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THE WESTERN BALKANS TRIAL MONITORING REPORT FACTSHEET



From Paper to Practice

Evaluating the Effectiveness of Judicial Responses to
Serious Organised Crime and Corruption

Review Period July 2021 - March 2024

MONTENEGRO

Trial monitoring results on serious
organised crime and corruption (OCC) cases

HOW

The Project's Methodology, developed and adapted by the OSCE ODIHR based on its Trial Monitoring Manual & drawing on the extensive experience of OSCE field operations in monitoring OCC cases, encompasses trial monitoring from the confirmation of indictment to the final and binding verdict.

FOCUS



fairness



efficiency



capacities/performance



strategic use of judicial tools



High Court in Podgorica

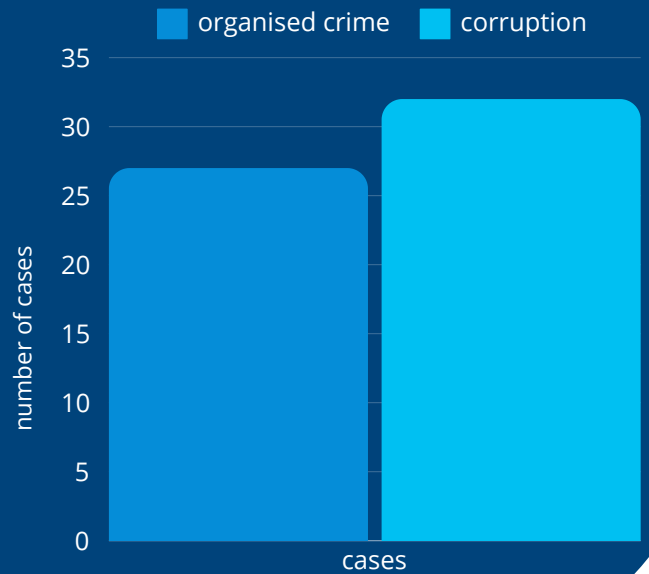


Basic Court in Kotor



Appellate Court of Montenegro

CASES UNDER MONITORING



REPORT FINDINGS

The Project's trial monitoring identified symptoms of systemic challenges at the institutional, legislative and policy level. However, initiatives are already underway to address many aspects of the issues identified in this Report. These include strategies, action plans, guidelines on sanctioning in plea-bargaining agreements, targeted capacity building as well as steps to improve the efficiency of proceedings by narrowing down the subject matter jurisdiction of the Specialized Prosecutor's Office. These are substantial investments, that with sustained efforts can lead to substantial progress.

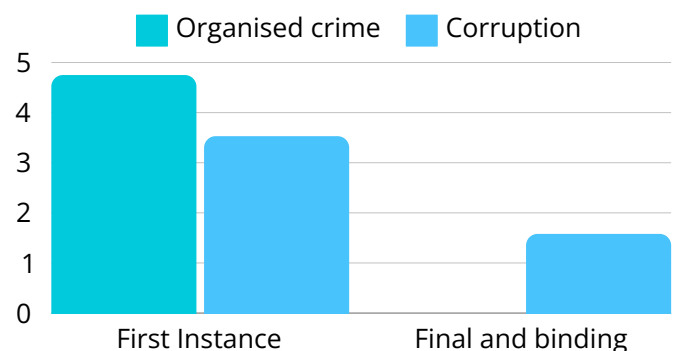
The main identified areas for further improvement relate to:



LENGTH OF PROCEEDINGS

- ▶ percentage of productive hearings
- ▶ courtrooms space
- ▶ case management
- ▶ caseload per judge

LENGTH OF PROCEEDINGS FROM INDICTMENT TO FINAL JUDGEMENT, IN YEARS



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QUALITY OF LEGAL ACTS

- ▶ charges substantiation
- ▶ use of the stage of control of indictment
- ▶ reasoning
- ▶ elaboration on the need for detention



INDEPENDENCE

- ▶ mechanisms for the protection of the independence of judges & autonomy of prosecutors
- ▶ media reporting in OCC cases and fair trial standards
- ▶ communication strategies



DETERRENCE POLICY

- ▶ frequency of lenient sanctions
- ▶ consistency in use of mitigating circumstances
- ▶ plea agreements alignment with the interest of fairness
- ▶ results in asset forfeiture



WAY FORWARD

TRACK RECORD

Create preconditions for an effective track record in combatting OCC.

IMPACT

Aim for changes that make an immediate difference.

BUY-IN

Address resistance to change, accounting for operational practices and working cultures.



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OSCE



STRENGTHEN INDEPENDENCE OF JUDGES AND AUTONOMY OF PROSECUTORS



by ensuring that mechanisms for protection of independence of judges and autonomy of prosecutors are adequately used, and building the trust of the public in the judiciary by creating communication strategies that would enhance the relations between the judiciary and their community, while strengthening capacities of the media to adhere to fair trial standards in reporting on OCC cases.

IMPROVE INDICTMENTS & JUDGEMENTS



by developing guidelines that would contain good examples or best practices and provide a recommended structure or template to guide judges and prosecutors in drafting of judicial acts, ensuring that indictments are effectively reviewed during the control stage, and revising the performance management system to include assessment of the capacity of judges and prosecutors to adequately reason their decisions.

ENSURE EFFECTIVE CASE MANAGEMENT



by developing a case-weighting system, enacting trial management standards that would assist judges in the preparation and conduct of OCC cases, and providing courts and prosecutor's offices with suitable premises.

CREATE A MORE ROBUST DETERRENT POLICY AND PRACTICE IN OCC CASES



by passing guidelines on sentencing practices and the individualisation of penalties, considering both aggravating and mitigating circumstances and providing adequate reasoning in that regard, ensuring that the PBAs are in line with the interest of fairness, and strengthening the capacities of prosecutors to confiscate proceeds of crime.