



BAILIFFS IN MONTENEGRO

**ACHIEVEMENTS AND CHALLENGES IN THE WORK OF BAILIFFS
AND THE ENFORCEMENT OF JUDICIAL DECISIONS
-ANNUAL REPORT-**



VLADA CRNE GORE
MINISTARSTVO JAVNE UPRAVE

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-Annual Report-

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This Report was published as part of the project “Judiciary Reform: Upgrading CSO’s capacities to contribute to the integrity of judiciary”, implemented by the Centre for Monitoring and Research (CeMI), in collaboration with the Center for Democracy and Human Rights (CEDEM) and the Network for the Affirmation of European Integration Process (MAEIP), funded by the European Union and co-financed by the Ministry of Public Administration of Montenegro.

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1. INTRODUCTION

This thematic Report was created as part of the project “Judicial Reform: Upgrading CSO’s capacities to contribute to the integrity of judiciary”, which is implemented by Centre for Monitoring and Research (CeMI), in collaboration with Centre for Democracy and Human Rights (CEDEM) and Network for the Affirmation of European Integration Processes (MAEIP), and funded by the European Union and co-financed by the Ministry of Public Administration of Montenegro.

The aim of the Report is to draw conclusions and recommendations for improvement, by analysing effects of the judicial decisions enforcement system and the functioning of the bailiff system in the previous two years.

An important component of the judicial reform process of Montenegro in the previous period concerned harmonization of the judicial decisions enforcement process with the standards and practices of the most developed countries in Europe. The adoption of the first set of laws in this field in 2011, resulted in establishing the basis for bailiff profession and judicial decisions enforcement system in Montenegro. The legal framework governing the main issues related to the judicial decisions enforcement system in Montenegro is largely aligned with international standards in this field, but similar to many other areas of judicial reform, the effects of its implementation so far can be questioned, especially regarding the institutional structure, compliance with the law and accountability within the profession.

Bailiff profession, as one of the youngest in the judicial system of Montenegro, has undergone an extremely turbulent period of professional development in the past few years. Doubts of legality, problematic relationship with clients and controversies regarding the enormous earnings that bailiffs have generated while providing a public service, are just some issues which have posed a serious challenge for both this profession, and also for the institutions responsible for overseeing the functioning of the bailiff system. On the other hand, the available information on the number of ongoing cases confirms the justification to introduce the judicial decisions enforcement system, which can be seen as effective in terms of the results achieved in the previous five years. However, citizens still do not show a high degree of confidence in the work of bailiffs, and special attention should be paid to this in the coming period.

This Report summarizes the information obtained by analysing reports made by competent authorities, and the results of public opinion polls, as well as by conducting interviews with bailiffs, representatives of competent state bodies and institutions, judges and other actors in the judicial decisions enforcement system.

The Report consists of an introduction and three thematic sections. The first thematic section presents legal and institutional framework governing the system of judicial decisions enforcement in Montenegro; the second thematic section outlines observations of bailiffs’ work efficiency, while the third thematic section is devoted to presenting the results of the research about the bailiffs’ accountability system. In all parts of the Report, the emphasis was placed on observations and identified shortcomings in the work of bailiffs, as well as in the overall functioning of the enforcement system in Montenegro. A summary of the recommendations is provided at the end of the Report, and it will be presented by CeMI to all major stakeholders in the judicial reform process, in the coming period.

Finally, it should be noted that while preparing this Report, CeMI’s legal team had cooperated with all institutions involved in the judicial decisions enforcement system. In particular, we would like to emphasize the willingness of the Chamber of Bailiffs to contribute to the quality of research, through an open and proactive relationship, by providing researchers with all the necessary information in a transparent and responsible manner.

2. LEGAL AND INSTITUTIONAL FRAMEWORK

2.1. Legal framework

Enforcement of judgments in Montenegro is regulated by the Law on Enforcement and Securing of Claims¹ and the Law on Bailiffs.²

The Law on Enforcement and Securing of Claims regulates bailiffs' duties, stipulating that they are in charge of deciding in the enforcement procedure, as well as carrying out enforcement and security activities, except in cases where exclusive jurisdiction of a court is prescribed (such as the enforcement of judicial decisions for child removal, for return to work of an employee etc.). According to the Law, enforcement procedure can be conducted based on a writ of execution issued by a court or a body which is based in the area for which the bailiff has been appointed, as well as based on a credible document confirming the place of residence or location of the enforcement debtor.

Within the meaning of Article 18 of this Law, a writ of execution is: an enforceable judicial decision and judicial settlement; a decision and a settlement prescribed by a separate law as a writ of execution; a mortgage contract or a lien statement made in accordance with the regulations governing a mortgage; a notarial act which represents a writ of execution in line with the law and a foreign notarial act, if it contains all the elements necessary for enforcement, as required by the law and is considered a writ of execution in the country of origin; and other documents designated by law as writs of execution. The law stipulates that a judicial decision is enforceable if it has become final and if the deadline for voluntary fulfilment of the obligation by enforcement debtor has expired.

Within the meaning of Article 25 of the Law on Enforcement and Securing of Claims, a credible document is: a bill of exchange and check; bonds and other securities issued as one of the series, which entitle the holder to payment of a nominal value; an invoice with a bill of lading or other written proof that the enforcement debtor has been notified of the obligation incurred; extracts from business records for performed utility services, electricity services, telephone and other similar services; bank guarantee; letter of credit; verified statement of an enforcement debtor authorizing the bank to transfer money from their transaction account to the account of the enforcement creditor; calculation of interest with evidence of the basis of maturity and amount of receivables; interim or final certificate of payment relating to the completed construction works; open item statement signed and verified by both enforcement creditor and enforcement debtor. Pursuant to this Law, a credible document can be enforced if it indicates the enforcement creditor and enforcement debtor, subject, type, scope and term of fulfilment of the obligation.

The Law on Bailiffs regulates the organization of bailiffs who perform tasks in the process of enforcement and security, as well as their appointment and other issues relevant for the performance of enforcement activities, such as the termination of their performance and the procedure for dismissal, the register, books and accounts held by bailiffs, earnings and expense reimbursement, Chamber of Bailiffs, disciplinary responsibility of bailiffs, etc. In this section, it should be

¹Official Gazette of Montenegro" 36/11, 28/14, 20/15, 22/17, 76/17 – Constitutional Court's decision and 25/19

²Official Gazette of Montenegro" 61/11 and 22/17

emphasized that this Law was amended in the previous period (2017 and 2019), as follows:

During 2017, amendments to the Law on Bailiffs were initiated, introducing a system of even distribution of enforcement cases to bailiffs, in cases when the enforcement creditor is a state body, state administration body, local self-government body, institution and other legal entity exercising public authorities or a company where the state is a majority shareholder. In these cases, based on the adopted decisions, enforcement is ordered and carried out by the bailiff from an administrative area which is coterminous with the area covered by the basic court in which they are located, while taking into account the equal representation of bailiffs (more on this issue in the section of the Report dealing with efficiency of bailiffs' work).

- The 2017 amendments sought to enhance the professional standards and expertise of bailiffs by introducing the obligation for all bailiffs to take the bar exam and qualification exam for bailiffs (more on this issue in the section of the Report on the professional accountability of bailiffs).
- The 2017 amendments specified the provisions on disciplinary responsibility of bailiffs (more on this issue in the section of the Report on the professional accountability of bailiffs).
- The 2019 amendments introduced an obligation for bailiffs to notify on their property and income, in accordance with agreed interpretation of this issue that public service employees have to submit reports on property and income for themselves, as well as those of their spouses or unmarried partners, to the Agency for Prevention of Corruption. Amendments to the Law stipulate that bailiffs are required to submit reports on property and income for themselves, as well as the those of their spouses and children living in a shared household, in accordance with the Law on Prevention of Corruption. Verification of data from the reports shall be carried out in accordance with the Law on Prevention of Corruption (more on this issue in the section of the Report on professional accountability of bailiffs).

Pored dva pomenuta zakona, postoje i drugi sistemski zakoni koji se posredno ili direktno tiču njihovih proceduralnih pravnih i institucionalnih aktivnosti na svakodnevnom nivou, zavisno od tipa predmeta po kojem postupaju. To su: Zakon o notarima, Zakon o obligacionim odnosima, Zakon o parničnom postupku, Zakon o prekršajima, Zakon o privrednim društvima, Zakon o svojinsko-pravnim odnosima, Zakon o hartijama od vrijednosti itd.

In addition to the two Laws mentioned, there are other systemic laws that directly or indirectly affect procedural legal and institutional day-to-day activities carried out by bailiffs, depending on the type of case they are handling. Those are the following: Law on Notaries, Law on Obligations, Law on Civil Procedure, Law on Misdemeanours, Law on Business Organisations, Law on Ownership and Property Relations, Law on Securities, etc.

In the previous period, thanks to the activities of the Ministry of Justice and the Chamber of Bailiffs of Montenegro (hereinafter: the Chamber), a significant number of secondary legislation have been adopted, enabling consistent enforcement of laws in this area. For the purpose of implementing the Law on Bailiffs, the Ministry of Justice adopted the following by-laws: Rulebook on the Work of Bailiffs;

Rulebook on the Form and Content of Official ID of Bailiffs and Deputy Bailiffs; Rulebook on the Programme and the Manner of Taking Qualification Exam for Bailiffs; Rulebook on the Number of Seats and Official Headquarters of Bailiffs and the Decree on the Tariff of Bailiffs. On the other hand, as part of its regular work in the previous period, the Chamber adopted the following by-laws: Rulebook on Earnings and Expense Reimbursement for Members of the Chamber of Bailiffs' Bodies; Rulebook on Entry of Data into the Central Database on Enforcement Cases of Bailiffs; Rulebook on Compulsory Professional Training of Bailiffs and their Deputies; Rulebook on Control of the Work of Bailiffs and Deputy Bailiffs; and Rules of Procedure of the Chamber of Bailiffs and its Executive Board.

In the course of 2015, the Chamber adopted the Code of Ethics for Bailiffs with the aim of preserving and enhancing the dignity and reputation of the enforcement activity, as well as high standards of delivery of the enforcement activity being a public service. The Code regulates general principles of professional and ethical conduct of bailiffs and deputy bailiffs, and lays down principles and rules governing the conduct of bailiffs when performing enforcement activity and otherwise. The Code also regulates relationships with both other bailiffs and other institutions. It also prescribes establishment of the Ethics Commission of the Chamber, which is in charge of determining whether a bailiff has displayed unprofessional, unfair and irresponsible behaviour towards their colleagues, bodies of the Chamber and other employees of the Chamber. The Commission consists of three members and three deputies, who shall be elected from among bailiffs for a term of two years and may be reappointed at the end of their term of office, but no more than twice in a row.

2.2. Institutional framework

The Chamber of Bailiffs is a central body responsible for improving the position and status of bailiffs in Montenegro. In 2014, the Chamber of Bailiffs passed its own Statute regulating the organization and manner of the Chamber's work, as well as the composition and method of election of its bodies, and other issues relevant for conducting its activities. The Chamber has a status of a legal entity and is headquartered in Podgorica.

In accordance with the provisions of the Statute, the Chamber is responsible for promoting the work of bailiffs, as well as for promoting the reputation, honour and rights of this profession, and rights and interests of bailiffs. At the institutional level, the Chamber represents bailiffs to other institutions and state bodies, and initiates and establishes cooperation with the Chambers of Bailiffs in other countries. The Chamber has the authority to organize and provide training on enforcement and security matters, as well as to organize other activities aimed at improving the level of bailiffs and deputy bailiffs's performance. It should be noted that, among other things, the Chamber has competence to submit initiatives for amendments to all acts and regulations relevant to the bailiff profession, and maintain contacts with related international organizations.

The bodies of the Chamber are: Assembly, Executive Board, and President.

The Assembly of the Chamber passes the Statute and other general acts of the Chamber; elects the President of the Chamber and its Executive Board's members; proposes a member of the Disciplinary Commission and their deputy from among

the bailiffs; approves a financial statement for the previous calendar year and proposal for a financial plan for the following year; considers and adopts reports on the Chamber's work; sets the amount of membership fee and the method of its payment, and decides on other issues in line with the law and the statute of the Chamber.

The Chamber's Executive Board manages and disposes of the Chamber's resources; elects the President of the Executive Board from among its members; determines a proposal for the Statute and other acts of the Chamber; adopts its Rules of Procedure; prepares a proposal of the Chamber's financial statement for the previous calendar year and a proposal for a financial plan for the following year; prepares sessions and executes decisions of the Chamber's Assembly; organizes professional training for bailiffs; takes care of the membership dues and decides on other issues in accordance with the law and the statute of the Chamber.³ The Executive Board may establish permanent or temporary committees and working bodies, in line with the Chamber's tasks and needs.

President of the Chamber represents and speaks on behalf the Chamber, and ensures that the Chamber performs its duties in accordance with the law, as well as that the principles of conscientious performance of the enforcement activities are met. The President of the Chamber is also in charge of executing decisions of the Chamber's bodies, when determined by the Chamber's Statute; overseeing cooperation of bailiffs and other bodies, and performing other tasks stipulated by the law and the statute of the Chamber.⁴ President of the Chamber is elected by the Assembly for a term of two years with the possibility of re-election. Deputy President of the Chamber is elected by the Assembly to carry out duties of the Chamber's President, in the case of President being absent or prevented.

The Chamber of Bailiffs has existed for 5 years. So far, the Chamber has established the foundations for further development of the bailiff profession in Montenegro. Its work, especially in recent times, can be assessed as positive, particularly given the proactive approach in communication to all stakeholders in the Government, judiciary, the media, civil society and international organizations, by organizing professional gatherings of bailiffs and by improving the general perception of the bailiff profession in Montenegro. However, given that the members of the Chamber's governing bodies are bailiffs themselves, i.e. "people with the same professional background" who lack management experience in similar organizational structures, it can be concluded that their current skills and knowledge to manage the Chamber as a central professional body should be further strengthened, with a focus on financial and human resource management.

The Chamber's income is generated from the membership fees, donations and other sources. Pursuant to the provisions of the Statute, the Chamber's funds are managed and disposed of by the Chamber's Executive Board, in accordance with the law and the Statute. However, there are currently no available data on the Chamber's annual income and expenditure, suggesting that there is a limited level of transparency of the Chamber's financial operations. In the forthcoming period, it is necessary to ensure that the data on annual income and expenditure are published within the annual report on the Chamber's work, in order to improve the transparency of its financial operations.

Additionally, it is important to highlight in this part that the criteria and methods for setting the level of membership fees in the Chamber is unclear. This is particularly significant given the data from the annual Reports on the Work of Bailiffs, which clearly show that some bailiffs have a very high number of cases per year, and therefore higher annual expenses and earnings expressed in the hundreds of thousands of euros, while others have significantly fewer cases and,

³Members of the current composition of the Chamber's Management Board are: Aleksandra Tomkovic Vukoslavcevic, a bailiff from Podgorica - President of the Executive Board; Snezana Pavlicic, a bailiff from Podgorica - member; Vladimir Vujotic, a bailiff from Podgorica - member; Ajković Maja, a bailiff from Nikšić - member; Vladan Vujovic, a bailiff from Kotor - Member.

⁴The President of the Chamber is bailiff Vidak Latkovic, based in Cetinje.

therefore, less earnings and expenses. In this regard, the possibility to adapt the level of membership fee to correspond to the annual income of bailiffs needs to be considered.

All members of the Chamber's bodies are entitled to earning, which is awarded in accordance with the provisions of the Rulebook on Earnings and Expense Reimbursement for Members of the Chamber of Bailiffs' Bodies. For the purposes of this Rulebook, the bodies of the Chamber are: President of the Chamber, its members, President of the Chamber's Executive Board, and members and President of the Assembly. President of the Chamber is entitled to a nominal monthly salary, and so is Deputy President of the Chamber, for a particular month when they act as a President of the Chamber in the case of them being prevented, absent or have ceased to perform bailiff function. Members of the Chamber's Executive Board and Assembly are entitled to a nominal monthly salary, with a 20% increase being added to the salary of the Executive Board's President and the Assembly's President. However, the amounts of monthly earnings are not clearly defined and prescribed, which makes it impossible to determine those amount.

In addition, adoption of this Rulebook unnoticeably introduces the responsibility of members of the Chambers' bodies to adhere to professional standards with regard to the responsibilities as its members. However, it should be emphasized that the activities of the Chamber's governing bodies are not carried out at regular intervals, nor the level of duties and activities of the members of these bodies is commensurate with the amount of funds which are due to them under this Rulebook. Therefore, the adoption of this Rulebook by the Chamber's Assembly in early 2019 can only be seen in the context of "keeping the peace in the house", i.e. as one of the mechanisms of the governing bodies' members to receive certain funds on the basis of membership in the governing structures of the Chamber. In this section, it should be noted that this Rulebook does not cover members of commissions and other working bodies of the Chamber, who are not entitled to earnings under this Rulebook. It remains unclear why members of bodies like the Disciplinary Commission and other Chamber's working bodies are not included in this Rulebook, given the importance of their existence and functioning within the Chamber. In the forthcoming period, in addition to mandatory publicly available financial reporting on the Chamber's income and expenditure, it is necessary to introduce an obligation to disclose the expenses based on the earnings for each member of the Chamber's bodies on an annual basis. Also, within the report on property and income, all members of the Chamber's bodies must regularly notify income gained in the bodies of the Chamber.

The visibility of the Chamber's work has been especially improved in the previous period, with all the relevant information being published on the website <https://www.javni-izvrsitelji.me>. The Website is well-organized, tailored to visitors who can find all the relevant information there about the Chamber's work, the work of bailiffs, the distribution of cases, the regulations governing the enforcement and security system, and current issues within the Chamber's remits. The website also contains a Bailiffs Register, which has been reviewed and which contains information on bailiffs arranged according to the location of their offices. It has been noted that bailiffs do not have a standardized practice of creating e-mail addresses and, in the future, following the example of the judiciary and Public Prosecutor's Office, the Chamber of Bailiffs should also introduce standardized form of e-mail addresses for all bailiffs.

Recently, the Chamber of Bailiffs has focused a significant part of its activities to establishing partnerships with domestic and international organizations and institutions. It is worth mentioning that the Chamber has concluded memoranda of agreement with the Judicial Council of Montenegro, the Judicial Training Centre, the Public Prosecutor's Office, the University of Montenegro (Faculty of Law), and the Faculty of Law of the Mediterranean University. The Chamber has signed a memorandum of co-operation between the Chambers of Bailiffs of the Western Balkan countries, establishing the Balkan Enforcement Initiative.

3. EFFICIENCY OF BAILIFFS' WORK

There are 31 bailiffs actively working in Montenegro.⁵ In the observed period, 8 bailiffs ceased to perform enforcement activity because they failed to meet conditions prescribed by the Law on Amendments to the Law on Bailiffs, meaning they failed to pass the bar exam and qualification exam for bailiffs within the prescribed deadline. Having fulfilled the above conditions, two of them were reappointed. Bailiffs who have ceased to carry out their enforcement activities are: Radovan Drinčić⁶, Ljiljana Vladičić⁷, Siniša Mugoša⁸, Mladen Pavličić⁹, Isad Jašarović¹⁰ and Dejan Keković¹¹.

Provision of Article 78a of the Law on Amendments to the Law on Bailiffs from 2017 stipulated that a bailiff appointed in line with the Law on Bailiffs, is obliged to pass the bar exam, i.e. qualification exam for bailiffs, within one year from the day this Law enters into force. The Law stipulates that in case a bailiff fails to pass the bar exam or qualification exam for bailiffs, they won't be eligible to perform enforcement activity anymore. The Chamber of Bailiffs considered this provision unconstitutional. The Protector of Human Rights and Freedoms supported the view regarding the short deadline, stating that *"the average time needed to prepare for the bar exam or qualification exam for bailiffs"* should be considered, *"especially taking into account that this is done alongside work"* However, the Constitutional Court issued a decision declaring this provision constitutional. In our contacts with bailiffs, we were informed that the Ministry of Justice acted fairly towards those who did not meet the requirement, giving them the opportunity to reapply after passing the bar exam and deciding on their re-election. It was also pointed out that tightening conditions for the bailiff position led to an increase in the level of qualification of those already in jobs, which contributed to strengthening of professionalism among bailiffs.

Efficient and responsible work of bailiffs is the basis of the court decisions enforcement system. In the past five years, according to the information available, bailiffs had workload of over 350,000 cases. This information points to the conclusion that the judicial decisions enforcement system by using bailiff system has come to life, and that it guarantees an efficient exercise of citizens' rights. According to the information presented by the President of the Chamber of Bailiffs at the event marking 5 years of the Chamber's existence, out of the total number of bailiffs' ongoing cases, almost half was completely resolved, thus collecting debts in the amount of over 300 million euros.

In 2018, according to the Annual Report on the Work of Bailiffs, prepared and published by the Chamber of Bailiffs of Montenegro, there were 72,218 ongoing cases, of which 25,566 were resolved, and 46,652 were unresolved.

The overall debt to be collected by bailiffs amounted to EUR 331,069 million, while the amount of funds collected in the enforcement process was EUR 107,539,732.3. Bailiffs' expenses during 2018 amounted to EUR 4,787,480.02. For the purpose of clarity, overview for each bailiff is given in the table below. In addition, to enable comparison, the annual turnover data based on annual tax returns for natural persons' income for the accounting period of 2018 are included, and given in a table providing an efficiency analysis of the enforcement system, as prepared by the Ministry of Justice.

⁵Bailiffs Register. Available on: <https://www.javni-izvrsitelji.me/osnovni-sud-podgorica?start=10>

⁶Decision of the Minister of Justice no. 01-700-4555/18 of 17 April 2018

⁷Decision of the Minister of Justice no. 01-700-4553/18 of 17 April 2018

⁸Decision of the Minister of Justice no. 01-700-4556/18 of 17 April 2018

⁹Decision of the Minister of Justice no. 01-700-4554/18 of 17 April 2018

¹⁰Decision of the Minister of Justice no. 01-700-4552/18 of 17 April 2018

¹¹Decision of the Minister of Justice no. 01-700-4551/18 of 17 April 2018

RB	Bailiff ¹²	Municipality	Ongoing cases	Number of resolved cases	Number of unresolved cases	Amount of expenses + earnings	Ratio of collected debt to overall debt	Realized annual turnover (realized turnover from GPPFL forms for financial year 2018)
1.	Ana Nikić	Bar	2,069	1,004	1,065	223,223.79	23,49%	112.545,00
2.	Veselin Šćepanović	Bar	1,488	661	827	114,878.27	25,67%	92.172,38
3.	Isad Jašarović*	Berane i Plav	658	251	407	76,011.19	26,18%	/
4.	Siniša Milačić	Berane i Plav	3,426	1,143	2,283	342,970.32	37,77%	86.771,00
5.	Dejan Čogurić	Bijelo Polje i Kolašin	2,589	956	1,633	148,997.18	41,88%	157.023,00
6.	Darko Rajković	Kotor	1,687	643	1,044	195,111.86	63,91%	259.910,00
7.	Vidak Latković	Cetinje	3,614	1,474	2,140	287,840.96	43,9%	111.943,00
8.	Mato Jovičević	Danilovgrad	1,949	1,007	942	177,568.86	18,51%	99.631,42
9.	Jasminka Bajović	Herceg Novi	1,209	394	815	39,100.50	16,8%	75.737,87
10.	Marko Đaković	Herceg Novi	501	256	245	159,208.07	20,1%	35.127,00
11.	Ivan Sekulić	Bijelo Polje i Kolašin	1,863	909	954	110,751.57	34,47%	90.601,00
12.	Branka Samardžić	Kotor	1,726	443	1,283	172,761.43	20,15%	132.322,00
13.	Maja Ajković	Nikšić	2,477	945	1,532	173,742.79	22,17%	146.763,17
14.	Radovan Drinčić*	Nikšić	390	234	156	30,754.25	29,14%	/
15.	Snežana Begović	Pljevlja i Žabljak	1,105	478	627	61,158.86	23,62%	49.867,00
16.	Miloš Drobnjak	Pljevlja i Žabljak	1,498	885	613	72,857.35	48,63%	53.493,00
17.	Aleksandar Bošković	Podgorica	4,402	1,389	3,013	133,005.29	14,06%	334.313,00
18.	Snežana Pavličić	Podgorica	5,933	2,025	3,908	308,748.19	69,67%	155.628,00
19.	Mladen Pavličić*	Podgorica	714	204	510	39,951.55	54,52%	/
20.	Ivan Petrović	Podgorica	5,204	1,094	4,110	265,793.16	16,72%	121.717,00
21.	Aleksandra Tomković Vukoslavčević	Podgorica	8,291	2,567	5,724	395,043.45	20,81%	394.586,44
22.	Ljiljana Vladičić*	Podgorica	800	426	374	305,522.44	55,93%	/
23.	Vladimir Vujotić	Podgorica	2,232	711	1,521	77,107.94	19,29%	77.271,00
24.	Armin Camić	Rožaje	1,611	668	943	68,876.00	21,38%	81.586,00
25.	Vladan Vujović	Kotor	1,453	532	921	96,249.76	11,35%	44.520,00
26.	Vladan Batak	Bijelo Polje i Kolašin	2,002	459	1,543	85,143.10	34,98%	42.499,00
27.	Biljana Nikčević	Nikšić	2,477	717	1,760	121,356.10	12,08%	74.866,00

¹²Chamber of Bailiffs of Montenegro. Annual Report on the bailiffs' work for 2018, no. 51/19

¹³GPPFL - Annual Personal Income Tax Return

28.	Mitar Mirović	Ulcinj	2,440	1,080	1,360	128,182.32	15,68%	87.055,00
29.	Davor Vuković	Podgorica	4,817	1,444	3,373	302,490.39	25,13%	Nema GPPFL
30.	Irfan Ramović	Podgorica	470	196	274	20,914.42	22,54%	Nema GPPFL
31.	Vasilije Mićović	Podgorica	445	183	262	21,819.73	32,88%	Nema GPPFL
32.	Novak Vukčević	Podgorica	412	96	316	19,264.00	41,06%	Nema GPPFL
33.	Radovan Koprivica	Nikšić	266	92	174	11,074.93	29,69%	Nema GPPFL
34.	Dušan Nišavić	Berane i Plav	/	/	/	/	/	8.729,00
35.	Ivana Jelušić	Podgorica	/	/	/	/	/	/
TOTAL			72,218	25,566	46,652	4,787,480.02	30,13%	2.926.677,28

Concerning the realized annual turnover, liabilities based on taxes and contributions, and payment of taxes and contributions of bailiffs in the observed period, based on the data of the Ministry of Justice¹⁴, and as further stated according to the data of the Tax Administration, it was determined that the realized turnover of all bailiffs amounted to EUR 2,926,677.28, that the liabilities amounted to EUR 186,445.27, while the amount of taxes and contributions paid amounted to EUR 970,256.62, amounting to EUR 4,083,397.17 in total. If the data presented in the Annual Report of the Chamber of Bailiffs and in the Analysis of the Efficiency of the Enforcement System Functioning (1 January 2018 – 31 December 2018) published by the Ministry of Justice are compared, it is clear that the amounts determined differ significantly. Additionally, annual turnover, liabilities and payments for all bailiffs individually, as well as overall numbers are shown. Also, the analysis of the Ministry does not cover bailiffs whose public office was terminated by a decision of the Ministry of Justice in April 2018, which can only partly justify this difference.

As shown in the table, in some cases the amount of expenses and rewards of bailiffs differ significantly from the realized annual turnover, where the amount of expenses and rewards is higher or lower than the amount of realized annual turnover, while in some cases these amounts are the same.

For the sake of accuracy, it is important to emphasize that, as part of the obligations arising from the accession negotiations for EU membership, the Ministry of Justice prepared a detailed Analysis of the Efficiency of the Enforcement System Functioning for 2018.¹⁵ With the aim of approaching a very complex information contained in the Analysis to readers of this Report, we have decided to present information we deem most significant regarding the efficiency of the work of bailiffs, in relation to acting in enforcement cases based on writs of execution; acting in enforcement cases based on credible documents and bills of exchange as credible documents; and in relation to complaints filed against the decisions of executive judges of the basic courts and bailiffs. The analysis showed that in the observed period, bailiffs received a large number of enforcement cases based on writs of execution - 18,271, but also that a large number of these cases were transferred from the previous period - 15,522, which amounted to a total of 33,793 ongoing cases. Out of this number, 13,393 cases were resolved, which make 39,63% of the total number of ongoing cases. In addition, in the observed period, bailiffs received a large number of cases on the basis of credible documents and bills of exchange as credible documents - 53,947, thus significantly more than in the case of writs of execution. When the number of cases transferred from the previous period - 117,972 is added to the aforementioned number of received cases,

¹⁴Ministry of Justice of Montenegro, Analysis of the Efficiency of the Enforcement System Functioning (1 January 2018 – 31 December 2018)

¹⁵Dostupno na : http://www.kei.gov.me/ResourceManager/FileDownload.aspx?rid=366034&rType=2&file=7_126_20_06_2019.pdf

the figure obtained is 171,919 enforcement cases based on credible documents and bills of exchange as credible documents in the observed period. Out of this number, 33,118 cases or 19.26% of the total number of ongoing cases were resolved.

A) ACTING IN ENFORCEMENT CASES BASED ON WRITS OF EXECUTION

In the course of 2018, bailiffs received 18,271 cases, with additional 15,522 ongoing cases based on writs of execution from the previous period. This makes a total of 33,793 ongoing cases. Out of this number, 13,393 cases were resolved, which accounts for 39,63% of the total number of ongoing cases, or 73,30% of the number of cases received on this basis.

The largest number of cases, i.e. 11,713 (87.45%), was resolved by collecting 100% debts. When it comes to the structure of unresolved cases, in most cases (89.02%) the enforcement action could not have been carried out for objective reasons, such as lack of funds in the account of the enforcement debtor, lack of real and personal property of the enforcement debtor, etc. There is nothing bailiffs can do in those and similar circumstances.

The average length of enforcement procedure in cases based on writs of execution is 18 days. Furthermore, the Analysis points out that, during 2018, bailiffs collected EUR 48,832,719.55 or 8.85% of the total amount of debts - EUR 551,773,527.65.

Rate of collection of debts in cases formed on the basis of writs of execution		
Total amount of debts in ongoing cases from 1 January 2018 to 31 December 2018	Total amount of collected debts from 1 January 2018 to 31 December 2018	The ratio of the amount of collected debt to the total amount of debt (collection rate %)
551.773.527,65 €	48.832.719,55 €	8,85%

B) ACTING IN ENFORCEMENT CASES BASED ON CREDIBLE DOCUMENTS AND BILLS OF EXCHANGE AS CREDIBLE DOCUMENTS

During 2018, bailiffs received a large number of cases on the basis of credible documents and bills of exchange as credible documents - a total of 53,947. Considering that 117,972 cases were transferred on this basis from the previous period, in 2018 bailiffs had a workload of 171,919 enforcement cases based on credible documents and bills of exchange as credible documents. Of this number, bailiffs solved 33.118 cases or 19.26% of the total number of ongoing cases, or 61.39% of the number of cases received on this basis.

The resolved cases formed on the basis of credible documents and bills of exchange as credible documents were not dealt with as effectively as the cases based on writs of execution. The number of resolved cases in which 100% debt was collected is 10,542 cases, or 31.83% of the total number of resolved cases. As many as 92.87% of ongoing cases on this basis are those in which enforcement could not be carried out for objective reasons, such as: lack of funds in the account of the enforcement debtor, lack of real and personal property of the enforcement debtor, etc. There is nothing bailiffs can do in those situations. However, the Analysis indicates that although these circumstances cannot be influenced by bailiffs, efforts should be put into finding mechanisms to deal with this type of case more efficiently.

The average length of enforcement proceedings in cases formed on the basis of credible documents and bills of exchange as credible documents is 46 days.

On the other hand, the debts collection rate in cases based on credible documents and bills of exchange is lower than in those based on writs of execution. More specifically, bailiffs collected EUR 25,112,233.27 in 2018, which makes 4.40% of the total debts amounting to EUR 570,251. 973,26.

Collection rate in cases formed based on credible documents and writs of execution		
Total amount of debts in ongoing cases from 1 January 2018 to 31 December 2018	Total amount of debts collected from 1 January 2018 to 31 December 2018	The ratio of the amount of debts collected to the total amount of debts (collection rate%)
570.251.973,26 €	25.112.233,27 €	4,40%

C) COMPLAINTS ON DECISIONS OF EXECUTIVE JUDGES OF THE BASIC COURTS AND OF BAILIFFS

The number of complaints filed with the Basic Courts is not high, and it amounts to 5,555 or 2.70% of the total of 205,712 enforcement cases, dealt with by bailiffs during 2018. Of the total number of the complaints filed, 55.88% were accepted. Of the total number of complaints during 2018, the largest number was filed with the Basic Court Podgorica - 2.029 or 36.53%. The Analysis of the Ministry of Justice points out that due to the increased percentage of the accepted complaints compared to the previous years, it is necessary to continue raising the level of legality in the work of bailiffs, because they deal with a significantly higher number of enforcement cases than courts.

In the context of the efficiency of bailiffs' work, it is necessary to mention the activities conducted by the Chamber of Bailiffs, with the aim of improving it. First of all, the Chamber has made significant efforts to provide a single, on-line case management system for all bailiffs, which contains standardized forms for all ongoing cases and which greatly facilitates the work of bailiffs in Montenegro, and enables its higher efficiency. However, the Chamber's representatives particularly highlight that bailiffs are not given access to PRIS (Judicial Information System), which significantly complicates their work, and enables various types of abuse by parties, such as filing forged judgments. In order to overcome this problem, a cooperation agreement was signed between the Chamber of Bailiffs and the Judicial Council, but this issue has not yet been resolved in practice. When addressing the media, Vidak Latković, President of the Chamber of Bailiffs, drew attention to this problem, by stating the following: "We introduced a tool in our software system that allows us to check court judgments among ourselves, because it used to happen that the same court judgments was acted upon by several bailiffs, approached by those who instigated it". This tool is an important step forward in preventing abuse, but not sufficient to completely resolve the existing problem. This is because, in addition to PRIS database, bailiffs have not yet been granted access to the databases and records of the Ministry of Interior, the Real Estate Administration, i.e. the real estate cadastre and the Central Depository Agency. Therefore, in the coming period, it would be necessary to allow access to PRIS and the databases in the possession of the aforementioned state bodies to all bailiffs.

It should be noted that a system of even distribution of cases in the Chamber of Bailiffs is implemented in proceedings in which the enforcement creditor is a state body, state administration body, local self-government body, institution and other legal entity exercising public authority or a company where the state is a majority shareholder (in accordance with Article 5a of the Law on Bailiffs). Namely, the new decision adopted in 2017 stipulates that enforcement in these cases is determined and executed by a bailiff from an administrative area which is coterminous with the area covered by the basic court in which they are located, while taking into account the equal representation of bailiffs. The Chamber shall ensure the equal representation of bailiffs, by distributing daily requests in alphabetical order of the name of bailiffs from the same administrative area. However, in spite of the efforts to ensure a balance in relation to the allocation of cases in this type of procedure, it should be highlighted that there is an apparent disproportion in the number of cases handled by bailiffs. Analysing available data from the Report on the Work of Bailiffs, it is noticeable that in 2017, some bailiffs had up to 10 times more ongoing cases than others, while in 2018 the situation was even worse, with identified examples of bailiffs having as many as 20 times less ongoing cases than others.

Bailiff	Number of allocated cases based on rule on even distribution of cases for 2018	Total number of ongoing cases for 2018	The difference between the cases allocated based on the rule on even distribution of cases and the total number of cases
Ana Nikić	1,267	2,069	38.76%
Veselin Šćepanović	1,268	1,488	14.78%
Isad Jašarović	268	658	59.27%
Siniša Milačić	266	3,426	92.24%
Dejan Čogurić	1,005	2,589	61.18%
Darko Rajković	1,091	1,687	35.33%
Vidak Latković	685	3,614	81.05%
Mato Jovičević	/	1,949	/
Jasminka Bajović	426	1,209	64.76%
Marko Đaković	425	501	15.17%
Ivan Sekulić	1,004	1,863	46.11%
Branka Samardžić	1,090	1,726	36.85%
Maja Ajković	931	2,477	62.41%
Radovan P. Drinčić	166	390	57.44%
Snežana Begović	783	1,105	29.14%
Miloš Drobnjak	782	1,498	47.80%
Aleksandar Bošković	1,232	4,402	72.01%
Snežana Pavličić	1,923	5,933	67.59%
Mladen Pavličić	436	714	38.94%
Ivan Petrović	1,923	5,204	63.05%

Aleksandra Tomković Vukoslavčević	1,922	8,291	76.82%
Ljiljana Vladičić	437	800	45.37%
Vladimir Vujotić	796	2,232	64.34%
Armin Camić	/	1,611	/
Vladan Vujović	1,090	1,453	24.98%
Vladan Batak	1,004	2,002	49.85%
Biljana Nikčević	930	2,477	62.45%
Mitar Mirović	/	2,440	
Davor Vuković	867	4,817	82.00%
Irfan Ramović	341	470	27.45%
Vasilije Mićović	342	445	23.15%
Novak Vukčević	341	412	17.23%
Radovan Koprivica	246	266	7.52%
Dejan Keković	516	/	/
TOTAL	25,803	72,218¹⁶	64.27%

This phenomenon is a consequence of an established system in which “senior” bailiffs with longer experience exploited their position in the market, and it would be fair to say that they established the monopoly with regards to the private sector clients (large banks and companies), which regularly “supply” them with enforcement cases. Thanks to the enormous revenue generated by a large number of ongoing cases, these bailiffs have the possibility to organize offices with professional and administrative staff working on the cases, and it could be said that the offices of these bailiffs have turned into “factories” for dealing with enforcement cases, aiming to make income which is seen as enormous in the local setting. In the forthcoming period, the Chamber of Bailiffs must improve its business policy, which should be based on the principles of equal access to clients (creditors) from both public and private sectors for all bailiffs. Considering that the system of even distribution of cases involving state authorities as enforcement creditors has been a positive step further, the Chamber should take active steps towards establishing a dialogue with the largest private sector clients and, based on the principles of fair and decent conduct, establish mechanisms for even distribution of cases when it comes to the largest enforcement creditors (banks, companies, etc.) from the private sector. This will significantly reduce the existing gap between the number of ongoing cases and income of bailiffs.

¹⁶A total of 72,218, from the Report on the Work of Bailiffs for 2018, is obtained when the number of cases received on the basis of writ of execution is added to the number of cases received on the basis of a credible document and a bill of exchange as a credible document.

4. PROFESSIONAL ACCOUNTABILITY OF BAILIFFS

Professional accountability of bailiffs can be viewed through the prism of the legal framework governing disciplinary liability for possible misdemeanours, and through the prism of citizens' confidence and perception of the work of bailiff profession. Considering the latter, there is no doubt that citizens' perception of the work of any judicial profession depends on the image of those who represent it. Regardless of whether this concerns judges, prosecutors, lawyers or bailiffs, if there are instances of abuse of power, such conduct can lead to a drastic decline in public confidence not only in individual profession but also in the justice system as a whole.

The legal framework regulates the grounds for initiating the process of determining the disciplinary liability of bailiffs. Bailiff is responsible under disciplinary procedures for the infringement they inflicted during the course of their work. Those disciplinary infringements can be light, moderate or serious.

Light disciplinary violations are, inter alia, bailiffs' failure to attend a session of a Chamber's body of which they are members, three times in a row unjustifiably; inappropriate behaviour towards other bailiffs, employees at the bailiff's office and employees of Chamber bodies; violation of the law when undertaking official actions; improper behaviour in public places or in public activities (public appearances, etc.) or harming the reputation of the Chamber and the bailiff profession; misbehaving towards parties, other persons and bodies supervising the work of bailiffs, etc. In this case it could be concluded that there is a high degree of overlap with accountability for breaches of the Code of Ethics for Bailiffs, which do not carry a significant level of bailiffs' accountability.

The grounds for moderate disciplinary offenses exist, inter alia, if bailiffs take action in cases which they would have to be exempted from; if they advertise themselves through the media, billboards, etc; if they obviously or severely abuses or exceeds the powers established by this law; if they do not act in accordance with the decisions of the competent authorities; if they prevent the supervision in accordance with this Law; if they share confidential information from the enforcement case obtained in the performance of the enforcement activity; if they attend work under the influence of alcohol, if they drink at work or use drugs; if they fail to maintain financial records, registers and other records with due care and attention, by inaccurately disclosing or omitting to disclose the information as prescribed by law or regulation; if they fail to pay a membership fee to the Chamber in accordance with the act of the Chamber; if they, without justifiable reason, fail to attend the compulsory professional training organized by the Chamber and the Judicial Training Centre; if they fail to submit or submit imprecise work reports at the request of the competent authorities, etc.

The most serious disciplinary violations exist if a bailiff charges or seeks a greater or lesser reward, contrary to the Tariff on Earnings and Expense Reimbursement of Bailiffs; if in the course of a public sale or other duty as a bailiff, they purchase for themselves or their relatives an item that is sold or buy claims or other rights; if they perform enforcement activities incompetently and without due care and attention; if they represent a political party or perform as a profession another activity that is incompatible with bailiff's job; if, with no justifiable reason, they do not make a decision on execution in 10% of the cases or fails to act within the legal deadlines, or has at least 20% of revoked decisions made on the basis of writs of execution, or at least 40% of revoked decisions made on the basis of credible documents, as well as at least 30% of cases in which the request for elimination of irregularities in the enforcement procedure was adopted.

In 2017, disciplinary proceedings were instigated against eight bailiffs, as well as criminal proceedings against one bailiff. During 2018, 62 complaints on the work of bailiffs were received and the Ministry carried out 25 ex officio controls, identifying irregularities in the work of 8 bailiffs. Of the 2 disciplinary proceedings initiated against bailiffs in 2018, one resulted in a fine. Ethical responsibility of bailiffs has not yet taken effect, although the Chamber is obliged to apply the code of conduct as a key instrument in enhancing the professionalism of all bailiffs in Montenegro. In 2019, an Ethics Commission was for the first time formed in the Chamber of Bailiffs, and the first effects of work and proceedings regarding breaches of the Code provisions are still expected. Between 1 January and 30 June 2019, three disciplinary proceedings were initiated against bailiffs. Of these, two were initiated by the Ministry of Justice and one by the Chamber of Bailiffs. Final judgement for these proceedings were not passed. There were no proceedings regarding violation of the Code of Ethics for Bailiffs in this period. In the coming period, it is necessary to further strengthen the enforcement of disciplinary responsibility measures and the implementation of the Code of Ethics for Bailiffs, by creating awareness about protecting interests of the profession from inappropriate, careless and unprofessional behaviour of the Chamber's members and those employed in bailiffs' offices.

In addition, in its 2019 Report on Montenegro, the European Commission pointed out that "the disciplinary responsibility and adherence to professional standards of bailiffs remains a cause for concern", and that "additional steps are needed with regard to promotion and adoption of professional and ethical standards among bailiffs, including appropriate training and effective monitoring of their work".

What is particularly noteworthy is that the process of supervising the work of bailiffs, conducted by the Ministry of Justice with a particular focus on the legality of their work, has yielded almost no results so far. Considering that the Minister of Justice Zoran Pažin commented the negative impact of the careless and irresponsible behaviour of some bailiffs, by stating that "significant damage was caused to the reputation of such a significant profession", the public expected that intensive activities of the Ministry of Justice in the previous period would further improve the effects of monitoring the legality of the work of bailiffs.

However, the following data indicate to which extent the supervision system of the Ministry of Justice is inefficient. The presented Analysis of Supervision of Bailiffs in 2018, developed by the Directorate for Civil Legislation and Supervision at the Ministry of Justice, stated that judicial inspectors of the Ministry of Justice (2 of them) supervised the work of 25 bailiffs, and analysed a total of 259 cases. Considering that there were 73939 cases handled by bailiffs in 2018, it can be concluded that the supervision of the bailiffs' work was carried out in 0.003% of cases during 2018, which questions the system of supervision which the Ministry of Justice exercises over the legality of the work of the bailiffs. Also, no disciplinary proceedings against bailiffs were prosecuted as a result of such supervision, but only after the complaints about their work submitted to the Ministry of Justice by parties and participants in the proceedings.

However, it is indicative that, even on such a small sample of analysed cases, the inspectors identified serious problems of procedural and administrative nature in the work of bailiffs (incomplete keeping of the Register; failure to act within the statutory deadline from the date of submission of the proposal, in accordance with Article 40 of the Law on Enforcement and Security of Claims; acting on notarial acts as writs of execution even though they did not have a stamp "dispatch for the purpose of enforcement"; selling of real estate of the debtor without having

¹⁷<https://m.cdm.me/drustvo/pazin-porucio-da-su-javni-izvrsitelji-odgovorni-za-zastitu-prava-gradana>

¹⁸<https://fosmedia.me/infos/drustvo/pazin-javni-izvrsitelji-omogucili-efikasniji-postupak>

previously provided a co-owner with the decision on the sale etc). This indicates that there are still serious problems in the work of bailiffs, concerning its legality, and that these problems are the basis for initiating the process for establishing disciplinary responsibility. However, as already said, the system of supervision currently exists only as a mere fulfilment of the statutory obligation of the Ministry, but without true responsibility to contribute to strengthening the accountability of bailiffs. It is therefore recommended that the Ministry of Justice strengthens its capacity to carry out efficient supervision of bailiffs' work. Supervision should be carried out continuously, while establishing a detailed methodology for monitoring the work of bailiffs, which would serve as a basis for the actions of Ministry's inspectors.

Pursuant to Article 52 of the Law on Bailiffs, control over the work of bailiffs should be performed *ex officio* by the Chamber of Bailiffs, at least once a year. This enables the Chamber to request access to: the files and financial books of bailiffs; stored items; receipts for the amounts collected based on rewards and compensation of bailiffs, and to take all other actions in accordance with the law and other regulations. If irregularities in the work of bailiffs are identified in the control procedure, they can be subject to disciplinary measures prescribed by the Law.

According to the findings of the Analysis conducted by the Ministry of Justice during the monitoring process, so far the Chamber has not performed an *ex officio* control of the work of bailiffs in accordance with the above provisions of the Law on Bailiffs. Accordingly, the inspectors of the Ministry of Justice instructed the Chamber of Bailiffs to immediately start exercising control over the work of bailiffs and to submit a report to the Ministry of Justice as soon as possible. This recommendation by the Ministry of Justice could at the same time be considered the recommendation of the CeMI's research.

On the other hand, a major problem faced by bailiffs is their lack of safety while performing their duties. We learnt about this in an interview with bailiffs, who informed us that there were five attacks on bailiffs' person and property, as well as the large number of cases threatening their security, which were sometimes prosecuted and sometimes not. Also, the President of the Chamber highlights the need for better assistance of the police in cases when the Police Directorate performs official duties, stating that the cooperation with the Police Directorate so far is not satisfactory, especially in cases of eviction of persons and removal of stuff. Therefore, it is recommended that mechanisms of cooperation between the Chamber of Bailiffs and the Police Directorate be improved as soon as possible.

For this reason, the President of the Chamber of Bailiffs proposes that bailiffs be treated as officials and that attack on them be considered as a serious threat to property and personal integrity. This position should be taken seriously, particularly since bailiffs can be held accountable for their work through disciplinary and criminal proceedings, and are liable with their own property. Increased responsibility should also be accompanied by appropriate safeguards, that bailiffs do not currently enjoy.

In this section it is necessary to emphasize that parties, which are often uneducated or do not have sufficient level of knowledge and information about the ways to protect their rights, complain on the work of bailiffs to the judicial branch of government (judges or court presidents), but these complaints are not further processed in the Ministry of Justice or the Chamber of Bailiffs. In this context, it is necessary to initiate discussions at the level of the Chamber of Bailiffs, the Ministry of Justice and the Presidents of all courts in Montenegro, in order to

consider adopting a protocol/procedure in cases when complaints about the work of bailiffs are filed with the competent courts. In this context, we cannot particularly emphasize the provision of Article 73 of the Law on Bailiffs. According to this provision, the President of the court responsible for the area in question can initiate the procedure of supervision over legality of bailiffs' work. So far, there were no cases in practice where court presidents initiated the procedure, and this mechanism of initiating a supervision procedure should be used much more frequently in the future. Therefore, in the coming period, court presidents would have to use more proactively the possibility to initiate the process of supervising the legality of bailiffs' work in accordance with Article 73 of the Law on Bailiffs. It is necessary to initiate discussions at the level of the Chamber of Public Enforcement Agents, the Ministry of Justice and the President of all courts in Montenegro, which will consider adopting a protocol / procedure in the case of filing complaints about the work of public enforcers with the competent courts.

4.1 OBLIGATION TO SUBMIT REPORT ON PROPERTY AND INCOME TO THE AGENCY FOR PREVENTION OF CORRUPTION

The most recent amendments to the Law on Bailiffs from 2019 imposed the obligation on bailiffs to submit reports on their property and income, as well as those of their spouses or unmarried partners and children living in a shared household, in line with the Law on Prevention of Corruption. Pursuant to the provisions of the Law, verification of data from the report is performed in accordance with the provisions of the Law on Prevention of Corruption, through the control function of the Agency for Prevention of Corruption.

However, a number of irregularities were identified by analysing property cards submitted by bailiffs immediately after the entry into force of the aforementioned provisions of the Law on Bailiffs. A table view is provided below:

Bailiff	Date of submission	Amendments	Reason	Total income from performance of enforcement activities	Monthly income	Amount of expenses +reward	Comments
Aleksandar Bošković						133,005.29	No property card on the Agency for Prevention of Corruption's website
Ivana Jelušić	19.4.2019					/	No data on income from the performance of enforcement activities.
Vasilije Mičović	25.4.2019	27.8.2019	Increase of property over EUR 5000	€ 4,928.56	€ 1,232.14	21,819.73	
Snežana Pavličić	25.4.2019	29.5.2019	Increase of property over EUR 5000	€ 195,178.20	€ 16,264.85	308,748.19	Data on income from the performance of enforcement activities
Ivan Petrović	17.4.2019	26.8.2019 18.9.2019	Increase of property over EUR 5000	€ 3,914.00	€ 3,914.00	265,793.16	

¹⁸Komora javnih izvršitelja Crne Gore. Godišnji izvještaj o radu javnih izvršitelja za 2018. godinu, broj 51/19

Irfan Ramović	24.4.2019			€ 4,000.00	€ 2,000.00	20,914.42	
Aleksandra Tomković Vukoslavčević	23.4.2019	28.5.2019 26.9.2019	1) Regular annual report; 2) Increase of property over EUR 5000	€ 182,668.20	€ 15,222.65	395,043.45	Data on income from the performance of public enforcement activities were not included in the first report.
Vladimir Vujotić						77,107.94	No property card on the Agency for Prevention of Corruption's website
Novak Vukčević	23.4.2019	12.8.2019	Increase of property over EUR 5000	€ 3,820.00	€ 955.00	19,264.00	
Davor Vuković	23.4.2019			€ 5,654.15	€ 5,654.15	302,490.39	
Vidak Latković	15.4.2019	27.5.2019	Increase of property over EUR 5000	€ 115,551.000	€ 9,629.25	287,840.96	No data on income from the performance of enforcement activities were included in the first report. Income from the performance of the function of President of the Chamber have been reported.
Ana Nikić	23.4.2019					223,223.79	Data on income from the performance of enforcement activities were included in the first report.
Veselin Šćepanović	23.4.2019					114,878.27	No data on income from the performance of enforcement activities.
Dušan Nišavić	24.04.2019	11.9.2019	Increase of property over EUR 5000	€ 3,000.00	€ 1,500.00	/	
Siniša Mitačić	18.04.2019		Regular annual report	€ 51,600.00	€ 4,300.00	342,970.32	
Vladan Batak	25.4.2019	28.5.2019 12.9.2019	Increase of property over EUR 5000	€ 36,303.00	€ 3,025.25	85,143.10	Data on income from the performance of enforcement activities are included in the second and third report (same amount of income in both reports).
Dejan Čogurić	19.4.2019			€ 9,237.96	€ 769.83	148,997.18	
Ivan Sekulić	24.4.2019	29.5.2019	Increase of property over EUR 5000	€ 66,815.87	6,848.1 3,935.27 5,191.91 4,893.92 6,959.63 9,942.85 4,487.23 3,571.42 6,014.1 4,430.97 5,860.14 4,680.33	110,751.57	Data on income from the performance of enforcement activities are included in the second report of 29 May 2019.
Mato Jovičević	22.4.2019					177,568.86	No data on income from the performance of enforcement activities.
Jasminka Bajović	25.4.2019					39,100.50	No data on income from the performance of enforcement activities.
Đaković Marko	12.03.2019		Regular annual report	€ 9,600.00	€ 800.00	159,208.07	
Darko Rajković	23.4.2019					195,111.86	No data on income from the performance of enforcement activities.

Branka Samardžić	25.4.2019			€ 44,976.00	€ 3,748.00	172,761.43	
Vladan Vujović	24.4.2019			€ 18,779.04	€ 1,564.92	96,249.76	
Maja Ajković	22.4.2019					173,742.79	No data on income from the performance of enforcement activities.
Biljana Nikčević	23.4.2019					121,356.10	No data on income from the performance of enforcement activities.
Radovan Koprivica	23.4.2019					11,074.93	No data on income from the performance of enforcement activities.
Snežana Begović	25.4.2019			€ 14,652.00	€ 1,221.00	61,158.86	
Miloš Drobnjak	24.4.2019	19.7.2019	30 days following the termination of office	€ 12,600.00	€ 700.00	72,857.35	
Armin Camić						68,876.00	Nema imovinskog kartona na sajtu ASK-a
Mitar Mirović	16.4.2019			€ 18,000.00	€ 1,500.00	128,182.32	

Based on the collected and systematized data, the following conclusions can be drawn:

- Out of 31 bailiffs obliged to submit report on property and income, 28 complied with the legal obligation and submitted the report within the statutory deadline;
- Out of 31 bailiffs covered, 3 did not comply with the legal obligation to submit a report on property and income in accordance with the provisions of the Law on Bailiffs;
- Out of 28 bailiffs who submitted a report on property and income, 8 did not report income from performing public office. These reports do not contain information on the income that bailiffs gain on the basis of performing enforcement activities;
- Most of the first reports submitted by bailiffs did not contain information on income from the performance of enforcement activities, and in the following reports, in the case of changes related to the increase of property over EUR 5,000, the majority of bailiffs reported income from performing public enforcement activities;
- Articles 23 and 24 of the Law on Prevention of Corruption clearly stipulate the obligation to submit reports on property and income, specifying what information should be provided. Numerous reports submitted by bailiffs do not contain complete information on the reported income. For example, some bailiffs reported income for one month of the year only (EUR 5 000 for one month, or EUR 4000 for two months), but this information is not consistent, as it is impossible to follow the method and the basis of the monthly income notified, especially compared to the information included in the annual report of Chamber of Bailiffs. This suggests that the Agency should further examine this issue and provide an additional deadline for submission of complete information on bailiffs' income;
- With the exception of the President of the Chamber, members of the Chamber of Bailiffs' bodies did not properly report the income generated from the work in the Chamber's bodies, even though this obligation is prescribed by the Law on Prevention of Corruption.

5. RECOMMENDATIONS OF THE RESEARCH

5.1. Recommendations to the Chamber of Bailiffs of Montenegro

Recommendation 1: Improve the capacities of the Managing Board members and the President of the Chamber regarding the management skills and knowledge, with a focus on financial and human resources management.

Recommendation 2: As part of its annual report, the Chamber of Bailiffs should publish data on annual income and expenditure, in order to improve transparency of its financial operations.

Recommendation 3: The Chamber should consider a mechanism according to which annual membership fees in the Chamber should correspond to the annual income of bailiffs.

Recommendation 4: In addition to the mandatory publicly available financial reporting of the Chamber's income and expenditures, an obligation to disclose the costs of annual earnings for each member of the Chamber's bodies should be introduced. Also, all members of the Chamber's bodies must duly report the income from their engagement in the Chamber's bodies, within the report on property and income.

Recommendation 5: Introduce standardized form of e-mail addresses for all bailiffs in Montenegro. For example: name.surname@baillif.me. This could contribute to improving the efficiency of communication between citizens and bailiffs in Montenegro.

Recommendation 6: It is necessary to provide bailiffs with access to the PRIS (Judicial Information System), as well as databases and records held by the Ministry of the Interior, the Real Estate Administration, i.e. the real estate cadastre and the Central Depository Agency.

Recommendation 7: The Chamber of Bailiffs must improve its business policy, which should be based on the principle of equal access to clients (creditors) from both public and private sectors, for all bailiffs. Considering that the system of even distribution of cases involving state authorities as enforcement creditors has been a positive step further, the Chamber should take active steps towards establishing a dialogue with the largest private sector clients and, based on the principles of fair and decent conduct, establish mechanisms for even distribution of cases when it comes to the largest enforcement creditors (banks, companies, etc.) from the private sector. This will significantly reduce the existing gap between the number of ongoing cases and income of bailiffs.

Recommendation 8: The Chamber of Bailiffs should start overseeing the work of bailiffs and submit a report on their work to the Ministry of Justice as soon as possible.

5.2. Recommendations for strengthening the status, professional standards and integrity of bailiffs

Recommendation 9: It is necessary to continuously strengthen the implementation of disciplinary measures and the application of the Code of Ethics for Bailiffs by raising awareness about protecting the interests of the profession from inappropriate, careless and unprofessional behaviour of the Chamber's members and those employed in bailiffs' offices.

Recommendation 10: It is necessary to consider awarding bailiffs the status of officials, which would ensure greater degree of their protection while performing official duties and delegated public authority.

Recommendation 11: The Chamber of Bailiffs should initiate disciplinary proceedings against bailiffs who fail to submit a report on property and income to the Agency for Prevention of Corruption in line with a legally prescribed procedure;

5.3. Recommendations to the Agency for Prevention of Corruption

Recommendation 12: The Agency for Prevention of Corruption should initiate misdemeanour proceedings against bailiffs who fail to comply with the legally prescribed procedure and submit the report on their property and income immediately after the enforcement of the provisions of the Law on Bailiffs, which prescribes the obligation of bailiffs to submit report on their property and income, as well as those of their spouses and children living in a shared household;

Recommendation 13: The Agency for Prevention of Corruption should carry out a thorough examination of the submitted reports on property and income of bailiffs, in order to eliminate irregularities or complete the missing information contained therein;

5.4. Recommendations to the Ministry of Justice

Recommendation 14: The Ministry of Justice should strengthen its capacity to carry out efficient supervision of the bailiffs' work. Supervision should be conducted continuously, alongside the establishment of a detailed methodology for monitoring the work of bailiffs, which would define the actions of the Ministry's inspectors.

5.5. Recommendation for strengthening inter-institutional cooperation

Recommendation 15: It is necessary to improve the mechanisms of cooperation between the Chamber of Bailiffs and the Police Administration.

Recommendation 16: By the end of the year, the Agency for Prevention of Corruption and the Chamber of Bailiffs should jointly organize a training for bailiffs on the obligations arising from the Law on Prevention of Corruption, with the focus on the format of completing annual reports on property and income.

5.6. Recommendation to presidents of courts

Recommendation 17 Presidents of the courts should more proactively use the possibility of initiating a procedure to supervise the legality of bailiffs' work in accordance with Article 73 of the Law on Bailiffs. It is necessary to initiate discussions at the level of the Chamber of Bailiffs, the Ministry of Justice and Presidents of all courts in Montenegro, in order to consider adopting a protocol/procedure regarding the cases when complaints about the work of bailiffs are filed with the competent courts.

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