



COUNTERING HIGH-LEVEL CORRUPTION IN MONTENEGRO

Study on the Special State
Prosecutors Office's Performance
in High-level corruption cases
(2020-2023)



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EXECUTIVE SUMMARY

The State Prosecution Service system plays a key role in the judicial system of Montenegro, as autonomous institution responsible for the prosecution of individuals involved in criminal offenses. In recent years, Montenegro has undertaken significant reforms within the EU accession process to enhance the autonomy and accountability of the state prosecution service. However, the effects in strengthening the autonomy and accountability of the state prosecution service have been limited so far. The prosecutorial system remains vulnerable to political influence, despite legal and institutional changes both before and after the change of power in 2020.

The Special State Prosecution Office (SSPO) of Montenegro was established in 2015, with jurisdiction over criminal offenses including organized crime, high-level corruption, money laundering, terrorism, and war crimes. Since its establishment, the Special State Prosecution Office was led by two Chief Special Prosecutors - Milivoje Katnic (2015 - 2022) and Vladimir Novovic (2022 – present time). At the end of June 2023, the prosecutorial function within the SSPO was carried out by the Chief Special Prosecutor and 14 state prosecutors - 9 special prosecutors, 2 prosecutors assigned from the High State Prosecution Office in Podgorica, and 3 prosecutors assigned from the Basic State Prosecution Office in Podgorica. At the end of 2022, in addition to the Secretary, the Special State Prosecutor's Office employed 31 civil servants.

The Special State Prosecution Office (SSPO) faces limitations in terms of its human resources capacity. Increasing the number of special state prosecutors would undoubtedly lead to a higher level of efficiency of the SSPO. However, even within the existing capacity, it is evident that the SSPO must enhance specialization of prosecutors engaged in the cases involving high-level corruption and organized crime. High-level corruption cases often involve intricate financial transactions, sophisticated networks, and convoluted legal matters. Specialized prosecutors with in-depth knowledge of financial regulations and investigative techniques would undoubtedly be better equipped to unravel the complexities of these cases and build strong legal arguments in their indictments.

It is not a standard practice for prosecutors from the basic prosecution level, lacking relevant professional experience, to be assigned to the Special Prosecution Office to handle most complex cases of high-level corruption or organised crime. It should be an imperative that all prosecutors assigned to the Special State Prosecution Office meet the conditions stipulated by the Law for assuming the role of a special state prosecutor. These prerequisites, among other criteria, necessitate a minimum of 10 years of professional experience as state prosecutors, judges, or lawyers. The Agency for the Prevention of Corruption has acknowledged the elevated risks of corruption inherent in this practice of assigning prosecutors to the Special State Prosecution Office.

The fight against high-level corruption has been one of the most demanding processes that has garnered both domestic and international attention since restoration of Montenegrin independence in 2006. Recognising the importance of proactive handling of high-level corruption cases and investigations initiated by the SSPO, recently published European Commission's Rule of Law Non highlighted that Montenegro has reached "a turning point in the fight against high-level corruption and organised crime". EC underlined that the Special

State Prosecution Office (SSPO) has acted with alacrity in a number of high-profile cases that indicate a deep infiltration of organised crime within State structures, including at the top level of the judiciary and law enforcement.

This study provides data on track record of the Special State Prosecution Office's (SSPO) performance in handling high-level corruption cases during the last two-year period of mandate of the former Chief Special Prosecutor Katnic (2020 - 2022) and the current Chief Special Prosecutor, Novovic (2022 - first half of 2023). Both Chief Special Prosecutors have put in the focus of SSPO's investigations related to high-level corruption. However, despite the increased number of investigations and indictments, the expected number of convictions has not yet materialized, raising questions about the effectiveness of the criminal justice response to high-level corruption.

From 1 January 2020 – 30 June 2023, 2,680 criminal complaints for high-level corruption offenses were filed with the SSPO. Combined with complaints from the previous period, the total number of criminal complaints for high-level corruption cases under the Special Prosecution's jurisdiction was 3,207. Of the complaints received, more than half (1,481 or 55.2%) were related to the criminal offense of abuse of official position. Significant portion of the complaints - 1,923 (60% of the total number of criminal complaints for high-level corruption within SSPO), were dismissed. Additionally, 399 criminal complaints were transferred to the jurisdiction of other state prosecutor's offices for further handling. As of June 2023, the Special State Prosecution Office still has 765 criminal complaints against individuals on high-level corruption.

During the period of 2020 to 2021, a significant number of high-level corruption cases were resolved through plea bargain agreements. In 2020 only, out of a total of 81 concluded plea bargain agreements, 67 pertained to criminal offenses involving corruption, such as tax evasion and abuse of official position. The European Union, in its reports, has drawn attention to the 'excessive use' of plea bargain agreements for high-level corruption offenses, stressing the importance of implementing this legal instrument cautiously. In the last Rule of Law Non-paper (June 2023) the EU highlighted that the use of plea bargain agreements in high-level corruption cases, while necessary, needs to be clarified and improved in line with European practice to avoid abuses during criminal proceedings.

Based on available data, in the period from 1 January 2020 – 30 June 2023, the SSPO conducted investigations against 161 individuals for high-level corruption. Presently, along with investigations from previous period, the SSPO has ongoing investigations for high-level corruption offenses involving 151 individuals. The SSPO has so far filed indictments against 231 individuals for high-level corruption offenses. In period 2020-2023, the SSPO raised 40 indictments (including indictment proposals) indicting 149 individuals of high-level corruption offenses. In the first six months of 2023, the SSPO raised:

- Two indictments against 13 individuals for criminal offence abuse of official position (Art. 416 of the CC);
- One indictment against six individuals for criminal offences of individuals for criminal offence - abuse of official position in business operations (Art. 272 of the CC) and
- One indictment against one individual for criminal offence abuse of official position (Art. 416 of the CC), and creation of a criminal organization (Art. 401 of the CC)

Court proceedings against 223 individuals indicted for high-level corruption are currently ongoing in relevant courts. Based on available data, there are currently 57 cases at the High

Court in Podgorica involving 187 defendants charged with high-level corruption offenses (177 individuals and 10 are legal entities). The analysis of judicial proceedings in cases of high-level corruption offenses could serve as the subject of another policy study.

1. STATE PROSECUTION SYSTEM IN MONTENEGRO: ORGANIZATIONAL LANDSCAPE

Through constitutional reform in 2013 and subsequent adoption of 'organic laws' in 2015, Montenegro has sought to align its organisation of state prosecution service with international standards. The introduction of a transparent and merit-based system for the appointment, promotion, professional appraisal, and disciplinary liability of state prosecutors is achieved through the adoption of the Law on State Prosecution Service. The most significant institutional change was the establishment of a new institutional entity: the Special State Prosecution Office (SSPO) through the adoption of a specific law regulating its mandate that primarily lies in tackling high-level corruption, organized crime, terrorism, and other major categories of offenses.

The Constitution of Montenegro outlines the operational structure of the State Prosecution Service, designating its operations to be performed by the heads of state prosecution offices and state prosecutors. The Prosecutorial Council stands as the primary governing body for the prosecution service in Montenegro. As stipulated by the Article 136 of the Constitution, the Council's role is to 'safeguard the autonomy of the state prosecution service.' The Council takes on responsibilities such as nominating candidate for the position of the Supreme State Prosecutor (SSP), overseeing the appointments and dismissals of prosecutors, proposing the prosecution service budget, and exercising additional functions as stipulated by the law.

The composition of Prosecutorial Council is established by the Law on State Prosecution Service, which was initially adopted in 2015. However, it was changed following 2021 amendments to the Law on State Prosecution Service, adopted by the new majority established after 2020 Parliamentary elections. In its 2015 version, the law introduced a 'balanced composition' Prosecutorial Council, with five members chosen by the General Conference of Prosecutors, four eminent lawyers elected by a majority vote in Parliament, one member appointed by the Ministry of Justice, and the Supreme State Prosecutor as the presiding member. This configuration included six prosecutors among the eleven members, yet only five of them were "elected by their peers." Meanwhile, the Supreme State Prosecutor, who also held the position of Council head ex officio, was appointed through a parliamentary vote requiring a 2/3 or 3/5 majority.

The change of power in Montenegro after the 2020 elections led to a transformation of the Prosecutorial Council. The new government aimed to reform the prosecution, appointing a new Prosecutorial Council and acting Supreme State Prosecutor. A suggestion to amend the Law on the State Prosecutor's Office emerged shortly after the elections, proposing a new Council structure with a majority of lay members, which generated concerns about political influence. The amendments reduced the number of prosecutors in the Council (from five to four) and introduced additional seat for 'external lawyers' in the Council (representative of the Ministry of Justice, four eminent lawyers and one NGO representative) enabling higher degree of political influence. The Venice Commission cautioned against simple parliamentary majority election for external lay-members through the Parliament, suggesting alternatives to prevent politicization of the Council. In June 2021, controversial amendments were passed, decreasing prosecutor representation and increasing non-prosecutor members, accentuating political influence risks over the Council. The Venice Commission recognized the adherence to European standards but cautioned against increased dependence on political power compared to the 2015 model. The election of new composition of the Council was finalized in December 2021, predominantly comprising external members (six out of eleven). This raises a significant question regarding

whether the establishment of the new Prosecutorial Council's composition infringes upon the Constitutional prerogative of the State Prosecution Service's autonomy.

The prosecution service is headed by the Supreme State Prosecutor (SSP). However, since October 2019, the appointment of an SSP has been postponed due to the Parliament's inability to reach a political consensus. Over the past five years, the role has been temporarily held by an "acting" Supreme State Prosecutor, offering some level of continuity to prosecution activities, yet failing to ensure complete functionality and legitimacy within the state prosecutorial organization's operations. The selection of the Supreme State Prosecutor follows the Constitutional provisions, involving a candidacy process overseen by the Prosecutorial Council and subsequently subject to a Parliamentary vote. Approval requires a 2/3 majority in the first round of voting or a 3/5 majority in the second round.

According to the information from the Annual Report of the Prosecutorial Council and State Prosecution Service for the year 2022, there are currently 103 state prosecutors working in the prosecution organization of Montenegro.¹ There are 33 prosecutorial advisors and 206 employees working in the state prosecutor's offices. The structure of the State Prosecution service is composed of the Supreme State Prosecution Office, the Special State Prosecution Office, two High State Prosecution Offices, and thirteen Basic State Prosecution Offices. The territorial and functional jurisdiction of each prosecutor's office is outlined in the Law on State Prosecution service. The Supreme State Prosecutor and the heads of state prosecution offices are appointed for a five-year term. Prosecutors enjoy functional immunity, safeguarding the head of the state prosecution office and the state prosecutor from being held accountable for decisions made and opinions expressed in the course of performing their official functions except in cases involving criminal acts, as detailed in Article 137 of the Constitution of Montenegro. Heads of state prosecution offices and state prosecutors are not allowed to hold parliamentary or other public positions, nor engage in any other professional activities.

Table: Total number of state prosecutors, advisors and employees in the state prosecution offices in Montenegro

Prosecution office	State prosecutors	Advisors	Employees
Supreme State Prosecution Office	6	4	27
Special State Prosecution Office	15	3	28
High State Prosecution Office in Bijelo Polje	6	2	11
High State Prosecution Office in Podgorica	11	3	20
Basic State Prosecution Office in Bar	7	3	8
Basic State Prosecution Office in Berane	4	1	11
Basic State Prosecution Office in Bijelo Polje	5	2	10
Basic State Prosecution Office in Cetinje	2	0	10
Basic State Prosecution Office in Kolasin	1	1	4
Basic State Prosecution Office in Kotor	9	0	10
Basic State Prosecution Office in Niksic	7	3	10
Basic State Prosecution Office in Plav	2	0	5
Basic State Prosecution Office in Pljevlja	3	1	7
Basic State Prosecution Office in Podgorica	19	7	25
Basic State Prosecution Office in Rozaje	1	1	5
Basic State Prosecution Office in Ulcinj	2	1	9
Basic State Prosecution Office in H. Novi	2	1	6
TOTAL	102	33	206

¹ See more: https://sudovi.me/static/tzsv/doc/IZVJESTAJ_O_RADU_TUZILACKOG_SAVJETA_I_DRZAVNOG_TUZILASTVA_ZA_2022_GOD..pdf, page 40

The Supreme State Prosecution Office oversees the work of the Special State Prosecution Office, the High State Prosecution Offices, and the Basic State Prosecution Offices. This oversight involves direct examination of each state prosecution office's work and taking appropriate measures to ensure their efficient and lawful functioning. The oversight is carried out in accordance with a supervision plan determined by the Supreme State Prosecutor. Furthermore, the High State Prosecution Offices (Bijelo Polje and Podgorica) oversee the operations of the Basic State Prosecutor's Offices within their respective regions (north and south). High State Prosecution Offices are obligated to conduct supervision over the overall functioning of basic state prosecution offices within their regions once every two years, in accordance with a specific supervision plan developed by the head of the relevant High State Prosecutor's Office. Another form of external oversight is carried out by the Ministry of Justice of Montenegro, specifically pertaining to prosecutorial administration, through inspection supervision conducted by judicial inspectors.

2. LEGAL FRAMEWORK, JURISDICTION AND HUMAN CAPACITY OF THE SPECIAL STATE PROSECUTION OFFICE (SSPO)

The Special State Prosecution Office (SSPO) is established through the adoption of the Law on Special State Prosecution Office in 2015, with jurisdiction over criminal offenses including organized crime, high-level corruption, money laundering, terrorism, and war crimes. As per the Law, SSPO tasks are carried out by the Chief Special Prosecutor, special prosecutors and state prosecutors assigned to the Special State Prosecutor's Office. The Chief Special Prosecutor oversees departmental activities, duty schedules, and ensures proper execution of functions within SSPO. Special prosecutors and assigned state prosecutors handle investigative work, indictment representation before the Special Division of the Higher Court in Podgorica. The state prosecutors, in line with the law, independently manage assigned cases.

The jurisdiction of the Special State Prosecution Office covers the entire territory of Montenegro. As outlined in Article 3 of the Law, the Special State Prosecution Office possesses competence for the prosecution of individuals involved in criminal activities encompassing:

- Organized crime, without regard to the severity of the prescribed penalty;
- High-level corruption, encompassing situations where: 1) public officials² commit offenses such as: Abuse of office; Fraudulent actions within official duties; Instigating involvement in trading influence; Passive bribery; Active bribery, and 2) if criminal actions result in proceeds exceeding 40,000 EUR, the Special State Prosecution Office has jurisdiction in cases of: Misuse of authority within business undertakings; Misuse of authority within the economy;
- Money laundering;
- Terrorism;
- War crimes and
- Violations of electoral rights (stipulated in the Chapter 16 of the Criminal Code of Montenegro).

The SSPO comprises several departments:

- The Department for Criminal Prosecution - conducts investigations and collaborates with other entities);
- The Department for Financial Investigations - analyses material benefits, traces assets, and implements forfeiture measures);
- The Department for Analytics and Research - manages data exchange, statistics, and case monitoring and
- The Department for International Cooperation - collaborates with other states, international organizations, and forming joint investigation teams.

The number of state prosecutors in the Special State Prosecutor's Office was established as the Chief Special Prosecutor and twelve (12) special prosecutors, as per the Decision on

² In accordance with the Law on SSPO, a public official is an individual who is elected, appointed, or designated within a state authority, state administrative body, local self-government authority, local administration authority, independent body, regulatory body, public institution, public enterprise, or other commercial entity, as well as a legal entity that exercises public powers or conducts activities of public interest or is state-owned. This also includes an individual whose selection, appointment, or designation requires the consent of the authority.

the Number of State Prosecutors. One special state prosecutor has not been performing prosecutorial duties since December 2019, as she was assigned by the Prosecutorial Council to the Centre for Training in the Judiciary and the State Prosecution Service. In December 2022, the function of one special prosecutor ended upon her personal request, while one special prosecutor was suspended from performing prosecutorial duties. In June 2022, at the request of the Chief Special Prosecutor, two state prosecutors from the Basic State Prosecutor's Office in Podgorica and one state prosecutor from the High State Prosecutor's Office in Podgorica were assigned to the Special State Prosecution Office.

By mid-2023, the prosecutorial function within the Special State Prosecutor's Office was carried out by the Chief Special Prosecutor, nine special prosecutors, two prosecutors assigned from the High State Prosecution Office in Podgorica, and three prosecutors assigned from the Basic State Prosecution Office in Podgorica, all upon the request of the Chief Special Prosecutor. At the end of 2022, in addition to the Secretary, the Special State Prosecutor's Office employed 31 civil servants.

Prosecution office	State prosecutors	Advisors	Employees
Special State Prosecution Office	15	3	28

The Chief Special Prosecutor submits a biannual report on the work of the Special State Prosecution Office to the Supreme State Prosecutor. The Chief Special Prosecutor is obligated to provide performance report of the Special State Prosecution Office to the Prosecutorial Council no later than 10 February of the current year for the preceding year, and to publish it on the official website of the Special State Prosecution Office within the same timeframe (Article 11 of the Law on SSPO).

3. INSTITUTIONAL PERFORMANCE OF THE SPECIAL STATE PROSECUTORS OFFICE IN COMBATING HIGH-LEVEL CORRUPTION (2020-2023)

Fight against high-level corruption is one of the key areas in Chapter 23 of the accession negotiations with the EU. In the initial stages of the accession process, Montenegro established a novel institutional framework geared towards enhancing its capacity to combat the widespread prevalence of corruption, including by forming new Special State Prosecution Office (SSPO) which jurisdiction and capacities are elaborated. This chapter of the policy paper section delves into the track record of the Special State Prosecutors Office during the period from 2020 to 2023 within the realm of countering high-level corruption. It seeks to shed light on the progress and developments made in this critical area.

The performance of the Special State Prosecution Office (SSPO) is presented for the period spanning from January 1, 2020, to June 30, 2023. The data is categorized according to the SSPO's achievements in resolving high-level corruption cases, conducting investigations in instances of high-level corruption, and filing indictments against individuals accused of high-level corruption offenses. The statistics are displayed in tabular form and accompanied by explanatory text that outlines the trends observed in the SSPO's efforts to address high-level corruption cases. Additionally, a breakdown is provided detailing the most commonly reported corruption-related offenses, as well as the types of offenses and the number of individuals who were under investigation by the Special Prosecution Office for high-level corruption.

YEAR 2020

In 2020, the Special Prosecution Office (SSPO) was conducting preliminary investigation against 1075 individuals upon criminal complaints for criminal offences of high-level corruption, based on reports filed both during that year and in preceding years.

Submitted to SSPO	In work from previous years	Submitted to SSPO
548	527	1075

Only in 2020, the SSPO received complaints against 548 individuals for allegations of engaging in acts of high-level corruption. In addition, preliminary investigations based on filled charges against 626 individuals from preceding years remained ongoing. It is noteworthy to emphasize that in the course of the year 2020, the portion of criminal complaints directed to the Special State Prosecutor's Office, concerning instances of high-level corruption, accounted for 34.64% of the complete number of criminal complaints submitted within that same year.

Total number of criminal complaints for high level corruption processed by SSPO in 2020	Resolved criminal complaints	Dismissed criminal complaint	Number of launched investigation	Indictments	Transferred complaints to other prosecution offices	Number of unresolved criminal complaints (persons involved)
1075	626	488	7	8	99	446

Out of total number of criminal complaints in work (1075) in 2020, the SSPO resolved 626 criminal complaints, which represent 58% of the total number of criminal complaints for criminal offences of high-level corruption. Criminal complaints regarding 488 individuals were dismissed prior to initiating any potential investigation into high-level corruption. Investigations were initiated in seven cases involving 38 individuals. In 99 cases, criminal complaints were transferred to other prosecutorial offices for further handling. By the conclusion of the year 2020, unresolved reports against 449 individuals remained pending.

In 2020, the highest number of criminal complaints were filed for the following criminal offenses, as indicated in the table below:

Criminal offence	Number of criminal complaints
Abuse of official position (Art. 416 of the CC)	263 individuals
Abuse of official position (Art. 416 of the CC) and creation of a criminal organization (Art.401 of the CC)	42 individuals
Abuse of official position in business operations (Art. 272 of the CC)	41 individuals
Abuse of official position (Art. 416 of the CC) and negligent performance of official duties (Art. 417 of the CC)	30 individuals

During the year 2020, the Special State Prosecutor's Office (SSPO) initiated investigations in 7 cases of high-level corruption, involving a total of 38 individuals. Within the same period, the SPO had 56 ongoing investigations related to high-level corruption cases from previous years, resulting in a cumulative workload of 94 individuals being investigated for crimes of high-level corruption during 2020. Subsequent to the conducted investigations, indictments were brought against 19 individuals, while investigations against 76 individuals remained unresolved at the end of 2020.

Total number of individuals under investigation for high-level corruption in 2020	Number of opened investigations in 2020	Number of individuals involved in investigations for high-level corruption in 2020
94	7	38

In the table below, you can find investigations from 2020 categorized by criminal offences of high-level corruption and number of investigated individuals by SPO.

Criminal offence	Number of investigated individuals for high level corruption in 2020
Abuse of official position (Art. 416 of the CC) and creation of a criminal organization (Art.401 of the CC)	14
Abuse of official position (Art. 416 of the CC), embezzlement in office (Art. 419 of the CC), and creation of a criminal organization (Art. 401 of the CC)	1
Abuse of official position (Art. 416 of the CC), Calling for resistance (Art. 378 of the CC) and creation of a criminal organization (Art. 401 of the CC)	1
Abuse of official position (Art. 416 of the CC)	7
Abuse of official position in business sector (Art. 276 of the CC)	1
Abuse of official position in business sector (Art. 276 of the CC), tax evasion (art. 264 of the CC) and creation of a criminal organization (Art. 401 of the CC)	3
Abuse of official position in business operations (Art. 272 of the CC)	7
Abuse of official position in business operations (Art. 272 of the CC) and Aggravated theft (Art. 240 of the CC)	2
Abuse of official position in business operations (Art. 272 of the CC), counterfeiting documents (Art. 412 of the CC) and Creation of a criminal organization (Art. 401 of the CC)	1
Creation of a criminal organization (Art. 401 of the CC), abuse of official position (Art. 416 of the CC), and unlawful occupation of land (Art. 254 of the CC)	1
Passive bribery (Art. 423 of the CC)	1
Total number of investigations:	38

In 2020, the SSPO launched eight indictments in three cases against 20 individuals.

Criminal offence	Number of indicted individuals for high level corruption in 2020
Abuse of official position (Art. 416 of the CC) and creation of a criminal organization (Art.401 of the CC)	5
Abuse of official position (Art. 416 of the CC), embezzlement in office (Art. 419 of the CC), and creation of a criminal organization (Art. 401 of the CC)	4
Abuse of official position (Art. 416 of the CC)	3
Abuse of official position in business sector (Art. 276 of the CC)	2
Abuse of official position in business sector (Art. 276 of the CC), tax evasion (art. 264 of the CC) and and creation of a criminal organization (Art. 401 of the CC)	3
Abuse of official position in business operations (Art. 272 of the CC) and aggravated theft (Art. 240 of the CC)	2
Passive bribery (Art. 423 of the CC)	1
Total number of indicted individuals:	20

YEAR 2021

In 2021, the Special Prosecution Office (SSPO) undertook preliminary investigations involving 1215 individuals following criminal complaints related to offenses of high-level corruption.

Submitted to SPO	In work from before	Total
727	488	1215

Solely during 2021, the SPO received complaints implicating 727 individuals in alleged acts of high-level corruption. Additionally, ongoing preliminary investigations persisted for 488 individuals stemming from previous years' complaints. It should be highlighted that the proportion of criminal complaints filed to the Special State Prosecutor's Office, pertaining to instances of high-level corruption, marked a remarkable portion of 77.6% of the total volume of criminal complaints submitted during that same year.

Total number of criminal complaints for high level corruption processed by SSPO in 2021	Resolved criminal complaints	Dismissed criminal complaint	Number of launched investigation	Indictments	Transferred complaints to other prosecution offices	Number of unresolved criminal complaints (persons involved)
1215	807	601	13	12	130	408

Among the comprehensive tally of assessed criminal complaints (1215), the SSPO concluded proceedings for 807 complaints, accounting for 66.4% of the overall number of criminal complaints related to high-level corruption offenses. Within this context, criminal complaints concerning 601 individuals were dismissed before initiating possible investigations into high-level corruption. A total of 13 cases saw the initiation of investigations. Furthermore, 130 cases saw the transfer of criminal complaints to other prosecutorial bodies for subsequent handling. As the end of 2021, criminal complaints against 408 individuals for high level corruption remained active. In 2021, the highest number of criminal complaints were filed for the following criminal offenses, as indicated in the table below:

Criminal offence	Number of criminal complaints
Abuse of official position (Art. 416 of the CC)	410 individuals
Abuse of official position (Art. 416 of the CC) and creation of a criminal organization (Art.401 of the CC)	33 individuals
Abuse of official position in business operations (Art. 272 of the CC)	41 individuals
Abuse of official position (Art. 416 of the CC) and negligent performance of official duties (Art. 417 of the CC)	67 individuals

In 2021, the SSPO led investigations in 13 cases of high-level corruption, involving 65 individuals. Simultaneously, the SSPO managed 142 ongoing investigations linked to high-level corruption cases from preceding years, leading to a combined caseload of 207 individuals under scrutiny for high-level corruption-related offenses in 2021. Following the investigations, indictments were pressed against 55 individuals, while the cases of 152 individuals remained unsettled by the close of 2021. Moreover, investigations into high-level corruption of 9 individuals have been dismissed.

Total number of individuals under investigation for high-level corruption in 2021	Number of opened investigations in 2021	Number of individuals involved in investigations for high-level corruption in 2021
207	13	65

In the table below, investigations from 2021, categorized by criminal offences of high-level corruption and number of investigated individuals are presented.

Criminal offence	Number of indicted individuals for high level corruption in 2020
Abuse of official position (Art. 416 of the CC)	21
Abuse of official position (Art. 416 of the CC) in an organised manner	14
Abuse of official position (Art. 416 of the CC) and Abuse of official position in business operations (Art. 272 of the CC) in an organised manner	1
Abuse of official position (Art. 416 of the CC) and ill-founded getting and use of loans and other facilities (Art. 245 of the CC)	5
Abuse of official position in business sector (Art. 276 of the CC)	1
Abuse of official position in business operations (Art. 272 of the CC)	23
Total number of indicted individuals:	65

In 2021, the SSPO launched 12 indictments against 55 individuals.

Criminal offence	Number of indicted individuals for high level corruption in 2020
Abuse of official position (Art. 416 of the CC) and creation of a criminal organization (Art.401 of the CC)	3
Tax evasion (Art. 264 of the CC) and creation of a criminal organization (Art. 401 of the CC)	22
Tax evasion (Art. 264 of the CC)	2
Tax evasion (Art. 264 of the CC) and Counterfeiting Official Documents (Art. 414 of the CC)	2
Abuse of official position (Art. 416 of the CC)	21
Abuse of official position in business sector (Art. 276 of the CC) and creation of criminal organisation (Art. 401 of the CC)	1
Abuse of official position in business operations (Art. 272 of the CC),	3
Abuse of official position in business operations (Art. 272 of the CC) and creation of criminal organisation (Art. 401 of the CC)	1
Total number of indicted individuals:	55

In 2021, the courts rendered court verdicts in cases of high-level corruption involving 42 individuals— resulting in convictions for 5 individuals, and suspended sentence against 37 individuals. At the end of 2021, there were ongoing trials against 178 individuals for criminal offences of high-level corruption.

YEAR 2022

In 2022, SSPO undertook preliminary investigations in 499 cases involving 1391 individuals following criminal complaints related to offenses of high-level corruption.

Submitted to SPO	In work from before	Total
965	426	1391

In 2022 the SSPO received complaints against 965 individuals for high-level corruption. Additionally, ongoing preliminary investigations stemming from previous years' complaints involved 426 individuals (158 cases). It should be highlighted again that the proportion of criminal complaints filed to the Special State Prosecutor's Office, pertaining to instances of high-level corruption, marked a remarkable portion of 77.6% of the total volume of criminal complaints submitted during 2022.

Total number of criminal complaints for high level corruption processed by SSPO in 2021	Resolved criminal complaints	Dismissed criminal complaint	Number of launched investigation	Indictments	Transferred complaints to other prosecution offices	Number of unresolved criminal complaints (persons involved)
1391	694	525	10	16	111	697

Out of the active number of criminal complaints in 2022 (1391), the SSPO solved complaints related to 694 individuals (49.8% of the overall number of complaints related to high-level corruption). In this context, complaints concerning 525 individuals were dismissed prior to instigating potential investigations into high-level corruption. The SSPO launched investigations in 10 cases, involving 46 individuals. Moreover, 50 cases involving 111 individuals resulted in the transfer of criminal complaints to other prosecutorial offices. At the end of 2022, active criminal complaints involving 697 individuals for high-level corruption remained active. In 2022, the highest number of criminal complaints were filed for the following criminal offenses, as indicated in the table below:

Criminal offence	Number of indicted individuals for high level corruption in 2020
Abuse of official position (Art. 416 of the CC)	527 individuals
Abuse of official position (Art. 416 of the CC) and creation of a criminal organization (Art.401 of the CC)	79 individuals
Abuse of official position in business operations (Art. 272 of the CC)	96 individuals
Abuse of official position (Art. 416 of the CC) and negligent performance of official duties (Art. 417 of the CC)	72 individuals
Abuse of official position (Art. 416 of the CC) Self-enforcement of Rights (Art. 384 of the CC) and creation of a criminal organization (Art.401 of the CC)	46 individuals
Total number of indicted individuals:	65

In 2022, the Special State Prosecutor's Office (SSPO) led investigations in 34 cases of high-level corruption, involving 219 individuals. From this number, 10 investigations related to high-level corruption involving 46 individuals have been opened in 2022, while 24 investigations against 173 individuals were related to cases from preceding years. Following investigations in 2022, SPO raised eight indictments against 42 individuals, while criminal proceedings has been dismissed for 20 individuals. At the end of 2022, the SPO had active 16 investigations in cases of high-level corruption against 146 individuals.

Total number of individuals under investigation for high-level corruption in 2022	Number of opened investigations in 2022	Number of opened investigations in 2022
219	10	46

In the table below, investigations from 2022 categorized by criminal offences of high-level corruption and number of investigated individuals are presented.

Criminal offence	Number of investigated individuals
Abuse of official position (Art. 416 of the CC) and creation of a criminal organization (Art.401 of the CC)	8
Abuse of official position (Art. 416 of the CC)	7
Active bribery (Art. 424 of the CC) and creation of a criminal organization (Art.401 of the CC)	2
Trading in Influence (Art. 422 of the CC)	1
Passive bribery (Art. 423 of the CC) and creation of a criminal organization (Art.401 of the CC)	7
Abuse of official position in business sector (Art. 276 of the CC), and passive bribery (Art. 423 of the CC) and creation of a criminal organization (Art.401 of the CC)	2
Abuse of official position in business operations (Art. 272 of the CC)	13
Abuse of official position in business operations (Art. 272 of the CC), Trading in Influence (Art. 422 of the CC) and creation of a criminal organization (Art. 401 of the CC)	1
Instigation to trading in influence (Art. 422a of the CC)	2
Smuggling (Art. 265 of the CC) and Instigation to trading in influence (Art. 422a of the CC)	2
Smuggling (Art. 265 of the CC) and Trading in influence (Art. 422 of the CC) Unlawful Possession of Weapons and Explosive Substances (Art. 403 of the CC)	1
Total number of investigations:	46

In 2022, the SSPO raised 16 indictments against 54 individuals for criminal offences of high-level corruption.

Criminal offence	Number of indicted individuals for high level corruption in 2020
Abuse of official position (Art. 416 of the CC) in an organised manner	7
Abuse of official position (Art. 416 of the CC), and creation of a criminal organization (Art. 401 of the CC)	6
Abuse of official position (Art. 416 of the CC)	16
Abuse of official position (Art. 416 of the CC), Trading in Influence (Art. 422 of the CC) and creation of a criminal organization (Art. 401 of the CC)	1
Active bribery (Art. 424 of the CC) and creation of a criminal organization (Art.401 of the CC)	2
Trading in Influence (Art. 422 of the CC)	1
Passive bribery (Art. 423 of the CC) and creation of a criminal organization (Art.401 of the CC)	2
Instigation to trading in influence (Art. 422a of the CC)	2
Smuggling (Art. 265 of the CC) and Trading in influence (Art. 422 of the CC) and creation of criminal organisation (Art. 401 of the CC)	1
Smuggling (Art. 265 of the CC) and Trading in influence (Art. 422 of the CC) Unlawful Possession of Weapons and Explosive Substances (Art. 403 of the CC) and creation of criminal organisation (Art. 401 of the CC)	1
Abuse of official position in business operations (Art. 272 of the CC)	15
Total number of investigations:	54

In 2022, the courts issued court verdicts in cases of high-level corruption involving 19 individuals - resulting in convictions for 1 individuals, and suspended sentence against 4 individuals. Against 9 indicted persons, criminal proceedings is dismissed, while the court rendered acquittal decisions for three individuals. At the end of 2022, there were ongoing trials against 211 individuals for criminal offences of high-level corruption.

YEAR 2023

In first six months of 2023, the Special Prosecution Office (SPO) received criminal complaints for high-level corruption of 440 individuals. Along with cases from previous period, the SPO led preliminary investigations against 1158 individuals following criminal complaints related to offenses of high-level corruption.

Submitted to SPO	In work from before	Total
440	718	1158

Out of the active number of criminal complaints by the end of June 2023 (1158), the SPO solved complaints related to 393 individuals (34% of the overall number of complaints related to high-level corruption). Criminal complaints related to 309 individuals were dismissed prior to instigating potential investigations into high-level corruption. In the period 1 January 2023 – 30 June 2023, the SPO launched investigations involving 12 individuals. Moreover, criminal complaints involving 59 individuals were transferred to other prosecutorial offices. At the end of June 2023, criminal complaints involving 765 individuals for high-level corruption remain active.

Total number of criminal complaints for high level corruption processed by SSPO in 2021	Resolved criminal complaints	Dismissed criminal complaint	Number of launched investigation	Indictments	Transferred complaints to other prosecution offices	Number of unresolved criminal complaints (persons involved)
1158	393	309	4	4	59	765

In the first half of 2023, the highest number of criminal complaints were filed for the following criminal offenses, as indicated in the table below:

Criminal offence	Number of criminal complaints
Abuse of official position (Art. 416 of the CC)	281 individuals
Abuse of official position (Art. 416 of the CC) and creation of a criminal organization (Art.401 of the CC)	9 individuals
Abuse of official position in business operations (Art. 272 of the CC)	14 individuals
Abuse of official position (Art. 416 of the CC) and negligent performance of official duties (Art. 417 of the CC)	32 individuals
Abuse of official position (Art. 416 of the CC) and Counterfeiting Official Documents (Art. 414 of the CC)	46 individuals

At the end of June 2023, the Special State Prosecutor's Office (SPO) had active investigations against 151 individuals for high-level corruption. In this period, the SPO launched investigations against 12 individuals. In the first six months of 2023, the SPO raised:

- Two indictments against 13 individuals for criminal offence abuse of official position (Art. 416 of the CC)
- One indictment against six individuals for criminal offences of individuals for criminal offence - abuse of official position in business operations (Art. 272 of the CC) and
- One indictment against one individual for criminal offence abuse of official position (Art. 416 of the CC), and creation of a criminal organization (Art. 401 of the CC)

At the end of June 2023, there were ongoing trials against 223 individuals for criminal offences of high-level corruption.

4. FINDINGS AND CONCLUSIONS

Since its establishment, the Special State Prosecution Office (SSPO) has been actively engaged in efforts to combat high-level corruption in Montenegro. However, the outcomes of these efforts have not met anticipated results to date. The sporadic conviction verdicts against individuals involved in high-level corruption offences indicate numerous challenges within the criminal justice system's approach to addressing this issue. However, the lengthy duration of some judicial proceedings of high-level corruption should be taken into account as well. As we await the resolution of ongoing court trials involving 223 defendants charged with high-level corruption offenses, a comprehensive assessment on the matter will only be possible thereafter. The summary table with the track record of SSPO in handling high-level corruption cases in period 2020 - 2023 is presented below.

Table: Track record of high level corruption cases handled by SSPO from 2020 - 2023

Total number of criminal complaints for high level corruption processed by SSPO in 2021	Resolved criminal complaints	Dismissed criminal complaint	Number of launched investigation	Indictments	Transferred complaints to other prosecution offices	Number of unresolved criminal complaints (persons involved) at the end of June 2023
3207	2520	1923	47	40	399	765
Number of unresolved criminal complaint for high level corruption – yearly overview						
2020		2021		2022		2023 (1/2)
446		408		697		765
Number of individuals investigated for high-level corruption from 2020-2023						
2020		2021		2022		2023 (1/2)
38		65		46		12
Number of ongoing investigations for high-level corruption per individuals at the end of the year (January 2020 – June 2023)						
2020		2021		2022		2023
76		152		146		151
Number of indictments for high level corruption 2020 - 2023						
2020		2021		2022		2023
8		12		16		4
Number of indicted individuals for high-level corruption from 2020-2023						
2020		2021		2022		2023
20		55		54		20
Ongoing court trials for high level corruption at the end of the year (January 2020 – June 2023)						
2020		2021		2022		2023
94		178		211		223

Considering the data presented in the table, certain operational conclusions/recommendations can be drawn regarding the institutional performance of SSPO in processing high-level corruption cases.

- The SSPO maintains a regular dynamic in acting upon criminal complaints for high-level corruption offenses, although the number of unresolved criminal complaints at the end of June 2023 (765) may be a cause for concern regarding the overall efficiency of SSPO's work. Increasing the number of public prosecutors in SSPO would contribute to improving efficiency and thus reducing the number of pending criminal complaints. It is recommended that SSPO establish a dynamic plan for resolving the backlog of criminal complaints so that in the next three to four years it can address current criminal complaints without carryovers from previous periods.
- 60% (1923) of the overall number of criminal complaints on high-level corruption, during the period from 2020 – 2023, have been dismissed by the SSPO. Of the complaints received by SSPO in this period, more than half (1,481 or 55.2%) were related to the criminal offense of abuse of official position (Art. 416 of the Criminal Code). Additionally, a significant portion of criminal complaints for high-level corruption - 399 (12.4%) have been transferred to other prosecutor's offices for their jurisdiction. To ensure effective oversight and accountability, it is essential to establish a mechanism for monitoring the activities of prosecutors in prosecution offices when they are responsible for handling criminal complaints related to high-level corruption cases that have been forwarded by SSPO.
- During the period of 2020 to 2021, a significant number of high-level corruption cases were resolved through plea bargain agreements. In 2020 alone, out of 81 concluded plea bargain agreements, 67 pertained to criminal offenses involving corruption, such as tax evasion and abuse of official position. As recommended by the European Commission, the use of plea bargain agreements in high-level corruption cases needs to be clarified and improved in line with European practice to avoid abuses during criminal proceedings. Since assuming the position of Chief Special Prosecutor Novovic, a departure from the practice of concluding plea bargain agreements has been observed. In the first 6 months of 2023, no plea bargain agreements have been concluded by the Special State Prosecution Office.
- Based presented data, in the period from 1 January 2020 – 30 June 2023, the SSPO conducted investigations against 161 individuals for high-level corruption. During the last year of the former Chief Special Prosecutor Katnic's mandate, the highest number of individuals were investigated of high-level corruption, totalling 65 individuals. Presently, along with investigations from previous period, the SSPO has ongoing investigations for high-level corruption offenses involving 151 individuals.
- During the period from 2020 to 2023, the SSPO filled 40 indictments, indicting 149 individuals of high-level corruption offenses. In 2022, the highest number of indictments for high-level corruption offenses was recorded (16). However, were unable to obtain information regarding the distribution of these 16 indictments between two specific timeframes: from 1 January – 18 March 2022, during the tenure of former Special Prosecutor Katnic, and from 19 March 2022, until the end of the year, following the appointment of Chief Special Prosecutor Novovic. Currently, the majority of cases in which indictments are submitted in the last three years are in various stages of court proceedings. It remains to be seen whether the number of investigations and accusations will increase in the coming period. It's worth noting that in the first six months of 2023, SSPO has investigated 12 individuals and indicted 20 individuals of high-level corruption offences.
- The increasing number of ongoing court proceedings from year to year is indicative of a significant backlog in the criminal justice system, particularly concerning the resolution

of high-level corruption cases. Court proceedings against 223 individuals indicted for high-level corruption are currently ongoing in relevant courts. Based on available data, there are currently 57 cases at the High Court in Podgorica involving 187 defendants charged with high-level corruption offenses (177 individuals and 10 are legal entities). The analysis of judicial proceedings in cases of high-level corruption offenses could serve as the subject of another policy study.

