European Integration Studies, Volume 21, Number 2 (2025), pp. 615-652.
https://doi.org/10.46941/2025.2.16

NEBOJŠA B. VUČINIĆ[*] - SANJA GRBOVIĆ[**]
In collaboration with: Ksenija Mišović, LLM

The European Convention on Human Rights – the protection of human rights under the ECHR and Central Europe: Montenegro[***]

ABSTRACT: Although the Convention came into force in Montenegro on 3 March 2004, the Court began examining the first cases against Montenegro in 2009. To date, it has issued 71 judgments and 73 decisions concerning various conventional rights. A significant influence has been exerted on the legal system, particularly on the judicial practice of Montenegrin courts, regarding the protection of fundamental rights safeguarded by the European Convention. However, in our opinion, this is insufficient for the real and effective implementation of the rights prescribed by the Convention. Thus far, Montenegro has, responsibly and within the deadline, executed all the judgments and decisions of the European Court. However, despite ongoing trainings and seminars, judges, prosecutors and other legal practitioners in Montenegro lack a certain degree of courage and impartiality to implement the Convention.

KEYWORDS: state succession, protection of life and bodily integrity, deprivation of liberty, fair trial, Montenegro, Constitutional Court.

1. Introduction

While the European Convention on Human Rights (ECHR) came into force in Montenegro on 3 March 2004, the European Court of Human Rights (ECtHR) began examining the cases against Montenegro in 2009. More than several thousand cases have been declared inadmissible, and the Court has delivered 71 judgments and 73 decisions on admissibility.[1] However, there

[*] Full Professor, Faculty of Law, University of Montenegro, Montenegro. Former Judge of the European Court of Human Rights. ne.vu62@gmail.com.
[**] Teaching Assistant, PhD, Faculty of Law, University of Montenegro, Montenegro. sanjag@ucg.ac.me.
[***] **The research and preparation of this study was supported by the Central European Academy.**
[1] See more precisely at https://www.gov.me/dokumenta/6207dd5b-b07f-4d51-97a4-95356dc4449c.

have been no Grand Chamber cases, established systemic or endemic issues or pilot judgment procedures yet. Consequently, the ECHR has had an important and long-lasting impact on the legal system of Montenegro; nonetheless, in our opinion, the protection of Convention rights has not been sufficiently influenced in the legal system.[2]

Hence, the Convention has had an important impact, yet certain problems and shortcomings have been identified. Influenced by Court judgments, they are currently being resolved domestically.[3] One of the main objectives of the Convention and the Court's case law is the domestic implementation of the standards developed by the Court, which is slowly being accomplished. Pursuant to Article 9 of the Constitution of Montenegro, ratified and published international treaties and generally accepted rules of international law are an integral part of the Montenegrin legal system, are superior to the national legislation and shall apply directly when they regulate relations differently from the national legislation. Hence, the Constitution of Montenegro adopted a monistic position concerning the priority of international law over national law, which is important for the implementation of human rights. In practice, this means that treaties, such as the ECHR, and judgments and decisions of international courts have supremacy over national legislation.[4]

2. ECHR and the issue of state succession

The Court judgment in *Bijelic v. Montenegro and Serbia*[5] was significant for its impact on the domestic legal system and because it was the first judgment. Furthermore, it was important for public international and universal human rights law. Notably, the judgment represented a considerable contribution to customary international law concerning the validity of international treaties on human rights in the situation of the peaceful division (dissolution) of a state and state succession, that is, the changing political status of a territory. One of the principal questions raised in this case was that of the temporal (*ratione temporis*) application of the Convention concerning Montenegro, given that the independence of Montenegro, proclaimed on 6 June 2006, was pursuant to the democratic

[2] Vučinić, 2016, pp. 290–304.
[3] Council of Europe, 2021.
[4] Article 9 of the Constitution of Montenegro, 2007.
[5] *Case of Bijelić v. Montenegro and Serbia*, App. No. 11890/05, 28 April 2009.

referendum held on 21 May 2006, in which the majority of citizens voted in favour of reestablishing[6] an independent State of Montenegro.

In the *Bijelic* judgment, the Court ruled that the Convention had been binding on Montenegro since 3 March 2004, namely, when the State Union of Serbia and Montenegro joined the Council of Europe (CoE) and ratified the ECHR, which ended in May 2007, when Montenegro became a full member of the CoE and a party to the Convention. Consequently, this judgment dismissed any uncertainties about the *ratione temporis* issue concerning Montenegro before May 2007. By this same reasoning, the Court confirmed a rule close to customary international law, that human rights treaties, which had been in force in respect of one territory or federal units, continued to be binding for the territory, regardless of political changes, such as obtaining independence. This reasoning was based on the proposition that a human rights treaty was a specific type of international treaty, with the primary purpose of protecting individual human beings from government abuses or intrusions.

In adopting this approach, the Court took into consideration the opinion of third parties, namely, the Venice Commission and of 'Human Rights Action', a nongovernmental organisation from Podgorica. They argued that Montenegro should be deemed responsible for any and all violations of the Convention and/or its Protocols committed by its authorities, as of 3 March 2004, when these instruments had entered into force in the State Union of Serbia and Montenegro. In support of this argument, the Court referred to practical considerations: the domestic and international context surrounding Montenegrin independence, its own

[6] The Principality of Montenegro (from 1910 the Kingdom of Montenegro) was recognised as an independent State at the Berlin Congress on 13 July 1878. At the end of November 1918, an illegitimate and unlawful so-called Great National Assembly, organised by the supporters of the Kingdom of Serbia, with the help of Serbian armed forces, abrogated the Kingdom of Montenegro and proclaimed the so-called unconditional unification. This was subjugation to the Kingdom of Serbia. Hence, Montenegro ceased to exist as a political and national subject. After World War II and the socialist revolution, Montenegro regained part of its statehood and the Socialist Republic of Montenegro was established as a federal unit in the framework of the Yugoslav federation, with 'inherent right to self-determination of the people', including the right to opt for its own State. See Peric, 1999; Sukovic, 1999; and Vucinic, 2001, p. 154. Pursuant to a decision of Badinter's Arbitration Commission for former Yugoslavia, this right was confirmed to all the units of the Federation of Yugoslavia. Under the auspices of the European Union, and on condition of a special qualified majority, a democratic referendum was held on 21 May 2006, in which the majority voted for reestablishing an independent Montenegro. See Davies, 2012, pp. 600–620.

established practice regarding Czech and Slovak Republics[7] and the opinion of the Human Rights Committee (International Covenant on Civil and Political Rights, ICCPR) on the issue of state succession and the continuation of human rights treaties. By resolving this particular case against Montenegro, the Court considerably contributed to the clarification of this legal issue of general importance and indirectly improved the principles of legal security and certainty.

3. Protection of the right to life

Relatively late, at the end of 2017, the Court made its first decision in relation to Article 2 of the ECHR. The case related to the inefficient and ineffective investigation of the shipwreck of the boat "Miss Pat", which, through the help of an organised criminal group from Montenegro, transported Roma immigrants from Montenegro to Italy. An overloaded ship sank in the night between August 14 and 15, 1999, and several dozen immigrants lost their lives. At the time the application was submitted to the Court (in 2011), the criminal proceedings were ongoing in different courts in Montenegro (transfer of jurisdiction between the Kotor, Bar and Podgorica courts). Hence, the Court found that the procedural aspect of Article 2 of the ECHR was violated due to the long-term, inefficient and ineffective investigation and awarded the applicants 12,000 euros in non-material damage and 500 euros in compensation for expenses.
Referring to relevant precedents (*Branko Tomašić and others v. Croatia*, App. No. 46598/06, paragraph 62, 15 January 2009; *Toğcu v. Turkey*, App. No. 27601/95, paragraph 109 in fine, 31 May 2005; and *Manson v. the United Kingdom (*dec.), App. No. 47916/99, 6 May 2003), the Court concluded that the investigative actions taken by the Montenegrin authorities were neither quick nor effective. The qualifications in the indictments were often changed, and the main hearings before various courts in Montenegro were postponed multiple times; hence, the judicial authorities of Montenegro could not *de facto* determine what happened and who was responsible for it, which contradicted the essential requirements of the procedural part of Article 2 of the ECHR.

Although the Court did not conclude that it was a systemic problem, especially in connection with effective investigations under Article 3 of the

[7] *Case of Konecny v. the Czech Republic*, App. Nos. 47269/99, 64656/01 and 65002/01, 26 October 2004.

ECHR, which are similar to the obligations in Article 2, this can be considered a key problem in the application of the ECHR in Montenegro. It seems that the Montenegrin authorities did not sincerely and responsibly accept the application of these standards in the internal legal system, because a significant number of cases of torture and inhuman behaviour remained unexplained, covered up or the perpetrators were released from criminal responsibility. Unfortunately, the Court's decision on the inadmissibility of the appeal of a group of refugees deported from Montenegro to Bosnia and Herzegovina during the war in Bosnia and Herzegovina in the early 1990s, most of whom were killed by the Bosnian Serb army, is controversial and, in our humble opinion, unfair.

At the beginning of the war in Bosnia and Herzegovina, fleeing from the persecution of the Bosnian Serb army, several dozen refugees, mostly Muslim and individuals of Serbian and Croatian nationality, sought refuge in Montenegro. Instead of providing them with protection following the imperative international legal standards on the protection of refugees and the special rule of non-refoulement, the Montenegrin authorities, with the help of the paramilitary units of the Republika Srpska army, deprived them of their freedom and returned them to Bosnia and Herzegovina, allegedly for exchanging prisoners, where the majority were liquidated. The survivors and their descendants asserted their right to state compensation in civil legal proceedings in Montenegro; however, no one was held criminally responsible, that is, high-ranking officials of the security service and the Ministry of Internal Affairs were released from any responsibility after a lengthy criminal proceeding. The Montenegrin criminal courts concluded that Montenegro was not formally a participant in the conflict in Bosnia and Herzegovina, and the state authorities could not commit the war crime of taking the civilian population as hostages. This conclusion came despite the position of the Hague Tribunal[8] that the conflict in Bosnia and Herzegovina was of an international character, that Serbia and Montenegro were actively helping the Bosnian Serb side, and, for the qualification of a war crime, it was sufficient that the act was committed 'in the context of an armed conflict'. However, the Montenegrin criminal courts concluded that it was a "benign" crime of illegal deprivation of liberty, which had become statute-barred in the meantime.

[8] ICTY, Tadić, IT-94-1, [Online]. Available at: https://www.icty.org/bcs/case/tadic (Accessed: 21 June 2025).

The Court concluded that the applicants lost their victim status due to the civil legal compensation received before the Montenegrin courts, and the investigation and criminal proceedings were conducted efficiently and effectively, although they did not result in individual criminal responsibility, referring to the precedent of the Grand Chamber.[9] We believe that the Court's comparison with the case of Armani de Silva was not adequate because, in that case, there was an unintentional, albeit serious, mistake by the members of the UK special police regarding a person who was mistaken for a terrorist, while the criminal proceedings in Montenegro unequivocally showed that state authorities deliberately and knowingly helped the Bosnian Serb side by arresting these persons for exchanging prisoners. In our opinion, the Court acted formalistically, *de facto* abolishing the state for serious violations of international law, refugee and humanitarian law.

In *Ražnatović v. Montenegro*, regarding the applicant's request to protect the life of a voluntary psychiatric patient, that is, for the state to take all reasonable measures to that end, the Court found that there was no violation of positive obligations following Article 2 of the ECHR. The Court concluded that there were no convincing elements to deviate from the conclusions reached by the domestic courts, which referred to the fact that the Central Clinical Hospital of Montenegro-Psychiatry Clinic did not know, nor should have known, about the immediate risk to life of M.R., who was undergoing treatment at the same Clinic voluntarily. Consequently, the Court did not consider it necessary to evaluate the second part or whether the competent authorities took all the measures that could reasonably be expected of them.[10]

4. Prohibition of torture

In relation to Article 3 of the ECHR, the Court issued its first verdict against Montenegro in *Milić and Nikezić*.[11] The case referred to the treatment of persons deprived of their liberty while serving a prison sentence, subjected to torture and inhuman treatment by members of the prison police. The Court concluded that there was a 'complex' violation of Article 3, in both substantive and procedural aspects. Based on the complaint of the mother of

[9] *Case of Armani de Silva v. The United Kingdom*, App. No. 5878/08, 30 March 2016.
[10] *Case of Osman v. The United Kingdom*, App. No. 23452/94, 28 October 1998.
[11] *Case of Milić and Nikezić v. Montenegro*, App. No. 5499/10 and 10609/11, 28 April 2015.

one of the applicants, a relatively fair investigation was conducted before the domestic authorities, with the participation of the Ombudsperson. However, in addition to the established sufficient and relevant facts, the prosecutor refused to initiate criminal prosecution *ex officio* for the beating of the applicants in the ZIKS (Administration for the Execution of Criminal Sanctions) premises. The Court, as an aggravating fact, in support of the state's responsibility, highlighted the failure of the prosecutor to use the official recordings of the video surveillance installed in the premises of ZIKS in the proceedings. Hence, this case, once again, showed the unwillingness of the Montenegrin authorities to face the violation of Article 3, the prohibition of torture and inhumane treatment.

The same conclusion was reached by the Court in *Siništaj and others v. Montenegro*,[12] a double violation of Article 3 due to torture, inhumane treatment and inadequate investigation in the case against persons accused of preparing a terrorist rebellion. This case was characteristic as the Court stated that a constitutional appeal before the Constitutional Court of the Republic of Montenegro was an effective and efficient legal remedy and must be used before addressing the Court.

Similar to the deportation case, the Court declared inadmissible the appeal of Milorad Martinović for the severe form of torture that he was exposed to during the 2015 demonstrations.[13] Martinović received compensation in civil proceedings for being beaten by members of the special police, unmarked with identification marks and numbers, and enduring serious physical injuries. The Court found that Martinović could not claim to be a 'victim' under Article 34 and his appeal, based on Articles 3 and 13 of the Convention, must be rejected in accordance with Article 35 Section 3 (a) and 4.

This decision was based on three reasons. First, the Court noted that the Constitutional Court of Montenegro found a violation of the material and procedural aspect of Article 3, as the Constitutional Court expressly accepted the violation complained of by the applicant. Second, the applicant reached an agreement with the state and received compensation of 130,000 euros for all existing and future damage related to this event, both monetary and non-material. Third, the investigation carried out led to: (a) the identification of the two immediate perpetrators, X and Y, who were

[12] *Case of Siništaj and others v. Montenegro*, App. Nos. 1451/10, 7260/10 and 7382/10, 24 November 2015, para. 94/103.
[13] *Case of Martinović v. Montenegro*, App. No. 44993/18, 1 April 2021.

currently on trial for torture and grievous bodily harm and (b) criminal prosecution and sentencing of the commander of the relevant police unit for assisting the perpetrator after the commission of the crime.[14]

One of the more recent cases, *Baranin and Vukčević v. Montenegro*, is interesting and characteristic.[15] The applicants were brutally beaten by the police during the crackdown on violent demonstrations in September 2015 by the Democratic Front. Neither did the applicants participate in any riots or resist the police officers, nor did the police deprive them of their freedom or bring any proceedings against them. They were forced to lie down on the sidewalk by order of the police, when they received multiple physical blows all over their bodies that caused the injuries identified by the medical report. Additionally, they were exposed to inhumane and degrading treatment because the policemen shouted at them, cursed, insulted them and left them, injured and beaten, lying on the street without help. There was a video of the event on the Internet. Even after five years, the perpetrators had not been identified, and at the time the application was submitted to the Court, the case was in the preliminary stage.

The NGO, Action for Human Rights, filed constitutional appeals, which were unanimously adopted by the Constitutional Court and, for the first time, found a violation of the constitutional prohibition of torture due to ineffective investigation into police abuse. Unfortunately, the Basic State Prosecutor's Office in Podgorica did not implement the decision of the Constitutional Court and did not conduct an investigation of police violence against the applicants following the minimum standards of the ECHR.

The Court found that the competent state authorities, primarily the prosecutor's office and the police, did not conduct an effective and efficient investigation to discover the perpetrators and adequately punish them. The investigation was not prompt, thorough and independent, all of which significantly affected its ability to identify those responsible. Furthermore, even after the decision of the Constitutional Court, the state authorities did not make sufficient effort to remove the shortcomings of the investigation and obey the instructions of the Constitutional Court. The Court stated that the responsibility of the special anti-terrorist unit (SAJ) commander for

[14]For more information [Online]. Available at: https://www.hraction.org/2021/04/01/odluka-suda-u-strazburu-u-predmetu-martinovic-protiv-crne-gore/.

[15] *Case of Baranin and Vukčević v. Montenegro*, App. Nos. 24655/18 and 25656/18, 11 March 2021.

helping perpetrators of abuse was established, and he was sanctioned for this; however, it could not be concluded that the state fulfilled all its duties in accordance with Article 3 for conducting an effective investigation.

The Court further pointed out that, although the state prosecutor continued to carry out most of the necessary investigative actions after the Constitutional Court's decision, such as interviewing most of the witnesses who could be traced, it was only done two years after the incident, even though promptness is one of the key elements of an effective investigation due to the possibility of evidence destruction and contamination. Moreover, the prosecutor did not undertake all possible investigative actions because she did not interview a large number of witnesses, did not establish whether only SAJ members were on the ground that night, and did she provide evidence that the Forensic Center was involved in the investigation.

The Court determined that, contrary to domestic law, the applicants, as injured parties and their representatives, could not attend the questioning of the witnesses and ask them questions because they were not informed about the place and time of the questioning. What was particularly significant in the context of Article 3 was that the state prosecutor, during evidence collection for the identification of the perpetrators, was largely dependent on the assistance of the Security Center of the Police Administration, which was subordinate to the same chain of command as the officers under investigation, raising questions about the investigation's independence and impartiality.

Referring to the applicants receiving compensation from the domestic courts and the SAJ commander being punished for helping the perpetrators, the Court emphasised that the violation of Article 3 of the Convention could not be corrected only by compensation. It required the implementation of an effective investigation of decisive importance. In this case, as an effective investigation was not conducted even after the Constitutional Court's decision, the Court concluded that the applicants did not lose their victim status and unanimously found a violation of the procedural aspect of Article 3.

The concerns surrounding the prohibition of torture and inhumane behaviour remain problematic in Montenegro, especially regarding controlling the authority of police officers to use force and the readiness of the prosecution and courts to adequately apply the standards of fast, impartial, efficient and effective investigation. This is in addition to constant training, seminars and education of police and prosecutor-judicial personnel.

The real issue is the lack of will and readiness to apply the standards. According to the regulations of the Ministry of Internal Affairs, it is a strict obligation for all members of the police, including regular and special police (under helmets and masks), to wear visible external identification numbers and signs, which is an improvement compared to the previous state of affairs and an important assumption in determining individual criminal responsibility.

As the latest cases mentioned in the Report of the NGO, Action for Human Rights, show, proving torture and inhuman behaviour is difficult and problematic, and punishing suspected police officers is rare. Thus, in the last case of B.M., the basic court acquitted the suspected policeman because the victim, with visible injuries all over his body, failed to recognise the policemen who tortured him because they had phantoms on their heads and did not have the mandatory identification number on their uniforms. Hence, this issue, if not resolved urgently and radically, will soon become a systemic problem of the application of Article 3 of the ECHR in Montenegro.

5. Right to liberty and security

As in the prohibition of torture and inhumane treatment, the application of the standards of Article 5 of the Convention remains problematic in Montenegro. This is related to the conditions for determining and extending detention, that is, the relative inability of domestic prosecutors and courts to concretely assess the circumstances of each case and provide sufficient and relevant reasons for determining or extending detention. There is a *de facto* tendency that, especially under inappropriate pressure from the "public" and journalists, detention is treated as a criminal sanction, instead of a measure to ensure the suspect's presence in criminal proceedings, which is the main aim of detention. Alternative measures to custody, which are otherwise decisively prescribed by the Code of Criminal Procedure, are rarely used.

In *Bulatović v. Montenegro*,[16] which referred to Article 5 of the Convention, a violation was established because the detention lasted longer than five years. In *Mugoša v. Montenegro*,[17] the decision on the extension of detention was made after the expiration of the legal term for control of detention, which was sufficient for finding a violation of the applicant's

[16] *Case of Bulatović v. Montenegro*, App. No. 67320/10, 22 July 2014, para. 137/149.
[17] *Case of Mugoša v. Montenegro*, App. No. 76522/12, 21 June 2016, para. 48/57.

rights because, according to the standard of the Court, the inconsistency of detention with domestic regulations, *prima facie*, violates the Convention. In *Bigović v. Montenegro*,[18] detention was extended according to the 'copy/paste' system, that is, on grounds that were not supported by sufficient and relevant reasons and lasted longer than five years. Similarly, in *Šaranović v. Montenegro*,[19] the Court found that the detention was illegal, because the validity of the detention during a period was not reviewed within the legal term, similar *Mugoša*.

The Court found a further violation of Article 5 due to illegal deprivation of liberty in a more recent case, *Asanović v. Montenegro*.[20] The applicant, a lawyer, received a verbal order from the state prosecutor through a police officer to provide certain information, in his capacity as a citizen, due to the suspicion that he had committed the criminal offence of tax and contribution evasion. The police officer did not find him at the registered address; hence, the state prosecutor requested that he be deprived of his liberty due to the well-founded suspicion that he was on the run. The appellant called a police officer as soon as he was able to do so and was told to come to the Basic Court building in Podgorica. The police officers handed him a summons to 'immediately' come to the police station for questioning; therefore, he was transported to the police station in a police car. The official note indicated that he was deprived of his liberty at 10:40 a.m. on 13 September 2017. He was brought to the state prosecutor for questioning. He pleaded 'not guilty' and explained that earlier that morning, he had visited a client in prison, where there was no mobile phone signal. At 1:45 p.m. on the same day, he was released. Criminal proceedings were conducted against Asanović for tax and contribution evasion; however, he was later acquitted. His Constitutional appeal was dismissed as unfounded.

The ECtHR found that Article 259 of the Code of Criminal Procedure enabled a person who does not respond to a summons to be forcibly brought, if he was warned about it in the summons. The invitation contained the warning; however, it indicated that Asanović must respond "immediately". The Court concluded that the term "immediately" did not give the applicant the chance to respond to the summons of his free will, which was contrary to Article 259. Furthermore, the official police report did not specify the legal basis for the deprivation of liberty. It only referred

[18] *Case of Bigović v. Montenegro*, App. No. 48343/16, 19 March 2019, para. 175/218.
[19] *Case of Šaranović v. Montenegro*, App. No. 31775/16, 5 March 2019, para. 64/89.
[20] *Case of Asanović v. Montenegro*, App. No. 52415/18, 20 May 2021, para. 46/68.

to some reasons from Article 175 of the Code of Criminal Procedure, such as the possibility that the person was hiding or might destroy evidence. Moreover, Article 23 of the Law on Advocacy stated that a lawyer could only be deprived of liberty for offences related to the practice of law if a decision is made by the Chamber of the competent court. As there was no such court decision, even if the police had reasons under Article 175, the deprivation of liberty was illegal, which led the Court to unanimously conclude that there was a violation of Article 5 paragraph 1 of the ECHR.

Recently, the problem of using encrypted communications, especially those of organised criminal groups (such as the SKY application), as evidence in investigations and criminal proceedings, has become increasingly topical. Detention is often determined and extended solely based on this evidence, sometimes under unprincipled pressure from the public and journalists, which creates problems regarding the legality of detention. The ECtHR has not yet ruled in any of its judgments on the legal validity of these means, especially in cases where they are the only and exclusive evidence. In Montenegro, opinions range from a complete denial of the validity of this evidence, which is neither provided for nor regulated by the Criminal Procedure Code,[21] to views that (as in any other case) the Court, at the main trial, should determine the validity and credibility of the evidence according to the procedure. For now, one invalid criminal case has been sent back for retrial due to the use of evidence obtained in this manner.[22] This will be a big challenge, both for the Supreme Court and the Constitutional Court of Montenegro.

6. Right to a fair trial

The principal positive result of the judgment, one of the first against Montenegro, was in *Garzicic v. Montenegro*[23] regarding the change of the practice of the Supreme Court of Montenegro for value determination in civil disputes/claims and the elimination of excessive formalism of the Montenegrin courts. Having found a violation of Article 6 paragraph 1

[21] Official Gazette of Montenegro, Nos. 57/2009, 49/2010, 47/2014, 2/2015, 35/2015, 58/2015, 28/2018 and 116/2020.

[22] The Court of Appeals of Montenegro annulled, in August 2024, the first-instance verdict against D.J., which was based on Sky communications as evidence, due to a lack of clear and valid reasons regarding the admissibility or inadmissibility of the evidence, and returned the case for retrial to the High Court in Podgorica.

[23] *Case of Garzicic v. Montenegro*, App. No. 17931/07, 21 September 2010, para. 22/34.

(access to the court), the Court assessed the practice of the Supreme Court as excessively formalistic concerning an appeal on points of law (revision). Until then, the party had been obliged to assess the value of the claim. If the assessment was unrealistic, the courts could assess the value. In *Garzicic*, the appellant failed to make the assessment; hence, the lower courts did so. However, the Supreme Court, on appeal, ignored that the lower courts had determined the value of the dispute and rejected the appeal on points of law without examining the merits of the case.

The Court considered that, even though the domestic courts, including the Supreme Court, had no strict and explicit obligation in this respect, no provision in the Civil Procedure Act prohibited the courts from establishing the value of the dispute when the plaintiff had failed to do so in the statement of a claim. In this case, the domestic courts established the value of the claim in the first and second remittal, accounting for expert findings and the value specified by the parties. Although these values differed, the Court did not consider it necessary to determine which of the two was more accurate, as both allowed for an appeal on points of law in accordance with Article 382 § 3 of the Civil Procedure Act 1977. The Court ruled that, in any event, the applicant should not suffer any detriment on account of the domestic courts' failure to order the applicant to pay the difference between the court fees paid and the fees corresponding to the established values of the claim.

Therefore, the Court assessed that the aforementioned practice of the Supreme Court of Montenegro amounted to excessive formalism and breached the applicant's right of access to the Supreme Court, violating Article 6 paragraph 1 of the Convention. In the retrial following the Court's judgment,[24] the Supreme Court accepted the Court's reasoning, changed the practice, allowed for the applicant's appeal on points of law and examined the case on its merits. This practice was subsequently followed by the lower courts. Notably, at approximately the same time, the Constitutional Court of Montenegro decided on a constitutional appeal of another appellant raising the same issue and endorsed the standard developed in the Court's jurisprudence, ruling that the aforementioned practice of the Supreme Court was excessively formalistic and constituted a violation of the right of access to the court.

[24] Section 428a of the Civil Procedure Act of Montenegro provides for the possibility of a retrial, following a judgment of the ECtHR finding a violation of a certain human right or freedom.

Hence, the Court's case law was incorporated into the domestic jurisprudence. Several judgments had been rendered by the Court on the subject of the excessive length of domestic proceedings, including the length of enforcement proceedings (*Zivaljevic v. Montenegro*, *Stakić v. Montenegro*, *Novovic v. Montenegro and Serbia*, and *Vukelic v. Montenegro*).[25] This resulted in a considerable decrease in the backlog of cases domestically. While excessively long proceedings were not a systemic problem in Montenegro, it remained a significant and, to an extent, widespread issue. The Right to a Trial within a Reasonable Time Act[26] was adopted in 2007 following the model of the "Pinto" and "Kudla" laws, that is, the Italian and Polish laws adopted to deal with the excessive length of domestic proceedings further to this Court's extensive jurisprudence against, *inter alia*, those States on the subjects. However, even before this Act was adopted, there was sufficient legal basis for dealing with complaints about excessively long proceedings.

Several laws in force at the time provided for this possibility. Particularly, Section 7 of the Courts Act provides that everybody has the right to an impartial trial within a reasonable time. Furthermore, Section 11 of the Civil Procedure Act ensures, *inter alia*, that the domestic courts have an obligation to ensure that proceedings are conducted without delay and within a reasonable period of time. Section 172(1) of the Obligations Act, in force at the time, provides that a legal entity (including the State) was liable for any damage to a third party by one of its bodies in exercising its functions or functions in relation thereto. However, despite these seemingly clear provisions, the Supreme Court of Montenegro considered them differently and issued an opinion on this matter:

> The domestic legal system offers no legal remedy against violations of the right to a hearing within a reasonable time, which is why the courts in the Republic of Montenegro have no jurisdiction to rule in respect of claims seeking non-pecuniary damages caused by a breach of this right. Any person who considers himself a victim of a violation of this right may

[25] *Case of Živaljević and Others v. Montenegro*, App. No. 17229/04, 8 March 2011; *Case of Stakić v. Montenegro*, App. No. 49320/07, 2 October 2012; *Case of Novović v. Montenegro and Serbia* App. No. 13210/05, 23 October 2012; *Case of Vukelić v. Montenegro,* App. No. 58258/09, 4 June 2013.

[26] Published in the Official Gazette of Montenegro, No. 11/07.

> therefore lodge an application with the European Court of Human Rights, within six months as of the adoption of tire final judgment by the domestic courts.
> [When asked to rule in respect of the compensation claims referred to above] ... the[them]... inadmissible (pursuant to Article 19 paragraph 3 of the Civil Procedure Code).
> [...] courts in the Republic of Montenegro must decline jurisdiction ... and declare...
> The right to a hearing within a reasonable time is provided in Article 7 of the Courts Act, whereas the Civil Proceedings Code provides in Article 11 paragraph 1 a duty of the courts to attempt to conduct the proceedings without delays, within a reasonable time....
> Article 200 of the Obligations Act provides that... non-pecuniary damage can be awarded for... violations of... the rights of individuals....
> It can be concluded from the above-mentioned regulations that the legal system guarantees everybody the right to a hearing within a reasonable time, and not only because the European Convention on Human Rights is directly applicable on the national level, but also because the domestic legislation explicitly provides for that right.

Hence, the Supreme Court of Montenegro completely misunderstood its role as a supreme judicial body that was competent, among other things, to ensure consistent case law and interpret and apply the laws as 'living instruments'. It further misunderstood the subsidiary role of the ECtHR. The Court communicated several such complaints to the government of Montenegro, and the parties reached a friendly settlement, further to which the government agreed to pay *ex gratia* certain sums of money in compensation for nonpecuniary damage and for costs and expenses, acknowledging that there had been a violation of the related rights.[27]

The Montenegrin legislation provides, under certain circumstances, for the possibility of having lengthy proceedings, expedited by a request for review, and an opportunity for the claimants to be awarded compensation by an action for fair redress. Section 44, particularly, provides that this Act

[27] *Case of Vujisic and others v. Montenegro*, App. Nos. 17412/07, 17314/07, 17318/07, etc., 4 June 2013.

shall be applied retroactively to all proceedings from 3 March 2004, taking into account the duration of proceedings before that date as well. This Act entered into force on 21 December 2007 and did not refer to the 'delay' applications pending with the Court.

Section 10 of the Act provides that the president of the relevant court shall decide upon the request for review, which, pursuant to Section 9, is to be submitted to the court before which the case is pending and must contain the name and the address of the party, the registration number of the case or other data based on which it can be established to which case the request refers, the data and the circumstances indicating why it is claimed that the court is unjustifiably prolonging the proceedings and the signature of the party. Section 17 provides that, if the judge notifies the president of the court that certain procedural measures would be undertaken no later than four months after the receipt of the request for review, the president shall notify the party thereof and finalise the procedure upon the request for review. Section 23 provides that, if the president of the court acts pursuant to Section 17, the party cannot file another request for review in the same case before the expiry of the period specified in the notification. Pursuant to Section 24, if the president of the court does not deliver a notification on the request for review to the party according to Section 17, the party may appeal.

In all the aforementioned 'length' cases, the government of Montenegro relied on *Grzincic v. Slovenia*[28] to ask the Court to declare these applications inadmissible because the applicants did not use the new statutory remedy (the 2007 Act) retroactively. However, the Court dismissed the preliminary objections and considered that these complaints were not manifestly ill-founded for two principal reasons. First, the Court observed that, in cases against Slovenia, Poland and Italy, specific legislation regarding the length of the proceedings was enacted primarily in response to a great number of applications pending before the Court, indicating a systemic problem in these States. These laws contained specific transitional provisions, bringing within the jurisdiction of domestic courts the cases pending before the ECtHR {*Grzincic v. Slovenia*, cited in the

[28] *Case of Grzincic v. Slovenia*, App. No. 26867/02, 3 May 2007.

preceding text, paragraph 48; *Charzynski v. Poland* (dec.);[29] *Brusco v. Italy* (dec.)[30]).

Accordingly, the Court considered that those States should be allowed to prevent or put right the alleged violation, therefore, allowed for an exception to the general rule that the assessment of whether domestic remedies had been exhausted was carried out with reference to the date on which the application was lodged. Furthermore, the Court allowed for such an exception even though the relevant remedies had been recently introduced and there was no established domestic case law confirming their effectiveness (*Giacometti and others v. Italy* (dec.);[31] *Ahlskog v. Finland* (dec.);[32] *Nogolica v. Croatia* (dec.),[33] and *Grzincic v. Slovenia* [cited in the preceding text]). However, the Court had no reason to doubt the effectiveness of these remedies at such an early stage after their introduction.

Second, the Montenegrin Right to a Trial within a Reasonable Time Act had not been adopted to deal with a structural problem or in answer to a great number of applications pending before the Court. Unlike the preceding cases against, *inter alia*, Italy and Croatia, the Montenegrin Act had been in force for about three years when the applicants from Montenegro lodged their complaints before the ECtHR. While the majority of the review requests were dealt with by setting periods in which certain procedural measures were to be undertaken, until the application in *Vukelic v. Montenegro*, the government had provided no information regarding whether these actions and time limits had been complied with and if the proceedings had been expedited and/or concluded. Additionally, unlike the Slovenian, Polish and Italian laws, which contained transitional provisions concerning the cases pending before the Court, the Montenegrin Act did not contain such provisions that would explicitly bring such applications within the jurisdiction of the national courts.

Since the proceedings in the aforementioned cases against Montenegro had been pending domestically for years (from 7 to 11 years) before the introduction of the above-mentioned legislation, they had not

[29] *Case of Charzynski v. Poland*, App. No. 15212/03, 01 March 2005; ECHR 2005-V, para. 20.
[30] *Case of Brusco v. Italy*, App. No. 69789/01, 27 March 2003, ECHR 2001-IX.
[31] *Case of Giacometti and others v. Italy*, App. No. 34939/97, ECHR 2001-XII.
[32] *Case of Ahlskog v. Finland*, App. No. 5238/07 (dec.), 9 November 2010.
[33] *Case of Nogolica v. Croatia*, App. No. 77784/01 (dec.), 5 September 2002.

been decided when the relevant Act was adopted and the government did not submit any case law proving the effectiveness of the aforementioned remedy, the Court considered it unreasonable to require the applicants to try this avenue of redress. However, in *Vukelic v. Montenegro*,[34] communicated in 2010 and recommunicated in 2012, the Court asked the government for a factual update, particularly, for the relevant domestic case law adopted pursuant to the Right to a Trial within a Reasonable Time Act. According to the information provided by the government, between 21 December 2007 (when the Act entered into force) and 3 September 2012, the courts in Montenegro had considered more than 121 requests for review. The Court of First Instance in Cetinje submitted data only for the period between May 2011 and May 2012, and the Court of First Instance in Zabljak submitted data only for the period between January 2011 and June 2012. Additionally, the Courts of First Instance in Danilovgrad and Kolasin did not provide the exact number of requests dealt with. All the other courts dealt with 121 requests for review.

In 46 cases, the courts issued notifications specifying the actions that were to be taken in each case within four months for expediting the proceedings. In 30 of these cases, the relevant actions were undertaken within the time limit (a main hearing concluded, a decision or a judgment rendered, etc.). In 14 cases, the relevant actions were undertaken within periods ranging from 4 to 12 months. In 2 cases, the relevant action was not undertaken even after 12 months.

In 33 cases, the review requests were dismissed as unfounded. In 21 of these cases, the relevant domestic proceedings were pending before the first-instance courts from five months to one year and nine months. In 1 case, the relevant civil proceedings, of which the request for review was dismissed as unfounded, had been pending for at least four years and five months before a first-instance court. In 11 cases, the duration for the domestic proceedings was unclear. Furthermore, it is unclear how the additional 33 requests for review were dealt with. However, in 18 of these cases, the relevant domestic proceedings ended soon thereafter. The status of the remaining 15 cases was unknown. In 5 cases, the appellants were informed that the relevant decisions had been rendered and, in 4 cases, the review requests were withdrawn.[35]

---

[34] *Case of Vukelić v. Montenegro*, App. No. 58258/09, 4 June 2013, para. 72/89.
[35] *Case of Vukelić v. Montenegro*, cited in the preceding text, 4 June 2013, paras. 67-71.

Consequently, the Court observed that the Montenegrin case law on the request for review had considerably evolved. In nearly all the cases in which the relevant domestic courts specified a time limit for undertaking certain procedural activities, these activities had been undertaken and, in most cases, on time. Moreover, there had been a basis for the rejection of most of the requests that were dismissed as unfounded. While there were some cases in which the outcome of the request for review was unclear, the Court considered that, in view of the considerable development of the relevant domestic case law, a request for review must, in principle and whenever available in accordance with the relevant legislation, be considered an effective domestic remedy within Article 35 paragraph 1 of the Convention, for all the applications against Montenegro after the date of the judgment. The Court further held that an action for fair redress was not capable of expediting proceedings (*Mijuskovic v. Montenegro*).[36]

It appears that the Court's case law regarding Montenegro, namely several judgments in which the Court found violations of a right to a trial within a reasonable time, considerably influenced the evolution of the relevant domestic case law. Furthermore, the Court's case law represented a considerable impetus for full, efficient and effective implementation of the 2007 Act and the positive evolution of the case law. It considerably influenced, albeit indirectly, the substantial decrease of the general backlog in the Montenegrin courts: more than 70% in the past two years, according to the latest Report of the Supreme Court of Montenegro.[37]

Although the regulations[38] have been adopted to speed up the procedure and are relatively solidly applied, the issue of trial within a reasonable time remains a problem, as evidenced by the fact that the Court adopted several judgments against Montenegro where it found a violation of this important aspect of Article 6.[39] In *Živaljević v. Montenegro*,[40] the Court unanimously found a violation of various aspects of the right to a trial within a reasonable time. It did not establish the facts or arguments referred

[36] *Case of Mijušković v. Montenegro*, App. No. 49337/07, 21 September 2010, para. 72.
[37] http://sudovi.me (Accessed: 14 December 2022).
[38] Official Gazette of Montenegro, Nos. 22/2004, 28/2005, 76/2006 and Nos. 47/2015, 48/2015, 51/2017, 75/2017, 34/2019, 42/2019 and 76/2020.
[39] The analysis of judgments of the European Court of Human Rights in relation to Montenegro for the year 2020, p. 31. [Online]. Available at: https://www.gov.me/dokumenta/f1cfdd52-c2de-46f6-b56b-55cf701bd502 (Accessed: 25 June 2025).
[40] *Case of Živaljević and Others v. Montenegro*, App. No. 17229/04, 8 March 2011;

to by the Government's representatives that would justify the total duration of the procedure at the national level. Accounting for the rich judicial practice, the Court concluded that, in the specific case, which was not particularly complex, the duration of 11 years, 3 months and 22 days at one level of jurisdiction was excessive and did not meet the 'reasonable time' requirement.

The court particularly pointed out the various aspects of this important right and the problems faced by the domestic courts in this context, in *Stakić v. Montenegro*.[41] The case referred to a civil lawsuit for damages regarding the criminal offence of participating in a fight in 1973, in which the applicant initiated legal proceedings against the participants of the fight for compensation for damage to the eye, loss of vision and reduced work ability. The litigation was initiated in 1978 before the Basic Court in Podgorica and was ongoing at the time of the consideration of this case by the ECtHR (2012). The main hearing was concluded twice, and first-instance decisions were made, which were overturned by the High Court on appeal.

The Court noted that four witnesses and five experts were heard. However, contrary to the Government's allegations, it was clear that most of the evidence was obtained before the Convention entered into force regarding Montenegro. The court noted that some claims for damages were more complex than others; however, it did not consider this claim to be of such complexity to justify the length of the proceedings. Additionally, the disputed procedure did not require priority or urgent action and did not justify a procedural delay of such duration, which could be considered a *de facto* denial of justice. The Court noted that the applicant changed the exact amount of the requested compensation on two occasions, after Montenegro ratified the Convention; however, this could not significantly contribute to the length of the procedure, since the request was not changed in its essence. Some hearings scheduled before 3 March 2004 (date of ratification) were postponed at the applicant's request, yet nothing in the case file indicated that the procedural delays after the date of ratification were due to the applicant. Instead, they occurred due to the authorities' failure to be diligent in their actions.

The Court noted that the first decision after the ratification was made in October 2008, 4 years and 7 months later. The decision was revoked in September 2009, and the case returned to the first-instance court, where it

[41] *Case of Stakić v. Montenegro,* App. No. 49320/07, 2 October 2012, para. 32/51.

was held for almost 3 years. In the meantime, only one hearing was held. Consequently, this violated Articles 6 and 13 of the ECHR, that is, the right to an effective legal remedy. Hence, the applicant was awarded 5,000 euros as compensation. The review of the judgments of the Court against Montenegro in this context shows that the duration of the proceedings ranged from 6 years and 3 months to 9 years and 2 months, mostly on three levels (First Instance Court, Higher Court, and Court of Appeal). In the period from the ratification to the end of 2019, the right to a trial within a reasonable time was violated in 27 judgments, which was reduced to 7 judgments in 2020. Notably, these were mostly judgments made by a three-member Chamber. Guided by the principles of those judgments, the Supreme Court of Montenegro found a violation of this right in several cases.[42]

Among the main reasons for the long duration of the procedure were excessive formalism in the application of law, multiple annulment of decisions, conflicts of jurisdiction of different courts, failure of lower courts to act on annulment orders of higher ones, behaviour of parties who often misused certain procedural mechanisms to unjustifiably prolong the duration of the procedure and the impossibility of serving court summons on time.[43] The Court further found a violation of Article 6 due to non-execution of final judgments and court settlements in *Mastilović v. Montenegro*[44] and a violation of the right to access the court in *Madžarović v. Montenegro*.[45]

By the end of 2019, the Court found a violation of the right to access the court in four cases.[46] *Madžarović and others v. Montenegro* was particularly interesting. Applicants, Mr Madžarević, and the company, Zetmont d.o.o. and Bermont d.o.o., complained based on Articles 6 and 13 that they were denied access to the court and an effective domestic remedy,

[42] Ibid., pp. 36–44.

[43] The analysis of judgments of the European Court of Human Rights in relation to Montenegro for the year 2022, pp. 63–69. [Online]. Available at: https://www.gov.me/dokumenta/26735f99-e48f-4e19-8d84-aef62e469c19 (Accessed: 29 June 2025).

[44] *Case of Mastilović and others v. Montenegro*, App. No. 28754/10, 24 February 2022.

[45] *Case of Madžarović and others v. Montenegro*, App. No. 54839/17 and 71093/17, 11 September 2017.

[46] The analysis of judgments of the European Court of Human Rights in relation to Montenegro for the year 2020, p. 46. [Online]. Available at: https://www.gov.me/dokumenta/26735f99-e48f-4e19-8d84-aef62e469c19 (Accessed: 29 June 2025).

given that the appeals against the decisions of the Commercial Court from 2013 were dismissed after they were withdrawn by a person who was never the debtor's legal representative. The Court found that the applicants' right to access the court was violated because their appeal in commercial litigation proceedings was rejected by the Appellate Court of Montenegro without deciding on its merits.

Contrary to the current regulations, the court did not recognise the suspensive effect that the appeal against the decision of the appointment of the company's executive director had on the decisions made by that director. It referred to the decision to withdraw the complaints on behalf of the company in court proceedings. The Court of Appeal treated those appeals as withdrawn and did not decide on their merits. The Court found that the filing of an appeal against the appointment of the executive director must have a suspensive effect on the execution of the disputed decision, because it was prescribed by the domestic law. It was established that the decision to appoint a new executive director never became final. After the Appellate Court rejected the appeals, the Ministry of Finance annulled the decision of the appointment of a new executive director, and the company withdrew the request for his registration before the Central Register of Business Entities. Hence, the Court concluded that it was not necessary to decide on the applicant's appeal due to the alleged violation of the right to tenancy because it could not speculate what the domestic courts' decision would be regarding their appeal for the transfer of shares to the creditor. The applicants were awarded 3,600 euros in damages.

7. Right to respect for private and family life

In the first judgment concerning Article 8 of the ECHR on the protection of private and family life, *Mijušković v. Montenegro*,[47] a violation of the right in question was found. This was due to the inadequate and irresponsible behaviour of the state guardianship body, and the execution of a final judgment on guardianship. Due to the passivity and inaction of the state authorities, a mother of two minor children could not get in touch with her children for several years due to the state's failure to execute a temporary order on custody and hand over the children to their mother. Although the applicant missed the deadline for submitting a compensation request, at the initiative of the President of the Chamber, Sir Nicola Braza, the Chamber

[47] *Case of Mijušković v. Montenegro*, App. No. 49337/07, 21 September 2010.

unanimously decided to pay the applicant 10,000 euros as compensation for non-material damage.

In *Alković v. Montenegro*,[48] the Court established a violation of Article 8 of the Convention, along with Article 14, that is, the prohibition of discrimination due to the violation of the right to protection of the psychological and physical integrity of the applicant of Roma nationality. The applicant complained about the inadequate and ineffective investigation by the state authorities for a series of ethnically and religiously motivated attacks on his home by private persons and neighbours on several occasions during 2009. The applicant was awarded 6,000 euros in non-material damages and 5,000 euros for the procedural costs. This case showed that the Montenegrin investigative bodies, especially the police and the prosecutor's office, were often not up to the task when a quick, impartial and effective investigation was to be carried out, especially in sensitive ethnically and racially motivated attacks.

The case of university professors, Antović and Mirković, at the Faculty of Science and Mathematics is interesting due to violations of the right to private life under Article 8 of the Convention.[49] In the amphitheatre of the university, where the faculty gave lectures, the dean installed cameras for video and audio surveillance in violation of regulations. It should be noted that the national authorities in charge of this issue stated that video and audio surveillance were illegally conducted. The Court determined, by a majority of votes, that this was an illegal invasion of private life; hence, the professors were awarded 1,000 euros in compensation for non-material damages and 1669.50 euros for the costs of the proceedings.

In one of the latest judgments related to Article 8, the Court found a violation due to the failure of the authorities to protect the applicant from mobbing to which she was exposed at her workplace in ZIKS by her male colleagues. The state's responsibility was determined due to the inadequate application of civil and criminal law and failure to account for the overall context of the situation, including the fact that the petitioner pointed out irregularities and possible corruption in the institution as a whistleblower. Ms Spadijer, while working as the head of the shift in the women's prison in 2013, reported five of her male colleagues for inappropriate behaviour at work, specifically inappropriate contact with female inmates on New Year's

[48] *Case of Alković v. Montenegro*, App. No. 66895/10, 9 November 2010, para. 46/73.
[49] *Case of Antović and Mirković v. Montenegro*, App. No. 70838/13, 28 November 2017, para. 40/60.

Eve. After that, she experienced various inconveniences that caused her health problems, so she asked the ZIKS management to start a procedure for protection against mobbing, which was rejected as unfounded. At the end of August 2013, she left her job and went on sick leave due to active and passive abuse by colleagues and superiors. Her employment ended in 2015 due to the loss of working capacity.

The applicant turned to the courts, asking for protection from mobbing and compensation for material damage. However, the courts rejected her request, claiming that the events she complained about did not constitute mobbing because they did not have the character of systemic psychological abuse; only sporadic and individual. The Constitutional Court rejected her constitutional complaint, stating that there was no legal basis to indicate that she suffered mobbing at the workplace. The applicant complained about the violation of Articles 3, 6 and 13 of the Convention; however, the ECtHR, in accordance with its jurisdiction, determined that the application should be examined in relation to Article 8 of the Convention.

The Court assessed that the mediation procedure with the employer was not in accordance with the relevant regulations because it was not completed within the legal deadlines. It was determined that the mediator exceeded his legal powers because he was not authorised by law to determine whether the applicant's request was founded. The relevant jurisprudence in Montenegro regarding protection against mobbing is rare and unestablished, especially concerning the continuity of abuse, which is needed to directly implement the Law on Prohibition of Abuse in the Workplace. The Court found that the Montenegrin courts investigated only some of the instances, while several incidents remained completely unexamined. The national courts failed to determine how often these incidents occurred and repeated, and in what period, or to examine them individually and in relation to other incidents. They further failed to examine the context and wider background of the incidents.

The Court indicated that the civil and criminal legal mechanisms were applied inadequately and insufficiently. This was particularly related to the lack of assessment of all the disputed events and the failure to consider the entire context of the case. The damage to the applicant's motor vehicle in 2013 and the physical attack on her in 2015, including the possible context of 'whistling', were sufficient for the Court to find a violation of Article 8 in the context of the failure of the respondent state to fulfil its positive obligation to protect the applicant from mobbing. The court awarded the

applicant compensation for material damages and the costs of the procedure. Although such court proceedings are rare in Montenegro, the issue of mobbing is topical. However, victims hesitate to report abuse, and the courts show a certain degree of excessive formalism in the qualification of mobbing and distinguishing it from the prohibition of discrimination.[50] Nevertheless, this important judgment will likely trace the path of development of judicial practice in suppressing this negative social phenomenon.

Drašković v. Montenegro[51] was an interesting case, as the Court found that the state violated the applicant's right to respect for private and family life because the competent authorities did not respect her right to exhume and move her husband's remains from Montenegro to Bosnia and Herzegovina. The applicant's husband died in 1995 and was buried in the family grave in Montenegro, which was owned by his nephew. She asked for permission to move her husband's remains to her grave in Trebinje; however, the nephew refused, explaining that his uncle never lived in Trebinje but in Belgrade, and his uncle's last wish was to be buried in Montenegro. In the proceedings before the courts of Montenegro, it was established that the applicant had no legal interest in submitting such a request, as she neither had a right to her husband's remains nor did she have the right regarding the place of burial.

The Court found that the domestic courts failed to balance the applicant's interest in the exhumation and transfer of the remains and the state's interest in preserving the inviolability of the graves and the rights of another family member. It was established that the domestic courts failed to examine other important facts, including whether the applicant's husband wanted to be buried in Montenegro and whether the applicant and he jointly bought a burial plot in Bosnia and Herzegovina to be buried together. The Court found that domestic laws did not regulate how to resolve disputes between family members regarding the last resting place of relatives based on Article 8. The administrative body in charge of exhumations did not have the authority to resolve such disputes and ordered the parties to first resolve the dispute and then submit a request for exhumation. Regular courts and

[50] The analysis of judgments of the European Court of Human Rights in relation to Montenegro for the year 2021, pp. 127–135, [Online]. Available at: https://www.gov.me/dokumenta/26735f99-e48f-4e19-8d84-aef62e469c19 (Accessed: 29 June 2025).

[51] *Case of Drašković v. Montenegro*, App. No. 40597/17, 9 June 2020, para. 46/58.

the Constitutional Court did not recognise the existence of any right for the wife based on Article 8 and did not balance her interest with the conflicting interest of her husband's relatives.

8. Freedom of expression

The Court adopted two judgments against Montenegro concerning Article 10 of the Convention in *Sabanovic v. Montenegro and Serbia*[52] and *Koprivica v. Montenegro*, where it found violations of the applicants' rights to freedom of expression. As in other former communist countries, this is a sensitive and open political and legal issue in Montenegro, especially for the courts. The main problem is the willingness and capacity of the domestic courts, including the highest court, to apply the standards and principles developed in the Court's case law concerning Article 10. This is particularly regarding the implementation of the test to assess, in a concrete case, the compatibility of an interference under Article 10 paragraph 2 of the Convention.

Before these judgments, the case law of the Montenegrin courts on the relationship between the rights of privacy and expression showed a tendency to protect privacy, namely the reputation and honour of an allegedly insulted person. This was the heritage of a socialist approach and a conservative patriarchal society in which reputation and honour were the most important values for self-determination. This issue is more important than the decriminalisation of defamation, which is currently being considered in a great number of Member States of the CoE because freedom of expression can be, and is, endangered, with high compensations for defamation in civil cases. Therefore, domestic courts must be capable of applying the aforementioned test, namely, the standards and principles from the Court's case law regarding Article 10 paragraph 2.

After these two judgments were delivered in 2011, the Constitutional Court of Montenegro, in 2012, for the first time, successfully and properly applied the said test during a constitutional appeal in the case of Mr Nikolaidis.[53] In this case, the Court of First Instance in Podgorica properly applied this test in its judgment and acquitted the respondent (Mr Nikolaidis). Unfortunately, the High and Supreme Courts overruled this

[52] *Case of Sabanovic v. Montenegro and Serbia*, App. No. 5995/06, 31 May 2011, para. 36/44.
[53] Uz-3-br.87/09, 19 January 2012.

judgment and allowed for a high compensation (about 12,000 euros) to the plaintiff. Thus, instead of encouraging the lower courts to apply the standards of the Convention, the higher courts discouraged them. However, the respondent lodged a constitutional appeal before the Constitutional Court of Montenegro.

The respondent was a well-known novelist and journalist. He had written an article titled 'The Devil's Apprentice' that was published in a well-known weekly magazine, in which he had severely criticised the plaintiff, a famous film director, for his publicly expressed political views about the wars, the atrocities in former Yugoslavia, the punishment of the main war criminals, particularly in Bosnia and Herzegovina, his relationship with the Serbian nationalist regime and his political, national and religious attitudes. The respondent used offensive and sharp language describing, *inter alia*, the plaintiff as 'bad, ugly, and stupid'. The High and Supreme Courts considered this defamation in the press, which severely insulted the plaintiff's honour and reputation, and awarded 12,000 euros in compensation and legal costs.

The Constitutional Court of Montenegro applied, for the first time, properly and completely, the test developed in the Court's case law for assessing whether the interference with the respondent's freedom of expression could be justified under Article 10 paragraph 2 of the Convention, that is, 'in accordance with the law, pursuing a legitimate aim, necessary in a democratic society, proportionality of the aims pursued and means employed, sufficient and relevant reasons for the decision and severity of the punishment or compensation'. The Constitutional Court found that the High and Supreme Courts did not properly apply the Convention in the particular circumstances of this case and violated the respondent's right to freedom of expression. The Constitutional Court quashed the judgment of the Supreme Court and remitted the case to the Court of First Instance in Podgorica. Hence, it relied particularly on the fact that the plaintiff was a well-known public person who made strong public statements concerning issues of public interest, exposing himself to different and possibly strong public reactions. While the respondent used sharp and offensive language, he expressed a series of value judgments, with a strong factual basis, in the course of an important public debate on a matter of public interest. The Constitutional Court concluded that the respondent's sharp criticisms of the plaintiff's political and social attitudes did not overstep the level of permissible criticism under Article 10. Hence, there

was a violation of the respondent's right of freedom of expression, accounting for the severity of the compensation to the plaintiff (more than forty times the average salary in Montenegro at the time).

In the remittal, the Court of First Instance of Podgorica, having applied fully and properly the test for compliance with Article 10, ruled in favour of the respondent. This remains the most significant influence of the Convention and the Court's case law on the legal system and the courts' practice in Montenegro because, in a relatively short period after the Convention entered into force, the domestic courts started applying the standards and procedures from the Court's case law. It is worth mentioning that, in the meantime, defamation was decriminalised. Following the recommendations of the CoE, defamation and insult were removed from the Criminal Code through appropriate amendments,[54] making the protection of an individual's honour and reputation a matter of civil law.

9. Protection of property

In *A. and B. v. Montenegro*,[55] a violation of the right to peaceful enjoyment of property was established due to the non-execution of final and enforceable court decisions related to the old foreign currency savings of the applicants' legal predecessor. The Court challenged the effectiveness of the constitutional appeal due to its lack of effectiveness. As the applicants were prevented from withdrawing a significant amount of old foreign currency savings deposited in the bank, the Court concluded that Article 1 of Protocol 1 was violated.

In *Mijanović v. Montenegro*,[56] the Court found a violation of Article 1 of Protocol 1 and Article 6 paragraph 1, due to the long-term non-execution of a final and enforceable court verdict. The applicant, an engineer and inventor, due to the copyright of machines and tools in Radoje Dakić, a company in state-social ownership in the then Titograd, achieved a significant financial income, which was confirmed to him by the domestic courts. However, the final judgments could not be performed for several years. Unfortunately, the applicant died during the proceedings, yet his daughter continued the proceedings. Establishing a violation of both the mentioned articles of the Convention, the Court ordered the state to pay the

[54] Official Gazette of Montenegro, Articles. 195 and 196, No. 32/11 of 1 July 2011.
[55] *Case of A. and B. v. Montenegro*, App. No. 37571/05, 5 March 2013, para. 58/64.
[56] *Case of Mijanović v. Montenegro*, App. No. 19580/06, 17 September 2013, para. 81/87.

applicant the full amount awarded by the domestic courts, including legal interest and related legal costs, as pecuniary damage.

Kips DOO and Drekalović v. Montenegro[57] was a case characterised by a large compensation of 4,535,595.20 euros for material damages for the violation of Article 1 of Protocol 1. In this case, the Court further found a violation of Article 6 paragraph 1 for the right to a trial within a reasonable time regarding the administration of the procedure, Article 13 for the right to an effective legal remedy. The reason for the petition was the refusal of the state and local authorities in Podgorica to issue a building permit to the investor, the excessive duration of the administrative procedure (ping/pong method) for the arbitral transfer of jurisdiction from one authority to another in connection with the purchase of an urban plot, and arbitrary and frequent changes in urban plans, due to which the applicant was *de facto* and *de jure* unable to build a large shopping centre.

In *Petrović and others v. Montenegro*,[58] the Court did not find a violation of Article 1 of Protocol 1. The case was related to the regime of possible private ownership in the zone of maritime property. The domestic courts did not recognise the applicants' right to ownership of the parcels in the zone of public maritime property (Morsko dobro), the owner of which was their father, until it was deleted from the Cadastre in favour of the state. The courts found and determined that the father was not registered as the owner at the time of his death, due to the changed regime of ownership of land in the marine property zone, whereby the state automatically became the owner under the new law. This part of the application was unanimously rejected due to the non-compliance *ratione temporis* with the jurisdiction of the ECtHR. The court concluded that the actual expropriation of property occurred before the ratification of the Convention, and the expropriation of property was an instantaneous act, which does not result in a 'continuous situation of deprivation of rights' covered by court jurisdiction.

The applicants complained of the violation of the first fair trial, due to the alleged failure of the courts, headed by the Supreme Court, to answer the key questions why could they not be recognised as having the right to property in the marine property zone on one plot similar to the right granted to them on a neighbouring plot in the same zone, even though their father

[57] *Case of KIPS DOO and Drekalović v. Montenegro*, App. No. 28766/06, 26 June 2018, para. 14/21.

[58] *Case of Petrović and others v. Montenegro*, App. No. 18116/15, 17 July 2018, para. 41/43.

was the owner of both plots? The applicants claimed that the state violated the obligation to adequately explain their decisions, and such a situation *de facto* resulted in a degree of legal uncertainty. However, this part of the application was rejected by a majority of four judges, who considered that this question was not crucial, because it concerned a parcel that was not the subject of the dispute. Instead, they believed that the predecessor needed to be the owner of the property at the time of his death in 1997.

The courts determined that the father, as a private person, could not be the owner of the land in the maritime domain per the 1990 Law on Maritime Domain, that is, the applicants-heirs could not become owners even based on the 2009 Law on Property Legal Relations. This law allowed exceptional property to be acquired in the marine property zone only after the said law came into force; hence, they acquired the neighbouring plot. According to the majority of judges, this was irrelevant to the plot that was the subject of the dispute.

However, judges Morow-Wikstrom, Gricko and Vučinić did not agree with this position. They believed that the Supreme Court of Montenegro did not resolve the key issue reasonably in a case that referred to the legal uncertainty of the property regime in the marine property zone. Among other things, they pointed out that the 1992 Law on Maritime Property exceptionally allowed private ownership in the maritime property zone, and, in this case, it was not explained why the applicants could not, exceptionally, become owners of one plot but not another. They pointed out that the Supreme Court, in its principal legal position on 27 May 2015, on land use in the marine property zone, established that 'the conditions under which marine property can be an object of private property are not determined by law, which leaves many open questions for practical application'.

Apparently, the dissenting opinion of the three judges in the above case influenced the Court in *Nešić v. Montenegro*[59] to unanimously establish a violation of the right to peaceful enjoyment of property, because the applicant was deprived of property in the marine property zone without any individual decision or compensation. In 1980, the applicant bought two plots of land from a private owner and registered them in the cadastre. In 2006, the state initiated legal proceedings against him, demanding that his ownership be terminated because they were located in the maritime property zone. In 2014, domestic courts ruled in favour of the state, concluding that

[59] *Case of Nešić v. Montenegro*, App. No. 12131/18, 03 March 2018, para. 47/54.

the coastal zone, including its seashore, was a natural resource, a public good that could only be owned by the state. The courts determined that the plots were located on the sea coast and the applicant's right to ownership ceased, with the state becoming the sole owner while the applicant remained the beneficiary of the plots. Hence, the state was registered as the owner of the land.

The Court undisputedly determined that the applicant was deprived of the right of ownership, although he had the right to use them. It was established that the Constitution of Montenegro and the 1992 Law on Maritime Property[60] stipulated that the sea coast represented natural wealth and could not be privately owned, becoming the legal basis for the state's acquisition of property rights. However, the Court noted that the Constitution and other relevant regulations governing property issues guaranteed the right to fair compensation in case of deprivation of liberty, which was absent in the case of the applicant. The Court concluded that the judgments of the competent courts stated that the applicant would have the right to compensation in case of expropriation of the land (Article 3 of the Law on Property[61]); however, it was not defined how the expropriation would be carried out was not defined.

The Law on Maritime Property does not prescribe the manner in which the expropriation will be carried out in cases where the state has been registered as the owner based on a court ruling. Hence, whether and when the procedure for formal expropriation of land will be carried out remains unclear, based on which the applicant would be paid fair compensation. This gap left a significant degree of legal uncertainty in this important domain of property rights protection. Therefore, the applicant was awarded 5,400 euros for the costs of the procedure, while the request for non-material damage compensation was not submitted.

This judgment had a far-reaching and, in our opinion, positive impact on the protection of property rights. Based on it, the Supreme Court of Montenegro adopted a general legal opinion according to which the owners of land declared to be maritime property, and who acquired the right of ownership in a legally valid manner until the Law on Maritime Property came into force, their rightful successors would retain the right of ownership until it was expropriated and compensation was paid according to

[60] Official Gazette of Montenegro, Nos. 014/92, 059/92, 027/94, 051/08, 021/09, 073/10 and 040/11.
[61] Official Gazette of Montenegro, No.19/2009.

expropriation requests.[62] Accordingly, such land owners had the right to be registered as holders of property rights.

10. Enforcement of judgments

Regarding the execution of judgments, it should be pointed out that Montenegro, although the last admitted member of the CoE and the Convention, conscientiously and responsibly executed all the judgments against it by the ECtHR, without delay.[63] In this context, various individual and general measures were taken for the timely execution of judgments, which included payments, compensation for non-material and material damages, repetition of procedures, release from custody of persons illegally deprived of liberty, changes in relevant laws (especially judicial practices), adoption of complex financial plans and programs for cases in which high compensation was determined for victims of violations (KIPS cases and Radoje Dakić workers), and implementation of plans and programs for training police, prosecutors, judges and administrative officers. It should be pointed out that the Committee of Ministers of the Council of Europe as for the resolutions related to the execution of judgments in a timely and responsible manner.[64]

11. Basic role of the Constitutional Court of Montenegro

Over the last 10 years, the Constitutional Court has improved the efficiency and the quality of its decision-making under the influence of the Court's judgments against Montenegro. This was the case even before the Court declared the Constitutional appeal to be an effective legal remedy, in 2015, per Article 35 paragraph 1 of the Convention.[65] Article 149 of the Constitution of Montenegro[66] provides that the Constitutional Court shall

[62] The analysis of judgments of the European Court of Human Rights in relation to Montenegro for the year 2020, p. 70. [Online]. Available at: https://www.gov.me/dokumenta/26735f99-e48f-4e19-8d84-aef62e469c19 (Accessed: 29 June 2025).
[63] The reports on the work of the Office of the Representative of Montenegro before the ECHR are online available at: https://www.gov.me/kzcg (Accessed: 29 June 2025).
[64] Ibid.
[65] *Case of Siništaj and others v. Montenegro,* App. Nos. 1451/10, 7260/10 and 7382/10, 24 November 2015.
[66] Official Gazette of Montenegro, No. 1/07.

rule on a constitutional appeal regarding an alleged violation of a human right or freedom guaranteed by the Constitution, after all other effective remedies have been exhausted.

It is noteworthy that the Constitution provides a wider corpus of rights and freedoms than the Convention, the former guaranteeing economic, social, cultural and minority rights. Section 48 of the Constitutional Court Act[67] provides that a constitutional appeal may be lodged against an individual decision of a state body, an administrative body, a local self-government body or a legal person exercising public authority, for violations of human rights and freedoms guaranteed by the Constitution, after all other effective domestic remedies have been exhausted. Sections 49 through 59 of the Act provide additional details about the processing of constitutional appeals. Particularly, Section 56 provides that, when the Constitutional Court finds a violation of a human right or freedom, it shall quash the impugned decision, entirely or partially, and order that the case be re-examined by the same body that rendered the decision. This Act entered into force in November 2008.

Until 2010, no constitutional appeal had been accepted by the Constitutional Court. In 2010, it accepted three appeals out of the 337 lodged (0.89%). In 2011, 16 of 475 appeals were accepted (3.37%). In 2012, the court examined 505 appeals, accepting 13 (2.57%). Until the end of 2012, the Constitutional Court had examined 1,317 appeals, of which it had accepted 32 (2.43%). Until 1 June 2013, the Constitutional Court accepted five more appeals.

In accepting the constitutional appeals, the Constitutional Court found that there had been violations of human rights and freedoms protected by the Constitution and the Convention. It quashed 25 judgments and decisions of the Supreme Court of Montenegro, 5 of the High Court, 3 of the Courts of Appeal and 1 of a Court of First Instance. Moreover, it found violations without quashing the related acts in 10 decisions (two decisions of the Court of First Instance, five of the High Court and three of the Court of Appeals). In these rulings, the Constitutional Court established violations of the right to an effective remedy, personal liberty and security (the length and justification of detention on remand), a fair trial, presumed innocence, freedom of expression and peaceful enjoyment of property.

In a few of these constitutional appeals, the Constitutional Court directly referred to the relevant articles of the ECHR and the ECtHR's case

[67] Official Gazette of Montenegro, No. 64/08.

laws, including Article 5 paragraph 1(c), paragraph 3 and paragraph 4; Article 6 paragraph 1 and paragraph 2; Article 10; Article 13; and Article 1 of Protocol No. 1. Moderately and slowly, but determinedly, the Constitutional Court of Montenegro has started to apply the standards and principles developed by the Courts case law. Additional case laws regarding Montenegro revealed that the Court found that a constitutional appeal in Montenegro had not been an effective remedy up to 2010 (*Koprivica v. Montenegro*, cited in the preceding text), and it was not an effective domestic remedy regarding the length of proceedings, including enforcement proceedings (*Boucke v. Montenegro*).[68]

Particularly, in Koprivica, the Court took into consideration that no constitutional appeal had been accepted before 2010 and no judgment rendered in a constitutional appeal had been published before an unspecified date in 2010. Ever since the Court declared a constitutional appeal as an effective legal remedy, a large number of constitutional appeals have been adopted in which violations of the Convention and the Constitution of Montenegro have been determined, especially concerning freedom of expression, legality of detention, prohibition of torture and inhumane treatment, fairness of the judicial procedure and property protection. The verdict *Kusturica v. Nikolaidis*[69] was particularly significant because the Constitutional Court, for the first time, creatively applied the standards from extensive jurisprudence regarding Article 10 of the Convention, and overturned the judgments of regular courts, in which the journalist Nikolaidis was sentenced to pay high compensatory damages to the film director Kusturica for injury to his honour and reputation.

After 2020, with the change in the political situation, the work of the Constitutional Court stagnated due to the impossibility of electing new judges and the brutal politicisation of the process. For a long time (more than a year and a half), the Constitutional Court was without a quorum for decision-making. Hence, in the meantime, a large number of cases accumulated and, at the domestic level, the question of the effectiveness of the constitutional appeal before the ECtHR was raised. Furthermore, questions were raised whether, in the future, the Constitutional Court would be able to face the challenges of politicisation, since the rejection of the

[68] *Case of Boucke v. Montenegro*, App. No. 26945/06, 21 February 2012.

[69] Online Available at: https://www.hraction.org/2008/04/08/comment-on-the-final-judgment-in-the-case-of-kusturica-v-nikolaidis-and-monitor/?lang=en (Accessed: 29 June 2025).

request for the constitutionality of the Basic Treaty[70] with the Serbian Orthodox Church, for procedural reasons, shed light on the difficulties of overcoming the challenge. Additionally, following the 2011 amendments to Articles 195 and 196 of the Criminal Code of Montenegro, the offences of defamation and insult were removed from the Criminal Code.[71]

12. Other effects of the Convention at a national level

Organised and institutionalised cooperation between the CoE and Montenegro began in 2004 to align Montenegro's legal system with contemporary standards developed by various bodies of the CoE in the areas of human rights, democracy and the rule of law, and ensure the implementation of the concept of constitutional, limited and accountable government. In the same year, a highly complex and comprehensive study was published, examining the extent to which the Montenegrin legal system was harmonised with the CoE standards and the ECtHR's case law.[72] This marked the essential and substantive beginning of Montenegro's preparation for full membership in the CoE, particularly for accession to the ECHR.

In line with the CoE recommendations, training centres for prosecutors, judges and administrative law practitioners were established to align Montenegro's legal system with European standards. In cooperation with the CoE Office, the training of judicial office holders has been regularly conducted for over two decades, through roundtables, seminars, workshops and expert lectures. Special emphasis has been placed on the training of judges and prosecutors to ensure the practical implementation of the ECHR standards within the Montenegrin legal system, particularly for the prohibition of torture and inhuman or degrading treatment, the effectiveness of legal remedies, the right to a fair trial within a reasonable

[70] With this act, the SPC was *de facto* placed above the Constitution and laws in Montenegro, and the believers of the Montenegrin Orthodox Church were brutally denied the fundamental right to freedom of religion.

[71] Official Gazette of Montenegro, articles 195 and 196, No. 32/11 of 1 July 2011.

[72] Council of Europe, 2004, pp. 382. In 2004, the Government of Montenegro established an Expert Team to draft the study on the harmonisation of Montenegrin legislation with the European Convention on Human Rights and Fundamental Freedoms and the Protocols to the Convention. The appointed members of the Expert Team were Prof. Dr Nebojša Vučinić, Dr Milan Marković, Dr Rajko Milović and Miraš Radović. Participating in the work, as associate experts, were Abaz Beli Džafić, Siniša Bjeković, Vojislava Đukić and Dr Ivana Jelić.

time, the right to private and family life, freedom of thought, conscience and religion and the freedom of expression. It is noteworthy that Montenegro has signed and ratified nearly all CoE conventions, specifically, 89 of them, whose implementation is monitored by the CoE Office and competent Montenegrin authorities.

Moreover, at the CoE's initiative, a continuous and expert dialogue is held between the highest Montenegrin courts and the ECtHR, which is reflected in the regular annual visits of ECtHR judges to Montenegro. Over the past 15 years, five Presidents and more than 20 judges of the ECtHR[73] have visited Montenegro. During joint sessions with the judges of the Supreme Court and the Constitutional Court, they discussed the most current issues concerning the application of the ECHR, particularly issues related to the application of Article 6, the right to a fair trial.

To understand whether there have been legislative developments in Montenegro influenced by the Court's case law, two crucial changes must be noted. First, according to Section 428a of the Civil Procedure Act, when the Court finds a violation of human rights or fundamental freedoms guaranteed by the Convention, the party may, within three months from the final judgment of the Court, seek that the impugned domestic decision be duly changed by the same first-instance Court that issued it, if the violation cannot be remedied except by reopening the proceedings.[74] To date, two actions have been reopened pursuant to this provision: *Garzicic* and *Koprivica*.

Second, Section 424 (6) of the Criminal Procedure Code provides that criminal proceedings, where a final judgment has been adopted, may be reopened in favour of an accused where the ECtHR (or another court established by a ratified international treaty) finds that human rights and freedoms have been violated during criminal proceedings and the judgment is based on such violations, so long as such reopening can remedy the violation.[75] Since the Court has not yet issued any judgment against Montenegro in criminal proceedings, the question of reopening a domestic action has not arisen.

---

[73] Thus, Montenegro has been visited by Jean-Paul Costa, Vinçents (Vine) Spielmann, Robert Spano, Linos-Alexandre Sicilianos and Marko Bošnjak.

[74] Section 428a of the Civil Procedure Act, Official Gazette of Montenegro, No. 76/06.

[75] Section 424 (6) of the Criminal Procedure Act, Official Gazette of Montenegro, No. 57/09.

Regarding the training of domestic judges, a Judicial Training Centre was established within the Supreme Court of Montenegro. In the last three years, among its other activities, this centre has organised more than 15 seminars, roundtables and workshops, primarily about Articles 5, 6, 8, 10 and 13 of the Convention, the compatibility of the Criminal Procedure Code with the Convention and the prohibition of discrimination, emphasising the LGBT population and disabled persons. Various issues are discussed in these seminars, such as the justification for detention, the presumption of innocence, equality of arms, defence rights, and so on.

These seminars are organised in cooperation with the AIRE Centre of London, Embassies of the United States, the United Kingdom and France, the OSCE Mission in Montenegro and the Foundation of Konrad Adenauer, along with nongovernmental organisations from Montenegro, such as the Centre for Democracy and Human Rights and the Human Rights Centre of the Faculty of Law in Podgorica. The seminars' participants comprise judges of all courts in Montenegro and prosecutors from all levels.

Based on the discussion, it can be concluded that these educational activities are extremely important to enable the Montenegrin judges to apply the Court's standards. In the future, special attention should be paid to the construction of an even closer connection and dialogue between the Court and the highest courts in Montenegro, notably the Supreme Court and the Constitutional Court. The Court's judges and the members of the Court's Registry should be regularly involved in these activities as a part of judicial dialogue.

Bibliography

[1] Davies, N. (2012) *Vanished Kingdoms - The History of Half-Forgotten Europe*. New York: Penguin Books.

[2] Peric, Z. (1999) *Crna Gora u jugoslovenskoj federaeiji.* Podgorica: Pobjeda.

[3] Sukovic, M. (1999) *Podgoricka skupstina 1918.* Podgorica: Biblioteka Gramota.

[4] Vucinic, N. B. (2001) *Osnovi ljudskih prava i sloboda.* Podgorica: CID.

[5] Vučinić, N. B. (2016) 'Montenegro: The effect of the European Convention on Human Rights on the legal system of Montenegro', in Motoc, I., Ziemele, I. (eds.) *The impact of the ECHR on democratic change in Central and Eastern Europe: Judicial perspectives*, Cambridge: Cambridge University Press, pp. 289–304.

[6] Council of Europe (2004) *Study on the Harmonization of Montenegrin Legislation with the European Convention on Human Rights and Fundamental Freedoms.* Podgorica: Office in Podgorica.

[7] Council of Europe (2021) *The doctrines and methodology of interpretation of the European Convention on Human Rights (ECtHR2021),* [Online]. Available at: https://rm.coe.int/echr-eng-the-doctrines-and-methodology-of-interpretation-of-the-europe/1680a20aee (Accessed: 9 July 2024).