



OVERVIEW OF THE CMR- RELATED CASE LAW IN **MONTENEGRO**

Prof. NIKOLETA RADIONOV KARLOVIĆ

University of Zagreb Faculty of Law

Croatia

MONTENEGRO: FACTS

- ✓ One of 6 republics of the former Yugoslavia (SFRJ) until 1992
- ✓ Part of the Federal Republic of Yugoslavia (with Serbia) until 2003, then State Union of Serbia and Montenegro until 2006
- ✓ **Restored independence in 2006**
- ✓ UN MS from 28.06.2006.
- ✓ **Population: cca 625.000**
- ✓ **Territory: 13.812 km²**



- ✓ Formally applied for EU membership in December **2008**
- ✓ granted official candidate status in June **2010**
- ✓ Formal accession negotiations began on June 29, **2012**
- ✓ Successfully opened all 33 chapters, by now provisionally **closed 18**
- ✓ **May 2026**: Ad Hoc Working Party started drafting Montenegro's Accession Treaty
- ✓ **End 2026**: provisional closure of all 15 remaining negotiation chapters
- ✓ Chapter 14: Transport Policy finalized, pending immediate closure
- ✓ **EU Accession: 2028**

MONTENEGRO:

EU ACCESSION





MONTENEGRO: TEN-T NETWORK

- **Western Balkans–Eastern Mediterranean European Transport Corridor**
- connecting Central Europe to the Adriatic and Aegean seas
- Port of Bar – strategic exit to the Adriatic Sea

MONTENEGRO: CMR SYSTEM

1956 CMR

- State Party from 23.10.**2006**.
- Continuous application from **1961** (Yugoslavia & succeding countries until 2006)

1978 SDR Protocol

- NOT RATIFIED
- MNE competence (not EU), no incentive or awareness

2008 E-CMR Protocol

- State Party from 06.07.**2026**.
- CH14 related
- EU incentive
- Linked to eFTI Regulation transposition

Succession to all treaties from the former state, with all reservations & declarations



The Courts of Montenegro > Decisions

Decisions

REGULAR SEARCH

ADVANCED SEARCH

Court
Appellate Court

Department
Građansko odjeljenje

Decision type
Presuda

Case type
PŽ - DRUGOSTEPENI PARNIČNI PREDMETI U PRIVREDNIM SPOROVIMA

Case number

Year

Date from

Date to

Decision search
CMR

Phrase ✓

SEARCH

CANCEL

Useful links

Courts Mail server
Parliament of Montenegro
Advocacy Chamber
Police Department

President
The Constitutional Court
Notary Chamber
Ombudsman

Government
Association of Judges
Ministry of the Interior
Official Gazette

WWW.SUDОВИ.ME

- Repository of all court decisions from 2011 on
- No selection – direct entry from judicial working database
- Full texts of elaboration, anonymised
- „CMR” keyword: 81 court decisions (52 1st, 25 2nd, 4 3rd): only 13 *ad meritum*

CMR CASE LAW IN MONTENEGRO

Art. 1

CMR Application

Art. 13/2

Freight charges

- **Occasional** application of **national law** to international carriage
- Pž 351/2019, Pž 419/2024, Pž 293/2022, Pž 440/2011, Pž 243/2019

Art. 32

Statute of
Limitations

- 1 year – applied *ex offa* by Appellate Court (2nd)
- Pž 541/2021

Art. 17

Liability for damages

- „damage to cargo – panels – allegedly sudden braking in curve does not constitute car accident – no liability insurance coverage” (Pž 617/2019)
- Theft: loss of insurance coverage of otherwise liable carrier if theft occurred outside of guarded and lit parking

Art. 23/3

Limitation of liability

- 25 GF limit/kg applicable, never invoked/applied
- If no limitation is invoked: full amount of damages recoverable
- If limitation is invoked: 8,33 SDR (1978 Protocol) – MNE is NOT PARTY to it!

LIMITATION OF LIABILITY ISSUES IN CASE LAW

1. APPLICATION OF 1978 SDR PROTOCOL WITHOUT RATIFICATION

- Legal basis cited: CMR (cited SFRJ Official Journal from 1958) BUT
- Claimed limitation of liability of 8,33 SDR applies from the CMR Protocol (without OJ)

2. CALCULATION OF THE SDR VALUE

- Calculation made according to the court-appointed financial expert, who based the finding on the „ data from the consignment note, General conditions of the liability insurance and customs clearance” – no official source of SDR calculation given

3. REASON FOR APPEAL: SDR PROTOCOL AS „NEW FACT” NOT „APPLICATION OF LAW”

- *De minimis* cases:
 - only wrong application of law by 1st instance court as ground for appeal
 - incorrectly or incompletely established facts NOT acceptable ground for appeal
 - Non-application of SDR Protocol by 1st instance court (claimant): **new fact raised**, not acceptable for appeal ?!



THANK YOU

NIKOLETA.RADIONOV@PRAVO.HR