



**Judicial Practice in Montenegro  
in Criminal Cases of Domestic  
and Family Violence (2021–2023):**

# **LENIENT SENTENCES INSULT THE VICTIMS**

 **CIN** Centar za  
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## ABBREVIATIONS

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CIN-CG	Center for Investigative Journalism of Montenegro
CEMI	Center for Monitoring and Research
CEGAS	Center for Civil Liberties
EIDHR	European Instrument for Democracy and Human Rights
MJUUG	Ministry of Public Administration of Montenegro
CoE	Council of Europe
WRC	Women's Rights Center
EC	European Commission
CCM	Criminal Code of Montenegro
LPDV	Law on Protection from Domestic Violence
EU	European Union
NGO	Non-Governmental Organization
ECtHR	European Court of Human Rights
UN	United Nations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
EP	European Parliament
ESC	European Council
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
SD	State Department

**T**he study by the Center for Investigative Journalism of Montenegro (CIN-CG), “*Judicial Practice of Montenegrin Courts in Criminal Cases of Domestic and Family Violence (2021-2023): Lenient Sentences Insult the Victims,*” is part of the project “*Support to Montenegro’s EU Integration – Independent and Professional Judiciary as a Key Prerequisite!*” The project is implemented in cooperation with the Center for Monitoring and Research (CEMI) and the Center for Civil Liberties (CEGAS). It is funded by the European Union through the European Instrument for Democracy and Human Rights (EIDHR) and co-financed by the Ministry of Public Administration of Montenegro (MJUCG).

Domestic violence represents a serious challenge to which the judiciary and other institutions in Montenegro are still seeking an adequate response, in order to mitigate the consequences for both individuals and society as a whole.

CIN-CG analyzed several hundred final court judgments<sup>1</sup> related to domestic and family violence. The analysis showed that courts often impose inadequate and lenient sentences and that there is a worrying number of repeat offenders among perpetrators of this criminal offence.

Judgments also reveal that symbolic penalties are frequently imposed even in cases of brutal violence, with reasoning that contradicts international standards, conventions, and domestic regulations.

Such judicial practice can ultimately lead to the most severe consequences for victims. According to data from the non-governmental sector, the majority of women murdered in recent years had previously endured violence by a partner that was neither properly prosecuted nor adequately punished.

Although there are other problems in the processing of these cases, this study pays particular attention to judicial practice in criminal proceedings, as these are specific procedures in which sentencing policy can significantly influence the prevention of violence, which is unfortunately widespread across all segments of society.

This is also emphasized by the European Commission (EC). In its 2023<sup>2</sup> Report on Montenegro, domestic violence is assessed as a serious problem and “the most extreme manifestation of gender inequality in Montenegro.”<sup>3</sup> The report notes that, despite a solid legislative framework, there is, among other issues, a lack of judicial specialization in these matters, and that investigative and judicial practices remain very lenient.

The scale of domestic violence is also reflected in the most recent report of the Prosecutorial Council for 2023<sup>4</sup>, which states that the highest number of victims in the previous

1 Boričić, Maja, and Tijana Lekić. “Devastating Judicial Practice in Cases of Domestic and Family Violence: Do Courts Care About Victims?” CENTER FOR INVESTIGATIVE JOURNALISM OF MONTENEGRO, April 7, 2024. <https://www.cin-cg.me/porazavajuca-sudska-praksa-za-nasilje-u-porodici-i-porodicnoj-zajednici-mare-li-sudovi-za-zrtve/>

2 European Commission. Montenegro 2023 Report. Brussels, November 2023. <https://wapi.gov.me/download-preview/4441000a-7e5c-4b2c-b3f3-661bac4e8736?version=1.0>

3 European Commission. Montenegro 2023 Report. Brussels, November 2023, 49. <https://wapi.gov.me/download-preview/4441000a-7e5c-4b2c-b3f3-661bac4e8736?version=1.0>

4 Prosecutorial Council of Montenegro. Report on the Work of the Prosecutorial Council and the State Prosecutor’s Office for 2023. Podgorica, 2024, 93.

year were victims of the criminal offence of domestic or family violence.

That little has changed is further evidenced by the *Analysis of Sentencing Policy in Criminal and Misdemeanor Cases of Domestic Violence for 2017*, prepared by the Council of Europe and the Women's Rights Center (WRC) in 2019.<sup>5</sup>

This CIN-CG study was preceded by the research "*Do Courts Care About Victims?*"<sup>6</sup>, published in April 2024, based on an analysis of 467 available final judgments of all basic courts for the criminal offence of domestic or family violence. The judgments covered the period from January 2021 to December 2023. In addition to judgment analysis, the research included opinions from experts, representatives of judicial authorities, the Police Directorate, the non-governmental sector, and other institutions.

While the analysis of extensive judicial material and practice served as the basis for this study, we sought to go a step further by including in this document:

- an analysis of the national legislative framework;
- an analysis of the international legislative framework;
- international reports on Montenegro;
- interviews with experts.

The conclusions and recommendations provide general guidelines aimed at contributing to improvements in this field.

The goal of the research is to increase the visibility of the problem and to promote a more effective fight against domestic violence in Montenegro.

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[https://sudovi.me/static/tzsv/doc/lzvjestaj\\_o\\_radu\\_Tuzilackog\\_savjeta\\_i\\_Drzavnog\\_tuzilastva\\_za\\_2023.godinu.pdf](https://sudovi.me/static/tzsv/doc/lzvjestaj_o_radu_Tuzilackog_savjeta_i_Drzavnog_tuzilastva_za_2023.godinu.pdf)

5 Council of Europe and Women's Rights Center. *Analysis of Sentencing Policy in Criminal and Misdemeanor Cases of Domestic Violence for 2017*. Podgorica, April 2019.

<https://rm.coe.int/analiza-kaznene-politike-finalno/16809c8c3a>

6 Boričić, Maja, and Tijana Lekić. "Devastating Judicial Practice in Cases of Domestic and Family Violence: Do Courts Care About Victims?" Center for Investigative Journalism of Montenegro, April 7, 2024.

<https://www.cin-cg.me/porazavajuca-sudska-praksa-za-nasilje-u-porodici-i-porodicnoj-zajednici-mare-li-sudovi-za-zrtve/>

## NATIONAL LEGISLATIVE FRAMEWORK

**M**ontenegro has a well-developed legislative framework regulating the issue of domestic violence. Sentencing policy has been further improved through recent amendments to the Criminal Code of Montenegro (CCM) related to sanctions for the criminal offence of domestic and family violence.

Domestic violence may be prosecuted either as a criminal offence under the Criminal Code of Montenegro or as a misdemeanor under the Law on Protection from Domestic Violence (LPDV).<sup>7</sup>

### Criminal Code of Montenegro

Domestic violence is prosecuted as the criminal offence of “*DOMESTIC OR FAMILY VIOLENCE*” under Article 220 of the Criminal Code of Montenegro.

Prior to the amendments to the Criminal Code, until December 2023, the prescribed punishment for the criminal offence of domestic or family violence ranged from a fine to imprisonment of up to twelve years.<sup>8</sup>

For the basic form of the offence, a fine or imprisonment of up to two years was prescribed. Where a weapon, dangerous tool, or other means capable of causing serious injury was used, the prescribed sentence ranged from three months to three years of imprisonment. Where serious bodily injury occurred or the victim was a minor, the prescribed sentence ranged from one to five years of imprisonment. In cases resulting in death, the prescribed sentence ranged from three to twelve years of imprisonment. A person who violated protective measures<sup>9</sup> imposed for domestic violence was subject to a fine or imprisonment of up to one year.

In December of the previous year, amendments to the Criminal Code were adopted,<sup>10</sup> which, among other changes, increased the sentencing range for this criminal offence to between six months and fifteen years of imprisonment.

Under the amended provisions, the basic form of the offence is punishable by imprisonment ranging from six months to five years. The use of a weapon, tool, or other means, or the commission of violence in the presence of a child, is punishable by imprisonment of one to five years. Where serious bodily injury occurs or the victim is a child, the prescribed prison sentence ranges from one to eight years. In cases resulting in death, the prescribed sentence ranges from five to fifteen years of imprisonment. The prescribed punishment for violations of protective measures remains unchanged and continues to be a fine or

7 Parliament of Montenegro. Law on Protection from Domestic Violence. “Official Gazette of Montenegro,” no. 46/2010. <https://wapi.gov.me/download-preview/072eb204-b885-43e2-8d30-3931bda88cef?version=1.0>

8 Parliament of Montenegro. Criminal Code of Montenegro. “Official Gazette of Montenegro,” nos. 70/2003, 13/2004, 47/2006, 40/2008, 25/2010, 73/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017. Podgorica, pp. 43-44. <https://www.gov.me/dokumenta/861b2072-d127-417f-b046-245d915b9042>

9 Parliament of Montenegro. Criminal Code of Montenegro, arts. 67-68. Paragraf Lex. <https://www.paragraf.me/propisi-crnegore/krivicni-zakonik-crne-gore.html>

10 Parliament of Montenegro. Criminal Code of Montenegro. “Official Gazette of Montenegro,” nos. 70/2003, 13/2004, 47/2006, 40/2008, 25/2010, 32/2011, 64/2011 (other law), 40/2013, 56/2013, 14/2015, 42/2015, 58/2015 (other law), 44/2017, 49/2018, 3/2020, 26/2021 (corr.), 144/2021, 145/2021, 110/2023. Podgorica. Art. 220; security measures, art. 67; restraining order, art. 77a. <https://www.gov.me/dokumenta/c4dcee51-ee88-430f-a8db-de91f38eadc4>

imprisonment of up to one year.

Articles 42 to 46 of the Criminal Code regulate aggravating and mitigating circumstances, sentencing of repeat offenders, and the mitigation of sentences.<sup>11</sup>

### **Law on Protection from Domestic Violence<sup>12</sup>**

This Law defines domestic violence as any form of physical, psychological, sexual, economic, or emotional violence between family members. It also provides for emergency protective measures that may be imposed immediately upon the reporting of violence. These measures include the removal of the perpetrator from the shared household, a restraining order prohibiting approach to the victim within a specified distance, a prohibition on contacting the victim through any means of communication, and the provision of alternative accommodation for the victim. Protective measures may be imposed by the court at the request of the victim, a family member, a social welfare center, a non-governmental organization engaged in protection from violence, or ex officio.

## **OTHER LEGISLATION**

**The Law on Social and Child Protection<sup>13</sup>** regulates the provision of support and assistance to victims of domestic violence, including social services, accommodation in safe houses, and psychological assistance.

**The Law on Free Legal Aid<sup>14</sup>** regulates matters related to legal assistance for victims of domestic violence, including free legal counselling and representation before courts and other authorities.

**The Family Law<sup>15</sup>** governs family relations and provides protection to victims of domestic violence through provisions relating to the protection of the rights and interests of family members, particularly children.

**The Law on Compensation for Victims of Violent Crime<sup>16</sup>** provides that the state shall compensate victims of violence for suffered physical and psychological harm, as well as loss

11 Parliament of Montenegro. Criminal Code of Montenegro, arts. 42-46. Para**GRAF LEX**.  
<https://www.paragraf.me/propisi-crnegore/krivicni-zakonik-crne-gore.html>

12 Parliament of Montenegro. Law on Protection from Domestic Violence. "Official Gazette of Montenegro," no. 46/2010.  
<https://wapi.gov.me/download-preview/072eb204-b885-43e2-8d30-3931bda88cef?version=1.0>

13 Parliament of Montenegro. Law on Social and Child Protection. "Official Gazette of Montenegro," nos. 27/2013, 1/2015, 42/2015, 47/2015, 56/2016, 66/2016, 1/2017, 31/2017, 42/2017, 50/2017, 59/2021, 145/2021.  
<https://wapi.gov.me/download-preview/e10de0d2-f825-4ada-b470-c3d9d32267f3?version=1.0>

14 Parliament of Montenegro. Law on Free Legal Aid. "Official Gazette of Montenegro," no. 20/2011.  
<https://wapi.gov.me/download-preview/31231331-7e83-4fb1-9257-c192beadfaca?version=1.0>

15 Parliament of Montenegro. Family Law. "Official Gazette of Montenegro," no. 1/2007; "Official Gazette of Montenegro," nos. 53/2016, 76/2020.  
<https://www.gov.me/dokumenta/6712737e-24f3-4bd1-9593-5416c49d3b1c>

16 Parliament of Montenegro. Law on Compensation for Victims of Violent Crime. "Official Gazette of Montenegro," no. 35/2015.  
[https://www.paragraf.me/propisi-crnegore/zakon\\_o\\_naknadi\\_stete\\_zrtvama\\_krivicnih\\_djela\\_nasilja.html](https://www.paragraf.me/propisi-crnegore/zakon_o_naknadi_stete_zrtvama_krivicnih_djela_nasilja.html)

of income. However, this Law will enter into force only upon Montenegro's full membership in the European Union (EU).

**The Protocol on the Treatment, Prevention and Protection from Domestic Violence**<sup>17</sup> has been in place since 2011 and was amended in 2018. It provides practical guidelines to ensure a coordinated approach to cases of domestic violence. Among other objectives, the Protocol aims to ensure the implementation of the Istanbul Convention. It emphasizes the necessity of urgency in action and decision-making and states that, when determining sanctions, particular consideration should be given to the aggravating circumstances prescribed in Article 46 of the Istanbul Convention (recidivism, possession of weapons, presence of children, manner of commission, duration of violence, injuries, age of the victim, etc.).

The Report on the Implementation of the Action Plan of the **National Gender Equality Strategy 2021–2025** emphasizes that “the lack of consistent application of legislation and the insufficient effectiveness of the judicial system hinder the response to gender-based violence and the guarantee of women's rights. Strengthening institutional capacities and improving cooperation among relevant institutions can contribute to better protection of victims of violence and the prosecution of perpetrators.”<sup>18</sup>

The Government formed after the elections held in June 2023, led by Prime Minister Miloško Spajić, established a new composition of the **Operational Team for Combating Domestic Violence and Violence against Women**<sup>19</sup> in February 2024. Its objective is the more effective implementation of regulations, monitoring, and the protection of victims of violence. The Operational Team is composed of representatives of the Ministry of Interior and the Police Directorate, the Supreme Court of Montenegro, the Basic State Prosecutor's Office, the High Court for Misdemeanors of Montenegro, the Ministry of Labour and Social Welfare, the Ministry of Health, the Administration for Inspection Affairs, as well as a representative of the Cabinet of the Deputy Prime Minister for Demography and Youth. The Team also includes representatives of non-governmental organizations providing specialized support services to victims of violence: the NGO *Women's Safe House*, the NGO *Women's Rights Center*, the NGO *SOS Hotline for Women and Children Victims of Violence – Podgorica*, the NGO *SOS Hotline for Women and Children Victims of Violence – Nikšić*, the NGO *Center for Roma Initiatives*, and a representative of the NGO System.

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17 Government of Montenegro. Protocol on the Treatment, Prevention and Protection from Violence against Women and Domestic Violence. Podgorica, September 2018.  
<https://www.gov.me/dokumenta/b945931e-01be-417d-a6b5-215ecb635af3>

18 Ministry of Human and Minority Rights of Montenegro. Report on the Implementation of the National Gender Equality Strategy 2021–2025 for 2022. Podgorica, July 2023, 6–7.  
<https://wapi.gov.me/download-preview/00303903-9045-4c6a-afed-b6e82ebc552b?version=1.0>

19 Government of Montenegro. Decision on the Establishment of the Operational Team for Combating Domestic Violence and Violence against Women. Podgorica, February 2024.  
<https://www.gov.me/dokumenta/fb4626e3-22a9-498c-87eb-48331b661264>

## INTERNATIONAL LEGISLATIVE FRAMEWORK

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)<sup>20</sup> sets standards for appropriate and proportional sanctions for perpetrators, as a prerequisite for the effective prosecution, prevention, and protection of victims of domestic violence. The case law and judgments of **the European Court of Human Rights (ECHR)** in Strasbourg are among the most important sources of guidance and standards regarding the criminal prosecution of domestic violence.

Montenegro has ratified the **United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**<sup>21</sup>, the **UN Convention on the Rights of the Child**<sup>22</sup>, and the **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)**.<sup>23</sup>

Here, we will focus specifically on international standards concerning the conduct of criminal proceedings and the issuance of judgments.

### Istanbul Convention

The Istanbul Convention recognizes that violence against women constitutes a human rights violation and a form of discrimination. This implies that states are responsible if they fail to respond adequately to such violence. Preventing violence, protecting victims, and prosecuting offenders form the cornerstone of this Convention. When expected results in the area of prevention, as well as protection by state institutions, are not achieved, the effective implementation of the criminal justice system becomes essential.

The first signatory states, including Montenegro, initiated this process in 2011<sup>24</sup>, and the Convention entered into force in 2014. Although a number of EU countries have not

20 Council of Europe. Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. CETS No. 210. Istanbul, May 2011. Montenegro was among the first signatories in May 2011. <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=210>  
<https://wapi.gov.me/download-preview/d884b198-af30-4cfe-b943-9f4e23557305?version=1.0>

21 United Nations General Assembly. Convention on the Elimination of All Forms of Discrimination Against Women. Resolution 34/180. New York, December 1979.  
<https://www.rwfund.org/wp-content/uploads/CEDAW.pdf>  
<https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>  
<https://womensrightscenter.org/wp-content/uploads/2020/09/CEDAW-konvencija-web.pdf>

22 United Nations General Assembly. Convention on the Rights of the Child. Resolution 44/25. New York, November 1989.  
<https://www.unicef.org/montenegro/price/konvencija-o-pravima-djeteta>

23 Council of Europe. Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. CETS No. 201. Lanzarote, October 2007.  
<https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=201>  
<http://mhr.gov.ba/PDF/LjudskaPrava/Konvencija%20Vijeca%20Evrope%20o%20zastiti%20djece%20od%20seksualnog%20iskoristavanja%20bosanski.pdf#:~:text=Svrha%20ove%20Konvencije%20je%3A%20sprije%20C4%80iti%20i%20suzbijati%20seksualno,me%C4%91unarodnu%20saradnjuprotiv%20seksualnog%20iskori%C5%A1tavanja%20i%20zloupotrebe%20djece.>

24 Although all EU member states have signed the Istanbul Convention, only 21 have ratified it. Bulgaria, Czech Republic, Hungary, Latvia, Lithuania, and Slovakia have not ratified the Convention.

ratified this Convention<sup>24</sup>, the European Court of Justice (ECJ) ruled in 2021<sup>25</sup> that the EU may proceed with ratification even without unanimity.

Subsequently, the European Parliament (EP) and the European Council (ES) officially approved on 14 May 2024 the text of the first EU Directive aimed at combating violence against women and domestic violence<sup>26</sup>. Member States must transpose the provisions of Directive 2024/1385 into their national legislation by 14 June 2027 at the latest. The Directive provides a comprehensive description of aggravating circumstances that require stricter penalties, such as when a criminal offense is committed against a child, a former, or a current partner.

Article 45 of the Istanbul Convention<sup>27</sup> stipulates that member states shall take the necessary legislative or other measures to ensure that criminal acts are punishable with effective, proportionate, and dissuasive sanctions. These measures include monitoring of convicted persons and the revocation of parental rights if the best interests of the child cannot otherwise be ensured.

ECHR case law also shows that, in cases of domestic violence involving one parent, where a child is a witness, continued contact with the abusive parent cannot be considered in the best interest of the child: "Ensuring contact with the abusive parent can not only negatively affect the child, but may also pose a serious security risk for the victim, as it often provides the perpetrator with a reason to contact or see the victim, and is inconsistent with issued restraining or removal orders."<sup>28</sup>

Article 46 of the Istanbul Convention<sup>29</sup> provides for aggravating circumstances when determining a sentence:

- The criminal offense committed against a former or current spouse or partner in accordance with national legislation;
- Repeated criminal offense, or related offenses;
- Criminal offense committed against a person who became vulnerable due to certain circumstances;
- Criminal offense committed against a child or in the presence of a child;
- Criminal offense committed by two or more people in collaboration;
- Criminal offense preceded by or accompanied by extreme violence;
- Criminal offense committed with the use of a weapon or under threat of a weapon;
- Criminal offense causing serious physical or psychological consequences for the victim;
- Perpetrator previously convicted of similar criminal offenses.

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25 "European Court of Justice Rules that the EU Can Condition Member States on Rule of Law," Radio Free Europe, February 2022. <https://ba.voanews.com/a/6443827.html>

26 European Parliament and European Council. Directive (EU) 2024/1385 on Combating Violence Against Women. Brussels, May 2024. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1385>

27 Council of Europe. Convention on Preventing and Combating Violence Against Women and Domestic Violence, CETS No. 210. Istanbul, May 2011, p. 10. <https://wapi.gov.me/download-preview/d884b198-af30-4cfe-b943-9f4e23557305?version=1.0>

28 Center for Investigative Journalism of Montenegro. "Devastating Judicial Practice in Cases of Domestic and Family Violence: Do Courts Care About Victims?" <https://www.cin-cg.me/porazavajuca-sudska-praksa-za-nasilje-u-porodici-i-porodici-noj-zajednici-mare-li-sudovi-za-zrtve>

29 Council of Europe. Convention on Preventing and Combating Violence Against Women and Domestic Violence, CETS No. 210. Istanbul, May 2011, pp. 10-11. <https://wapi.gov.me/download-preview/d884b198-af30-4cfe-b943-9f4e23557305?version=1.0>

The Istanbul Convention also provides for the prohibition of mandatory alternative dispute resolution or sentencing processes.<sup>30</sup>

The GREVIO monitoring mechanism<sup>31</sup> issues recommendations for the implementation of the Istanbul Convention. GREVIO visited Montenegro from 4 to 8 March 2024, focusing on the theme: “Building trust through support, protection, and justice.” The report is scheduled to be published by the end of 2024. The most recent GREVIO report related to Montenegro was issued in 2018.<sup>32</sup>

## INTERNATIONAL REPORTS ON MONTENEGRO

**S**everal international organizations, in their reports on Montenegro, emphasize that the practice of Montenegrin institutions in addressing domestic violence does not meet international standards.

### European Commission Report on Montenegro for 2023<sup>33</sup>

The European Commission report highlights that gender-based violence, particularly domestic violence, remains a serious and persistent issue and represents the most extreme manifestation of gender inequality in Montenegro.

“Limited specialization among judicial, social, healthcare, and police professionals dealing with gender-based violence and violence against women remains a challenge. Investigative and judicial practice has remained very lenient, applying only some protective measures in misdemeanor proceedings and imposing very few security measures in criminal proceedings. Such practices are not in line with international standards, primarily the case law of the European Court of Human Rights, which requires state authorities to conduct appropriate investigations in cases of domestic violence and to take measures for adequate criminal prosecution...”

### U.S. State Department Human Rights Report on Montenegro 2023<sup>34</sup>

The report concludes that the human rights situation in Montenegro has not significantly

30 Council of Europe. Convention on Preventing and Combating Violence Against Women and Domestic Violence, CETS No. 210. Istanbul, May 2011. pp. 11.

<https://wapi.gov.me/download-preview/d884b198-af30-4cfe-b943-9f4e23557305?version=1.0>

31 Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO). <https://www.coe.int/en/web/istanbul-convention/grevio>

32 Council of Europe. GREVIO Committee Report on the Evaluation of Legislative and Other Measures Implementing the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence in Montenegro. Strasbourg, October 2018.

<https://rm.coe.int/grevio-report-montenegro/16808e5614>

<https://wapi.gov.me/download-preview/39ba6f73-52cd-49ca-8331-b7d2685d5393?version=1.0>

33 European Commission. European Commission Report on Montenegro 2023. Brussels, November 2023. pp. 47-48. <https://wapi.gov.me/download-preview/4441000a-7e5c-4c2c-b3f3-661bac4e8736?version=1.0>

34 Bureau of Democracy, Human Rights, and Labor. U.S. Department of State. Human Rights Report: Montenegro 2023. Podgorica, April 2024, pp. 20-21. <https://me.usembassy.gov/wp-content/uploads/sites/250/MONTENEGRO-2023-HUMAN-RIGHTS-REPORT-MNE.pdf>

changed. Domestic violence remains a persistent and serious problem across all communities, and authorities have not made serious efforts to address it—victims of domestic violence face difficulties in prosecuting their cases within the judicial system, fostering a culture of impunity. Prolonged legal proceedings, economic dependence, social norms, and lack of alternative housing often force victims and perpetrators to continue living together.

“It was reported that police response was below standard, as officers often advised women to ‘forgive’ their attackers or ‘not harm the attackers’ job prospects.’ Victims are legally entitled to obtain restraining orders against the perpetrator. When the victim and the abuser live together, authorities can remove the abuser from the residence, regardless of property rights, but this was rarely done” (U.S. State Department, 2023).

### **GREVIO Committee Report on Montenegro<sup>35</sup>**

In its 2018 report, GREVIO encourages Montenegrin authorities to ensure, through legislative measures and effective training of judicial and prosecutorial officials, that sanctions and measures imposed for domestic violence offenses are effective, proportionate, and dissuasive, without harming victims or their children.

GREVIO<sup>36</sup> notes that no concrete effort has been made to inform judicial officials about the set of aggravating circumstances outlined in Article 46 of the Istanbul Convention, and there is no judicial guidance for sentencing. GREVIO was alerted that judges do not always assess factors influencing cases of violence against women based on the principles of the Istanbul Convention. Instead, judges appear guided by stereotypical gender roles and the view of the family as a fundamental societal unit. As a result, the full range of aggravating circumstances is often not applied, and sentences are frequently mitigated. GREVIO emphasizes the urgent need for mandatory training and full implementation of the Istanbul Convention principles, without which the application of aggravating circumstances will remain inadequate.

GREVIO<sup>37</sup> strongly encourages Montenegrin authorities to ensure that judges are fully aware of the prohibition of mediation in domestic violence cases and to end the practice of mediation in family disputes and divorce proceedings where there is a history of domestic violence.

**The Committee on the Elimination of Discrimination against Women (CEDAW)** also recommends that Montenegro “ensure that perpetrators of gender-based violence against women are criminally prosecuted and adequately punished with penalties proportionate to the severity of their crimes, and abolish any possibility of bringing charges against the victim.”<sup>38</sup>

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35 GREVIO. Report on the Implementation of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) in Montenegro. Strasbourg, October 2018. <https://rm.coe.int/grevio-report-montenegro/16808e5614>; <https://wapi.gov.me/download-preview/39ba6f73-52cd-49ca-8331-b7d-2685d5393?version=1.0>

36 Council of Europe. GREVIO. Report of the GREVIO Committee on the Evaluation of Legislative and Other Measures Implementing the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence in Montenegro. Strasbourg, October 2018, pp. 55-56. <https://wapi.gov.me/download-preview/39ba6f73-52cd-49ca-8331-b7d-2685d5393?version=1.0>

37 *Ibid.*, pp. 57-58. <https://wapi.gov.me/download-preview/39ba6f73-52cd-49ca-8331-b7d2685d5393?version=1.0>

38 Government of Montenegro. Report on the Implementation of CEDAW. Podgorica, September 2021. <https://wapi.gov.me/>

## JUDICIAL PRACTICE

	Number of Convictions	Number of Repeat Offenders	Non-Custodial Sentences	Up to 5 Months Imprisonment	5 Months to 1 Year Imprisonment	1–2 Years Imprisonment
Podgorica	157	80	68	56	27	6
Kotor	58	35	39	16	2	1
Berane	49	28	15	30	3	1
Nišić	32	20	21	10	1	0
Bar	28	13	11	15	1	1
Pljevlja	28	13	10	15	3	0
Bijelo Polje	26	10	16	5	5	0
Kolašin	23	13	18	2	3	0
Rožaje	14	5	12	2	0	0
Cetinje	13	8	6	7	0	0
Herceg Novi	12	7	9	3	0	0
Plav	12	5	10	2	0	0
Danilovgrad	9	6	1	2	4	2
Ulcinj	6	1	3	2	1	0
Ukupno	467	244	239	167	50	11

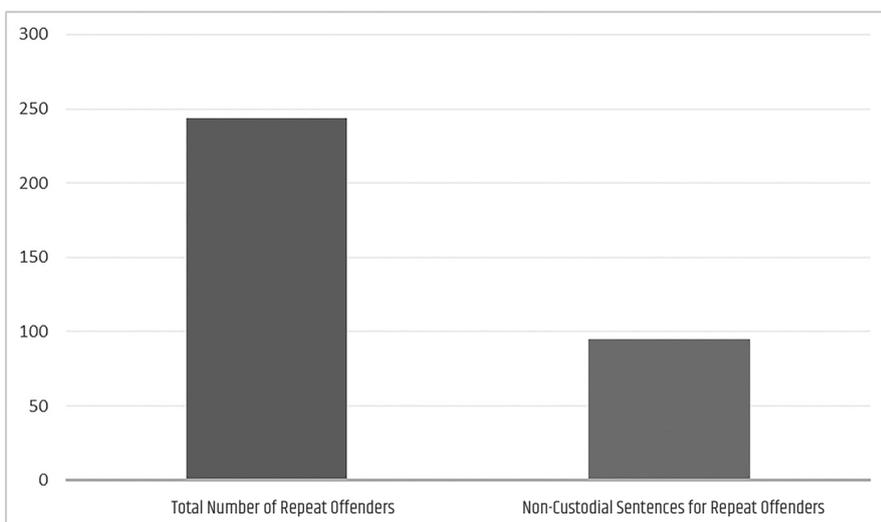
**H**undreds of convictions by basic courts in Montenegro for the criminal offense of domestic and family violence from 2021 to 2023 were below the statutory minimum, and more than half of the imposed penalties were non-custodial. The concerning number of recidivists—over half of those convicted—also indicates that such judicial practice could have contributed to increased violence.

More than half of the convictions consisted of suspended sentences, fines, community service, and house arrest. In a large number of cases, these were penalties imposed on repeat offenders for brutal abuse. Even custodial sentences were mostly limited to a few months, despite the statutory prison term being up to five years. Only about 10% of the convictions exceeded five months of imprisonment.

## REPEAT OFFENDERS

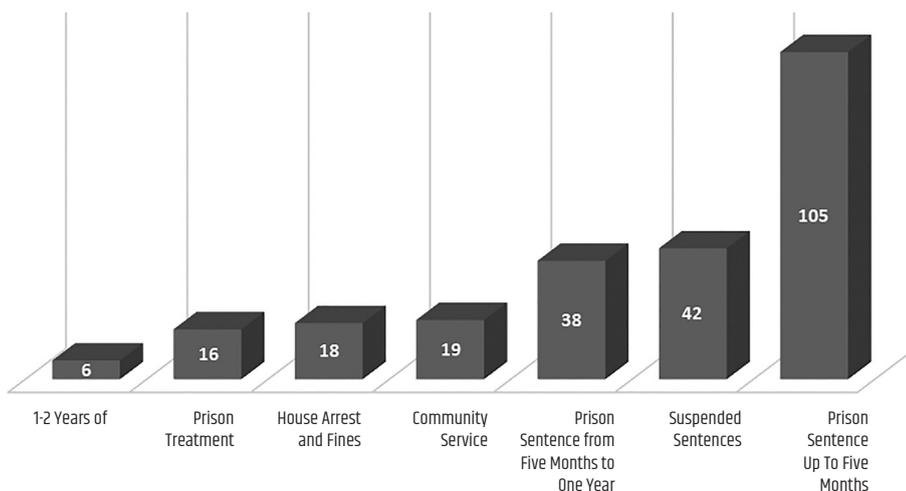
Among those convicted for domestic violence at the basic courts from 2021 to 2023, more than half were previously convicted individuals or had prior administrative sanctions for domestic violence.

Out of 467 available convictions analyzed by the Center for Investigative Journalism of Montenegro (CIN-CG), 244 involved recidivists. (The recidivists category also included individuals who had previously faced administrative sanctions for domestic violence.) Of these 244 recidivists, 95 received non-custodial sentences, including suspended sentences, fines, house arrest, community service, and mandatory treatment.



The highest number of repeat offenders was recorded in Kotor, Nikšić, Berane, and Danilovgrad. In Rožaje, Plav, Kolašin, Nikšić, and Herceg Novi, the number of repeat offenders who did not receive any prison sentence was even higher than those sentenced to imprisonment.

Over the three-year period in basic courts, repeat offenders received the following sentences: 42 suspended sentences, 19 community service orders, 18 house arrest and fines, 16 treatment measures, 105 prison sentences of up to five months, 38 prison sentences from five months to one year, and only six prison sentences from one to two years.



**Podgorica Basic Court:** Out of 157 convictions, from the beginning of 2021 to the end of 2023, 80 cases involved repeat offenders of criminal or misdemeanor offenses. In this court, which handled the largest number of cases, multiple repeat offenders of even the same criminal and misdemeanor acts of violence were sentenced to community service. For example, in a 2021 ruling, a defendant who had already been convicted twice for domestic violence (conditionally and with a fine) received 10 days of community service for punching his wife in the head.<sup>39</sup>

**Kotor Basic Court:** Out of 58 decisions in this court, 35 defendants were repeat offenders. In this court, a previously convicted domestic violence offender received community service after, under the influence of alcohol, first punching his wife in the head, then throwing various objects at her, and finally hitting her with a metal rod on her head, back, and shoulders. "He threatened to kill the victim, who took her child and went to the bedroom, while he continued to hit the door, which he completely destroyed, and she managed to call the police."<sup>40</sup>

**Berane Basic Court:** Out of 49 decisions in this court, 28 cases involved repeat offenders. In Berane, a perpetrator who had already been convicted three times previously served seven and a half days of community service for hitting his wife, including striking her on the head with a TV remote control.<sup>41</sup>

**Nikšić Basic Court:** Out of 32 judgments, 20 involved repeat offenders. In this court, a previously repeatedly convicted and misdemeanor-sanctioned perpetrator for domestic violence against his ex-wife was ordered in 2021 to pay €1,400 for violating a restraining order and, among other acts, throwing a stone at his ex-wife.<sup>42</sup> A repeat offender also received a suspended sentence for violently attacking his pregnant wife while driving, punching her in the head, pulling her hair, strangling her... At one point, he stopped the car, pulled her out, and continued slapping her on the head, pulling her hair, and strangling her, before forcing her onto the rocky ground beside the road, where he continued hitting her on the head with his hands.<sup>43</sup>

**Herceg Novi Basic Court:** Out of 12 decisions, seven involved repeat offenders. In 2023, a man who had previously been sanctioned for minor domestic violence and had violated restraining orders was given a suspended sentence after attacking his mother and wife, including hitting them with a chair and, the next day, breaking a door with an axe.<sup>44</sup>

**Bar Basic Court:** Out of 28 judgments, 13 involved repeat offenders. A repeat offender previously convicted of serious bodily harm was sentenced in 2022 to community service for first tearing his wife's shirt, then hitting her in the face with an open hand, and, several hours later, hitting her again in the presence of their minor children and his mother-in-law.<sup>45</sup>

39 Podgorica Basic Court, K 438/2021. <https://www.sudovi.me/ospg/odluka/461155>

40 Kotor Basic Court, K 323/2020. <https://sudovi.me/osko/odluka/448605>

41 Berane Basic Court, K 10/2023. <https://sudovi.me/osba/odluka/524683>

42 Nikšić Basic Court, K 24/2021. <https://www.sudovi.me/osnk/odluka/444474>

43 Nikšić Basic Court, K 213/2021. <https://www.sudovi.me/osnk/odluka/460562>

44 Herceg Novi Basic Court, K 18/2023. <https://sudovi.me/osnh/odluka/525262>

45 Bar Basic Court, K. 111/2022, <https://sudovi.me/osbr/odluka/496226>

**Piļevlja Basic Court:** Out of 28 judgments, 13 involved repeat offenders. In 2021, a repeat offender previously fined for the same criminal act of domestic violence received a suspended prison sentence for beating his wife with a stick.<sup>46</sup>

**Bijelo Polje Basic Court:** Out of 26 decisions, 10 involved repeat offenders. A man previously convicted eight times was sentenced to seven and a half days of community service for hitting his wife on the head with a glass bottle.<sup>47</sup>

**Kolašin Basic Court:** Out of 23 decisions, 13 involved repeat offenders. In 2022, a repeat offender was sentenced to community service for hitting his wife on the head and pulling her hair until she lost consciousness.<sup>48</sup>

**Rožaje Basic Court:** Out of 14 decisions, five involved repeat offenders. A previously convicted man received a suspended sentence for holding his wife by the hair with one hand, strangling her with the other, and punching her on the head. When she tried to escape, he caught her and continued to hit her with punches.<sup>49</sup>

**Plav Basic Court:** Out of 12 judgments, five involved repeat offenders. A man previously convicted multiple times was fined €1,200 in 2022 for first strangling his common-law wife and then striking her in the face with an open hand, causing a nosebleed, and, when she tried to protect her face from further blows, continued hitting her with fists on the head, spine, and hip.<sup>50</sup>

**Cetinje Basic Court:** Out of 13 judgments, eight involved repeat offenders. A repeat offender received the minimum sentence of three months in prison for swinging a knife toward his common-law wife in the presence of children, saying: "I will kill you."<sup>51</sup>

**Ulcinj Basic Court:** Out of six judgments, one involved a repeat offender. A repeat offender who twice hit his brother in the head and leg with a stone received a judicial warning.<sup>52</sup>

**Danilovgrad Basic Court:** Out of nine decisions, six involved repeat offenders.

The only court that issued actual custodial sentences to repeat offenders was Danilovgrad Basic Court. The shortest prison sentence given to a repeat offender was five months, because he struck his wife multiple times on the head with a closed fist.<sup>53</sup>

**Žabljak Basic Court:** In the past three years, there have been no convictions in Žabljak related to the criminal offense of domestic violence or violence within the family.

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46 Piļevlja Basic Court, K. 46/2021, <https://pravosudje.me/ospv/odluka/471711>

47 Bijelo Polje Basic Court, K. 115/2021, <https://sudovi.me/osbp/odluka/457246>

48 Kolašin Basic Court, K. 19/2022, <https://sudovi.me/oskl/odluka/541124>

49 Rožaje Basic Court, K. 90/2021, <https://sudovi.me/osro/odluka/459400>

50 Plav Basic Court, K. 44/2022, <https://sudovi.me/ospl/odluka/542336>

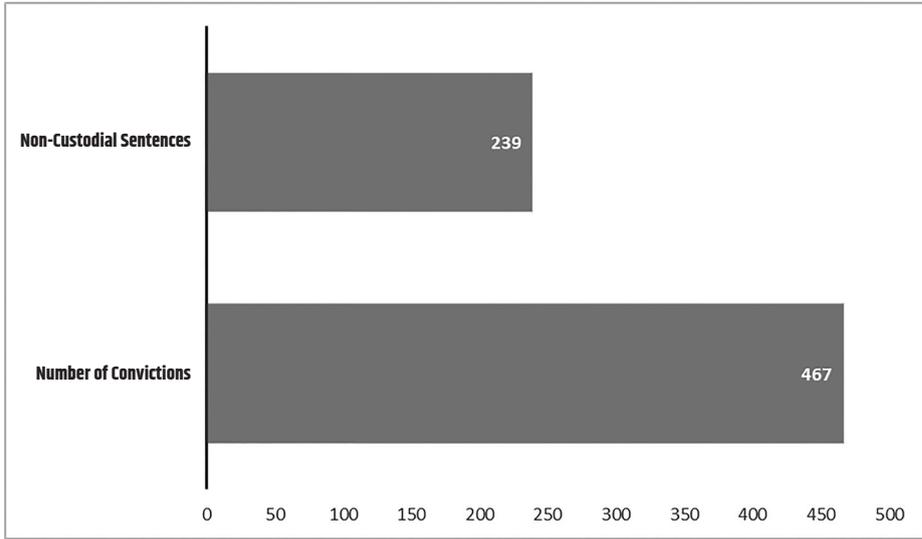
51 Cetinje Basic Court, K. 83/2021, <https://sudovi.me/osct/odluka/505564>

52 Ulcinj Basic Court, K. 74/2021, <https://sudovi.me/osul/odluka/494403>

53 Danilovgrad Basic Court, K. 15/2022, <https://sudovi.me/osdg/odluka/540895>

## NON-CUSTODIAL SENTENCES AND SENTENCES BELOW THE STATUTORY MINIMUM

According to CIN-CG research, more than half of the sentences imposed for domestic violence in Montenegro over these three years were suspended or fines, community service, house arrest, or treatment. Every second judgment was a non-custodial sentence.



In the past three years, one in five sentences for criminal offenses committed using weapons or instruments<sup>54</sup>, as well as for violence committed against minors or resulting in serious bodily injury,<sup>55</sup> was below the statutory minimum.

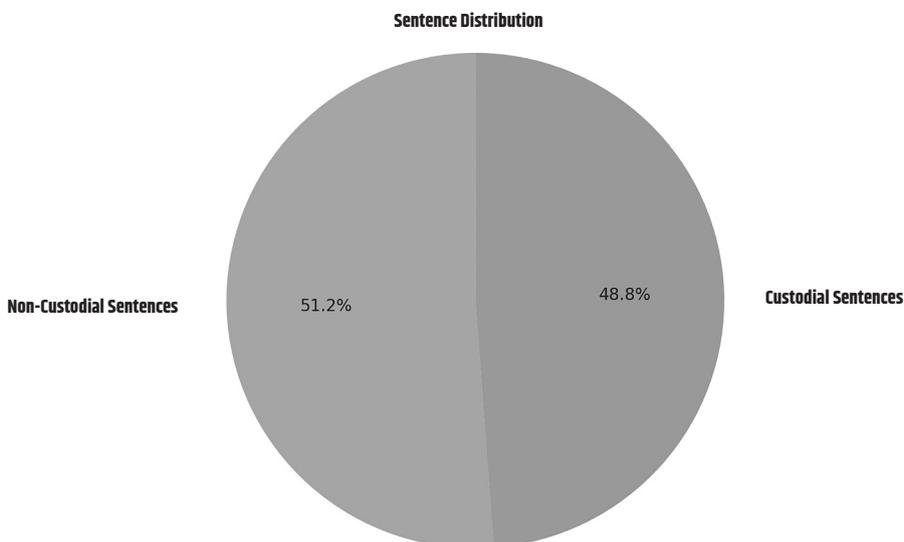
**Plav Basic Court** and **Ulcinj Basic Court** had, according to the number of cases brought to court, the highest number of sentences below the statutory minimum—almost every second sentence handed down was below the legal minimum.

**Podgorica Basic Court:** Podgorica Basic Court handed down 68 non-custodial sentences, and one in five sentences was below the statutory minimum. A man who beat his two minor nieces, even pushing one down the stairs, received a suspended sentence.<sup>56</sup> When

54 Parliament of Montenegro, Criminal Code of Montenegro, Article 220, paragraph 2, “If a weapon, dangerous tool, or other means capable of seriously injuring the body or seriously harming health is used in the commission of the offense under paragraph 1 of this Article, the perpetrator shall be punished by imprisonment from three months to three years,” <https://www.paragraf.me/propisi-crnegore/krivicni-zakonik-crne-gore.html>

55 Parliament of Montenegro, Criminal Code of Montenegro, Article 220, paragraph 3, “If, as a result of the offense under paragraphs 1 and 2 of this Article, serious bodily injury or serious harm to health occurs, or if the offense is committed against a minor, the perpetrator shall be punished by imprisonment from one to five years,” <https://www.paragraf.me/propisi-crnegore/krivicni-zakonik-crne-gore.html>

56 Podgorica Basic Court, K. 579/2022, <https://www.sudovi.me/ospg/odluka/522683>



violence is committed against minors, the law prescribes imprisonment of one to five years.

Another perpetrator, who beat his wife so severely that she suffered permanent hearing loss in one ear, was also given a suspended sentence.<sup>57</sup> When violence causes serious bodily injury, the Criminal Code also prescribes imprisonment from one to five years.

**Kotor Basic Court:** Kotor Basic Court issued 39 non-custodial sentences, and one in six sentences was below the statutory minimum. A man who had been previously convicted received a suspended sentence after beating his wife on the head; when she hit her head against the wall and fell to the floor, he continued to hit her, strangle her, and pull her hair.<sup>58</sup>

**Berane Basic Court:** Fifteen non-custodial sentences were handed down, while one in eight judgments was below the statutory minimum. A man who, while intoxicated, attacked his wife because she asked him to turn down the music he was playing at a very high volume received a suspended sentence. When their minor son tried to stop him, he punched him in the groin and threatened: "If you call the police, I will slaughter all three of you tomorrow," referring to his wife, son, and daughter.<sup>59</sup>

When a criminal offense is committed against a minor, the Criminal Code prescribes a minimum sentence of one year of imprisonment and a maximum of five years.

**Nikšić Basic Court:** Nikšić Basic Court issued 21 non-custodial sentence, and one in four sentences was below the statutory minimum. A man who struck his wife with a half-meter-long metal rod while pushing his minor son, causing the boy to hit his head on the car seat, received a suspended sentence.<sup>60</sup>

57 Podgorica Basic Court, K. 147/2022, <https://www.sudovi.me/osp/odluka/521322>

58 Kotor Basic Court, K. 83/2022, <https://sudovi.me/osko/odluka/491185>

59 Berane Basic Court, K. 241/2021, <https://sudovi.me/osba/odluka/473707>

60 Basic Court of Nikšić. Case K 101/2021. <https://www.sudovi.me/osnk/odluka/541752>

**Herceg Novi Basic Court:** Herceg Novi Basic Court handed down nine non-custodial sentences, and one in four sentences was below the statutory minimum. A man who twice violated a protection order issued by the Misdemeanor Court within one month received a suspended sentence. He first insulted his wife, then struck her on the head with his fist, and hit her back with a wooden chair. Afterwards, he struck his mother with a wooden chair. Less than a month later, he returned to the front door, took an axe from the yard, and struck the door several times.<sup>61</sup>

**Bar Basic Court:** Bar Basic Court issued 11 non-custodial sentences, and in three cases, the sentences were below the statutory minimum. A man previously convicted received a suspended sentence for beating his wife in a car; when she tried to leave the vehicle, he forced her back inside and continued to hit her.<sup>62</sup>

**Pljevlja Basic Court:** Pljevlja Basic Court handed down 10 non-custodial sentences, and one in three sentences was below the statutory minimum. A man who beat his partner first with fists, then with a cable and belt, received a suspended sentence.<sup>63</sup> In another case, a suspended sentence was also issued for a man who beat his wife and minor son with a wooden stick.<sup>64</sup>

**Bijelo Polje Basic Court:** Bijelo Polje Basic Court issued 16 non-custodial sentences, and one in three sentences was below the statutory minimum. A woman who entered the yard with a gun, threatened to kill her mother-in-law and others, and struck her mother-in-law on the head with the gun, received a suspended sentence.<sup>65</sup>

**Kolašin Basic Court:** Kolašin Basic Court issued 18 non-custodial sentences, and one in seven sentences was below the statutory minimum. A man who beat his partner on the head and body with fists, pulled her hair, and threatened her in the presence of their minor son, received a suspended sentence.<sup>66</sup>

**Rožaje Basic Court:** handed down 12 non-custodial sentences, with every fourth sentence below the statutory minimum. A man who strangled his wife and hit her in the face, and after she fell, continued to kick her on the back and legs, received a suspended sentence.<sup>67</sup> A defendant who beat his wife with a wooden plank about one and a half meters long received a suspended sentence.<sup>68</sup> Another man who first hit his common-law wife on the head with his fists, then beat her with a wooden stick, and took a second stick to continue hitting her, received a suspended sentence.<sup>69</sup>

61 Basic Court of Kotor. Case K 83/2022. <https://sudovi.me/osko/odluka/491185>

62 Basic Court of Bar. Case K 185/2021. <https://sudovi.me/osbr/odluka/460315>

63 Basic Court of Pljevlja. Case K 74/2021. <https://pravosudje.me/ospv/odluka/471719>

64 Basic Court of Pljevlja. Case K 115/2021. <https://pravosudje.me/ospv/odluka/495240>

65 Basic Court of Bijelo Polje. Case K 152/2021. <https://sudovi.me/osbp/odluka/465359>

66 Basic Court of Kolašin. Case K 57/2022. <https://sudovi.me/oskl/odluka/541078>

67 Basic Court Rožaje. K 15/2021. <https://sudovi.me/osro/odluka/446809>

68 Basic Court Rožaje. K 80/2021. <https://sudovi.me/osro/odluka/468915>

69 Basic Court Rožaje. K 122/2020. <https://sudovi.me/osro/odluka/458055>

**Plav Basic Court:** handed down 10 non-custodial sentences, with every second sentence below the statutory minimum. A man who struck his brother on the head with an open hand, then swung an axe intending to hit him again, and also hit his sister-in-law with his fist when she tried to intervene, received a suspended sentence.<sup>70</sup> Another man, who beat his sister so hard that the wooden stick broke, then took another stick and continued to hit her, received a suspended sentence.<sup>71</sup> In cases where a weapon is used, the Criminal Code prescribes a minimum sentence of three months and a maximum of three years' imprisonment. In the same court, a man received a suspended sentence after striking his wife with his elbow on the head while she was holding their two-year-old child, causing her to fall, and then dragging her along the floor with his brother, preventing her from leaving the house.<sup>72</sup>

**Cetinje Basic Court:** handed down six non-custodial sentences, with one below the statutory minimum. A man who physically attacked his pregnant wife while she was holding their son received a suspended sentence.<sup>73</sup>

**Ulcinj Basic Court:** handed down three non-custodial sentences, with every third sentence below the statutory minimum. Community service was given to a man who broke his wife's nose with his head.<sup>74</sup> Community service was also given to a man who threatened his wife and underage daughters with a knife, saying he would burn them alive, and afterwards beat one daughter with a belt and slapped and pulled the hair of the other, causing bodily injuries.<sup>75</sup> A man who inflicted serious bodily harm on his brother received a suspended sentence, despite the statutory penalty being one to five years' imprisonment.<sup>76</sup>

**Basic Court Danilovgrad:** had only one non-custodial sentence and no verdict was below the statutory minimum. The only suspended sentence was given to a woman who got into a fight with another woman over a financial debt.<sup>77</sup>

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70 Basic Court Plav. K 66/2021. <https://sudovi.me/ospl/odluka/542334>

71 Basic Court Plav. K 47/2022. <https://sudovi.me/ospl/odluka/542341>

72 Basic Court Plav. K 46/2022. <https://sudovi.me/ospl/odluka/542337>

73 Basic Court Cetinje. K 94/2021. <https://sudovi.me/osct/odluka/469311>

74 Basic Court Ulcinj. K 30/2022. <https://sudovi.me/osul/odluka/479521>

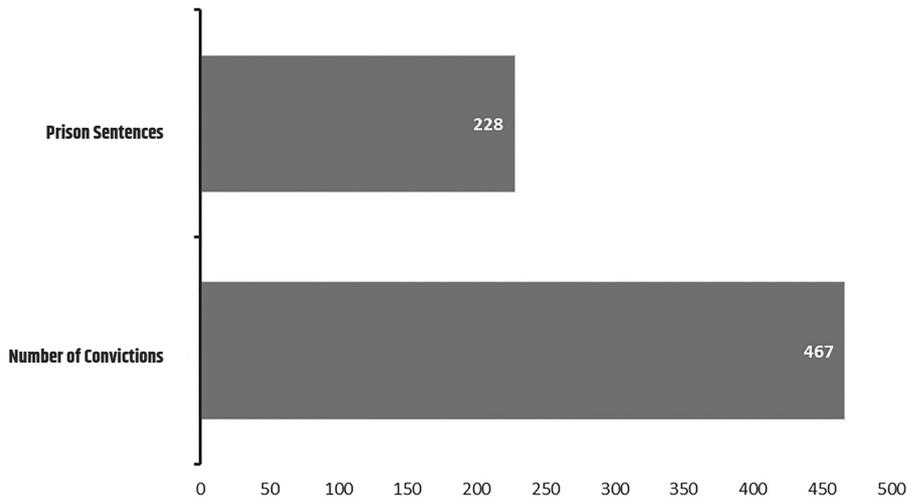
75 Basic Court Ulcinj. K 48/2022. Decision not available on the website. <https://www.sudovi.me>

76 Basic Court Ulcinj. K 119/2023. <https://sudovi.me/osul/odluka/541482>

77 Basic Court Danilovgrad. K 45/2021. <https://sudovi.me/osdg/odluka/452781>

## PRISON SENTENCES

In 228 cases, Montenegrin courts imposed prison sentences, meaning that every second sentence was a custodial sentence.



However, of the total number of prison sentences, almost three quarters (73 percent) range from one to five months of imprisonment, in 22 percent of cases the convicted received between five months and one year of imprisonment, while only five percent of perpetrators served between one and two years behind bars. Although the Criminal Code prescribes sentences of up to five years of imprisonment for the criminal offense of domestic and family violence, no court has imposed a sentence exceeding two years of imprisonment.

When it comes to recidivists, almost 60 percent received a prison sentence, but closer to the statutory minimum. Most recidivists, 43 percent, received the shortest prison sentence, from one to five months, while only two and a half percent of recidivists received between one and two years. Other prison sentences (15 percent) were in the range of five months to one year.

Analysis of all courts individually confirms the large gap between the majority of perpetrators who received the minimum prison sentence and the smallest number of convicts who received the maximum sentence of up to two years of imprisonment.

- Light prison sentences include sentences up to five months.
- Medium prison sentences include sentences from five months to one year.
- Severe prison sentences include sentences from one to two years.

Prison Sentence Up To Five Months	Prison Sentence from Five Months to One Year	Prison Sentence from One to Two Years
56	27	6
16	2	1
30	3	1
10	1	0
15	1	1
15	3	0
5	5	0
2	3	0
2	0	0
7	0	0
3	0	0
2	0	0
2	4	2
2	1	0

**Basic Court Podgorica:** Out of the total number of cases, the Basic Court in Podgorica imposed a prison sentence in 56 percent of cases. Light prison sentences were imposed in 35 percent, while stricter sentences accounted for only four percent of rulings. The harshest sentence was two years of imprisonment. In 2023, this court sentenced a man to three months in prison for beating a woman on the head, neck, and arms, after which he grabbed her by the neck and pressed her against the tiles, and then struck her several times on the head with open palms, deliberately targeting her ears, knowing that she suffered from neuralgia. When the injured party asked him to stop the violence because their minor daughter was sleeping in the adjacent room, she went into the hallway, where she slipped and fell on the tiles. The accused then approached her and kicked her several times in the area of the right leg. The injured party again begged him not to hit her so as not to wake their daughter, but the accused, despite her pleas, continued and struck her multiple times with both hands and feet in the area of her arms and legs.<sup>78</sup>

**Basic Court Kotor:** A prison sentence was imposed in 32 percent of cases, of which 27 percent were the lightest prison sentences. The harshest prison sentence imposed was one year and four months of imprisonment. In a 2021 judgment, the accused first twisted his partner's arm behind her back until she began to cry and scream, after which he struck her with a wooden chair and inflicted serious bodily injuries. He received a sentence of 30 days in prison, although in this case the law prescribes a sentence of one to five years.<sup>79</sup>

**Basic Court Berane:** A prison sentence was imposed in almost 70 percent of cases; however, nearly 62 percent of these were the lightest prison sentences. It is noteworthy that, in this court, two percent of those who received the highest prison sentence had not previously been convicted. In one case from 2022, a man received a sentence of three

78 Basic Court Podgorica. K 481/2023. <https://www.sudovi.me/osp/odluka/529303>

79 Basic Court Kotor. K 430/2021. <https://sudovi.me/osko/odluka/490512>

months' imprisonment because he first threatened his former wife, then grabbed her by the neck and punched her in the head, then grabbed her by the hair and dragged her toward a wall, attempting to strike her head against the wall, and struck her several times on the back with a baseball bat, saying, "I will destroy you, I will beat you, I will disfigure you."<sup>80</sup>

In 2023, the same court also sentenced a man to three months in prison for threatening his mother: "You must give me the apartment as a gift, otherwise I will stab you in your sleep, get out of the apartment and get into the car so we can finish the procedure and the apartment will be mine." After that, he dragged her out of the apartment and forced her into his car and began driving at high speed, and the woman, frightened by the fast driving, promised at that moment that she would transfer the apartment to him the next day. Later, when the woman fled the apartment, he took out a hunting knife and threw it at her, then dragged her to the building's basement, took her phone, telling her, "You have to sit here as punishment," after which he broke a wardrobe, a mirror, and a shoe cabinet in the hallway of the building. He then went down to the basement, grabbed her by the shoulders and dragged her back into the apartment to the dining room, threw her onto an armchair, saying, "Do you see what you have done to me," then grabbed her by the neck with both hands and began to squeeze it, and when he saw that she was choking, he released her, after which he slapped her face with open hands and struck her with clenched fists and feet wearing sneakers in the area of her body. According to the judgment, two months earlier the man had also fired shots from a pistol inside the apartment, telling her, "If you make me nervous and angry one more time, I will kill you."<sup>81</sup>

**Basic Court Nikšić:** Prison sentences were imposed in 34 percent of cases, of which 31 percent of perpetrators received the lightest sentences. The harshest sentence imposed was eight months of imprisonment. In 2022, a convicted recidivist in this court received three months in prison for beating his wife with a wooden stick, after which he waved a knife at her and threatened to slit her throat. In the meantime, he attempted to strike his brother with the stick as well.<sup>82</sup>

**Basic Court Herceg Novi:** Prison sentences were imposed in 25 percent of cases, and all were light. The harshest available sentence was four months of imprisonment. A man who had previously been convicted received a prison sentence of four months after slapping his minor daughter across the face because she came home late from the city. Her nose bled as a result of the blows. The next day, he grabbed her left upper arm and squeezed it tightly, and then cut her on the right lower leg with a kitchen knife.<sup>83</sup>

**Basic Court Bar:** Prison sentences were imposed in almost 60 percent of cases, of which 53 percent were the lightest sentences. The harshest sentence was one year and four months of imprisonment. A man who woke his wife during the night, first threatening and insulting her, then pulling her hair, pushing her, and striking her several times with hands and feet on the head and body, after which he also

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80 Basic Court Berane. K 187/2022. <https://sudovi.me/osba/odluka/512507>

81 Basic Court Berane. K 128/2023. <https://sudovi.me/osba/odluka/541156>

82 Basic Court Nikšić. K 237/2022. <https://www.sudovi.me/osnk/odluka/541864>

83 Basic Court Herceg Novi. K 19/2023. <https://sudovi.me/osbn/odluka/517781>

beat her with a wooden meat-cutting board, received a prison sentence of 50 days.<sup>84</sup> In another judgment in this court, a man who insulted his wife, punched her, and then beat her with a shoehorn received a sentence of 40 days in prison.<sup>85</sup> In a third judgment, the accused who struck his wife on the head and, after she fell to the floor, continued to beat her, received a sentence of 35 days in prison.<sup>86</sup>

**Basic Court Pljevlja:** Prison sentences were imposed in 64 percent of cases, of which 53 percent received the lightest sentences. The harshest sentence of eight months' imprisonment was imposed on a recidivist who committed domestic violence for the sixth time. In this court, a man who broke his wife's nose, frontal bones, and bone fragments received three months in prison.<sup>87</sup>

**Basic Court Bijelo Polje:** Prison sentences were imposed in 38 percent of cases, of which 19 percent were the lightest. The harshest sentence was one year and two months of imprisonment; however, the High Court in Bijelo Polje amended that judgment and reduced it to six months.<sup>88</sup> A man who had already been convicted eight times threatened his wife with death in the presence of their minor daughter: "In a month you will be dead, you will not leave Montenegro alive, I will throw you into the Lim River." He received a sentence of 30 days in prison at the Basic Court in Bijelo Polje.

**Basic Court Kolašin:** Prison sentences were imposed in 21 percent of cases, of which eight percent were the lightest. The harshest prison sentence was eight months of imprisonment. The court imposed a prison sentence of 45 days on a man who threatened to kill his wife and then took two kitchen knives and moved toward her. Their son took the knives away and cut his hand in the process.<sup>89</sup>

**Basic Court Rožaje:** Prison sentences were imposed in 14 percent of cases, and all were the lightest. In two cases in which the accused used a weapon, the court imposed suspended sentences, while the highest prison sentence was three months. A man who punched his extramarital partner, grabbed her by the neck, then threw her against the wall and onto the floor several times, and finally dragged her to the bathroom and threw her into the bathtub, was sentenced to three months in prison.<sup>90</sup>

**Basic Court Plav:** Prison sentences were imposed in 16 percent of cases, and all were light. The highest imposed prison sentence was four months. A recidivist received four months in prison for punching his son in the head and then taking an axe and saying, "Leave my house," after which he took a wooden slat one and a half meters long and continued to

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84 Basic Court Bar. K 56/2022. <https://sudovi.me/osbr/odluka/487503>

85 Basic Court Bar. K 137/2022. <https://sudovi.me/osbr/odluka/496227>

86 Basic Court Bar. K 44/2024. <https://sudovi.me/osbr/odluka/518752>

87 Basic Court Pljevlja. K 68/2022. <https://pravosudje.me/ospv/odluka/527631>

88 Basic Court Bijelo Polje. K 26/2021. <https://sudovi.me/osbp/odluka/447413>

89 Basic Court Kolašin. K 4/2022. <https://sudovi.me/oskl/odluka/541123>

90 Basic Court Rožaje. K 77/2021. <https://sudovi.me/osro/odluka/468913>

beat his wife.<sup>91</sup>

**Basic Court Cetinje:** Prison sentences were imposed in 53 percent of cases, and all were the lightest. The harshest sentence was six months of imprisonment. A man received three months in prison for beating a woman with open hands and fists on the head while she was holding their baby the entire time.<sup>92</sup>

**Basic Court Ulcinj:** Prison sentences were imposed in 50 percent of cases, of which 33 percent were the lightest. The harshest sentence was six months of imprisonment. A man who had previously been convicted ten times received a prison sentence of 48 days for threatening his unmarried partner in front of the children: "Wherever I see you I will kill you, and what I did when I threw you down the stairs will be even worse."<sup>93</sup>

**Basic Court Danilovgrad:** In this court, all sentences except one were prison sentences, and they were relatively high compared to other courts in the country. There was only one suspended sentence during these three years. The harshest sentence imposed by the court was one year and six months of imprisonment. A sentence of one year and six months of imprisonment was imposed on a man who violated a restraining order by coming to the victims' house, after which he pulled one of them by the hair and threatened her, saying, "You goat, you will pay for this, this is not the end," and threatened the others with the words, "I will kill you, I will cause a catastrophe, I will throw a bomb."<sup>94</sup> The perpetrator of violence had been convicted multiple times, once for domestic violence.

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91 Basic Court Plav. K 51/2021. <https://sudovi.me/ospl/odluka/542285>

92 Basic Court Cetinje. K 57/2022. <https://sudovi.me/osct/odluka/528138>

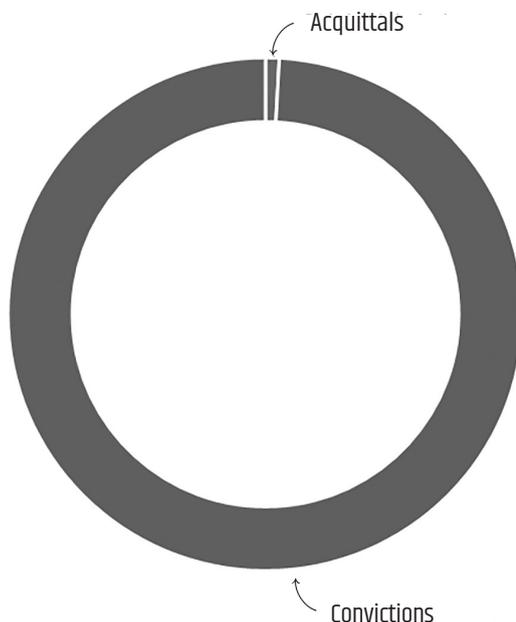
93 Basic Court Ulcinj. K 69/2022. The verdict is not available on the website. [www.sudovi.me](http://www.sudovi.me)

94 Basic Court Danilovgrad. K 25/2022. <https://sudovi.me/osdg/odluka/513519>

## OTHER VERDICTS – SMALL NUMBER OF ACQUITTALS

Although the main problem is the sentencing practice of Montenegrin courts, the number of acquittals for domestic violence and family violence is almost negligible.

In Montenegrin courts over these three years, there were four acquittals – two in Podgorica and one each in Bijelo Polje and Pljevlja.



There were also two dismissals of proceedings in Bar and Podgorica. Three charges were rejected – one each in Kolašin, Kotor, and Podgorica. One charge was dropped in Podgorica. Additionally, one corrective measure was imposed on a minor in Kotor.

## AGGRAVATING AND MITIGATING CIRCUMSTANCES

A good example of how Montenegrin courts have misinterpreted aggravating and mitigating circumstances in favor of the accused is seen in rulings K 438/2021 and K 9/2021, issued by the same judge in the same year for repeat offenders – one receiving a community service sentence and the other two years of imprisonment – with completely opposite reasoning.

“The court took into account mitigating circumstances on the side of the accused, the fact that he is a pensioner with poor financial status, as well as his conduct after committing the criminal act, expressed through a full and clear confession which contributed to a faster and more efficient conclusion of the criminal proceedings, and sincere remorse,” reads the reasoning for the decision where a multiple repeat offender was sentenced to community service.<sup>95</sup>

In the other ruling, where the sentence was two years of imprisonment for another repeat offender, it is explained that: “The family circumstances of the accused cannot be

95 Basic Court Podgorica. K 438/2021. <https://www.sudovi.me/osp/odluka/461155>

considered as a mitigating factor, primarily because the accused was found guilty precisely for a criminal offense against marriage and family”: “In the court’s assessment, the financial situation of the accused did not affect any of his actions, nor can his violent behavior be considered a consequence of poor financial status. Additionally, the court does not give credibility to the expressed remorse of the accused, considering it insincere and a mere verbalization aimed at obtaining the lightest possible sentence.”<sup>96</sup>

However, in most cases, mitigating circumstances considered for the accused include remorse, having children, or poor financial status.

A particular problem in most of the analyzed rulings is that courts almost never took into account whether the violence was committed in front of a child, which should be considered an aggravating circumstance under all international and domestic regulations. Instead, courts often treated the accused as having a mitigating factor for being a family man. About 90 percent of the analyzed rulings involve violence by men against women, often in the presence of children or with children also being victims of violence.

Another example of how courts treated aggravating and mitigating circumstances, with superficial and unclear reasoning, is ruling K 323/2020.

“When deciding on the type and severity of the sentence to be imposed on the accused, the court considered that for the criminal offense of domestic violence under Article 220, paragraph 2 in connection with paragraph 1 of the Criminal Code of Montenegro, the prescribed prison sentence is from three months to three years. Considering all circumstances that affect whether the sentence should be higher or lower, in terms of Article 42 of the Criminal Code of Montenegro, the court considered as mitigating circumstances in favor of the accused that the victim did not join the prosecution and that they are now on good terms, and that the parents of the child have developmental disabilities, while as an aggravating circumstance on his side, the court considered previous convictions, and thus sentenced him to community service.”<sup>97</sup>

A striking example of an unreasonable justification of mitigating circumstances is also seen in a Pljevlja court ruling, where the man’s being a family man and father of minor children was considered a mitigating circumstance, even though he committed the violence in front of them: “While having lunch with their two minor children, he grabbed his wife’s hand and then her shirt, and the children, crying, got up from the table and went to the living room. Holding the woman by the shirt, he lifted her from the chair she was sitting on and began hitting her in the face with his fists. While the children watched and cried, he took a kitchen knife from a drawer and approached his wife, saying: ‘Now I will... you, mother’....”<sup>98</sup>

96 Basic Court Podgorica. K 9/2021. <https://www.sudovi.me/ospog/odluka/439536>

97 Basic Court Kotor. K 323/2020. <https://sudovi.me/osko/odluka/448605>

98 Basic Court Pljevlja. K 52/2022. <https://pravosudje.me/ospv/odluka/507349>

# INTERVIEWS



foto: MUP

## Snežana Vujović, President of the Operational Team for Combating Domestic Violence and Violence Against Women

**P**resident of the Operational Team for Combating Violence Against Women, Snežana Vujović, for the purposes of the study, emphasizes that it is necessary to apply protective measures more frequently, as an extremely important mechanism for the physical protection and empowerment of victims of violence, and to monitor their implementation. "In this regard, it is concerning that the basic courts in 2023 did not issue any eviction measures from apartments, while restraining orders were issued only 13 times in the past year," notes Vujović.

**Data from final court judgments for 2021, 2022, and 2023 for the criminal offense of domestic violence and violence in the family unit show that court practice in these cases remains very lenient, with the majority of sentences below the legal minimum and a high number of recidivists. How do you comment on this, and what can be done to change court practice?**

Examining the general structure of final convictions for cases of domestic violence or violence in the family unit, it is noted that criminal proceedings constitute only 16 percent of the total structure of domestic violence cases,<sup>99</sup> while the rest are misdemeanor proceedings. This indicates the validity of criticism from international expert bodies, such as

99 Women's Rights Center. The Criminal Justice Response to Gender-Based Violence in Montenegro for 2023. Podgorica, May 2024.

GREVIO, which monitors the implementation of the Istanbul Convention in Montenegro. Furthermore, suspended sentences still occupy a significant place as warning measures, indicating a milder penal policy, alongside the fact that prison sentences are close to the legal minimum, with an average imposed prison term of about four months, while the highest imposed prison sentence was two years.

Regarding the statistics for 2023, some progress can be observed. Compared to previous years, when the share of suspended sentences and other penalties was almost the same, last year saw an increase in imposed prison sentences, which represents a more repressive approach by the courts in addressing the criminal offense of domestic violence or violence in the family unit. In 2023, suspended sentences were issued in 52 cases (27 percent), while in previous years, the percentage of imposed suspended sentences was around 50 percent. It is important to emphasize that protective measures, as an extremely important mechanism for the physical protection and empowerment of victims of violence, must be applied more frequently, and their implementation carefully monitored.<sup>100</sup>

In this regard, it is concerning that the basic courts in 2023 did not issue any eviction measures from apartments, while restraining orders were issued only 13 times in the past year. Regarding protective measures in misdemeanor proceedings, based on the Annual Report on the Work of Misdemeanor Courts for 2023, it can be observed that protective measures were imposed in 843 out of a total of 1,582 resolved cases, which makes up 53.22 percent of all resolved cases.

Compared to data on imposed protective measures for 2022, when courts issued a total of 782 protective measures for the year, representing 50.81 percent of all resolved cases in 2022, a certain mild level of efficiency in imposing protective measures by misdemeanor courts is noted.

In previous years, i.e., before 2022, this percentage was only around 30 percent. However, when it comes to eviction from the apartment, the percentage is still low, only about eight percent of the total number of resolved cases. Restraining orders were issued in 18 percent, and prohibitions against harassment and stalking in 19.5 percent of resolved cases. The other two measures are represented as follows: mandatory psycho-social treatment (about 0.5 percent) and mandatory treatment for addiction (about seven percent).

**Our country was among the first signatories of the Istanbul Convention; however, a significant number of its key recommendations have still not been implemented. A particular problem remains the reasoning of court decisions, in which aggravating circumstances are often not taken into account when sentences are imposed. Why does Montenegro, even 13 years later, still fail to comply with international standards in cases of domestic violence?**

It is true that Montenegro was among the first countries to sign the Istanbul Convention, but it is important to emphasize that this did not mean the country had adequate capacities in place for the full implementation of the Convention at the time of its signing and ratification. On the contrary, the ratification itself was intended to strengthen national capacities, accelerate reform efforts, and promote alignment with international standards. Among other things, the establishment of the Operational Team, grounded in the principles of the Convention, represents one contribution to the implementation and observance of

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100 Women's Rights Center. The Criminal Justice Response to Gender-Based Violence in Montenegro for 2023. Podgorica, May 2024.

these standards. Nevertheless, there remains considerable room for improving the overall institutional response to violence, and it is essential to ensure sufficient resources and a more decisive response by all relevant institutions in addressing this issue. Furthermore, the final benchmarks for Montenegro's accession to the European Union clearly underline the state's obligation to achieve credible results in combating gender-based violence through reforms in the areas of justice and fundamental rights.

**Non-governmental organizations working on women's rights claim that a large number of women do not report violence and have little trust in institutions. Reports submitted by women who gather the courage to report violence often remain unprocessed or are redirected to misdemeanor courts. Aside from problematic court practice, what do you identify as the main challenges in the fight against domestic violence?**

Fear of the perpetrator, shame associated with experienced violence, fear of condemnation by one's immediate environment, unfavorable economic conditions, and a lack of trust in institutions are the main reasons why women do not report domestic violence. In addition, traditional gender roles and expectations play a significant role in explaining why women remain in violent relationships. The pressure to preserve the family at all costs is extremely strong and often prevents women from reporting abuse.

The long-standing work of women's organizations with women and children who have survived violence demonstrates the importance of women first turning to non-governmental organizations that provide specialized services, such as shelters, free legal assistance, psychological support, and other forms of help. Without specialization, high-quality support services cannot be ensured.

Violence must be reported; however, reporting must be followed by concrete measures to ensure that the victim feels safe and is in fact protected. It is crucial that victims are informed about their rights, understand what they can expect from institutional actors, and know how to protect themselves after filing a report.

What would certainly encourage women to report violence includes support from family members and close persons, timely and effective institutional responses, and financial support from the state after leaving a violent relationship.

**The Government's Operational Team for Combating Domestic Violence and Violence against Women was established at the end of February. The Ministry of Interior announced that the goal of this body would be to improve the implementation of regulations and enhance the protection of victims. What has the Governmental Team achieved so far, and what are the next steps?**

Since its establishment, the Operational Team has held three sessions, during which six cases were reviewed, resulting in the adoption of 14 conclusions.

In line with the adopted conclusions, it is important to highlight that the Team, among other activities, adopted its Rules of Procedure, issued public statements on two occasions in cases related to domestic violence and violence against women, submitted a complaint to the Prosecutorial Council regarding the conduct of a state prosecutor in one case, and initiated inspection procedures in three cases involving centers for social work. Equally important, the Team has submitted a series of official requests aimed at developing guidelines and instructions intended to improve the practice of centers for social work, the police, and healthcare institutions.



foto: personal archive

## Valentina Pavličić, former judge and Agent of Montenegro before the European Court of Human Rights (ECHR)

One of the foundations of the universal principle of the rule of law lies in the uniform application of the law, which, pursuant to the Constitution, should be ensured by the Supreme Court of Montenegro. "Through the direct adoption of judgments in each individual case, ordinary courts establish the relevant legal position, while the Supreme Court, by harmonising case law, should exercise its role beyond adjudication, thereby contributing to the predictability of judicial outcomes," emphasised Valentina Pavličić, former judge and Agent of Montenegro before the European Court of Human Rights, highlighting for the purposes of this study the importance of the Supreme Court in these processes.

**Data from final judgments from 2021, 2022 and 2023 for the criminal offence of domestic violence or violence within the family community show that judicial practice in these cases remains very lenient, with the majority of sentences below the statutory minimum and a high number of repeat offenders. How do you comment on this, and what can be done to change court practice?**

Domestic violence has become a pervasive problem that calls into question the effective enjoyment of guaranteed fundamental human rights and freedoms, as confirmed by the case law of the European Court of Human Rights, which warns that violence against women and domestic violence constitute a form of discrimination against women and that states are obliged to take all measures to protect them from such violence.

One of the foundations of the universal principle of the rule of law is precisely the uniform application of the law, which, pursuant to the Constitution, should be ensured by the Supreme Court of Montenegro. Specifically, ordinary courts, through the direct adoption of judgments in each individual case—here I also refer to cases concerning domestic violence and violence within the family community—establish the relevant legal position, while the Supreme Court, through the harmonisation of judicial practice, should exercise its competence beyond adjudication, thereby contributing to the predictability of judicial outcomes. In this way, legal certainty is also guaranteed, as a necessary precondition for the functioning of a democratic society. By undermining these principles, there can be no progress of the state as a political community, which is why it is incumbent upon the judiciary to ensure the necessary stability in this area.

In relation to this type of criminal offence, the focus of addressing the “problem” of inconsistent or overly lenient judicial practice must be on defining and improving mechanisms capable of “overcoming inconsistencies” that arise in the application of laws and other regulations. To achieve this, it is necessary to conduct an analysis of existing judicial practice, assess the degree of increased or reduced social danger, and, within that framework, first evaluate the legislative framework governing the statutory sentencing range and introduce amendments while taking into account the protected legal interest in this context.

**Our country was among the first signatories of the Istanbul Convention; however, a large number of important recommendations of this Convention have still not been implemented, and a particular problem lies in the reasoning of court decisions, where aggravating circumstances are not taken into account when imposing sentences. Why does Montenegro, even 13 years later, fail to comply with international standards when it comes to domestic violence?**

The harmonisation of Montenegro’s legal system with the EU *acquis* is a process that has been underway for many years and has not yet been completed. This represents only one side of the process, while the other concerns the implementation of that legal framework, which also includes the Istanbul Convention. For its proper understanding and adequate application, education is certainly necessary, and this is carried out through the Judicial and Prosecutorial Training Centre, with the support of our international partners who assist such educational projects. As regards the reasoning of court decisions and the individualisation of criminal sanctions, this is undoubtedly an important issue and a duty of the court and the judge conducting the proceedings to explain and provide reasonable reasons as to which circumstances in a specific case are considered mitigating and which aggravating. Whether this is in line with international standards for this type of criminal offence is a matter for appellate courts to review, and ultimately for the Supreme Court of Montenegro, through the harmonisation of judicial practice and the mechanism of a request for the protection of legality, to rectify any violation of the law, whether to the detriment or in favour of the defendant.

**Non-governmental organisations working on women’s rights claim that a large number of women do not report violence and do not trust institutions. Reports made by women who gather the courage to report violence remain unprocessed or end up before misdemeanour courts. Apart from problematic judicial practice, what else do you identify as the main problems in combating domestic violence?**

The classification of a report as a misdemeanour or a criminal offence certainly depends

on the assessment of the prosecutor. In cases of this type, I believe prosecutors must be highly trained and familiar with case law in order to properly assess evidence and direct proceedings correctly from the outset. Otherwise, if a mistake is made at the very beginning, the proceedings are already doomed to failure, and the victim suffers so-called secondary victimisation, as she is not adequately protected by those whose duty and obligation it is to do so—the state, represented at this stage by prosecutors and later by the courts. Therefore, in my opinion, in order to respond adequately to this type of proceedings, we must invest much more in education and practical implementation, and if an objective, independent and impartial response is still lacking, consideration should also be given to certain forms of professional accountability.

**The new Government Operational Team for combating domestic violence and violence against women was established at the end of February, and the Ministry of the Interior stated that the goal of this body would be more effective implementation of regulations and the protection of victims of violence. What do you expect from the work of this Team?**

Not only I, but society as a whole expects a great deal—namely, that special attention will be devoted to this form of socially unacceptable behaviour, and that victims will receive all the assistance and logistical support they need when entering into such a sensitive and delicate process.



foto: Boris Pejović

## Maja Raičević, Director of the Women's Rights Centre (WRC)

Over the past two years, the share of criminal offences in the total number of domestic violence cases amounted to 19.2%, according to the latest report of the Women's Rights Centre entitled *"The Criminal Justice Response to Gender-Based Violence in Montenegro for 2023"*.<sup>101</sup> This figure indicates a tendency on the part of the prosecution to qualify domestic violence as a misdemeanour, a practice that has been criticised by GREVIO, the expert body monitoring the implementation of the Istanbul Convention, emphasised WRC Director Maja Raičević in an interview conducted for the purposes of this study.

**Data from final judgments from 2021, 2022 and 2023 for the criminal offence of domestic violence or violence within the family community show that judicial practice in these cases remains very lenient, with the majority of sentences below the statutory minimum and a high number of repeat offenders. How do you comment on this, and what can be done to change court practice?**

This is also demonstrated by our analysis, *"The Criminal Justice Response to Gender-Based Violence in Montenegro"*, which we have been conducting continuously since 2018, having recognised that the state was not doing so, despite the clear necessity.

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<sup>101</sup> Women's Rights Center. *The Criminal Justice Response to Gender-Based Violence in Montenegro for 2023*. Podgorica, May 2024

The analysis revealed a persistent upward trend in the number of cases relating both to the criminal offence of domestic violence or violence within the family community and to misdemeanours under the Law on Protection from Domestic Violence.

In the period from 2019 to 2023, the share of criminal offences in the total number of cases Family violence cases did not exceed 15.2% for a prolonged period, while in the past two years a slight increase of four percentage points has been recorded, bringing the share of criminal offences in the total number of cases in 2022–2023 to 19.2%. This figure indicates a tendency on the part of the prosecution to qualify domestic violence as a misdemeanour, a practice that has been criticised by GREVIO, the expert body monitoring the implementation of the Istanbul Convention.

In 2023, courts handled 443 criminal cases relating to the criminal offence of domestic violence or violence within the family community, which is almost double the number recorded in 2019, when there were 252 such cases. Of these 443 cases, 314 were received during 2023, while 129 were carried over from previous years. A total of 157 final judgments were delivered, of which 155 were convictions.

An overall review of the imposed criminal-law sanctions shows that courts impose the following sanctions for this criminal offence: penalties, warning measures, and security measures. As regards penalties, these include imprisonment, community service, and fines.

Out of a total of 189 criminal-law sanctions imposed for the criminal offence of domestic violence, as many as 50.26% consist of penalties imposed on 95 defendants. Of these, 45% are prison sentences, while a smaller number of imposed penalties include fines (four) and community service sentences (six).

Suspended sentences, as warning measures, account for 27% of the criminal sanctions imposed by courts in 2023. The average prison sentence in 2023 was 4.7 months, thus closer to the statutory minimum for this criminal offence, which prior to the amendments to the Criminal Code in December 2023 stood at three months.

Prison sentences of up to three months were imposed in 18.82% of cases; nearly one third of prison sentences were imposed in the duration of three to four months (28.24%); almost one quarter were imposed in the duration of six to twelve months (23.53%); while the smallest number of prison sentences were imposed in the duration of one to two years (8.24%), and only one sentence reached the statutory maximum.

**Our country was among the first signatories of the Istanbul Convention; however, a large number of important recommendations of this Convention have still not been implemented, and a particular problem remains the reasoning of court decisions, which fails to take aggravating circumstances into account when imposing sentences. Why does Montenegro still fail to comply with international standards 13 years later when it comes to domestic violence?**

There are numerous reasons for this unfavourable situation in the implementation of legally binding international standards, such as the Istanbul Convention. One of them is a deep and widespread lack of understanding and knowledge about the nature and consequences of violence, which has not bypassed holders of judicial office, among whom there are those whose erroneous beliefs and prejudices shape judicial practice. This, in turn, represents one of the key constraints on development and social transformation in this field.

Training alone for the judiciary, police, centres for social work and other professionals is not sufficient when there is no appropriate system of professional accountability and ethics, and when oversight mechanisms are weak, ineffective, and often compromised by

various negative and corrupt practices. Therefore, what we advocate is the specialisation of professionals who work with victims and perpetrators of violence, respect for the law and standards of professional ethics, and an efficient and independent system that ensures professional accountability. We have also proposed the development of guidelines for the application of the new criminal legislation and for sentencing in this area. This year, the GREVIO expert body is conducting its second evaluation of Montenegro with regard to the implementation of the Istanbul Convention, and we therefore expect a new report and recommendations soon, which we believe will address all of these shortcomings.

**Non-governmental organisations working on women's rights claim that a large number of women do not report violence and do not trust institutions. Reports submitted by women who find the courage to report violence often remain unprocessed or end up before misdemeanour courts. Apart from problematic judicial practice, what else do you recognise as key problems in the fight against domestic violence?**

Primarily, the attitude of institutions towards women victims, especially Roma women, which in some cases borders on torture. Although standards oblige us to place the interests and rights of victims at the centre of institutional responses and to record and consider the entire history of violence, rather than only the last reported incident, practice remains far from meeting these requirements.

# CONCLUSIONS AND RECOMMENDATIONS

# CONCLUSIONS

- 1** Montenegro has a well-developed legislative framework for combating domestic violence and violence against women, and recent amendments to the Criminal Code have further improved this framework, which is largely aligned with international instruments;
- 2** The problem lies in judicial practice, where sentences below or close to the prescribed statutory minimum are frequently imposed, which is one of the factors that may negatively affect the suppression of this problem;
- 3** Sentences for domestic violence are often disproportionate to the seriousness of the crime, which may encourage perpetrators to repeat the offense. The number of repeat offenders is high;
- 4** The Supreme Court is not sufficiently engaged in harmonizing judicial practice, particularly concerning the obligations Montenegro has undertaken by signing international instruments;
- 5** More effective judicial practice and stronger support for victims are key to reducing domestic violence in Montenegro;
- 6** In three out of four cases of femicide that occurred in 2021 and 2022, domestic violence had previously been reported, which further highlights the importance of the justice system finally recognizing the gravity of these criminal offenses;
- 7** Court proceedings often fail to provide adequate protection to victims or enable their proper psychological and social recovery;
- 8** There is a lack of prevention and education programs, both for victims and for institutions dealing with these issues. Education and prevention could reduce the rate of violence;
- 9** The monitoring system is weak and must be improved through the work of competent institutions, particularly the Operational Team for Combating Domestic Violence and Violence against Women, in accordance with the Istanbul Convention.

# RECOMMENDATIONS

- 1** Judicial practice in domestic violence cases should be changed, and sentences should be imposed in proportion to the gravity of the crime. Repeat offenders should be sentenced closer to the statutory maximum rather than the minimum, as has been the case so far.
- 2** Aggravating circumstances should be applied consistently, with particular attention paid to the presence of children during acts of violence, as well as to other international standards. Prior misdemeanor liability for domestic violence should also be considered an aggravating circumstance.
- 3** The practice of automatically considering mitigating circumstances should be changed, without examining the substance of each individual case, especially when the mitigating circumstance is that the defendant has children, while the violence is committed in front of those very children.
- 4** It would be important for the Supreme Court to review judicial practice in domestic violence cases and to issue binding guidelines requiring a stricter sentencing policy, in line with the committed criminal offenses and the amendments to the Criminal Code of December 2023.
- 5** It would be important for the Ministry of Justice to exclude the possibility of concluding plea agreements for criminal offenses against sexual freedom and domestic violence, with particular emphasis on minors as victims of these criminal offenses.
- 6** The prosecution should pay closer attention to the legal qualification of these criminal offenses, given that the majority of cases end as misdemeanors, which is not in line with international standards.
- 7** Support programs for victims of violence should be established, including psychological assistance, legal counseling, and social reintegration.
- 8** The Operational Team for Combating Violence against Women and Domestic Violence should systematically collect data on all forms of violence covered by the Istanbul Convention and insist on its full implementation.
- 9** Educational programs focusing on the prevention of violence and the transformation of social norms that tolerate or support violence should be further implemented.

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