

[Home](#) > Montenegro

Montenegro

Vrhovni sud Crne Gore (Supreme Court of Montenegro)

Date of establishment

01.06.1945. (Sl.list NRCG, no.1/1945 since 10.07.1945

Address and e-mail of the court:

Njegoševa no. 10.

81000 Podgorica

Montenegro

vrhsud@t-com.me [1]

Website

<http://en.sudovi.me/vrhs/> [2] (English)

Link to the national database of their case law

<http://sudovi.me/vrhs/odluke/> [3]

Position of the supreme court in the national court system:

ESTABLISHING, ORGANISATION AND JURISDICTION OF COURTS

Article 14

The courts shall be:

1. basic courts;
2. higher courts;
3. commercial courts;
4. Appellate Court of Montenegro
5. Administrative Court of Montenegro
6. Supreme Court of Montenegro.

What does the court decide about

Constitution of Montenegro

Supreme Court

Article 124

The Supreme Court shall be the highest court in Montenegro.

The Supreme Court shall secure unified enforcement of laws by the courts.

Law on Courts

Establishing the Supreme Court

Article 25

The Supreme Court shall be the highest court in Montenegro and its seat shall be in Podgorica.

Jurisdiction

Article 26

The Supreme Court shall:

1. decide in third instance as provided by law;
2. decide on extraordinary legal remedies against decisions of the courts in Montenegro;
3. decide against decisions of its panel of judges, as provided by law;
4. decide on transfer of territorial jurisdiction when it is obvious that another court that has subject-matter jurisdiction will be able to conduct proceedings more efficiently or for other important reasons;
5. decide which court shall have territorial jurisdiction when the jurisdiction of the courts in Montenegro is not excluded, and when, in accordance with the rules on territorial jurisdiction, it is not possible to reliably determine which court has territorial jurisdiction in a particular legal matter;
6. resolve conflict of jurisdiction between different types of courts in the territory of Montenegro, except when the jurisdiction of another court has been established;
7. perform other duties laid down by law.

In matters relating to the transfer of territorial jurisdiction, designation of the court having territorial jurisdiction and conflict of jurisdiction, the Supreme Court shall decide in a panel of three judges without conducting a hearing.

Supreme Court Bench

Article 27

The Supreme Court Bench shall:

1. adopt legal positions of principle and legal opinions of principle with a view to ensuring uniform application of the Constitution, laws and other regulations in the territory of Montenegro;
2. consider issues in relation to the functioning of courts, application of laws and other regulations and exercise of judicial power and inform the Parliament thereof when it deems necessary.
3. adopt rules of procedure of court divisions and those of the Supreme Court Bench;

4. deliver opinions on candidates for the positions of the President and judges of the Supreme Court; and

5. also perform other duties laid down law.

Legal position of principle and legal opinion of principle

Article 28

Legal position of principle is a rule on a point of law of general significance to proceedings in legal matters decided by the Supreme Court and points of law which have bearing on equality of persons before the law and respect for other rights and freedoms guaranteed by the Constitution and international treaties. Every court may request the adoption of or amendment to a legal position of principle. Legal opinion of principle is delivered in relation to a particular point of law, which has arisen from the case law of the Supreme Court or lower courts and one that has bearing on uniform application of the Constitution and laws in the territory of Montenegro. The manner of maintaining records on and publication of legal positions of principle and legal opinions of principle shall be regulated by the Rules of Procedure of the Supreme Court Bench.

The principals of procedure

Independence and autonomy

Article 3

Judges shall adjudicate and decide independently and autonomously. Judicial office must not be performed under anybody's influence. Nobody shall influence the judge in the performance of judicial office.

Mandatory character of judicial power

Article 4

The court shall have a duty to render decisions in legal matters for which it has jurisdiction in a lawful, objective and timely manner.

Accessibility of the courts and equality of parties

Article 5

Everyone shall have the right of access to court for the purpose of exercising his/her rights. Everyone is equal before the court.

Openness

Article 6

The work of the court shall be open to the public, except in cases laid down by law.

Impartiality

Article 7

Everyone is entitled to an impartial trial within a reasonable time.

Right to a randomly allocated judge

Article 8

Everyone has the right to have his/her legal matter heard and determined by a randomly selected judge, regardless of the parties to the case and the nature of the case.

The number of justices and panels

There are 18 Justices together with the President in the Supreme Court of Montenegro.

The Supreme Court consists of:

Criminal Department

Department for juveniles

Civil Department

Administrative Department

Department of Case Law and Legal Information.

How are the justices appointed

1. Requirements for election of judges

General requirements

Article 31

A person may be elected as a judge if he/she:

1. is a national of Montenegro;
2. is medically fit and possesses capacity to exercise rights;
3. has a university degree in the field of law;
4. has passed bar examination;

Special requirements

Article 32

In addition to the general requirements, a person may be elected as a judge if he/she possesses work experience of the following duration in the field of law:

- for a judge of the basic court ? five years,
- for a judge of the commercial court ? six years,
- for a judge of the high court ? eight years,
- for a judge of the Appellate Court and the Administrative Court ? ten years,
- for a judge of the Supreme Court ? fifteen years.

A person may be elected as a judge if he/she possesses professional impartiality, high moral qualities and demonstrated professional competences. Additionally to the criteria referred to in paragraph 2 of this Article, when a judge is elected

to a higher judicial office, special account shall be taken of efficiency, responsibility and quality of performance of judicial duty, if the candidate exercised judicial office.

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Links:

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