report on Montenegro, the EC welcomed the professionalism of the Agency for Electronic Media (AEM).

In addition, financial support to the media through the newly established Fund for Encouraging Media Pluralism and Diversity was highlighted. In the Law on Audiovisual Media Services, in addition to the incorporated provision of EU Directive 2018/1808 (AVMSD), it is foreseen to strengthen the independence of the Agency for Electronic Media, among other things, in a way that will allow it to fine broadcasters for violations.

36. What measures are in place to ensure the fair and transparent allocation of state advertising, including any regulatory rules governing the process? In this regard, please explain how the transparency of public procurement in the media sector is addressed in the media strategy. Is there the intention to render this type of procedure more competitive in future?

Ministry of Culture and Media:

The Law on Media (Official Gazette of Montenegro No. 82/20) in Art. 13-16 regulates the issue of transparency of media financing from public revenues, while at the same time there is an obligation for public sector bodies and media founders to keep records of payments to the media based on advertising and other contracted services, as well as to submit the same to the Ministry of Culture and Media, as the competent authority.

At the same time, the Ministry, in the form of an annual report, publishes the total allocation of the public sector for advertising and other contractual services on its website, ending on June 1 of the current year for the previous year. On the other hand, the founders of the media have the obligation

to submit the records, which they keep on an annual basis, to the Ministry no later than March 31 of the current year, for the previous year, while the public sector authorities have the obligation to publish the said data on their website no later than March 31 current for the previous year, as well as to submit the data to the Ministry within 15 days from the date of publication of the records. Local self-government bodies and legal entities whose founders are local self-government units are required to submit to the Chief Administrator records of total payments to the media based on advertising and other contracted services by March 31 of the current year for the previous year. At the same time, it is stipulated that the provisions of the law governing public procurement are applied to the advertising procedure. In art. 60-62, which governs penal provisions, fines are provided for public sector bodies and media founders who do not submit the said provisions.

In the Media Strategy of Montenegro 2023-2027 and the accompanying Action Plan for the period 2023-2024, the importance of the problem of transparency of advertising in the media by public sector authorities is recognized. In this regard, more activities are planned with the aim of enabling a more transparent process of financing media founders from public revenues for advertising purposes, such as:

- Analyzing the application of the legal norm that obliges the public sector and the media to publish data on payments based on advertising and other contracted services ;
- Preparation of periodic reports on the application of the Law on Media and the Law on Audiovisual Media Services by the regulatory body for the field of AVM services, from obtaining a report containing data on ownership in audiovisual media, compliance with the provisions on the minimum percentage of own production and advertising;
- Conducting an analysis of the effects of advertising content created in the countries of the region with broadcasting on the territory of Montenegro;
- Raising awareness of the media about the news in the Law on Media and the Law on Audiovisual Media Services in the part of transparent financing from public revenues and
- Research on the impact of all types of state benefits on the development of the media, the economic status of employees in the media. Finally, with the proposal of the new Law on Media, which is in the phase of obtaining the opinion of the European Commission and final interdepartmental harmonization, further developments were made in such a way that it is prescribed that the public sector cannot finance the founder of the media, not only who has not published the imprint and data on the ownership structure of the media, but also who has not been registered in the Media Registry.

Also, a new obligation is prescribed, namely that both public sector entities and media founders are obliged to keep separate accounting for financing public services from financing media founders, based on sponsorship of media content, advertising and other contracted services.

Finally, norms were additionally elaborated that oblige local self-government units and legal entities in which local self-government units have a majority ownership share to submit to the Ministry data on the financing of media founders from public revenues through the local government authority responsible for financial affairs.

37. How are safeguards against state and political interference implemented to maintain editorial independence in both private and public media?

Ministry of Culture and Media:

When it comes to editorial independence in private media, the Media Law introduced the Institute of the Fund for Encouraging Media Pluralism and Diversity, as a form of financial assistance to commercial media in order to create media content of public interest.

The Law on Media regulates clear criteria regarding the authorities in charge of distribution, the amount of distribution, the financing of operating costs of various self-regulation mechanisms, the conditions that media founders must meet in order to be able to apply for the allocation of funds,

and the obligation to report to media founders on the intended use of the funds received for those purposes.

The Ministry of Culture and Media and the independent regulatory body in the field of audiovisual media services - the Agency for Electronic Media, as the bodies responsible for the distribution of funds from the Fund, take care that the funds are used for their intended purpose, while they have no influence on the editorial policy and media content that the founders media apply through their projects for funding.

The aforementioned authorities elaborate the procedure in more detail in their by-laws. The principle is similar when it comes to the allocation of funds in competitions conducted by the Ministry in private non-profit print media. As for the maintenance of editorial independence in the public media, that issue is dealt with by the Law on Electronic Media (Official Gazette of Montenegro 6/10, 40/11, 53/11, 6/13, 55/16, 92/17 and 82/20) and the Law on the National Public Broadcaster Radio and Television of Montenegro (Official Gazette of Montenegro No. 82/20), in such a way as to prescribe mechanisms that go in the direction of maintaining the editorial independence of public broadcasters, from the issue of financing basic activities, transmission and broadcasting of programs, through the regulation of issues related to the criteria for appointing and dismissing members of the councils of said broadcasters, the responsibilities of management in public broadcasters, whereby the Proposal for the Law on Audiovisual Media Services and the Proposal for the Law on the National Public Broadcaster - Public Media Service of Montenegro, which are also in the adoption phase, foresee further guidelines with the aim of strengthening the independence of editorial independence in the privately owned and state-owned media, i.e. local self-government. The implementation of activities from the Media Strategy of Montenegro 2023-2027 and the accompanying Action Plan for the period 2023-2024, which relate to the issues of increasing the percentage of realization of the production and program plans of the Public Service and local public broadcasters, research on the independence of the media and the independence of journalists, etc. Their results will be more measurable after the completion of the Action Plan and the preparation of the next two Action Plans.

38. Can you provide information on the legal provisions and procedures applicable to media service providers, in particular the processes regulating the granting, renewal, and termination of licenses, company operations, capital entry requirements, concentration, and corporate governance?

Agency for Electronic Media:

AEM is responsible for granting and revocation for broadcast licences for radio and TV (issued for the period of 10 years). The LEM and secondary legislation clearly regulate the procedure for issuing licence (if frequency based - upon on public call for application, if non-frequency based – upon individual request for licence). The conditions for licence renewal, temporary or permanent revocation are regulated by LEM.

Media outlets are obliged to ensure that their operation, capital entry requirements, and corporate governance are in line with Law on Business Companies. Public service media outlets (National public service broadcaster Radio-Television of Montenegro - RTCG, and 14 local public service broadcasters), are regulated additionally by LEM (all of them) and Law on RTCG. Namely, the primary legislation regulates public service establishment, funding, supervisory and management bodies' appointment, dismissal as well as guaranties of their operational and journalistic independence.

39. What measures are in place to ensure the public availability of media ownership information, including details on direct, indirect, and beneficial owners, along with any regulatory rules governing this matter?

Agency for Electronic Media:

LEM regulated media concentration and illegal media concentration in relation to the broadcast media, by defining cross-ownership and multiple licence and type of media ownership thresholds, as well as measures in case of the breach of these rules.

According to LEM, AVM service providers are obliged, by 31 December of the current year, to provide to the AEM the data on natural and legal persons (name, head office/residence) that over the year have directly or indirectly become holders of share or a stake in the given AVM service provider, giving details of the actual percentage of such a share or stake. Furthermore, AVM service providers are obliged, by 31 December of the current year, to provide to AEM the data on: 1) own ownership stake in other legal entities providing AVM services; and 2) more than 10% share held by its owners in other legal entities providing AVM services. AEM publishes these data in the Official Gazette of Montenegro and web site.

Furthermore, Media Law (Article 11) prescribes obligation for all media outlets to publish ownership data on their founders and their connected persons, in a simple, direct and permanent way.

According to Media Law, the public sector entities may not advertise in the media that have not published this information.

The supervision of the enforcement of the ownership data disclosure rules (defined by the media Law) is conducted by the Ministry of Culture for print and online media and by AEM for broadcast media.

40. Framework for journalists' protection, transparency and access to documents

Ministry of Culture and Media:

The Commission for monitoring the actions of competent authorities in investigations of cases of threats of violence against journalists, murders of journalists and attacks on media property was formed in December 2013 by the Government of Montenegro, and the new composition of the Commission was changed in 2021.

The Commission is under the jurisdiction of the Ministry of Internal Affairs. The Commission includes representatives of media houses, journalists, representatives of non-governmental organizations, representatives of the Society of Professional Journalists, the Media Council for Self-Regulation, the Media Union, the National Security Agency, the Supreme State Prosecutor's Office, the Higher State Prosecutor's Office and a representative of the Police Administration. The aforementioned composition of the Commission also influenced more efficient work, given that now representatives of the prosecution are directly involved in the work of this body. An important segment is the monitoring of cases that occur through social networks, in addition to identified attacks and threats. Also, the Commission acts in procedures that do not have as an epilogue the filing of a misdemeanor or criminal report. For cases of assault, the Police Directorate and the State Prosecutor's Office are responsible, since they are responsible for the investigative procedure, and on the basis of it, a request is submitted to initiate a misdemeanor procedure or a criminal complaint, which is finally decided by the competent court and makes a decision for each case. The Commission has its own website, within the domain of the Government of Montenegro, where information is available on the Decision on the establishment of the Commission, as well as Commission reports submitted to the Government of Montenegro every four months. As one of the challenges recognized in the Commission's reports and which the Media Strategy 2023-2027 clearly addressed, it refers to the difficult work of the Commission, due to the failure to provide the data needed to assess the overall situation, and to define the exact actions in certain cases. In addition, the fact that three members of the Commission still do not have permission to access secret data is a challenge, so they cannot work and exchange information in full capacity. In the reports of the Commission for Monitoring Investigations of Attacks on Journalists, the lack and delay of responses to recommendations and the non-delivery or incomplete delivery of data and the restriction of their access by other state authorities - the State Prosecutor's Office, the Ministry of Internal Affairs, the Police Directorate - are mentioned as the main challenges in the work.

Thus, especially in the earlier period, the work of the Commission was extremely limited, which often contributed to the lack of efficiency and effectiveness in its work. The Commission does not have records or a register of the percentage of implemented recommendations, due to the previously mentioned difficulties in obtaining feedback from the competent institutions.

As a result, in the Action Plan for the period 2023-2024, together with the Media Strategy, a specific activity related to the amendment of the Decision on the formation of the Commission with the aim of establishing the obligation of relevant institutions to submit data on reported and processed cases of attacks on journalists, ex officio, is recognized.

Ministry of Justice:

Journalists enjoy criminal legal protection according to the Criminal Code of Montenegro. Specifically, Article 142, paragraph 32, stipulates that work of public importance is considered the performance of a profession or duty associated with increased risk to the safety of individuals engaged in it in the fields of public information, health care, and legal assistance before courts and other state authorities.

Furthermore, criminal and legal protection is manifested through the following criminal offenses: Aggravated murder (Article 144, point 10), Aggravated bodily harm (Article 151, paragraph 7), Coercion (Article 165, paragraph 3), Endangering security (Article 168, paragraph 4), and Prevention of printing and distribution of printed materials and broadcasting (Article 179).

41. What rules and practices are in place to ensure the independence and safety of journalists, including protection of journalistic sources and communications, and what follow-up is given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists?

Ministry of Culture and Media:

The current legal framework foresees several mechanisms in order to protect journalistic sources. More specifically, Article 30 of the Law on Media stipulates that a journalist who, during the collection, editorial processing or publishing of media content, becomes familiar with information that could indicate the identity of the source of the information, is not obliged to reveal the source of the information.

Exceptionally, a journalist is obliged to disclose the source of information at the request of the state prosecutor when it is necessary to protect the interests of national security, territorial integrity and health protection. At the same time, when making a decision on questioning a journalist on the circumstances of the source of the information, the court will take into account whether the established information is directly related to the specific case, whether the information can be obtained from other sources and whether there is a legitimate interest based on the law for the disclosure of information about the source of information prevails in relation to the protection of the source of information.

The court may, assessing the circumstances of the case, exclude the public during the presentation of information about the source of the information and warn the persons attending the main trial where the public is excluded that they are obliged to keep as a secret everything they learned during the trial and will indicate that revealing a secret is a criminal offense. In the Proposal of the new Law on the Media, an even greater degree of protection is foreseen, in such a way that it is clearly prescribed that a journalist can reveal the source of information only on the basis of a court decision, and at the request of the state prosecutor, since the current legal provision leaves room for interpretation that this is possible and only at the request of the state prosecutor, without a court decision. With regard to the warning submitted to the Platform of the Council of Europe in order to promote the protection of journalism and the safety of journalists, the Proposal of the new Law on Media adequately regulates the issue of the appointment of the editor-in-chief, while it is foreseen

that the issues of the participation of journalists in the process of appointing and dismissing the editor-in-chief, as well as the position of the editor-in-chief in the event of a change in the ownership or management structure of the media that leads to a significant change in the program basis or program content of that media, they are regulated by the statute of the media founder. Very important, by changing the statute of the founder of the media, in connection with the mentioned issues, it is done with the obligatory prior consultation of the journalists of that media.

Also, the Media Strategy of Montenegro envisages several activities aimed at strengthening the socio-economic position of employees in the media and strengthening their safety. The specific activities that the Ministry of Culture and Media is working on with the competent institutions, provided for in the Action Plan for the period 2023-2024, can be summarized as the following most important:

- Adoption of the Branch collective agreement for the field of media and graphic activities, with the definition of coefficients for employees in the media, established benefited work experience for journalists and other media workers who perform work with an increased degree of risk;
- Adoption of the Decision on connecting the work experience of journalists, to photojournalists and videographers of media houses that were bankrupt and whose companies were liquidated;
- Preparation of analyzes with recommendations for improving the socio-economic position of media workers, the independence of journalists, and training on the mentioned topic;
- Work on the initiative to establish a training center at the Faculty of Political Sciences, which would provide an opportunity to young people who have completed other educational programs and are interested in a career in journalism;
- Work on monitoring the penal policy of the courts through regular annual reporting to the Supreme Court ex officio on final verdicts in proceedings where journalists appear as injured parties;
- Amendment of the Decision on the formation of the Commission with the aim of establishing the obligation of relevant institutions to submit data on reported and processed cases of attacks on journalists ex officio; - Initiating the establishment of a budget for the Commission for monitoring investigations into attacks on journalists;
- Establishing an SOS line to help journalists, victims of mobbing or illegal actions by employers (media founders, ie management staff);
- Improving the structure of the reports of the Commission for Monitoring Investigations of Attacks on Journalists, the Police Directorate and the Supreme State Prosecutor's Office, which include special sections with reference to the results in resolving attacks on journalists;
- - Formation of specialized teams/appointment of contact persons in the Police Directorate and the State Prosecutor's Office who will monitor and investigate cases of attacks on journalists. Finally, in the State Prosecutor's Office, on the occasion of the murder of the journalist Duško Jovanović, several cases were opened ex officio, and based on knowledge of the possible existence of new information of the Police Directorate and the Supreme State Prosecutor's Office, which include special sections with reference to the results in dealing with attacks on journalists;

42. Can you kindly describe the measures in place - including law enforcement capacity -, particularly during protests and demonstrations, to ensure the safety of journalists and to investigate attacks on them?

Police Administration:

Please find below the legislative framework that regulates the issue of journalists' safety:

Law on Media

August 14, 2020

Article 30

A journalist who, during the collection, editorial processing or publishing of media content, gets acquainted with information that could indicate the identity of the source of the information, **is not obliged to reveal the source of the information.**

As an exception to paragraph 1 of this article, **a journalist is obliged to disclose the source of information at the request of the state prosecutor when it is necessary to protect the interests of national security, territorial integrity and health protection.**

When making a decision on hearing journalists on the circumstances of the source of information from paragraph 2 of this article, the court will take into account whether the determined information is directly related to the specific case, whether the information can be obtained from other sources and whether the legitimate interest based on the law in disclosing information about the source of information from paragraph 2 of this article prevails in relation to the protection of the source of information.

The court may, assessing the circumstances of the case, exclude the public during the presentation of information about the source of the information and warn the persons attending the main trial that the public is excluded that they are obliged to keep as a secret everything they learned during the trial and will indicate that revealing the secret is a criminal offense.

In order to strengthen freedom of speech and expression, defamation and insults were decriminalized in Montenegro, which in the previous provisions of the **Criminal Code of Montenegro** existed as separate criminal offenses against honor and reputation, thus they were deleted from the Criminal Code and do not constitute a criminal offense.

Also, with the aim of greater criminal-legal protection of journalists when performing their professional work, the amendments to the Criminal Code of Montenegro from December 2021 granted journalists the **status of official persons. (Article 142, paragraph 32):**

“Work of public importance is considered to be the performance of a profession or duty that is associated with an increased risk for the safety of the person who performs it in the field of public information, health care and legal assistance before judicial and other state authorities”

Amendments to the Criminal Code prescribe the **qualified forms of criminal offenses: Endangering Safety, Aggravated Murder, Serious Bodily Injury and Coercion**, when committed against a person who performs the work of public information, in connection with the performance of that work. Also, the criminal offense of **Preventing the printing and distribution of printed matter, broadcasting programs and publishing information has been reformulated** so that **stricter punishment is provided for obstructing or preventing the publication of information of public importance through the media.**

Aggravated Murder

Article 144

The prison sentence for a minimum term of ten years or a long-term prison sentence shall be imposed on whomever:

- 1) takes the life of another person in a cruel or insidious manner;
- 2) takes the life of another person while acting recklessly and violently;
- 3) takes the life of another and thereat endangers the life of another person with criminal intent;
- 4) takes the life of another person out of greed, in order to commit or conceal another criminal offence, out of unscrupulous revenge or other base motives;
- 5) takes the life of a public official or a serviceman while performing or in relation to performing an official duty;
- 6) takes the life of a child or pregnant woman;

- 7) takes the life of a member of his own family or a family community whom he previously abused,
- 8) acts with criminal intent to take the life of several persons, where such acts do not constitute manslaughter, neonaticide, or mercy killing.
- 9) takes the life of a person who performs tasks of public importance in relation to performing those tasks**

Serious Bodily Injury

Article 151

(1) Whoever inflicts a serious bodily injury upon another person or who seriously impairs his health shall be punished by a prison sentence for a term from six months to five years.

(2) Whoever inflicts a serious bodily injury upon other person or impairs his health so seriously that the injured person's life is endangered thereby or that any vital part of his body gets destroyed or permanently or considerably damaged or weakened, or that the injured person's permanent inability to work or permanent and serious impairment of his health or deformation is caused shall be punished by a prison sentence for a term from one to eight years.

(3) Where the offence set forth in paragraphs 1 and 2 of this Article results in the death of the injured person, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

(4) Whoever commits the offence set forth in paragraphs 1 and 2 of this Article through negligence, shall be punished by a prison sentence for a term not exceeding three years.

(5) Whoever commits the offence set forth in paragraphs 1 to 3 of this Article in the heat of passion, being previously brought into a state of strong irritation without his guilt by an attack, abuse or a serious insult coming from the slaughtered person, shall be punished by a prison sentence for a term not exceeding three years for the offence set forth in paragraph 1, by a prison sentence for a term from three months to four years for the offence set forth in paragraph 2, and by a prison sentence for a term from six months to five years for the offence set forth in paragraph 3.

(6) Whoever commits the act referred to in paragraphs 1, 2 and 3 of this article against a person who performs tasks of public importance in connection with the publication of those tasks, shall be punished for the offense referred to in paragraph 1 of this article by imprisonment of one to eight years, for the offense referred to in paragraph 2 of this article by imprisonment of two to twelve years, and for the offense referred to in paragraph 3 of this article by imprisonment of five to fifteen years.

Coercion

Article 165

(1) Whoever compels someone by means of force or threats to act, or refrain from acting, or to endure something shall be punished by a prison sentence for a term from three months to three years.

(2) Whoever commits the offence set forth in paragraph 1 of this Article in a cruel manner or by threat of murder or serious bodily injury or abduction shall be punished by a prison sentence for a term from six months to five years.

(3) The punishment referred to in paragraph 2 of this article shall be imposed on whoever commits the act against a person who performs tasks of public importance in connection with the performance of those tasks.

(4) Where the offence set forth in paragraphs 1, 2 and 3 of this Article resulted in a serious bodily injury or other grave consequences, the perpetrator shall be punished by a prison sentence for a term from one to eight years.

(5) Where the offence set forth in paragraphs 1, 2 and 3 of this Article resulted in death of the person under coercion, or where the offence was committed by several persons in an organised manner, the perpetrator shall be punished by a prison sentence for a term from two to twelve years.

Endangering Safety

Article 168

(1) Whoever endangers the safety of another person by threatening to attack his life or limb or that of a person close to him shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Whoever commits the offence set forth in paragraph 1 of this Article against more than one person, or where the offence caused anxiety of citizens or other grave consequences or was committed out of hatred shall be punished by a prison sentence for a term from three months to three years.

(3) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

(4) Whoever commits the act referred to in paragraph 1 of this article against a person who performs tasks of public importance in relation with the performance of those tasks.

Preventing Printing and Distribution of Printed Materials and Broadcasting

Article 179

(1) Whoever prevents or obstructs, without authorisation, the printing, recording, sale or distribution of books, magazines, newspapers or other similar printed or recorded materials, or prevents or obstructs without authorization the broadcast of radio or television programs, shall be punished by a fine or a prison sentence for a term not exceeding two years.

(2) The penalty set out in paragraph 1 of this Article shall also be imposed on whomever prevents or obstructs, without authorisation, the publication of information of public importance through the media.

(3) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

43. Can you kindly explain the legislation and practice in place to ensure access to information and public documents to the public and journalists, including procedures, costs/fees, timeframes, administrative/judicial review processes, execution of decisions by public authorities, and any obstacles related to information classification?

Parliament of Montenegro (Committee on Human Rights and Freedoms):

Regarding free access to information, the Committee on Human Rights and Freedoms obtains relevant data on this area by reviewing the Annual Report on the current state of personal data protection and the situation in the area of access to information, which the Agency for the Protection of Personal Data and Free Access to Information submits to the Parliament of Montenegro following Article 62 of the Law on Personal Data Protection and Article 43 of the Law on Free Access to Information.

This Report presents an analysis of the situation in the field of personal data protection, procedures initiated based on this Law and ordered measures, data on the level of respecting the rights of individuals when processing personal data, and the situation in the area of access to information.

In the aforementioned annual reports, the Agency for the Protection of Personal Data and Free Access to Information reports on the situation in the field of personal data protection and access to information, as well as potential problems in the implementation of the Law on Protection of Personal Data and the Law on Free Access to Information.

By submitting the annual report on the current state of personal data protection and the situation in the area of access to information for 2018, the Agency pointed out the abuse of the right to free access to information dating from mid-2016, so the Parliament of Montenegro in its Conclusion

adopted on the proposal of the Committee on Human Rights and Freedoms deemed it necessary to amend the Law on Free Access to Information as soon as possible, which would prescribe provisions on the introduction of abuse of rights, extension of decision-making deadlines and exemption from procedural costs at all levels, to prevent lawyers and everyone who abuses this right from obtaining financial benefits to the detriment of the budget of Montenegro.

After that, activities were undertaken to draft the Law on amendments to the Law on Free Access to Information, but although it was on the Agenda of the Government of Montenegro for 2019, 2020, and 2021, it was approved by the 42nd Government of Montenegro only on 29 December 2021, and it was submitted to the Parliament of Montenegro on 18 January 2022. However, after the vote of no confidence in the 42nd Government of Montenegro and the election of the new 43rd Government of Montenegro, the said Law was withdrawn from the procedure. It was approved by the 43rd Government of Montenegro and submitted to the Parliament, and yet after the election of the 44th Government, it was withdrawn from the procedure together with all other proposals for laws that were approved by the 43rd Government.

On the occasion of reviewing the Report on the current state of personal data protection and the situation in the area of access to information for 2021 and 2022, at the Second meeting of the Committee on Human Rights and Freedoms, held on 13 December 2023, representatives of the Agency for the Protection of Personal Data and Free Access information pointed out the need to pass the Law on amendments to the Law on Free Access to Information as soon as possible to resolve the perceived problems related to the misuse of that Law as soon as possible and prevent further damages to the State budget amounting to millions of euros.

Recently, on 18 January 2024, the Proposal for the Law on Amendments to the Law on Free Access to Information, approved by the 44th Government of Montenegro, was submitted to the Parliament and, following the Rules of Procedure of the Parliament of Montenegro, it was sent for consideration to the Committee on the Political System, Judiciary and Administration and the Legislative Committee.

The Reports on the current state of personal data protection and the situation in the area of access to information for 2019 and 2020 were not supported by the Committee on Human Rights and Freedoms, and the Committee proposed to the Parliament not to accept in the conclusions the Reports on the current state of personal data protection and the situation in the area of access to information for 2019 and 2020, so that the 27th Convocation of the Parliament, at the Fourth Sitting of the First Ordinary (Spring) session in 2021, on the occasion of considering the Report on the current state of personal data protection and the situation in the area of access information for 2019 and 2020, on 27 May 2021, passed the aforementioned Conclusions.

The reports on the current state of personal data protection and the situation in the area of access to information for 2021 and 2022 (with seven "abstentions") did not receive the necessary majority at the Committee meeting, and they were discussed at the Fifth Sitting of the Second Ordinary (Autumn) Session of the 28th Convocation of the Parliament of Montenegro in 2023 and were not accepted by the Parliament of Montenegro after voting on 26 December 2023.

THE CURRENT LAW ON FREE ACCESS TO INFORMATION stipulates that any domestic or foreign natural person or legal entity has the right to access information, without the obligation to state reasons and explain the interest in seeking information (Article 3 of the Law). Access to information ensures that the public knows the information that is in the possession of the authorities, intending to exercise democratic control over the authorities and implement human rights and freedoms.

As for the procedure for accessing information and re-using information, it is prescribed in Chapter IV of the Law on Free Access to Information, which stipulates the following: initiation of the procedure; content of the request; assistance to the requester; methods of accessing information; method of accessing public registers and public records; permission for re-use of information; method of accessing information for persons with disabilities; method of accessing part of the information; competent authority; access to publicly disclosed information; rules of procedure;

deadline for deciding on the request; deadline for enforcing the decision; costs of the procedure; right to appeal; proceedings of the first instance authority upon appeal and the Agency's action upon appeal.

The procedure for access to information is initiated upon the written or oral request of the person requesting access to information, and access to more information can be requested with one request. A written request for access to information is submitted to the authority directly, by regular mail or electronically, while an oral request for access to information is submitted to the authority directly and recorded, and the authority is obliged to receive the request immediately.

The request for access to information has to include:

- 1) Name of the piece of information or data based on which it can be identified;
- 2) How access to information is to be achieved;
- 3) Information about the requester (name, surname, and address of a natural person, or the name and address of a legal person), that is, his or her agent, representative, or proxy. The authority may prescribe a request form for access to information, i.e. re-use of information, but it is also obliged to act on a request that is not submitted on that form. The authority shall, in accordance with its competencies, help the requester to gain access to the requested information.

The requester has the right to choose how he or she wants to gain access to the requested information, namely by:

- 1) Direct inspection of the original or copy of the information in the premises of the authority;
- 2) Copying or scanning the information by the requester in the premises of the authority;
- 3) Delivering a copy of the information to the requester by the authorities, directly, by regular mail, or electronically.

The authority shall provide access to the information in the manner that the requester has chosen, unless the requested access method is technically not possible.

Access to the public register and public records is made possible directly based on a written or oral request, without issuing a decision, by inspecting them in the premises of the authority.

The authority shall provide the requester with access to the public register and public records, within five days from the date of submission of the request, and make an official record about it.

A person with a disability is given access to information in the way and in the form that corresponds to his or her ability and needs.

The authority in possession of the requested information is responsible for deciding on the request for access to information.

The authority is not obliged to provide access to the information it possesses via e-mail if it is publicly disclosed in Montenegro or available on the authority's website. In that situation, the authority shall notify the requester in writing about where and when the requested information was made public within five days from the date of submission of the request.

The authority decides on the request for access to information according to the rules of the general administrative procedure, without conducting an oral hearing, unless otherwise stipulated by this Law.

Regarding the deadline for deciding on the request, Article 31 of the Law stipulates that the authority shall make a decision on the request for access to information, i.e. re-use of information, and deliver it to the requester within 15 days from the date of submission of the formal request.

If access to information is requested to protect the life or freedom of a person, the authority shall issue a decision on the request and deliver it to the requester within 48 hours from the time the request was submitted.

The authority may extend the deadline of 15 days by eight days if access to extremely extensive information is requested; access to information that contains classified information and finding the requested information requires searching a large number of pieces of information, which significantly complicates the daily work of authorities. In this case, the authority shall notify the

requester in writing within five days of the date of submission of the request about the extension of the deadline for addressing the request.

Deadline for implementing the decision - The authority shall implement the decision allowing access to information within three working days from the day the decision was delivered to the requester, i.e. within five days from the day the requester submitted proof of payment of the costs of the procedure, if they are determined by the decision.

Costs of the procedure - No fee is charged for requests for access to information. The requester bears the costs of the procedure for access to information related to the actual costs incurred by the authorities to copy, scan, and deliver the requested information, following the regulation of the Government of Montenegro. If the requester is a person with a disability and a person in a state of social need, the costs of the procedure for accessing information shall be borne by the authority.

The costs of the procedure shall be paid before providing access to the information, and if the requester fails to provide evidence proving that the costs of the procedure were paid in the specified amount, the authority will not provide him or her with access to the requested information.

Right to appeal - Against the act of the authority on the request for access to information, the requester and other interested parties may file an appeal to the Agency, through the authority that reviewed the request in the first instance. An appeal shall not be filed against a decision rejecting a request for access to information containing classified information, but an administrative dispute may be filed with a lawsuit.

Proceedings of the first-instance authority upon appeal - within the framework of the powers established by the law regulating the general administrative procedure, the first-instance authority shall carry out all actions on appeal, within five days from the date of filing the appeal.

Action of the Agency on appeal - The Agency shall issue a decision on the appeal against the act on the request for access to information and deliver it to the complainant within 15 days from the date of filing the appeal. The Council of the Agency decides on the appeal against acts on the request for access to information.

NOTICE: For more details on legislation related to free access to information, please see the Law on Free Access to Information.

CHECKS AND BALANCES

44. Have there been any important Constitutional Court judgments that have been pending implementation recently, and if so, could you provide updates on the progress made in implementing these judgments?

Constitutional Court:

The Constitutional Court of Montenegro points to a problem with the execution of those decisions in which, in accordance with the provisions of Article 76 paragraph 2 of the Law on the Constitutional Court of Montenegro and Article 83 paragraph 4 of the Rules of Procedure of the Constitutional Court of Montenegro, just satisfaction was determined.

Specifically, the Constitutional Court of Montenegro, at the session of June 26, 2018, issued Decision U-III no. 259/18, adopting the constitutional complaint of the petitioner DM, establishes that the contested decision of the High Court in Podgorica, Kvs. no. 17/18, dated January 19, 2018, violated the right of the petitioner under Article 30 of the Constitution of Montenegro and Article 5, paragraph 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and obligates the State of Montenegro to pay the applicant of the constitutional complaint, within 3 (three) months from the date of publication of this Decision, the amount of 700.00 euros, on in the name of fair satisfaction, due to the violation of the right to personal freedom.

Although more than 5 years have passed since the adoption of the indicated decision, fair satisfaction has not been paid and the applicant of the constitutional complaint initiated

international legal proceedings before the European Court of Human Rights due to non-implementation of the decision of the Constitutional Court of Montenegro.

45. What is the state of play of the decree introducing changes to the appointment of the representative before the European Court of Human Rights?

Representative of Montenegro before the European Court of Human Rights:

The amendments to the Decree on the Representative of Montenegro before the European Court of Human Rights in relation to the termination of the mandate of the former Representative were adopted in the end of December 2023 and entered into force in January 2024.

The initiatives for assessment of constitutionality and legality (alignment of the regulations with the Constitution and laws) of the amendments to the Decree have been pending before the Constitutional Court of Montenegro as of January 2024. The initiatives have been set as a priority by the Constitutional Court.

46. How is the independence of national human rights institutions (NHRIs), ombudsman institutions (if different from NHRIs), equality bodies (if different from NHRIs), and supreme audit institutions ensured, and what are their levels of resources, capacity, and powers?

Ombudsman:

The office of the Protector has been established under the Law on the Protector of Human Rights and Freedoms, adopted by the Parliament of the Republic of Montenegro on 8 July 2003 ("Official Gazette of the Republic of Montenegro", Number 41/03). After the referendum of 2006 and the declaration of independence of Montenegro, by the adoption of the new Constitution, the institution has become a constitutional category under Article 81 of the Constitution of Montenegro ("Official Gazette of Montenegro," No. 01/07), Law on the Protector of Human Rights and Freedoms of Montenegro ("Official Gazette of Montenegro," Nos. 42/11, 32/14, 021/17).

On the basis of the Constitution of Montenegro ("Official Gazette of Montenegro," No. 01/07) the national human rights institution has been established by Article 81, which reads: "The Protector of Human Rights and Freedoms of Montenegro shall be an independent body which takes measures to protect human rights and freedoms.

The Protector of Human Rights and Freedoms shall perform the function on the basis of the Constitution, laws and ratified international treaties, while adhering to the principles of justice and fairness.

The State Audit Institution:

The independence of the State Audit Institution is guaranteed by the Constitution of Montenegro and the Law on the State Audit Institution, in accordance with the Lima Declaration and Mexico Declaration on independence of SAIs. The Supreme State Audit is defined in the Constitution of Montenegro, which stipulates that the State Audit Institution is an independent and supreme state audit body, which is responsible for auditing legality and effectiveness of the management of state assets, liabilities, budgets and all financial affairs of entities whose sources of funding are public or arise from the use of state assets. Institutional independence is defined in the Law on SAI prescribing that the Institution is an independent and supreme state audit body and that no one can influence a member of the Senate in the performance of their duties established by this law. The independence of the State Audit Institution is also ensured through the process of appointing and dismissing members of the Senate in accordance with principle 2 of the Mexico Declaration on the independence of the SAI. The president and members of the Senate of the State Audit Institution

enjoy functional immunity and cannot be held accountable for an opinion given or a decision made in the performance of their duties, unless it is a criminal offense.

Respecting the international standards of supreme audit institutions in the audit process, the SAI has the right to plan its work without undue interference from others, and this is respected in practice. This is ensured through independent decision-making process by the Senate on the audited entities, subject matter, scope and type of audit, as well as in the process of conducting the audit and publishing the audit findings. The audit report is submitted to the audited entity and, if necessary, to other bodies when the Institution deems it necessary. In accordance with ISSAI standards, the SAI has unlimited access to records, documents and information.

The financial independence of the SAI is ensured through the support of the Parliament during the adoption of the Proposal Law on the annual state budget, which makes the final decision on the amount of funds for financing the activities of the SAI.

In the process of adopting the final budget account of Montenegro, the Institution reports to the Parliament on the findings and recommendations from the audit of the final budget account, which the Institution is obliged to perform each year. In addition to the audit of the final state budget account, the SAI exercises its competences by performing individual audits, which are determined every year in the process of adopting the Annual Plan, by selecting the audited entities for the given year.

The State Audit Institution conducts financial audit, compliance audit (regularity audit) and performance audit of the bodies and organizations managing the state budget or assets and local self-government units, funds and other legal entities of which the state is the founder or has majority ownership. The audit is performed in the manner and according to the procedures established by the international standards of supreme audit institutions and Professional Code of Ethics. Pursuant to Article 55 of the Law on financing of political entities and election campaigns, the State Audit Institution is also obliged to audit the annual consolidated financial statements of political entities based on risk assessment and criteria defined in the Instruction on the Methodology of performing financial audit and regularity audit. In a four-year period, the Institution is obliged to audit the annual consolidated financial statements of all political entities that have parliamentary status at the national and local level.

The State Audit Institution has 84 employees, of which 66 employees refer to auditing staff, while 18 employees to administrative professional staff. The Senate has four of the five members of the Senate prescribed by the Law on SAI.

47. Can you provide statistics or reports regarding the follow-up of recommendations made by NHRIs, ombudsman institutions, equality bodies, and supreme audit institutions in the past two years?

Parliament of Montenegro (Committee on Human Rights and Freedoms):

The Law on the Protector of Human Rights and Freedoms of Montenegro ("Official Gazette of Montenegro", No.42/11 and 32/14) stipulates the jurisdiction, powers, working methods, and actions of the Protector in the protection of human rights and freedoms guaranteed by the Constitution, the law, confirmed international treaties on human rights and generally accepted rules of international law, as well as other issues of importance for the work of the Protector.

The Committee on Human Rights and Freedoms has very good cooperation with the Protector of Human Rights and Freedoms of Montenegro (Ombudsman), as the umbrella institution for the protection of human rights and freedoms. The Protector of Human Rights and Freedoms of Montenegro or their representatives attended numerous meetings of the Committee of the previous 27th Convocation of the Parliament of Montenegro (representatives of the institution of the Protector attended 24 out of 35 meetings of the Committee) and also participated in many meetings of the Committee during the 26th Convocation of the Parliament, as well as previous Convocations of the Parliament. Since the beginning of the current Convocation of the Parliament, out of five meetings of the Committee on Human Rights and Freedoms held so far, the Protector or

representatives of the institution of the Protector attended four meetings of the Committee. The Committee cooperates with the Protector, both through expert consultations and direct contacts (participation of the Protector at the meetings of the Committee on Human Rights and Freedoms), which prevents possible issues concerning the implementation of human rights and freedoms already at the stage of passing laws and monitoring the work (control) of the executive power.

Under Article 47 of the Law on the Protector of Human Rights and Freedoms of Montenegro, the Protector submits an Annual Report to the Parliament no later than on March 31 of the current year for the previous year. The Annual Report includes in particular: general statistics on the addressed cases; statistics by area of work; an assessment of the current state of human rights and freedoms in Montenegro and recommendations and measures proposed by the Protector for the improvement of human rights and elimination of observed omissions. A special section of the report by which the Protector notifies the Parliament about the observed phenomena of discrimination includes the following: an assessment of the situation in the area of protection against discrimination, which includes an assessment of the work of authorities, service providers, and other persons; observed omissions and recommendations for their elimination; and analysis of the law. This year's Report of the Protector mainly points to systemic anomalies and contains assessments and conclusions about observed systemic irregularities, but also about best practices. Article 48 of the Law on the Protector of Human Rights and Freedoms of Montenegro stipulates that the Protector may submit a special report to the Parliament where deemed necessary for the protection of human rights and freedoms. The Annual Report and special reports are available to the public.

Although Article 48 of the Law allows the Protector to submit a special report to the Parliament where deemed necessary, in practice, the Protector submitted a report on protection against discrimination for the first half of the calendar year only up to the level of the Committee on Human Rights and Freedoms.

However, at the 33rd meeting of the Committee held on 22 February 2023, the Report on the protection against discrimination was reviewed from the point of view of the activities of the institution of the Protector of Human Rights and Freedoms of Montenegro for the period January 1 - July 31, 2022

Based on the analysis of the laws in question, the Chairperson of the Committee was informed of the legal obligation established by Article 48 of the Law on the Protector of Human Rights and Freedoms of Montenegro, so it was assessed that the submission of the Special Report and its consideration at the plenary session of the Parliament, instead of submitting it directly to the Committee, would be important for familiarizing all MPs with the implementation of the Law on Prohibition of Discrimination, as well as for the entire public and citizens who would have the opportunity to become familiar with the activities of the Protector, the progress achieved, but also the shortcomings and problems faced in that area of human rights protection of importance for the citizens.

Acting on the aforementioned Committee Conclusion, in late December 2023, the Protector for the first time submitted to the Parliament the Report on Protection against Discrimination from the point of view of the activities of the Protector of Human Rights and Freedoms of Montenegro for the period January 1- July 31, 2023, which is soon expected to be considered at the meeting of the Committee on Human Rights and Freedoms, as the competent working body.

Submitting a special report on protection against discrimination to the Parliament is also important from the point of view of the control and supervisory function, which also includes monitoring the implementation of the Law, so the Parliament of Montenegro will be able to do better and better monitor the implementation of the Law on Prohibition of Discrimination, while the Committee on Human Rights and Freedoms, as a working body, had a semi-role, because in the legal sense it was not able to reach the mandatory implementation with its conclusions, unlike the conclusions of the

Parliament of Montenegro, which by publication in "Official Gazette of Montenegro" become legally binding for competent institutions and bodies.

The Parliament of Montenegro, in the Conclusions adopted after considering the Annual Reports on the Protector's activities, at the proposal of the Committee on Human Rights and Freedoms, repeatedly pointed out and expressed concern that despite all the findings of the Protector, the appeal of the Committee on Human Rights and Freedoms and the Conclusions of the Parliament of Montenegro adopted following the consideration of the most recent seven Reports on the activities of the Protector of Human Rights and Freedoms of Montenegro, the legal obligation to establish the corresponding records of submitted reports, initiated procedures and decisions regarding discrimination was not respected.

The Parliament, in the Conclusions adopted following the consideration of the Annual Report of the Protector, regularly invites the competent authorities to implement the recommendations of the Protector given in the opinions of the Protector and thus strengthens the recommendations of the Protector with its Conclusions.

Thus, on the occasion of considering the Annual Report of the Protector of Human Rights and Freedoms of Montenegro for the year 2022, the Parliament of Montenegro adopted Conclusions (in 20 points) at the Fifth Sitting of the Second Ordinary (Autumn) Session in 2023, on December 26th. Inter alia, the Conclusions of the Parliament of Montenegro noted:

The Parliament commends the institution of the Protector of Human Rights and Freedoms of Montenegro because in 2022, when they had 1,109 cases in progress, they managed to resolve 88.27% of cases, which indicates a high percentage of completed cases under the circumstances of their increased complicity, significance and complexity, both in terms the factual basis and the issue of substantive legal sources of quasi-judicial practice that characterizes the Protector's handling of complaints (point 4 of the Conclusion).

Having in mind that in 2022, the Protector of Human Rights and Freedoms of Montenegro issued opinions in 238 cases with 658 recommendations to the competent authorities and other entities for the elimination of confirmed violations of rights, of which 127 recommendations (19.30%) were fulfilled, the deadline for the implementation of 432 recommendations (65.65%) has not expired, four recommendations (0.6%) have been partially fulfilled, 42 recommendations (6.38%) are being implemented continuously, and 53 recommendations (8.05%) have not been fulfilled, the Parliament calls on the responsible authorities to promptly implement the given recommendations.

Although the majority of state bodies and public administration bodies recognize the importance of human rights and their obligation and interest to cooperate with the Protector of Human Rights and Freedoms, and that cooperation with individual bodies has been further accelerated and improved, the Parliament is concerned because there are still departments that react late to the Protector's addresses or ignore the Protector's opinions or requests, which is why, to deliver the requested statements, in 2022 the Protector was forced to send 482 urgent reminders in 372 cases, which was the largest number of cases in which the Protector sent urgent reminders, as well as the largest number of urgent reminders sent in one reporting year (point 5 of the Conclusion).

The Parliament of Montenegro supports the recommendations of the Protector of Human Rights and Freedoms of Montenegro in the areas of administration and justice, protection against torture, child rights, youth and social protection, and protection against discrimination, vulnerable groups, and gender equality.

In addition, the Parliament is pleased with the Protector's plans to strengthen mechanisms for monitoring the fulfillment of the Protector's recommendations given in individual opinions, as well as in special reports (point 6 of the Conclusion).

The Parliament expresses its satisfaction with the fact that citizens have a high degree of trust in the work of the Protector of Human Rights and Freedoms of Montenegro, which was also recognized in

the 2023 European Commission's Report on Montenegro reading that the institution of the Protector was still considered as an institution trusted by the citizens of Montenegro and its views were often cited in the media (point 8 of the Conclusion).

In addition to the Annual Report, under Article 25 and Article 47 of the Law on the Protector of Human Rights and Freedoms of Montenegro and the Law on Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Protector submits to the Parliament the Annual Report of the National Mechanism for the Prevention of Torture, which is based on the visits of the NPM team, interviews with the management of bodies and institutions where persons deprived of their liberty are placed, visits to police detention facilities, prisons and other premises, interviews with persons deprived of their liberty, interviews with employed officers and inspection of documentation. Concerning the rights of persons deprived of their liberty, it is important to point out that the situation in this area has been significantly improved through the professional cooperation and partnership of the Protector of Human Rights and Freedoms of Montenegro and competent institutions in the field of the protection of the rights of persons deprived of their liberty.

The Committee on Human Rights and Freedoms, as the competent committee, reviews the aforementioned Reports and submits a Report with a proposed conclusion to the Parliament. It is particularly important to emphasize that it is stipulated under Article 162 of the Rules of Procedure of the Parliament of Montenegro that upon consideration of the report, the Parliament shall pass a conclusion that may contain assessments and positions on certain issues, so the Committee on Human Rights and Freedoms very often presents assessments of the situation in certain areas in its proposals for conclusions, positions on certain issues, points to issues in the application of particular laws or operation of particular institutions or practices, and it is particularly significant that the Committee obliges the responsible authorities to implement certain activities in order to improve the current situation.

The Committee on Human Rights and Freedoms in the previous period also pointed to certain issues in the work of the institution of the Protector and that the Parliament of Montenegro, in the Conclusions adopted after considering the Report on the Protector's activities for the year 2015, invited the institution of the Protector to make additional efforts and undertake activities to promote the competences defined by law, because citizens were still not sufficiently informed about the rights they could exercise before that Institution and how to do that. In addition, the Parliament called on the Protector to act more proactively, considering that at that time there was a rather small number of self-initiated cases. Having in mind the importance of following the Protector's recommendations, and starting from the fact that year after year the Protector's Annual Reports had shown that some institutions failed to fulfill those recommendations, the Protector was recommended, to the extent possible, to use the strength of personal authority and the authority of the office performed to make the responsible institutions implement the recommendations. On that occasion, it was pointed out that it was necessary to invest in additional activities to improve communication between all stakeholders dealing with human rights and to deepen cooperation to resolve all problems in that area, thereby contributing to the elimination of irregularities in the function of compliance with the principles of justice, fairness, and legal security.

Previously, on the occasion of considering the Report on the Protector's activities for the year 2014, the Committee pointed out the observed shortcomings in the work of the institution of the Protector and the necessity of undertaking activities to improve the situation, which was also included in the Conclusion of the Parliament of Montenegro, where the Parliament expressed concern about the capacities of the institution of the Protector to fulfill its broad jurisdiction and efficiently address the complaints of citizens, i.e. legal entities, for protection against discrimination, bearing in mind the objections of citizens, i.e. legal entities presented or sent to the Committee on

Human Rights and Freedoms, as well as the European Commission's Report on Montenegro's progress from October 2014.

The Parliament's Conclusion following the consideration of the Protector's Annual Report for 2014, adopted on the proposal of the Committee on Human Rights and Freedoms, was additionally confirmed by the assessments of the European Commission contained in the Report on Montenegro for 2015 and the Resolution of the European Parliament on Montenegro from March 2016, where concerns were raised because the Protector's ability to effectively process complaints was still limited.

It is important to emphasize that the work of the institution of the Protector has improved significantly in recent years, which has been recognized by the Committee on Human Rights and Freedoms and by all relevant international entities, and this was also contributed by the Institution's readiness to act on the recommendations of the Committee, that is, the conclusions of the Parliament of Montenegro, which contributed to the improvement of the Institution's work, as well as to the improvement of the situation in the field of human rights.

The Committee, following the Action Plan for strengthening the legislative and control role of the Parliament and its annual activity plans, regularly monitors the implementation of the conclusions adopted by the Parliament of Montenegro on the proposal of this Committee, as well as the implementation of the Committee's conclusions.

In practice, the competent authorities usually act according to the conclusions of the Parliament and the conclusions of the Committee, except when the implementation of the Conclusions requires significant funds or amendments to the law for which a longer period is required.

As for financing the Protector of Human Rights and Freedoms of Montenegro, Article 53 of the Law on the Protector of Human Rights and Freedoms of Montenegro stipulates the following:

"Funding for the Protector's work is provided in a special section of the budget of Montenegro.

The request for the allocation of budget funds to the Protector is submitted by the working body of the Parliament responsible for the field of human rights, upon the proposal of the Protector.

The Protector has the right to participate in the work of competent working bodies and the sitting of the Parliament where the budget proposal is discussed.

The Protector decides independently on using the funds referred to in paragraph 1 above, following the dynamics established in accordance with the Budget Law."

When considering the Proposal for the Budget Law of Montenegro, the members of the Committee on Human Rights and Freedoms who are familiar with the laws in the field of human rights and the obligations of the executive authorities in the implementation of laws and policies in the field of human rights can assess which activities should be undertaken by the competent authorities and in this connection, properly assess the amount of funds needed for their implementation.

In this regard, within the discussion on the Draft Budget Law of Montenegro, the Committee on Human Rights and Freedoms reviews every year the Draft Budget Law for the following spending units: Protector of Human Rights and Freedoms; Ministry of Human and Minority Rights; Ministry of Labor and Social Welfare; Agency for the Protection of Personal Data and Free Access to Information; Fund for the Protection and Realization of Minority Rights; Center for the Preservation and Development of Minority Culture of Montenegro; and the National Councils. After that, it sends the Opinion to the parent Committee for Economy, Finance and Budget.

It is important to point out that in all previous years the Committee on Human Rights and Freedoms, when considering the proposal for the allocation of budget funds to the Protector of Human Rights and Freedoms of Montenegro, understanding the importance of this Institution for the entire society, its role on the path of European integration, numerous obligations and tasks in the fulfillment of commitments, primarily from the negotiation chapter 23 - Judiciary and Fundamental Rights, fully supported all proposals for the allocation of budget funds to the Protector in the

amount requested by the Protector, and submitted the confirmed requests to the Ministry of Finance of the Government of Montenegro.

The Protector of Human Rights and Freedoms of Montenegro, as part of the Annual Report submitted to the Parliament of Montenegro, which is reviewed by the Committee on Human Rights and Freedoms as the competent committee, also reports on funds, that is the amount of budget funds allocated to the institution of the Protector and their spending.

The 2022 Annual Report reads that "35 job positions for state employees and civil servants have been systematized in the Office of the Protector of Human Rights and Freedoms of Montenegro, for the performance of professional, administrative, legal and other tasks for the needs of the Protector." The Institution of the Protector of Human Rights and Freedoms of Montenegro, in the reporting year, i.e. as of 31 December 2022, had 36 employees including the Protector and four Deputy Protectors. With the existing systematization of job positions, the conditions for activity performance have been significantly raised to a higher level, as part of the long-term strategy of strengthening the staff and administrative capacities of the Protector.

The Protector was accredited by the Global Alliance of National Human Rights Institutions - GANHRI (on 5 August 2016) with status B. On this occasion, the recommendations and opinions of the Subcommittee of the Global Alliance of National Human Rights Institutions were given to improve the status in terms of the Protector's mandate, election and appointment, adequate funds for operation and financial autonomy, staff - clear position and autonomy in employment, as well as stronger interaction with the international human rights system.

The Protector continuously implements activities to strengthen their capacities through strengthening the knowledge and skills of existing staff, especially in the area of protection against discrimination and prevention of torture. In the reporting year, adequate accommodation and workspace were provided for employees.

In 2022, the Ministry of Finance released €706,267.91 to the Protector, and the total funds used for the functioning of the Institution amounted to €669,877.91."

In the 2023 European Commission's Report on Montenegro, our international partners, inter alia, pointed out that "Montenegro should take measures to better harmonize this framework with the Paris principles so that the institution of the Protector could be upgraded to A status."

Therefore, point 16 of the Conclusion of the Parliament of Montenegro, adopted following the consideration of the 2023 Annual Report of the Protector of Human Rights and Freedoms of Montenegro, reads: "The Parliament agrees that in the coming period, following the recommendations of international partners, amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro are to be prepared and the Institution's independence is to be strengthened, following the Paris Principles, to raise the status of the Institution and ensure that the institution of the Protector is awarded the status "A" by the Global Alliance of National Human Rights Institutions."

In connection with the inquiry concerning the STATISTICS ON THE MONITORING OF THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE PROTECTOR OF HUMAN RIGHTS AND FREEDOMS OF MONTENEGRO IN THE PREVIOUS TWO YEARS, the Committee on Human Rights and Freedoms of the Parliament of Montenegro receives such data from the Protector as part of the Annual Reports submitted to the Parliament.

According to data from the 2022 Annual Report of the Protector of Human Rights and Freedoms of Montenegro, in 2022, the Protector of Human Rights and Freedoms of Montenegro sent 658 recommendations to the competent authorities and institutions after investigating 238 cases:

- 127 recommendations were fulfilled (19.30%);
- The deadline for the implementation of 432 recommendations (65.65%) has not expired;

- 4 recommendations were partially fulfilled (0.6%);
- 42 recommendations (6.38%) are continuously implemented, and
- 53 recommendations (8.05%) were not fulfilled.

In addition, the Report contains information about recommendations that were not followed, that is, entities that did not follow the recommendations.

According to data from the 2021 Annual Report of the Protector of Human Rights and Freedoms of Montenegro, in 2021, the Protector of Human Rights and Freedoms of Montenegro sent 343 recommendations to the competent authorities and institutions after investigating 124 cases:

- 163 recommendations were fulfilled (47, 52%);
- The deadline for the implementation of 51 recommendations (14, 86%) has not expired;
- 12 recommendations were partially fulfilled (3.49%);
- 25 recommendations (7.28%) are continuously implemented, and
- 92 recommendations (26.82%) were not fulfilled.

The deadline for submitting the 2023 Annual Report of the Protector of Human Rights and Freedoms of Montenegro to the Parliament is March 31st of the current year, so we do not yet have data for the previous calendar year.

The recommendations of the Protector are very significant and play an irreplaceable role in the field of protection and prevention of human rights violations. When public authorities act in accordance with the given recommendations, the State demonstrates a responsible attitude towards the citizen concerned who is satisfied, and the authority of the Institution is strengthened. Therefore, through the dialogue of decision-makers, it is necessary to continuously point out the importance of given recommendations and thereby encourage their application in practice.

Ombudsman:

We are currently working on the Annual report for 2023, which includes statistics and recommendations.

Below are data for 2021 and 2022 years.

In 2021, the Protector of Human Rights and Freedoms of Montenegro, after the investigation procedure in 124 cases, sent 343 recommendations to competent authorities and institutions.

163 recommendations were fulfilled (47, 52%); -

The deadline for the implementation of 51 recommendations (14, 86%) has not expired; -

12 recommendations were partially fulfilled (3.49%); -

25 recommendations (7.28%) are continuously implemented;

92 recommendations (26.82%) were not fulfilled.

In 2022, the Protector of Human Rights and Freedoms of Montenegro, after the investigation procedure in 238 cases, sent 658 recommendations to competent authorities and institutions.

127 recommendations were fulfilled (19.30%);

The deadline for the implementation of 432 recommendations (65.65%) has not expired;

4 recommendations were partially fulfilled (0.6%);

42 recommendations (6.38%) are continuously implemented;

53 recommendations were not fulfilled (8.05)

The State Audit Institution:

During past two years, the SAI published 47 reports on the implementation of recommendations, which refer to 12 audit reports of the annual consolidated financial statements of political entities for 2021 and 11 audit reports of the annual consolidated financial statements of political entities for 2020. In the reporting period, the SAI controlled 234 audit recommendations, of which 163 recommendations were implemented (69.66%), 20 (8.55%) recommendations were not implemented, 35 (14.96%) recommendations were partially implemented, 5 (2.14%) recommendations are not applicable, while for 11 (4.70%) recommendations the status of implementation could not be confirmed.

48. How are civil society organisations and human rights defenders supported within the legal framework, including the practical application of registration and dissolution rules?

Ministry of Public Administration:

Registration in the Register of Associations

The service is intended for citizens' associations, for the purpose of registration in the Register of Associations. By registering in the Register of Associations, an association acquires the status of a legal entity.

Registration of a non-governmental association in the Register of Associations is done on the basis of an application for registration.

Along with the completed application form for registration in the Register of Associations, the person authorized to represent the association (president, general secretary, executive director...) submits the founding act, i.e. the founding decision, the minutes of the founding assembly and the statute. Mandatory content of the founding decision and the statute of the association are prescribed by the Law on Non-Governmental Organizations - Art. 11 and 12.

There is no provision for the payment of an administrative fee.

Registration in the Register of Associations will be done within 30 days from the date of submission of a proper and complete application.

The party has the right to file a complaint with the Administrative Court of Montenegro within 20 days from the date of receipt of the Decision.

The non-governmental association is deleted from the Register of Associations:

- on the basis of the decision on termination of work;
- at the end of the period for which the Association was founded;
- at the request of a member of the association, if the number of members of the association is reduced below the minimum number of founders prescribed by law, and the competent body of the association does not make a decision on the admission of new members within one year.

Along with the completed application form for deletion from the Register of Associations, the association must submit:

- the decision of the statutory authority on termination of work;
- minutes from the session of the statutory authority where the decision was made;
- proof of submitted final account with balance sheet and income statement;
- proof of settled tax and other public debts on the day of making the decision on termination of work and
- financial report on the state of the organization on the day of making the decision on termination of work.

Legal framework:

- Articles 10-13, 15-18 and 38 of the Law on Non-Governmental Organizations (Official Gazette of Montenegro, no. 039/11 from 04.08.2011, 037/17 from 14.06.2017).

Registration in the Register of Foundations

The service is intended for non-governmental foundations for registration in the Register of Foundations. By registering in the Registry of Foundations, the foundation acquires the status of a legal entity.

Registration of a non-governmental foundation in the Register of Foundations is done on the basis of an application for registration.

Along with the duly completed application form for registration in the Registry of Foundations, the person authorized to represent shall submit the founding act, that is the will if the foundation is established by will, the minutes of the founding meeting of the board of directors and the statute. There is no provision for the payment of an administrative fee.

Enrollment in the Register of Foundations will be made within 30 days from the date of submission of a proper and complete application.

The party has the right to file a complaint with the Administrative Court of Montenegro within 20 days from the date of receipt of the Decision.

A non-governmental foundation is deleted from the Register of Foundations:

- on the basis of the decision on termination of work;
- at the end of the period for which the Foundation was established;

Along with the completed deletion request form, the non-governmental foundation is required to submit:

- the decision of the statutory authority on termination of work;
- minutes from the session of the statutory authority where the decision was made;
- proof of submitted final account with balance sheet and income statement;
- proof of settled tax and other public debts on the day of making the decision on termination of work and
- financial report on the state of the organization on the day of making the decision on termination of work.

Legal framework:

- Articles 10-13, 25-27 and 38 of the Law on Non-Governmental Organizations (Official Gazette of Montenegro, no. 039/11 from 04.08.2011, 037/17 from 14.06.2017).

Registration in the Register of Foreign Organizations

The service is intended for representative offices of foreign organizations for registration in the Register of Foreign Organizations. A foreign organization can operate on the territory of Montenegro if it has registered its representative office with the Ministry. Representative offices of foreign organizations do not have the status of a legal entity.

Registration of a non-governmental organization in the register is done on the basis of an application for registration.

Along with the duly completed application for registration of the representative office of foreign organizations, the following shall be submitted, translated into Montenegrin language by an interpreter appointed in accordance with a special law:

- proof of legal entity status in the country where the organization is headquartered,
- excerpt from the founding act or statute, which defines the goals of the foreign organization,
- personal name and address of the person authorized to represent the representative office of a foreign organization in Montenegro and
- information about the headquarters of the representative office of a foreign organization on the territory of Montenegro.

There is no provision for the payment of an administrative fee.

Entry in the Register of Foreign Organizations will be made within 30 days from the date of submission of a proper and complete application.

The party has the right to file a complaint with the Administrative Court of Montenegro within 20 days from the date of receipt of the Decision.

The representative office of a foreign organization is deleted from the register:

- based on the decision of the competent authority of a foreign organization;
- at the end of the period for which the representative office was established.

Along with the duly completed request for deletion from the Register of Foreign Organizations, the person authorized to represent the representative office of a foreign non-governmental organization must submit:

- notification of the termination of the operation of a foreign organization, i.e. its representative office,
- proof of settled tax and other public debts on the day of making the decision on termination of employment i
- proof of submitted final account with balance sheet and income statement.

Legal framework:

- Articles 20 i 39 of the Law on Non-Governmental Organizations (Official Gazette of Montenegro, no. 039/11 from 04.08.2011, 037/17 from 14.06.2017).

49. What rules and practices are in place to ensure the effective operation and safety of civil society organisations and human rights defenders? This encompasses protection measures against various forms of attacks, intimidation, legal threats such as SLAPPs, negative narratives or smear campaigns, and efforts to monitor threats or attacks, along with dedicated support services.

Ministry of Justice:

The Constitution of Montenegro prescribes:

Prohibition of infliction of hatred

Article 7

Infliction or encouragement of hatred or intolerance on any grounds shall be prohibited

Prohibition of discrimination

Article 8

Direct or indirect discrimination on any grounds shall be prohibited.

Regulations and introduction of special measures aimed at creating the conditions for the exercise of national, gender and overall equality and protection of persons who are in an unequal position on any grounds shall not be considered discrimination.

Special measures may only be applied until the achievement of the aims for which they were undertaken.

The criminal code of Montenegro prescribes:

Special Circumstances for Fixing the Sentence for a Hate Crime

Article 42a

(1) If the criminal offence was committed out of hatred of another person due to national or ethnic affiliation, affiliation with race or religion or due to absence of such affiliation, disability, nationality or due to differences in political or other beliefs, sex, language, the colour of skin, education, social status, social background, sexual orientation, gender identity or disability, the court shall consider such circumstance as an aggravating circumstance unless it is prescribed as an element of a basic criminal offence or an aggravated criminal offence.

(2) Where a criminal offence is committed against a person who belongs to a particularly vulnerable category of persons (children, persons with disabilities, pregnant women, elderly persons, refugees) such a circumstance shall be taken as aggravating by the court.

Endangering Safety

Article 168

(1) Whoever endangers the safety of another person by threatening to attack his life or limb or that of a person close to him shall be punished by a fine or a prison sentence for a term not exceeding one year.

(2) Whoever commits the offence set forth in paragraph 1 of this Article against more than one person, or where the offence caused anxiety of citizens or other grave consequences or was committed out of hatred shall be punished by a prison sentence for a term from three months to three years.

(3) Where the offence set forth in paragraph 1 of this Article is committed by a public official while performing his duties, he shall be punished by a prison sentence for a term from three months to three years.

According to the Law on Obligations, natural and legal persons enjoy the protection of personal rights. Personal rights are: right to life, right to physical integrity, right to psychological integrity, right to freedom, right to honor, right to reputation, right to protection of private life, right to dignity, right to one's own image, right to one's own voice, the right to correspondence and personal records, the right to personal identity, the moral component of copyright, as well as other personal rights prescribed by the Constitution, confirmed and published international treaties and generally accepted rules of international law and special laws. In the event of a violation of personal rights, the court will, according to the severity of the violation and the circumstances of the case, award fair monetary compensation, regardless of compensation for material damage, as well as in the absence of material damage. Also, a person who has been illegally violated has the right to protection in relation to any person who participated in it, as well as to request the court or other competent authority to order the cessation of the violation of his personal rights. Special protection measures in the case of coercion or abuse are provided for in Article 210 of the same law, which stipulates that in the event of a violation of personal rights caused by coercion or abuse, the injured party may request the court to, under the threat of a fine, prohibit the offender from certain behavior (entering a certain area, harassing the injured party by telephone, electronic means, by letter or by other means).

50. How is financial support organised for civil society organizations and human rights defenders, including frameworks ensuring access to funding, financial viability, taxation/incentive/donation systems, and measures to ensure fair distribution of funding?

Ministry of Public Administration:

Financial support of NGO projects and programs from the state budget is regulated by Law of NGOs and bylaws. By adopting this law, combined model of financing in the area of public interest is established for the first time (centralized programming, which is coordinated by the Ministry of Public Administration and decentralized distribution, which is carried out by state authority bodies, included in the annual Decision adopted by the Government, based on public calls). Also, a mandatory minimum percentage (0,5% of the annual state budget), has also been established. From that percent, minimum of 0,3% is allocated for areas of public interest, 0,1% for the protection of

persons with disabilities and minimum 0,1% for co-financing NGOs projects and programmes supported from EU funds.

Distribution of allocated funds is conducting through public calls. For national projects and programmes, project proposals are assessed by independent assessors and ranking list is made based on their assessment. Other parts of the procedure are conducted by commissions (two members from the body which distribute the funds and one NGO member).

For co-financed projects, there is a list of criteria in the public call which must be fulfilled. Funds are distributed for projects which requests are in line with foreseen criteria, until the expenditure of funds for these purposes (0,1% in the current year).

Supporting NGOs or other civil society organisations from the state budget, as well as donations system and taxing are not regulated by this law.

51. What rules and practices govern the participation of civil society organisations and human rights defenders in the decision-making process, such as measures related to dialogue between authorities and civil society, participation in policy development and decision-making, consultations, and dialogues?

Parliament of Montenegro (Committee on Human Rights and Freedoms):

Defenders of human rights, among whom journalists, whistleblowers, and civil society activists play a particularly important role, face numerous challenges in the defines of human rights, which is why they need to be protected and safe, and their work needs to be valued. We are aware that the role of defenders of human rights in ensuring democracy and the rule of law is immeasurable, as well as that every individual should be a defender of human rights.

Therefore, the cooperation of the Committee on Human Rights and Freedoms with the non-governmental sector is intensive. There is a regular dialogue between MPs, members of the Committee on Human Rights and Freedoms, and non-governmental organizations that deal with the protection of human rights. Under Article 67 Paragraph 2 of the Rules of Procedure of the Parliament of Montenegro, meetings of the Committee, according to established cooperation, are attended by a representative of the NGO "Civil Alliance", which continuously monitors the work of the Committee on Human Rights and Freedoms. In addition, the Committee continued its cooperation with the NGO Alliance of Associations of Parents of Children and Youth with Developmental Disabilities "Our Initiative". Representatives of other non-governmental organizations dealing with human rights, upon invitation, following Article 67 paragraph 2 of the Rules of Procedure of the Parliament, participate in individual meetings of the Committee. Members of the Committee also participate in round tables and seminars at the invitation of non-governmental organizations that organize these activities.

Having in mind the submitted questions concerning the rules on the registration of civil society organizations, the distribution of funds for their work, and their participation in the decision-making process, the 26th Convocation of the Parliament of Montenegro at the Ninth Sitting of the First Ordinary (Spring) session in 2017, on 2 June 2017 passed the Law on Amendments to the Law on Non-Governmental Organizations, the main goal of which was to establish a better normative framework and a sustainable system of financing projects of non-governmental organizations from the State budget.

Non-governmental organizations and human rights defenders are also supported in the same manner. Previously, the lack of a centralized model of financing projects and programs of non-governmental organizations was recognized, and because of the allocation of funds by the central intersectoral commission, the connection between the realization of strategic goals of public policies from the scope of ministries and the supported programs and projects was called into question.

Therefore, a combined financing model was defined, which implies centralization of planning and decentralization of the distribution of funds. In this financing model, the Government of Montenegro plays a key role in determining the priority areas for financing, as well as in monitoring

the results of financed projects, while the line ministries carry out the distribution of funds. The main advantage of this model is that the ministries take full responsibility for the preparation and implementation of tenders for the financing of NGO projects and programs under their jurisdiction, which makes the tenders an instrument for the implementation of public policies.

In addition to the changes related to the financing of projects of non-governmental organizations, the Law also establishes the possibility of allocating state property for use by non-governmental organizations, following the Law on State Property. To eliminate the shortcomings observed in practice, the Law also amended certain solutions related to the registration procedure for non-governmental organizations.

It is determined that the State allocates funds in the amount of at least 0.3% of the current annual budget for programs and projects of public interest implemented by non-governmental organizations, that special funds are allocated for financing projects of organizations operating in the field of protection of persons with disabilities in the amount of 0.1% of the current annual budget and funds for co-financing and inter-financing of projects and programs of non-governmental organizations, supported by European Union funds, in the amount of at least 0.1% of the current annual budget, whereby the State expresses its readiness for better and more intensive cooperation with the non-governmental sector.

Montenegro has established mechanisms and procedures for the participation of human rights defenders in the performance of public affairs, which also includes consultations in the processes of drafting laws and public policies, which usually take place in the form of round tables and working groups established to draft laws and policies. These issues are defined by the Decree on the election of representatives of non-governmental organizations to the working bodies of state administration bodies and the implementation of public hearings in the preparation of laws and strategies ("Official Gazette of Montenegro", No. 41/18).

Concerning the responsibility for abuses to the detriment of human rights defenders, the Council for Citizen Control of Police Work and the Commission for Monitoring the Actions of Competent Authorities in Investigation of Cases of Threats and Violence Against Journalists, Murders of Journalists, and Attacks on Media Property play an important role, which significantly contributes to the improvement of investigations of attacks on activists and journalists dealing with human rights.

Concerning the protection from harassment by administrative and judicial bodies and misuse of regulations, the institution of the Protector of Human Rights and Freedoms of Montenegro and the Ministry of Human and Minority Rights play an important role. In addition, the Agency for the Prevention of Corruption plays an important role in the protection of whistleblowers.

Participation of civil society organisations and human rights proponents in the work of the working bodies of the Parliament of Montenegro is stipulated in the Parliamentary Rules of Procedure. Article 67 paragraph 4 of the Parliamentary Rules of Procedure specifies the following: 'Representatives of the Government, representatives of scientific and professional institutions, other legal entities and non-governmental organisations, and individual professional and scientific workers, without decision-making rights can take part in the work of the Committee, upon invitation, that is, at their request, all with the consent of the Committee's chairperson.'

In July 2016, the Agreement on Cooperation between the Parliament of Montenegro and non-governmental organizations was concluded, establishing the purpose, subject and methods of cooperation.

The multi-sectoral approach is the fundamental methodological approach of the work of the Committee on Human Rights and Freedoms, which through quality cooperation with the institution of the Ombudsman, as our natural partner and ally, and with competent state authorities, international organisations based in Montenegro and non-governmental organisations engaged in the protection of human rights, conducts a multitude of activities with the aim of achieving a higher level of compliance and protection of human rights and freedoms.

The Committee's cooperation with the NGO sector is intensive. A dialogue between MPs, members of the Committee on Human Rights and Freedoms and NGOs dealing with the protection of human rights is achieved on a regular basis. The meetings of the Committee, under the established cooperation, following Article 67 Paragraph 4 of the Parliamentary Rules of Procedure, are attended by a representative of the NGO 'Civil Alliance', which continuously monitors the Committee's work. On 1 November 2018, the Cooperation Agreement was signed between the Committee on Human Rights and Freedoms, the Legislative Committee, the Committee on European Integration and the NGO 'Civic Alliance'. Signing of this Agreement contributed to the further enhancement of cooperation with the referred NGO and results for the benefit of all signatories, which is based on the principles of transparency, openness and mutual respect, promotion of European values and activities related to Montenegro's accession to the European Union.

In addition, the same implies a better share of information on the accession negotiations, in particular with respect to chapters 23 and 24.

Also, the Committee continued its cooperation with the NGO Association of Parents of Children and Youth with Developmental Disabilities 'Our Initiative', with representatives of which app. 10 meetings were held.

Representatives of other NGOs dealing with human rights, upon invitation, pursuant to Article 67 paragraph 4 of the Parliamentary Rules of Procedure took part in some of the Committee's meetings.

Throughout 2023, the Committee on Human Rights and Freedoms had eight meetings (five in the 27th and three in the 28th Parliament of Montenegro) with 29 agenda items that lasted 16 hours and 35 minutes. Apart from the representatives of the proponent, by invitation, pursuant to Article 67 paragraph 4 of the Parliamentary Rules of Procedure, 46 representatives of state institutions, 15 representatives of the civil sector and 12 representatives of international organisations took part in the Committee's meetings in 2023.

I consider it important to state that, as part of the 'Responsibility instead of excuses: Parliament to citizens' project, having been implemented with the support of the 'National Endowment for Democracy' organisation, since October 2020, the NGO 'Institute Alternativa' has monitored the work of five parliamentary committees: the Committee on Security and Defense, Anti-corruption Committee, Committee on Political System, Judiciary and Administration, Committee on Economy, Finance and Budget and Committee on Human Rights and Freedoms.

As a result of monitoring the work of this Committee, in December 2021, the 'Institute Alternativa' published the Monitoring Report of the Committee on Human Rights and Freedoms, encompassing the period from 17 December 2020 to 1 October 2021, and in December 2022, the Publication 'To what extent do parliamentary committees interfere in their work?- Analysis of the work of five committees' in which the part concerning the performance of the Committee on Human Rights and Freedoms states: 'Committee on Human Rights and Freedoms: The most active in terms of the number of proposed recommendations. In the reporting period, this working body adopted 111 recommendations and conclusions based on the deliberated reports and held thematic meetings. Recommendations are precisely formulated, providing clear addressing of responsibilities.' Before this, in October 2022, at the Conference entitled 'To what extent does the Parliament interfere in its work?', held in Podgorica, the Draft Report on the performance of five Parliamentary committees was presented from 1 October 2021 to 1 October 2022. At this Conference, only the Committee on Human Rights and Freedoms was singled out as a positive example, and of the five committees over which monitoring was carried out, praise on the number of recommendations and conclusions and their precise wording was given only to this Committee.

Also, I inform you that Montenegro has established mechanisms and procedures for the participation of human rights proponents in the performance of public affairs, which comprises consultations in the processes of drafting laws and public policies, usually taking place in the form

of round tables and working groups formed for drafting the laws and policies. These issues are defined by the Decree on the election of representatives of non-governmental organisations to the working bodies of state administration bodies and the implementation of public hearings in drafting laws and strategies ('Official Gazette of Montenegro', No. 41/18).

(EXAMPLES OF IMPORTANT PARTICIPATION OF NGO REPRESENTATIVES FROM AN EARLIER PERIOD - I would particularly point out the participation of representatives of non-governmental organisations dealing with the protection of rights of persons with disabilities at the 53rd and continuation of the 53rd meeting of the Committee, on 11 and 17 June 2015, where the Proposal for the Law on prohibition of discrimination against persons with disabilities was deliberated. On that occasion, these NGOs raised objections to the Proposal for the Law and the dissatisfaction of persons with disabilities as end beneficiaries, which is why the Committee issued a Conclusion obliging the competent Ministry for Human and Minority Rights to improve the text of the Proposal for the Law in cooperation with representatives of organisations dealing with the protection of rights of persons with disabilities which was done within the established time-frame, therefore the Proposal for the Law received the unanimous support of the present Committee's members after which it was also adopted in the Parliament.

Also, I consider significant the participation of representatives of the LGBT community and NGOs dealing with the protection of their rights at the 31st meeting, held on 27 February 2019, and the 61st meeting of the Committee, held on 18 June 2020, when the Proposal for the Law on Life Partnership of Persons of the Same Sex was deliberated.)

Ombudsman:

The Protector may initiate the adoption of laws, other regulations and general acts for the reason of harmonization with internationally recognized standards in the field of human rights and freedoms. The authority to which has been submitted the initiative referred shall be obliged to make a statement about this initiative.

If he/she deems it necessary for the protection and promotion of human rights and freedoms, the Protector shall issue an opinion on the proposal of the law, other regulation or general act.

The Protector shall submit the Annual Work Report to the Parliament.

And it includes in particular: general statistical overview of the cases in which he/she participated, the statistical overview by the fields of work, evaluation of the situation in the field of human rights and freedoms in Montenegro, recommendations and measures proposed by the Protector for improvement of the human rights and elimination of perceived shortcomings.

A special part of the Report with which the Protector informs the Parliament about the perceived phenomenon of discrimination shall include: assessment of the situation in the field of protection from discrimination, which includes evaluation of the work of authorities, service providers and other persons, perceived shortcomings and recommendations for their removal, analysis of the law.

The Annual Work Report for the previous year shall be submitted not later than 31 March of the current year.

Upon request of the Parliament, the Government is obliged to state its opinion about the Annual Work Report of the Protector. The Annual Work Report shall be made accessible to the public.

The Protector may submit to the Parliament a special report, if he/she deems that it is necessary for the protection of human rights and freedoms. The special report shall be available to the public.

52. How is the framework for impact assessments and evidence-based policy-making established, and what is the policy on their utilisation? Additionally, how are stakeholders and the public consulted, including the judiciary and other pertinent stakeholders, regarding judicial reforms? Lastly, what measures ensure transparency and quality throughout the legislative process, from preparation to parliamentary phases?

Ministry of Justice:

The Ministry is obliged to carry out a public discussion procedure in the preparation of laws and strategies, in order to consult the interested public. The procedure and manner of conducting the public discussion shall be determined by the Government.

Thus, according to the Decree adopted by the Government, the public discussion in the preparation of laws and strategies is carried out:

- 1) by consulting the interested public in the initial phase of preparing the law, i.e. the strategy;
- 2) by organizing a public debate on the text of the draft law, i.e. the strategy.

Also, the work of working groups for drafting laws and strategies includes representatives of interested non-governmental organizations (who applied for a public invitation), as well as representatives of the judiciary (delegated by their institutions).

53. What are the rules governing the use of fast-track and emergency procedures, and what proportion of decisions are typically adopted through these procedures compared to the total number of decisions adopted?

Secretariat-General of the Government:

Article 151 of the Rules of Procedure of the Parliament of Montenegro stipulates that the law can, exceptionally, be passed by urgent procedure and that these are laws that should regulate issues and relationships that arose as a result of circumstances that could not be foreseen, and failure to pass the law could cause harmful consequences. It is also foreseen that a law that must be harmonized with European law and international treaties and conventions can be adopted under an urgent procedure. In this regard, the Government of Montenegro, in 2023 and in the first three months of 2024, determined 76 draft laws, of which 31 draft laws were proposed by the Government to the Parliament to be adopted by urgent procedure. All these laws have been prepared in accordance with the Rules of Procedure of the Government of Montenegro and they have all the necessary prior opinions of the relevant institutions.

54. How are states of emergency, or similar regimes, regulated and applied, including provisions for judicial review and parliamentary oversight?

Parliament of Montenegro:

When it comes to the urgent procedure for adoption of laws, the Rules of Procedure of the Parliament of Montenegro, in Article 151, provides that exceptionally, a law may be adopted under urgent procedure. Urgent procedure may be applied for adoption of a law that is to regulate issues and relations resulting from circumstances that could have not been foreseen and whose failure to be adopted could cause adverse effects, as well as a law that needs to be harmonised with European legislation or international treaties and conventions. The same article provides that the proposer of the law shall state the reasons why it is necessary to adopt the law under urgent procedure in the explanatory statement to the proposal for a law.

Furthermore, Article 152 prescribes that the proposal for a law that is proposed to be adopted under urgent procedure may be placed on the agenda of the Parliament sitting if it is submitted not later than seven days prior to the beginning of the sitting. Notwithstanding paragraph 1 of this Article,

the proposal for a law regulating issues and relations arising in the event of a state of emergency, an emergency circumstance caused by a communicable disease epidemic, natural disasters and hazards, as well as the proposal for a law regulating defence and security issues may be placed at the agenda of the Parliament if submitted not later than 24 hours before the beginning of the sitting. If the Parliament accepts the proposal for a law to be adopted under urgent procedure, it shall set the time frame for the responsible committee to consider the proposal for a law and submit the report, as well as the time frame for the Government, unless it is the proposer of the law, to issue its opinion on the proposal for a law.

Finally, Article 153 of the Rules of Procedure, regulates that when responsible committee considers the proposal for a law proposed to be adopted under urgent procedure, the Parliament may decide that the debate on the proposal for a law should commence immediately without the written report, in which case the rapporteur of the committee would present it orally at the sitting. If the responsible committee fails to submit the report within the established time frame, the debate on the law may be carried out in the Parliament without the committee report. Amendments to the proposal for a law to be adopted under urgent procedure may be submitted during the period preceding the completion of the debate.

55. What is the regime for constitutional review of laws within the legal framework?

Constitutional Court:

Evaluating the constitutionality and legality of general legal acts, the so-called normative control, is the basic competence of the Constitutional Court. It is about subsequent control of the constitutionality of laws, that is, the constitutionality and legality of all other regulations and general legal acts. Almost all general legal acts that are in the legal order, as well as those that have ceased to be valid during the procedure for evaluating their constitutionality and legality before the Constitutional Court, are subject to the control of constitutionality and legality, if the Constitutional Court determines that the consequences of their application have not been removed.

The procedure for evaluating the constitutionality or legality of a general act is initiated by the proposal of the authorized proposer. The authorized proposers are the court (ordinary), another state body, a local self-government body and five MPs. Also, the procedure for the evaluation of constitutionality and legality can be initiated by the Constitutional Court itself (ex officio). Every legal and natural person has the right to submit an initiative to initiate the procedure (actio popularis), even without having a direct legal interest in submitting the initiative.

When it comes to evaluating the constitutionality of confirmed and published international treaties, it is indisputable that the law on the ratification of an international treaty can be subject to control. However, the question arose as to whether the Constitutional Court appreciates only the formal or material constitutionality of the law on the ratification of an international treaty. If it were to appreciate its substantive constitutionality, the Constitutional Court would have to enter into the evaluation of the provisions of the international treaty, which in nomotechnical terms forms an integral part of the law on ratification.

In the past practice, in several of its decisions, the Constitutional Court expressed the view that in the process of assessing the conformity of the law with the Constitution, it can assess only the formal constitutionality of the law on the ratification of an international treaty, i.e. the procedure for its adoption, and not the content of the treaty. The provisions of confirmed and published international treaties (agreements) are beyond the control of the Constitutional court, because the Constitution has no legal basis for evaluating the substantive content of an international treaty, as an integral part of the law along with the Constitution.

The basic (original) authority of the Constitutional Court in the protection of fundamental rights and freedoms is reflected in the right to repeal a law, other regulation or their individual provisions from the legal order, when it determines that it a law in question is not in accordance with the Constitution for formal or essential-material reasons. By canceling such acts, the Court ensures

protection, i.e. respect for the Constitution and its superiority in the legal order, and returns the legislator to the constitutional framework. In other words, even if the Constitutional Court does not control whether the legislator used his powers politically expediently and rationally, but only whether he respected the constitutional frameworks that cannot be exceeded even by the legislative freedom of norming, the strained relationship between politics and law during the exercise of normative constitutional control in practice is constantly present. In many of its decisions, the Constitutional Court expressed the view that "it is not within its jurisdiction to evaluate the effectiveness of certain legal solutions"; that "expediency is a matter of legislative policy", that "their competence is not to regulate social relations, nor to replace the legislator"; that "their powers do not imply the passing of laws", nor that they "have the general power of instance control (supervision) over the work of the parliament" and the like.

Ministry of Justice:

Accessibility and judicial review of administrative decisions

The Law on the Constitutional Court regulates the procedure before the Constitutional Court, thus also the procedure for initiating the procedure for the assessment of the conformity of laws with the Constitution and confirmed and published international treaties, as well as for the initiative for the initiation of the procedure for the assessment of the conformity of other regulations and general acts with Constitution and law.

The Law on Administrative Disputes regulates the jurisdiction, composition of the court and rules of procedure on the basis of which the court decides on the legality of the administrative act and other administrative activities, with the aim of ensuring judicial protection of the rights and legal interests of natural and legal persons and other parties injured by the actions of state authorities, state authorities administration, local self-government bodies, local government bodies, institutions and other entities exercising public powers, as well as for the purpose of protecting the public interest when prescribed by law.

Accessibility and judicial review of administrative decisions

56. Please provide a short update on the transparency of administrative decisions and sanctions, including their publication and rules regarding the collection of related data.

Administrative Court:

The Administrative Court of Montenegro ensures transparency in its work by regularly publishing all relevant information on its website. The website includes daily postings of court decisions, scheduled hearings, verdicts from the European Court of Human Rights, court acts, and important public announcements. It also provides information about the Court and judges, as well as guidance on how to initiate an administrative dispute, submit a request for speeding up the procedure, instructions for accessing information, et cetera. The Court also publishes the Annual and Semi-Annual Report on the Court's Work, providing updates on significant events and activities.

57. What is the general regime for judicial review of administrative decisions, including details such as the competent court, scope, suspensive effect, interim measures, and any specific rules or exceptions from the general regime?

Administrative Court:

The following can be filed against the final decision of the Administrative Court:

- 1) a request for review of a court decision (on the request for review of the court decision, which is decided by the Supreme Court of Montenegro, via council composed of three judges, in a closed session as a rule); - Article 42 of the Law on Administrative Disputes. The request for review of the court decision is submitted to the Supreme Court within 20 days

from the date of receipt of the final decision of the Administrative Court - Article 44 of the Law on Administrative Disputes.

- 2) a request to repeat the procedure (a request to repeat the procedure can also be submitted against the decision of the Supreme Court made on the request for review of the court decision. Article 40 of the Law on Administrative Disputes

When it comes to an administrative dispute, a lawsuit, as a rule, does not delay the execution of an administrative act, that is, the legal effect of another administrative activity against which the lawsuit was filed, but at the request of the prosecutor, the court may postpone the execution of the administrative act or the legal effect of another administrative activity until the court decision is made, if the execution of the administrative act or the legal effect of another administrative activity would cause irreparable damage to the plaintiff, and the delay is not against the public interest, nor would a delay cause damage that would be difficult to compensate the opposing party, that is, an interested person.

Ministry of Justice:

In an administrative dispute, the court decides on the legality of an administrative act, as well as other administrative activities that determine or otherwise affect the rights, obligations and legal interests of a natural or legal person, when prescribed by law. Administrative disputes are resolved by the Administrative Court of Montenegro and the Supreme Court of Montenegro. An administrative dispute can be initiated against an administrative act that was passed in the second instance and against a first-instance administrative act against which no appeal or objection is allowed in the administrative procedure, as well as against other administrative activity when it is prescribed by law. An administrative dispute can also be initiated when a public legal authority has not adopted an administrative act, that is, it has not decided upon a party's complaint, or it has not undertaken an administrative activity, that is, it has not decided upon a party's complaint. As a rule, a lawsuit does not delay the execution of an administrative act, that is, the legal effect of another administrative activity against which the lawsuit was filed. If the public law body has not postponed the execution of the administrative act until a legally binding decision on the administrative matter is made, at the request of the prosecutor, the court may postpone the execution of the administrative act or the legal effect of another administrative activity until the adoption of a court decision, if the execution of the administrative act or the legal effect of another administrative activity would cause the plaintiff caused irreparable damage, and the delay is not against the public interest, nor would the delay cause damage that would be difficult to compensate the opposing party, that is, an interested person. If several lawsuits have been submitted to the Administrative Court against acts in which rights and obligations relate to the same or similar factual situation and the same legal basis, the court may, after receiving the response to the lawsuits, conduct the proceedings on the basis of one lawsuit, and suspend the other proceedings until a final decision is made. in the chosen subject (procedure according to the sample). Article 279 of the Law on Execution and Security stipulates that a temporary measure can be determined by the court before the initiation and during the judicial or administrative proceedings, as well as after the end of those proceedings, until the execution is carried out.

58. Is there a specific mechanism in place to monitor and/or ensure the follow-up by public authorities to final court decisions by national courts (and if yes, could you elaborate on its functioning)?

Supreme Court:

When it comes to administrative disputes, i.e. the executions of the decisions of the Administrative Court of Montenegro, there is no prescribed way to monitor the actions of public institutions in the retrial, after this Court's verdict.

Ministry of Justice:

The Criminal Procedure Code, in a special section titled "Extraordinary Legal Remedies", prescribes procedures for extraordinary legal remedies.