



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of  
Discrimination against Women**

**Consideration of reports submitted by States  
parties under article 18 of the Convention on the  
Elimination of All Forms of Discrimination  
against Women**

**Initial report of States parties**

**Montenegro\* \*\***

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* Annexes can be consulted in the files of the secretariat.

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## I. Introduction

1. Montenegro restored its independence on the basis of a referendum held on 21 May 2006. Thereafter, on 03 June 2006 the Parliament of Montenegro adopted the Declaration of Independence proclaiming Montenegro an independent and sovereign state which assumed its international obligations. In accordance with the Declaration and Decision on Independence, Montenegro acceded to a comprehensive process of succession to international treaties, whose signatory it had been in earlier state arrangements (Yugoslavia, the State Union of Serbia and Montenegro).

2. A Resolution on the Admission of Montenegro to the United Nations was adopted by the General Assembly at the session held on 22 June 2006. On 28 June 2006, the General Assembly of the United Nations decided to approve admission of Montenegro to the UN which made Montenegro the 192<sup>nd</sup> member state of OUN.

3. UN membership launched the process of defining a list of treaties and Conventions that Montenegro acceded on the basis of succession, those for which the Secretary General performs the functions of a depositary. The mechanism for accession to these Conventions was deposited on 23 October 2006 and includes regulations from various areas: diplomatic and consular relations, human rights protection, rights of refugees and stateless persons, fight against drugs and psychotherapeutic substances, trafficking in human beings, health, international trade and development, transport, education, maritime rights, commercial arbitration, telecommunication, disarmament, environmental protection and others.

4. Therefore, Montenegro acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) as part of the succession process.

5. Under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, State Parties undertake to submit to the Secretary-General of the United Nations a report on the legislative, judicial, administrative and other measures which they have adopted to give effect to the provision of the present Convention as well as on the progress made in that regard within one year after the entry into force of the Convention and thereafter at least every four years. With regard to Montenegro, the deadline for such report (hereinafter: the Report) is 23 October 2007, that is a year after the Convention entered into force in relation to Montenegro.

6. The Initial Report aims at indicating legislative and other measures that Montenegro has taken and is still taking in order to implement obligations established by the Convention and refers to the period from 2006 until 2009.

7. On the basis of the CEDAW Committee guidelines, the Initial Report follows the envisaged form and contents of the report. The report contains brief information about basic historical, economic and demographic indicators, specific information in relation to each of the provisions of the Convention and an Annex which includes excerpts and quotations of the laws mentioned in the report.

8. The present report was prepared by the Working Group which consisted of representatives of line ministries and administrative bodies to which provisions of the Convention apply:

- Ministry for Human and Minority Rights
- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Education and Science

- Ministry of Health, Labour and Social Welfare
- Ministry of Finance
- Ministry of Culture, Sports and Media
- Police Directorate
- Employment Office
- Statistical Office

9. The Committee for Gender Equality of the Parliament of Montenegro was introduced to the contents of the Initial Report at its session held on 26 November 2009. In addition, a meeting was arranged with the non-governmental organisations on 14 December 2009 with the aim of introducing the Report to them and receiving suggestions and recommendations concerning the draft text.

## **II. General information**

### **1. Basic historical data**

10. Montenegrin statehood goes deep into the past, its roots are older than the current name for the state and the nation. In its historic journey, it passed through several development periods and few state forms. In a historical sense, Montenegro developed at the crossroads between the two worlds, on the periphery and under the influence of great empires and states. Great monotheistic religions and churches intersected in this area: Roman Catholic, Orthodox and Islam. In cultural terms, it was a place of encounter between the East and the West, between the Mediterranean and hinterland, therefore in that sense and over time different civilisation layers shaped complex and diversified heritage upon which contemporary Montenegro is built. It persisted as a state in the hardest of times and despite some interruptions of continuity it still managed to restore its independence as many as four times during a thousand years long history.

11. While the stamp of Archon Petar, the first ruler of Duklja Slovenes who is mentioned in written sources, may be taken as a symbolic beginning of Montenegrin statehood, historians consider the Prince Stefan Vojislav (1016–1043) to be founder of the state as he managed to win state independence in wars, establish its independence from Byzantium and become founder of the Vojislavljević dynasty. His son Mihailo raised the state to the level of kingdom in 1077 and acquired international recognition. The second Montenegrin ruling dynasty was the Balšić family, the third one the Crnojević family and the fourth one, the last and most important – the Petrović family.

12. Under Decisions of the 1878 Berlin Congress, Montenegro gained state independence and international recognition as well as the significant territorial expansion. General progress made in development and building of the state, winning the reputation on the international stage, attention to minority – religious rights, with internal antagonisms were main characteristics of Montenegro after the Berlin Congress.

13. After taking part in the Balkan Wars and World War I and establishment of the territory under Decisions of the so-called Podgorica Assembly from 1918, King Nikola was overthrown from the Montenegrin throne, his dynasty was dethroned and expelled from the country with the proclamation of unconditional union/joining of Montenegro to Serbia. Joined and nameless, it entered the new state form – the Kingdom of Serbs, Croats and Slovenes. Later on, in newly established Kingdom of Yugoslavia, Montenegro was reduced down to an administrative area (Zeta Banat).

14. Montenegro became an Italian protectorate after the April collapse (1941) and dissolution of Yugoslavia by occupiers. By giving its full contribution to the antifascist struggle and liberation Montenegro renewed its statehood under the Constitution from 1946 and became equal republic in the Federal People's Republic of Yugoslavia (FPRY) (later the Social Federal Republic of Yugoslavia (SFRY)).

15. After dissolution of the former Yugoslavia, Montenegro continued its national existence within the Federal Republic (FR) of Yugoslavia and later in the State Union of Serbia and Montenegro. In this period (1992–2000), Montenegro faced numerous political, economic and other difficulties. Wars in the surroundings, international community sanctions, the North Atlantic Treaty Organization (NATO) intervention in 1999, internal political turmoil, pressures from the regime in Belgrade etc. were quite important elements that reflected on the position of Montenegro and particularly on the position of minority communities.

16. The referendum was conducted in Montenegro on 21 May 2006, in which 55.5% out of more than 86% of registered voters voted for Montenegrin independence. The state of Montenegro very soon became a member of the United Nations, the Organization for Security and Co-operation in Europe (OSCE) and other international associations.

17. The first Constitution of independent Montenegro adopted on 19 October 2007 defines Montenegro as an independent, sovereign state with the Republican form of Government. Montenegro is a civil, democratic, ecological state with social justice based on the rule of law.

18. Article 9 of the Constitution lays down the principle of supremacy of international law: "The ratified and published international treaties and generally accepted rules of international law shall make an integral part of an internal legal order, shall have the supremacy over the national legislation and shall be directly applicable when they regulate the relations differently from the internal legislation."

19. Power is arranged based on the principle of division of powers into legislative, executive and judicial. The legislative power is exercised by the Parliament, executive power by the Government and the judicial power by the court. The Parliament consists of the Members of Parliament (MPs) who are elected directly on the basis of general and equal voting right and by secret ballot. The Parliament has 81 MPs. Montenegro is represented by the President of Montenegro who is elected on the basis of general and equal voting right, by direct and secret ballot. The Government consists of the Prime Minister, one or more Deputies and Ministers. The ministries and other administrative bodies perform public administration affairs. The court is autonomous and independent and tries on the basis of the Constitution, laws and ratified and published international treaties. Judges and the President of the court are appointed and dismissed by the Judicial Council. The official language in Montenegro is Montenegrin. Serbian, Bosnian, Albanian and Croatian are also in official use.

## **2. Basic demographic data**

20. A basic demographic feature of Montenegro is the great mixture of different ethnic communities in a relatively small area. Historical developments, such as migration of people and endless wars with frequent change of borders, are basic cause of Montenegrin diversity.

21. The last census of population, households and dwellings was conducted in the period from 1 until 15 November 2003. Unlike previous censuses, where permanent population also included Montenegrin citizens temporarily working abroad, as well as their family members (regardless of the length of stay), this census included in the permanent

population those Montenegrin citizens whose stay abroad is shorter than one year, that being in line with international recommendations and the Law on Census.

22. The table below provides data on the number of inhabitants, collected in censuses conducted from 1921 until 2003. In using the census data, one should have in mind that there exists no full comparability of definitions of permanent, that is, total population in the 2003 census and earlier censuses. In fact, in censuses conducted from 1971 until 1991, the permanent population also included, in addition to the population in the country, those Montenegrin citizens temporarily working abroad as well as the members of their families who resided abroad with them. In line with international recommendations, the permanent population structure in 2003 census, in addition to the population of the country, also included those Montenegrin citizens whose work or stay abroad was shorter than one year, as well as those foreign nationals who either work or reside in our Republic in the capacity of family members for more than one year.

#### Population according to the Censuses 1921–2003<sup>1</sup>

Year	Number of inhabitants			Chain index		Growth index (baseline 1921)	
	Female	Male	Total	Female	Male	Female	Male
1921	156 040	155 301	<b>311 341</b>	100.00	100.00	100.00	100.00
1931	180 279	179 765	<b>360 044</b>	115.53	115.75	115.53	115.75
1948	199 111	178 078	<b>377 189</b>	110.45	99.06	127.60	114.67
1953	218 155	201 718	<b>419 873</b>	109.56	113.28	139.81	129.89
1961	242 620	229 274	<b>471 894</b>	111.21	113.66	155.49	147.63
1971	270 395	259 209	<b>529 604</b>	111.45	113.06	173.29	166.91
1981	294 571	289 739	<b>584 310</b>	108.94	111.78	188.78	186.57
1991	309 104	305 931	<b>615 035</b>	104.93	105.59	198.09	196.99
2003	314 920	305 225	<b>620 145</b>	101.88	99.77	201.82	196.54

23. Population according to the sex and age represents a number of people of certain sex, grouped according to their age. The Table presents age-sex structure through absolute frequencies and/or percentage distribution.

#### Population by their sex and age, estimate as on 1 January 2007<sup>2</sup>

Age	Women	Men	Structure %		Number of women per 100 men
			Women	Men	
Ukupno	317 303	307 600	100.0	100.0	103.15
0–4	18 688	20 376	5.89	6.62	91.72
5–9	19 560	20 999	6.16	6.83	93.15
10–14	21 241	22 796	6.69	7.41	93.18
15–19	23 111	24 309	7.28	7.90	95.07
20–24	24 578	25 729	7.75	8.36	95.53

<sup>1</sup> Statistical Office of Montenegro.

<sup>2</sup> Statistical Office of Montenegro.

Age	Women	Men	Structure %		Number of women per 100 men
			Women	Men	
25–29	23 399	23 822	7.37	7.74	98.22
30–34	22 238	21 170	7.01	6.88	105.04
35–39	20 674	20 234	6.52	6.58	102.17
40–44	21 703	21 452	6.84	6.97	101.17
45–49	22 121	22 092	6.97	7.18	100.13
50–54	21 620	21 741	6.81	7.07	99.44
55–59	19 082	17 321	6.01	5.63	110.17
60–64	13 463	11 073	4.24	3.60	121.58
65–69	15 897	13 035	5.01	4.24	121.96
70–74	13 102	10 292	4.13	3.35	127.30
75+	16 826	11 159	5.30	3.63	150.78

**Table below outlines the population structure by sex and ethnic affiliation according to the 2003 Census**

Nationality	Total	Women	Men	Structure in %		Number of women per 100 men
				Women	Men	
<b>Total</b>	<b>620 145</b>	<b>314 920</b>	<b>305 225</b>	<b>100</b>	<b>100</b>	<b>103</b>
Montenegrins	267 669	136 968	130 701	43.5	42.8	105
Serbs	198 414	99 734	98 680	31.7	32.3	101
Yugoslavs	1 860	848	1 012	0.3	0.3	84
Albanians	31 163	15 355	15 808	4.9	5.2	97
Bosniaks	48 184	24 138	24 046	7.7	7.9	100
Egyptians	225	104	121	0.0	0.0	86
Italians	127	57	70	0.0	0.0	81
Macedonians	819	489	330	0.2	0.1	148
Hungarians	362	225	137	0.1	0.0	164
Muslims	24 625	12 492	12 133	4.0	4.0	103
Germans	118	67	51	0.0	0.0	131
Roma	2 601	1 267	1 334	0.4	0.4	95
Russians	240	160	80	0.1	0.0	200
Slovenes	415	261	154	0.1	0.1	169
Croats	6 811	3 957	2 854	1.3	0.9	139
Others	2 180	1 039	1 141	0.3	0.4	91
Undeclared and neutral	26 906	14 037	12 869	4.5	4.2	109
Regional affiliation	1 258	682	576	0.2	0.2	118
Unknown	6 168	3 040	3 128	1.0	1.0	97

24. After gaining independence the Government of Montenegro adopted the Decision on temporary maintaining the statuses and rights of refugees and internally displaced persons in Montenegro which defined temporary maintaining of status of these persons in Montenegro

in accordance with the laws governing asylum and foreigners related matters, the Strategy for Permanent Resolution of Matters regarding Refugees and Internally Displaced Persons in Montenegro and regional documents on resolving matters regarding refugees and displaced persons.

25. In terms of demographic features, a very important fact is that of internal migration within Montenegro. Due to unbalanced regional development (underdeveloped North and relatively developed Central and Southern region) there is a very frequent, almost daily, migration from the underdeveloped regions to those that are more developed. Although the number of inhabitants in 2003 increased compared to 1991 by 26,641 the number of inhabitants in the Northern region got reduced by 17,498, while it increased in the Central and Southern region by 44,139.

26. In order to determine the size of the Roma, Ashkelia and Egyptian (RAE) population in Montenegro and in accordance with the Strategy for Improvement of the Position of RAE Population in Montenegro 2008–2012, the Statistical Office of Montenegro conducted the survey “Data Base on RAE Population”. The survey was conducted in October 2008 throughout entire territory of Montenegro. The survey included all persons who voluntarily came at the checkpoint and gave information about themselves and members of their families and households. This means that the survey also included persons who do not live in Montenegro at the moment where the members of their households reported such persons and gave information about them. Therefore, the survey included a total of 11,001 persons. Of that number 9,943 persons were in Montenegro, while others were abroad.

#### **RAE population by sex and municipalities**

<i>Municipality</i>	<i>Sex</i>	<i>Total</i>
Montenegro	<b>Total</b>	<b>9 934</b>
	Male	<b>5 078</b>
	Female	<b>4 856</b>
Bar	<b>Total</b>	<b>309</b>
	Male	<b>164</b>
	Female	<b>145</b>
Berane	<b>Total</b>	<b>669</b>
	Male	<b>349</b>
	Female	<b>320</b>
Bijelo Polje	<b>Total</b>	<b>369</b>
	Male	<b>181</b>
	Female	<b>188</b>
Budva	<b>Total</b>	<b>189</b>
	Male	<b>96</b>
	Female	<b>93</b>
Cetinje	<b>Total</b>	<b>86</b>
	Male	<b>41</b>
	Female	<b>45</b>



<i>Municipality</i>	<i>Sex</i>	<i>Total</i>
Danilovgrad	<b>Total</b>	<b>12</b>
	Male	4
	Female	8
Herceg Novi	<b>Total</b>	<b>299</b>
	Male	159
	Female	140
Kotor	<b>Total</b>	<b>123</b>
	Male	65
	Female	58
Niksic	<b>Total</b>	<b>1 001</b>
	Male	519
	Female	482
Pljevlja	<b>Total</b>	<b>42</b>
	Male	24
	Female	18
Podgorica	<b>Total</b>	<b>5 748</b>
	Male	2 911
	Female	2 837
Rozaje	<b>Total</b>	<b>112</b>
	Male	56
	Female	56
Tivat	<b>Total</b>	<b>425</b>
	Male	235
	Female	190
Ulcinj	<b>Total</b>	<b>550</b>
	Male	274
	Female	276

### 3. Basic economic indicators

27. Montenegro is undergoing a process of comprehensive economic reforms. The economy is being transformed through the privatisation procedures (Mass Voucher Privatisation and privatisation) with a considerable reduction of the share of state-owned capital and creation of a favourable environment. In order to create the best possible picture of economic situation in Montenegro, we hereby present some basic indicators for the past two years and the first quarter of this year.

28. Montenegrin economy has continuously recorded steady growth of Gross Domestic Product, low inflation rate, unemployment rate which is below the level of 11% for the first time in the past decade, as well as continuous increase in salaries and pensions. The state reduces its spending, while the Government budget generates higher income than what was

planned and records a considerable surplus which creates conditions for early repayment of both internal and external debt of the Republic. If such trend of reduction of public spending and growth in budget surplus continues, it is realistic to expect achievement of medium-term fiscal priorities in terms of reducing public spending down to 35% of GDP, reducing public debt below 30% of GDP and additional tax relief of Montenegrin economy by 2011. It may be noted that the financial sector is the driver of economic reforms in Montenegro since it is not only fully privatized, but is also among the most competitive ones in the region. The banking sector has recorded increasing growth in deposits and loans, as well as the decrease in interest rates, which creates conditions for increasingly favourable financing of the economy and eventually the growth in economic activity. Foreign direct investments are still at a high level even though almost 90% of the economy has already been privatized and they record continuous growth. Last year, foreign direct investments amounted to over 30% of GDP, which places Montenegro among the leaders in Europe in that regard.

29. According to the official Monstat data, GDP in 2008 amounted to EUR 3,085.6 million, with the real growth rate of 6.9% compared to 2007 when it amounted to EUR 2,680.5 million.

30. According to the data of the Ministry of Finance, Gross Domestic Product in the first quarter of 2009 amounted to EUR 617 million which represents growth of 6.5% compared to the same period of the previous year.

31. Annual inflation measured against retail prices index in 2008 amounted to 2.0% which is higher by 0.2 percentage points compared to 2007 when it amounted to 1.8%. Despite a slight increase, inflation is at the level of the European Union countries.

32. During the first quarter of 2009 the prices in Montenegro measured against cost-of-living index in March increased by 0.5% compared to the end of the previous year, whereby prices of goods increased by 0.6%, and prices of services by 0.5%. On an annual basis, prices in March were higher by 2% which is still at the level of inflation rates in the European Union countries.

33. At the end of 2008 the unemployment rate amounted to 11.40% which is 3.84 percentage points less compared to the same period of the previous year. As on 01 August 2009 the unemployment rate amounted to 10.20% which is 4.1 percentage points less compared to the same period of the previous year. By comparing the data above with July 2000 when the highest unemployment rate of 32.7% was recorded, we may conclude that the facts clearly indicate increasingly positive developments on the labour market resulting from the growth in economic activity that led to creation of new jobs.

34. The trend of growth in average net salaries continued in 2008, therefore the amount of EUR 416 was recorded in that year, which is considerably more compared to 2007 when the average net salary amounted to EUR 338. In the first quarter of 2009 the average salary amounted to EUR 463 which is 15.8% more compared to the same period of the previous year.

35. The average pensions have also recorded growth in the past year. Therefore, the average pension in 2008 amounted to EUR 256 which is 9% higher compared to the previous year. In the first quarter of 2009 the average pension amounted to EUR 258.

36. Consolidated public spending in the period from January until September 2009 was estimated at EUR 990.56 million. That estimated level of public spending was financed from taxes in the amount of EUR 561.04 million, contributions in the amount of EUR 214.51, charges in the amount of EUR 20.73 million, fees in the amount of EUR 82.94, other current income in the amount of EUR 34.80 million and receipts from loan repayment in the amount of EUR 45.38 million. Current public revenues are estimated at EUR 959.41

million or 29.59% of estimated GDP for 2009 (EUR 3,242.00 million). Taxes are the most important in the public revenues structure constituting 17.31% of GDP, as well as the contributions accounting for 6.62% of GDP. In relation to the plan, original public revenues were executed in the amount of 86.74%.

37. Consolidated public expenditures for nine months of 2009 are estimated at 30.55% of GDP. Current public spending (consolidated expenditures less capital expenditures of the current budget, capital budget of Montenegro, state funds and local governments) in the first half of the year amounted to EUR 829.72 million or 25.59 % of GDP. In relation to the plan, consolidated public expenditures were executed in the amount of 83.44.

38. Foreign direct investments in the 12 months of 2007 amounted to EUR 594.1 million or 33.34% of GDP, of which EUR 318.27 million relates to the construction sector.

39. Soon after becoming independent, Montenegro became member of relevant international financial institutions (International Monetary Fund, World Bank, European Bank for Reconstruction and Development) and intensified cooperation with these and other institutions.

### Macroeconomic indicators<sup>3</sup>

	2007	2008	I-IX 2009
GDP (mil. €)	2 680.5	3 085.6	2 470.0
Rate of real growth of GDP	10.7	6.9	-4.0
Inflation	1.8	2.0	2.0
Number of the employed	156 408	166 221	175 468
Number of the unemployed	32 011	28 478	29 130
Unemployment rate	11.51	10.86	11.1
Industrial production	-1.9	1.0	-2.8

40. From the perspective of economic indicators for the Convention, we deem it useful to present the following table with basic economic indicators by municipalities:<sup>4</sup>

No.	Municipality	Number of the employed	Gross salary (in EUR)	Population growth
1.	Andrijevica	537	383	-15
2.	Bar	11 876	412	113
3.	Berane	6 092	401	219
4.	Bijelo Polje	8 628	382	246
5.	Budva	8 951	429	104
6.	Danilovgrad	2 969	361	-23
7.	Žabljak	986	447	-8
8.	Kolašin	1 728	435	-30
9.	Kotor	6 378	473	-3
10.	Mojkovac	1 638	430	21
11.	Nikšić	18 312	439	268

<sup>3</sup> Source: Secretariat for Development and MONSTAT.

<sup>4</sup> Source: MONSTAT, data from 2006.

<i>No.</i>	<i>Municipality</i>	<i>Number of the employed</i>	<i>Gross salary (in EUR)</i>	<i>Population growth</i>
12.	Plav	1 411	394	84
13.	Plužine	938	566	-17
14.	Pljevlja	7 286	465	1
15.	Podgorica	61 032	509	1 306
16.	Rožaje	3 064	443	353
17.	Tivat	3 755	475	9
18.	Ulcinj	4 185	348	40
19.	Herceg Novi	11 763	352	44
20.	Cetinje	4 396	405	-57
21.	Šavnik	296	398	-15

### III. Report on the implementation of the Convention (arts. 1–16)

#### Article 1

41. After the referendum held on 21 May 2006 and official proclamation of independence on 03 June 2006 on the basis of adoption of the Declaration of Independence, Montenegro undertook by way of succession to respect and implement a set of conventions from the area of human rights, including the Convention on the Elimination of All Forms of Discrimination against Women.<sup>5</sup>

42. The Constitution of the Republic of Montenegro was in force in Montenegro at the time of acceptance of obligations mentioned above by way of succession (Official Gazette 48 of 13 October 1992). Although it did not contain special provisions on gender equality, it contained a series of principles that proclaimed equality between men and women. Thus, the Constitution prescribed that citizens were free and equal, regardless of any peculiarity or personal feature, everyone was equal before the law (Article 15), inviolability of physical and psychological integrity of people, their privacy and personal rights were guaranteed, including human dignity and security (Article 20). The Constitution further prescribed that any citizen of Montenegro who turned 18 years of age had the right to elect and be elected and that the right to vote was general and equal (Article 32). The Constitution, in the most general sense, guaranteed the property right (Article 45) and right to succession (Article 46). The citizenship, as one of the most critical matters in relation to which there frequently occurs discrimination against women, was defined in the 1992 Constitution by prescribing Montenegrin citizenship in Montenegro whereby no one could be deprived of Montenegrin citizenship or the right to change that citizenship (Article 10). Furthermore, any provoking and inciting of national, racial, religious and other hatred and intolerance was in breach of the Constitution and punishable (Article 43), including abuse of rights and freedoms (Article 16), while on the other hand, a citizen was granted the right to equal protection of his/her rights and freedoms in the procedure prescribed by law as well as the right to file appeal or any other legal remedy against the decision on his/her right or interest based on law (Article 17). Therefore, everyone was granted the right to legal aid (Article 18). Provisions of the Constitution granted special status to the youth, women and the disabled

<sup>5</sup> Notification of succession deposited with the depositary on 23 October 2006 entered into force on 03 June 2006.

in terms of safety at work (Article 53), moreover it prescribed that children, pregnant women and the elderly had the right to health care paid from public funds if they did not exercise such right on some other grounds (Article 57) and finally it laid down that the mother and child enjoyed special protection (Article 60). The Constitution also prescribed the right to education as one of significantly important rights which was granted to everyone under equal conditions (Article 62).

43. The Constituent Assembly of the Republic of Montenegro adopted the Constitution of Montenegro on 22 October 2007. Adoption of the Constitution (Official Gazette of Montenegro 1/07) was preceded by proclamation of independence of Montenegro. The preamble of the Constitution, among other things, expresses commitment of citizens of Montenegro to live in the state whose basic values are as follows: freedom, peace, tolerance, respect for human rights and freedoms, multiculturalism, democracy and rule of law. Although the formulation itself is quite general it could also be interpreted so as to include gender equality as one of imperatives on the path of the development of Montenegro as an independent and democratic state.

44. The Constitution of Montenegro establishes firm commitment of the state in relation to gender equality by prescribing that the state shall guarantee equality between men and women and develop the policy of equal opportunities (Article 18). On the basis of this constitutional principle, the other ones concerning rights and freedoms and the manner of exercise thereof must also be considered in the framework of gender equality. Thus, the Constitution prohibits infliction or incitement of hatred and intolerance on any grounds (Article 7) and particularly prohibits any direct or indirect discrimination on any grounds (Article 8). In relation to the prohibition of discrimination, it is worthwhile to note that the Constitution also defines as non-discriminatory those regulations and special measures aimed at creation of conditions for national, gender and overall equality and protection of persons who are at a disadvantage on any grounds whereby the special measures are of temporary nature, that is they may be applied only until achievement of the objectives for which they have been taken. Furthermore, the Constitution prescribes that Montenegro shall guarantee and protect rights and freedoms (Article 6), that all shall be deemed equal before the law regardless of any particularity or personal feature (Article 17), that everyone shall have the right to equal protection of rights and freedoms thereof (Article 19), as well as the right to legal remedy against the decision ruling on the right or legally based interest thereof (Article 20), the right to legal aid which may be provided free of charge (Article 21), that the prohibition of discrimination may not be annulled during the proclaimed state of war or emergency (Article 25), that the right to elect and be elected shall be granted to every citizen of Montenegro of 18 years of age and above with at least two year residence in Montenegro (Article 45), that the property right shall be guaranteed (Article 58), as well as the right to succession (Article 60), that the freedom of entrepreneurship shall be guaranteed (Article 59) and that the Constitutional Court shall decide on constitutional complaint on grounds of violation of human rights and freedoms guaranteed by the Constitution after exhaustion of all effective legal remedies (Article 149).

45. In terms of defining the right to local governance, the Constitution prescribes that it includes the right of citizens and local government bodies to regulate and manage certain public and other affairs in their own responsibility and in the interest of local population (Article 113). The obligation to take care of the exercise and promotion of gender equality and other matters regarding equal position of women and men is thus transferred to the level of the local government.

46. The citizenship is defined under new Constitution by prescribing that in Montenegro there shall be a Montenegrin citizenship, that the state shall protect rights and interests of Montenegrin citizens and that Montenegrin citizen shall not be expelled or extradited to the

other state except in accordance with the international obligations of Montenegro (Article 12).

47. Finally, an extremely important provision of the new Constitution is that contained in Article 9, under which the ratified and published international treaties and generally accepted rules of international law shall constitute an integral part of an internal legal order, shall have supremacy over national legislation and shall be directly applicable when they govern relations differently from internal legislation. This enables reference to international sources of law which provide higher level of protection, particularly in situations when provisions of internal regulations prescribe a lower level of protection compared to the international one. On the other hand, that creates obligations for the courts which decide on the violation of rights to be familiar with international legal regulations in the area concerned and to implement norms of international legal instruments whenever they provide a higher level of protection than the one laid down by national regulations.

48. Although the new Constitution is not written in gender sensitive language, it may be said that it proclaims equality between men and women. Women are ensured a special position under the Constitution in relation to the role of the mother (Articles 69 and 73).

49. Discrimination is either directly or indirectly the subject of a series of legal provisions of applicable laws of Montenegro.

50. The Parliament of Montenegro adopted the Law on Gender Equality on 24 July 2007 (Official Gazette of the Republic of Montenegro 46/07). It is the first anti-discrimination law in Montenegro which determined the direction of defining gender equality matters in the new Constitution of Montenegro, which was in preparation at the time. The subject of the Law on Gender Equality is the way of ensuring and exercising rights based on sex, as well as measures for elimination of discrimination based on sex and creation of equal opportunities for participation of women and men in all spheres of social life. Under this law, the rights on the basis of gender equality shall be ensured and exercised in accordance with international instruments and generally accepted rules of international law (Article 1).

51. The Law defines gender equality for the first time in the legal system of Montenegro (Article 2). The Law also defines discrimination based on sex as every legal and de facto, direct or indirect differentiation, privilege, exclusion or restriction based on sex which makes acknowledgement, enjoyment or exercising of human rights and freedoms in political, educational, economic, social, cultural, sport and in other spheres of public life for some person either difficult or impossible (Article 4). This is not the end of the definition of discrimination; instead the Law also defines discrimination as sexual harassment, incitement of other person to discrimination and usage of words in masculine gender as generic neutral form for masculine and feminine gender. The right of women to the protection of maternity and prescribed special protection at the working place for biological characteristics is not considered to be discrimination, neither are general and special measures, adopted or undertaken for elimination or prevention of unequal treatment of women and men, for elimination of consequences of unequal treatment of women and men and promotion of gender equality considered as discrimination.

52. The Law also assigns meaning to the following terms: direct discrimination on the basis of sex, indirect discrimination on the basis of sex, gender-based violence, sexual harassment (Article 7).

53. The definition of discrimination in the Law on Gender Equality is not narrower than the one contained in the Convention and includes both the public and private sphere of life, that is, it applies to all aspects of life. In addition, the legal definition includes violence against women based on sex.

54. The Labour Law (Official Gazette of Montenegro 49/08 and 26/09) prohibits direct and indirect discrimination against jobseekers and employees on grounds of their sex, birth, language, race, religion, skin colour, age, pregnancy, health condition, that is, disability, nationality, marital status, family responsibilities, sexual orientation, political or other belief, social background, property status, membership in political and trade union organisations or some other personal feature (Article 5). The Law also prescribes what is considered to be direct and indirect discrimination within the meaning of this Law (Article 6) and in relation to what such discrimination is prohibited (Article 7). Furthermore, the Law prescribes prohibition of harassment and sexual harassment at work and in relation to work, defining at the same time what is considered to be harassment and sexual harassment within the meaning of this Law (Article 8). The Law also envisages positive discrimination in certain cases, prescribing at the same time that provisions of the laws, collective agreement and employment agreements regarding special protection and assistance to certain categories of the unemployed, particularly those on protection of persons with disabilities, women during pregnancy and maternity leave from work for the purpose of child care or special child care as well as provisions on special rights of the parent, adoptive parent, guardian and foster parent shall not be considered discrimination (Article 9). Under the Law, the employee shall be entitled to an appropriate salary, safety and protection of life and health at work, vocational training and other rights in accordance with the law and collective agreement, while the employed woman shall be entitled to special protection during pregnancy and childbirth (Article 11).

55. The Employment Law (Official Gazette of the Republic of Montenegro 5/02, 79/04 and Official Gazette 21/08) guarantees equality to the unemployed persons in exercising their right to employment regardless of their national affiliation, race, sex, language, religion, political or other belief, education, social background, property status or any other personal feature (Article 3).

56. The Law on Health Insurance (Official Gazette of the Republic of Montenegro 39/04) prescribes that mandatory health insurance is part of the system of social security of citizens which grants the right to the health care and other rights to all citizens of Montenegro and other persons on the basis of the principle of obligation, reciprocity and solidarity (Article 3). The Law stipulates which categories of persons exercise the right to the health care, while special attention during determination of the scope of rights and standards of the health care is attached to the women during pregnancy, child birth and motherhood (Article 17).

57. The Law on Pension and Disability Insurance (Official Gazette of the Republic of Montenegro 54/03, 39/04, 79/04, 81/04, 47/07 and Official Gazette of Montenegro 79/08) grants more favourable conditions for women to retire earlier than men, whereby the man is entitled to retire at the age of 65 and the woman may retire at the age of 60 with minimum 15 years of pensionable period (Article 17).

58. The Law on Social and Child Protection (Official Gazette of the Republic of Montenegro 78/05) prescribes that citizens shall be equal in exercising their rights from the area of social and child protection regardless of their national affiliation, race, sex, language, religion, social background or other personal features (Article 5). Furthermore, the Law provides meaning of the expression "self-supported person" thus equalising men and women in that position at least at the formal level (Article 11). Under the Law, the right to financial support may be exercised by certain categories of persons including pregnant women (Article 13). Finally, the Law prescribes that every citizen shall have the right to social services (Article 63).

59. The General Law on Education (Official Gazette of the Republic of Montenegro 64/02, 31/05 and 49/07) establishes that education aims to provide opportunity for comprehensive development of the individual regardless of the sex, age, social and cultural

background, national and religious affiliation and physical and mental structure, as well as to make it possible for the individual to get involved and participate at all levels of employment and action in line with his/her own capabilities (Article 2). Citizens shall be equal in exercising their right to education regardless of their national affiliation, race, sex, language, religion, social background or other personal feature, while foreign nationals may receive education like the citizens of Montenegro under conditions of reciprocity (Article 9).

60. The Law on Higher Education (Official Gazette of the Republic of Montenegro 60/03) stipulates that higher education shall be accessible to all persons under conditions prescribed by this Law and statute of the institution (Article 6), while discrimination in higher education on the basis of sex, religion, marital status, colour, language, religion, political or other belief, national, ethnic or other background, membership in the national community, property status, incapacitated condition (disability) and other similar grounds, position or circumstance shall be prohibited (Article 7).

61. The Family Law (Official Gazette of the Republic of Montenegro 1/07) stipulates that marriage is entered on the basis of free decision of man and woman to marry, on their equality, mutual respect and mutual helping (Article 3). Furthermore, the Law guarantees the right of every person to freely decide on giving birth to their children and right of the parent to create opportunities and ensure conditions for their healthy psychological and physical development in the family and society. The State provides conditions for free and responsible parenthood with the measures of social, health and legal protection through upbringing, education and information system, employment policy, housing and tax policy and development of all other activities benefiting the family and its members (Article 7). Particularly important provisions proclaiming equality between men and women prescribe that property relations in the family are based on the principles of equality, reciprocity and solidarity and protection of the interests of children (Article 11), that spouses shall be equal in marriage (Article 39), that the parenting right shall belong to the mother and father together (Article 60) and that parents shall have the right and obligation to take care of the child (Article 69). The Law also defines property relations between spouses (Part Eight). Formally and legally, the Law stipulates that men and women shall be equal in all matters regarding marriage and parenthood and, which is particularly important, the freedom in deciding on giving birth to their children shall be guaranteed.

62. The Law on Courts (Official Gazette of the Republic of Montenegro 5/02, 49/04 and Official Gazette of Montenegro 22/08) stipulates that everyone shall have the right to address the court in order to exercise their right and that everyone shall be equal before the court (Article 5). Everyone shall be entitled to impartial trial in the reasonable period of time (Article 7). Finally everyone is entitled to be assigned the judge appointed for the case to decide on his/her legal matter, independently from parties and characteristics of the legal matter (Article 8).

63. The Law on Constitutional Court (Official Gazette of Montenegro 64/08) stipulates that the constitutional complaint may be lodged by any person who believes that an individual document of the public body, public administration body, local government body or legal entity exercising public powers violated his/her human right and freedom guaranteed under the Constitution (Article 49).

64. The Law on Local Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05 and 13/06) stipulates that citizens participate in decision making in relation to their needs and interests directly and through freely elected representatives in local government bodies (Article 6) and that local government bodies during performance of their affairs ensure equal protection of rights and legally based interests of local population and legal entities (Article 7).



65. The Law on the Army of Montenegro (Official Gazette of the Republic of Montenegro 47/07) stipulates that only Montenegrin citizens and exceptionally persons without Montenegrin citizenship signed up as volunteers may join the service in the Army (Article 18). The Law guarantees application of the principles of transparency, fairness and equal rights to the candidates applying to join the service in the Army without discrimination on any grounds (sex, race, language, religion, political or other belief, ethnic or social background, property status or another status) (Article 50).

66. The Law on Personal Data Protection (Official Gazette of Montenegro 79/08) ensures personal data protection to any person regardless of the citizenship, permanent place of residence, race, skin colour, sex, language, religion, political or other belief, nationality, social background, property status, education, social standing or any other personal feature) (Article 4).

67. The Law on Media (Official Gazette of the Republic of Montenegro 51/02 and 62/02) prohibits publication of information and opinions which incite discrimination, hatred or violence against persons or group of persons because of their belonging or not belonging to a certain race, religion, nation, ethnic group, sex or sexual orientation (Article 23). In addition, the Law guarantees any natural or legal person the right to correction or response when he/she believes that some of his/her rights defined under the Constitution or the Law have been violated by the published broadcasting contents (Article 26).

68. The Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro 31/06 and 38/07) guarantees equality between minorities and other citizens of Montenegro, prescribes that they enjoy equal legal protection and that any violation of minority rights shall be in breach of law and punishable (Article 4). The Law lays down the prohibition to take any measures and activities that would change structure of the population in the areas inhabited by minorities with the aim of restricting their legal rights and freedoms. Furthermore, any direct or indirect discrimination on any grounds shall be prohibited, including those on the basis of race, colour, sex, national affiliation, social background, birth or similar status, religion, political or other belief, property status, culture, language, age and mental or physical disability (Article 39).

69. The Law on Asylum (Official Gazette of the Republic of Montenegro 45/06) stipulates that asylum seeker shall be entitled to communicate with the person in official capacity and interpreter of the same sex and that asylum seeker shall in all stages of the procedure be treated in a way that acknowledges his/her sex.

70. The Criminal Code (Official Gazette of the Republic of Montenegro 70/03, 13/04, 47/06 and Official Gazette of Montenegro 40/08) prescribes a sanction for any act or omission by a person who, due to national or ethnic affiliation, race or religion or due to absence of such affiliation or due to differences in political or other beliefs, sex, language, education, social standing, social background, property status or other personal feature denies or restricts the rights of individuals and citizens provided for by the Constitution, laws or other regulations or general documents or ratified international treaties of another person or, on the grounds of such differences, grants privileges or exemptions to such person (Article 159). The Code prescribes criminal offences against sexual freedom and criminal offences against marriage and family (Title Eighteen and Title Nineteen). Violation of equality is also defined as a criminal offence (Article 159). The Code lays down sanction for domestic violence (220) and trafficking in human beings (Article 444).

71. The Criminal Procedure Code (Official Gazette of Montenegro 57/09) prescribes that an injured party who is a victim of a criminal offence against sexual freedom and the child heard as witness shall be entitled to be heard in separate premises before the judge and recording clerk, whereas the prosecutor, defendant and defence counsel shall be given the possibility to view the course of hearing from other premises and to put questions to the

witness and the court may decide to apply this type of hearing to witnessing of an injured party who is the victim of discrimination (Article 113).

72. The Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08) prescribes that in the procedure of recruitment of civil servants and state employees, all positions shall be available to the candidates under equal conditions (Article 8).

73. The Law on Public Administration (Official Gazette of the Republic of Montenegro 38/03 and Official Gazette of Montenegro 22/08) prescribes that public administration bodies shall in performance of their affairs ensure equal and efficient protection of rights and legally based interests of natural and legal persons (Article 5).

74. The laws mentioned above explicitly and directly prescribe prohibition of discrimination against men and women in different segments of private and public life. Except for the Law on Gender Equality, other laws do not contain precise formulations since general terms are used: person, citizen, national. In addition, except the Law on Gender Equality, other laws have not been written in gender sensitive language.

75. Apart from those that have been adopted, several proposals for laws may be considered in the framework of the prohibition of discrimination on the basis of sex. Thus, based on proposal of the Ministry of Justice, the Draft Law on the Protection against Domestic Violence which was prepared together with international experts was approved at the session of the Government in October 2009, while based on proposal of the Ministry of Human and Minority Rights, the Draft Law on the Prohibition of Discrimination was approved at the session of the Government in November 2009. These two legal documents are expected to be adopted by the Parliament of Montenegro in the first half of 2010.

76. Finally, due to the efforts of the Committee for Gender Equality a significant innovation in legislative practice of Montenegro is introduction of the gender sensitive language clause which has been incorporated in several laws adopted so far by the 24<sup>th</sup> Parliament of Montenegro: "All the terms that are used in the present law for natural persons in masculine gender also include the same terms in female gender."

77. Montenegro also ratified a series of international treaties, certain parts of which relate to equal opportunities and gender equality. Thus, Montenegro undertook obligations with regard to the following international treaties developed under the auspices of the Council of Europe: Convention for the Protection of Human Rights and Fundamental Freedoms, Protocols Nos. 1–8, 12, 13 and 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, European Charter for Regional or Minority Languages and Convention on Action against Trafficking in Human Beings. As to the international treaties developed under the auspices of the United Nations, Montenegro undertook obligations with regard to the following ones: the Convention against Discrimination in Education, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination against Women. In terms of relevant instruments of the International Labour Organization, Montenegro undertook obligations with regard to the Convention No. 100 concerning equal remuneration for work of equal value and Convention No. 111 concerning prohibition of discrimination in relation to employment.

78. Data from the survey “Condition of Women’s Human Rights in Montenegro”<sup>6</sup> reveal that 35% of men and 68.6% of women claim that women are discriminated against in Montenegro. The majority of respondents from rural areas, in fact 47% of them, claim that there is no discrimination against women while 37.3% claim that there is. As to the population living in the cities, 52.5% claim that there is discrimination against women while 26.3% believe that it does not exist. There is a striking difference in responses regarding the understanding of equal position of women. Most men are convinced that there is equality – 38.9% claim that both sexes are equal, while such statement is confirmed by merely 10.9% of women.

## Article 2

79. As it had been already noted in the section of the Report concerning Article 1 of the Convention, the new Constitution of Montenegro was adopted after gaining independence representing a significant step forward since the discrimination and gender equality have been raised to the constitutional level. This met one of the requirements imposed by the Convention on Member States.

80. In addition, the laws that have been adopted and the draft laws that have been elaborated in the section concerning Article 1 of the Convention are another indicator that Montenegro has fulfilled its obligations to a certain extent in terms of adoption of legal regulations that govern the areas described in substantive provisions of the Convention.

81. Protection of rights and freedoms of women, which is exceptionally important matter with regard to fulfilment of obligations of Montenegro under the Convention, is prescribed at several levels. Thus women may protect their threatened or violated rights in court proceedings. Prosecution offices and regular courts are engaged in the protection of human rights, including the Constitutional Court of Montenegro which in addition to the procedure initiated upon the constitutional complaint also protects rights and freedoms during the review of constitutionality and legality of general legal regulations. In addition, there is an Ombudsman institution in Montenegro whose function is to protect human rights and freedoms guaranteed by the Constitution, law, ratified international treaties on human rights and generally accepted rules of international law in the event of violation caused by the regulation, act or omission of public authorities, local government bodies and public services and others exercising public powers. Under the Law on Gender Equality, the Ministry for Human and Minority Rights has been granted the power to handle complaints of citizens which relate to the discrimination based on sex (Articles 25 through 31), while the complaint may be lodged by any persons who believe that they have been discriminated against on the basis of sex (Article 26). Under the Labour Law, the employee and the job seeker may initiate proceedings before the competent court in the event of discrimination (Article 11). Family law prescribes that the court shall be competent to protect rights and interests of the child and other family members and to resolve disputes between family members (Article 14). Under the Law on Minority Rights and Freedoms the court shall, among others, ensure protection of minority rights (Article 37).

82. All the courts in Montenegro were asked if there had been any court proceedings in which parties to the proceedings made reference to the rights guaranteed under the Convention on the Elimination of All Forms of Discrimination against Women and we received the reply from those courts that filled in the questionnaire that there had been no cases of parties’ reference to the rights under the Convention.

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<sup>6</sup> Survey conducted by NGO “Anima” in cooperation with female students of Women’s Studies and women activists of the women’s non-governmental sector, 2007.

83. According to the Ombudsman's report from 2008, of the total number of complaints lodged to the Ombudsman institution (430) women lodged 121 or 28.14% of complaints. Women mostly complained of the performance of courts, that is, in 44 or 36.36% of cases, public services in 10 or 8.26% of cases, local government bodies in 7 or 5.78% of cases, prosecution office in 5 or 4.13% of cases, police in 4 or 3.30% of cases and other bodies in 19 or 15.70% of cases. As regards the areas of violated rights, women's complaints referred to the right of the child, labour right and right to work, property right and peaceful enjoyment of property, right to pension and disability insurance, housing right, right to dispose of property, right to healthy environment, right to health care and right to health insurance, right to citizenship, right to human dignity and equality before the law, right to legal protection, minority rights, right to free access to information etc. Of the total number of women's complaints, 89 or 73.55% have been processed while a number of complaints were beyond the competence of the Ombudsman. Of the total 430 complaints received in 2008, men lodged 271 or 63.02% of complaints to the Ombudsman. Men, like women, mostly complained of the performance of courts primarily because of delays in court proceedings, as well as the performance of public authorities, local government bodies, bodies of public services, prosecution offices and misdemeanour bodies. In the complaints they indicated that their rights had been violated by acts or omissions of public administration, primarily through "silence of administration", that is, the failure to act.<sup>7</sup>

84. On several occasions so far the Government mechanism for gender equality has received complaints and has been also addressed for legal advice. We hereby provide an example of the complaint lodged with the Gender Equality Office on the basis of the Law on Gender Equality. Namely, the woman applicant sought protection of the right regarding payment of the benefit during maternity leave. Acting upon the complaint, the Office addressed the Labour Inspection – Regional Office in Podgorica with the request for inspection control. After the control has been carried out, the Labour Inspection submitted findings and notified the Gender Equality Office of the measures that had been taken. Since lodging the complaint with the Ministry for Human and Minority Rights is a new institute in Montenegrin legislation and also having in mind that there have been few cases of lodging the complaints so far, it is necessary to continuously work on improvement of knowledge of women about their rights and the ways to exercise them.

85. Significant institutional mechanisms for the protection of women's rights are the Committee for Gender Equality of the Parliament of Montenegro established in 2001 and the Gender Equality Department in the Ministry for Human and Minority Rights (formerly the Gender Equality Office).

86. The Gender Equality Office was established by the Decision of the Government of Montenegro on 27 March 2003 and it operated within the Secretariat General of the Government until 1 May 2009 when it became the Department of the Ministry for Human and Minority Rights in charge of gender equality. The Department performs affairs in relation to application of the principle of gender equality and implementation of international conventions and treaties, regional cooperation and cooperation with non-governmental organisations. By all means, the work of this mechanism has been the most comprehensive and important in performance of gender equality related activities of the state so far. Significant activity is focused on raising general awareness on gender equality through organising various forms of education activities, campaigns and printing a series of publications.

87. In January 2009 the Gender Equality Office assisted by the United Nations Development Fund for Women (UNIFEM) prepared and published a study related to

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<sup>7</sup> 2008 Ombudsman report.

preparation of the Comment to the Law on Gender Equality, which is the only one of that kind so far. The comment included not only the Law on Gender Equality, even though it devoted largest space to it, but also the outline of international legal regulations on discrimination and particularly an outline of the regulations of Montenegro which either directly or indirectly govern that same matter.

88. We may refer to several strategic documents regarding activities undertaken by the state which, among other things, relate to the promotion and improvement of the position of women. Thus, in July 2007 the Government adopted Action Plan for the Achievement of Gender Equality for the period 2008–2012 (obligation prescribed by the Law on Gender Equality) which represents a development document for implementation of the gender equality policy. Gender equality is also elaborated in the framework of the National Programme for Integration of Montenegro into the EU, National Strategy for Sustainable Development, National Action Plan for Employment 2008–2009, Strategy for Preserving and Improvement of Reproductive Health, National HIV/AIDS Strategy, National Youth Action Plan and Individual Partnership Action Plan with NATO. Gender equality is also contained in the Action Plan for the Reform of Local Government and Action Plan for Fight against Trafficking in Human Beings.

89. Cooperation has been established with international organisations in order to implement obligations of Montenegro under the Convention as efficiently as possible. Thus, the Government mechanism for gender equality cooperates with the OSCE Mission to Montenegro, UN thematic group for gender equality, UNDP Office in Montenegro, UNHCR Office in Montenegro, Council of Europe Office in Montenegro, Foundation Open Society Institute in Montenegro, Dutch Development Agency (SNV), Austrian Development Agency, Regional Centre for Gender Equality, UNIFEM Office in Belgrade, Konrad Adenauer Foundation and Eduardo Frei Foundation. In addition, cooperation was established with academic institutions, primarily the Faculty of Political Sciences, Faculty of Law and the “Mediteran” University.

90. Under the Law on Gender Equality all ministries and administrative bodies have appointed employees to perform the tasks of coordinators of activities regarding gender equality within their competence and to participate in preparation and implementation of the Action Plan. The Gender Equality Department regularly cooperates with the above mentioned coordinators in gender mainstreaming of Government policies.

91. In addition to the two national gender equality mechanisms (in the Parliament and the Government of Montenegro), the local gender equality mechanisms are also being established in ten municipalities that signed the Memorandum of Understanding with the Government (Nikšić, Bijelo Polje, Pljevlja, Berane, Cetinje, Kotor, Budva, Bar, Herceg Novi and Ulcinj). Persons trained to implement gender equality principles in the local community are employed in these municipalities, while commissions/councils for gender equality operate in municipal assemblies. At the moment, local action plans are in the development stage with the aim of achieving gender equality in mentioned municipalities.

92. One of the segments of the vocational training programme for civil servants and state employees implemented by Human Resources Management Authority is introduction of the gender equality principle in practice. The programme aims to introduce basic principles of gender equality and implementation of the Law on Gender Equality, as well as to provide guidelines for introduction of gender equality principle in practice. The programme has been implemented since 2007. In addition to the above mentioned programme, since its establishment the Government mechanism for gender equality has organized training for civil servants and state employees on various aspects of gender equality.

93. Training of the Human Resources Management Authority in 2009 included 44% of male lecturers and 41% of female lecturers, while there were 62% of male trainees and 38% of female trainees.<sup>8</sup>

94. All job vacancies and public announcements published by the Human Resources Management Authority are written in gender sensitive language. In addition, all rulebooks on internal organisation and job descriptions of the ministries and other administrative bodies are written in gender sensitive language.

### **Article 3**

95. Formally and legally, women and men have equal access to legal and political processes, social services, health and medical care, education, programmes for literacy development, employment, property ownership and social welfare services. That is also confirmed by provisions of the laws in the section which gives comment to Article 1 of the Convention. It may be concluded therefore that the existing laws provide for the full development and emancipation of women and the same may be said for the principles proclaimed by the Constitution.

96. Practice reveals that generally women are less represented in politics which is perhaps the greatest obstacle to the exercise of women's rights as they are not able to participate in decision-making processes. This may be substantiated by the data on the number of councillors and MPs in municipal assemblies and the Parliament of Montenegro respectively. More details on this will be elaborated in Article 7. On the other hand, the number of women employed in some institutions and public authorities is far greater than the number of men employed therein and frequently there is far greater number of women employed on very important positions.

97. The Action Plans mentioned within the section on the second Article of the Convention are one of responses of the state to improve the position of women in Montenegro. In addition, there are several institutional mechanisms in Montenegro which either directly or indirectly should have impact on the change of the position of women in Montenegro.

98. Institutional mechanisms which are expected to contribute the most to the improvement of the position of women are certainly the Ombudsman, the Committee for Gender Equality of the Parliament and the Ministry for Human and Minority Rights. The Ombudsman performs such a role through the regular activity of the protection of rights and freedoms of those who believe that their rights have been violated by a regulation, act or omission of an authority. The Committee for Gender Equality of the present 24<sup>th</sup> Parliament of Montenegro advocates for gender mainstreaming of laws in parliamentary procedure. As regards institutional mechanisms, we might also mention the Office against Trafficking in Human Beings which exists in Montenegro since 2001.

99. The Gender Equality Office organized a series of activities independently or in cooperation with domestic non-governmental or international organisations, of which the following are of particular relevance: regional conference on "Gender Equality as a Segment of Human Rights of the New Montenegrin Society" in November 2006; conference dedicated to the "Role of the Woman in Politics and Decision Making Processes – Legislative Framework" in March 2007; educational programmes on gender equality for civil servants and local government; trainings for women from political parties; seminar for MPs of Montenegro and employees in the technical service of the Parliament on

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<sup>8</sup> Data of the Human Resources Management Authority, October 2009.

“Responsibility for the Respect of Human Rights”, conference on “Women on the Labour Market – Gender Perspective of the Labour Law” in July 2008; lecture for judges and associates of the Constitutional Court on “Legislative Framework of Gender Equality in Montenegro”, campaign against the violence against women, campaign on the importance of achieving gender equality as well as many other activities.

100. A number of non-governmental organisations active in Montenegro considerably contribute with their projects to awareness raising about the need to respect women and their rights. Thus, the NGO “Anima” from Kotor is engaged in education and culture from the perspective of gender equality as well as in non-violence policy; the NGO “Women’s Action” and the NGO “The League of Women Voters”, the NGO “Women’s Forum”, the NGO “Women’s Group Stella” and the NGO “Montenegrin Women’s Lobby” are engaged in political empowerment of women; the NGO “Women’s Action” is engaged in education of women journalists about gender equality, the NGO “Women’s Action” and the NGO “Women’s Alliance for Development” are engaged in economic empowerment of women and promotion of labour rights of women; the NGO “SOS Nikšić for Women and Children Victims of Violence” is engaged in addressing the needs of women from the rural areas and Roma women; the NGO “Nova” is engaged in feminist culture; the NGO “Women’s Safe House”, the NGO “SOS Nikšić”, the NGO “SOS Podgorica”, the NGO “SOS Bar”, the NGO “SOS Berane” and SOS “Rožaje” are engaged in activities in the area of suppression of violence against women and children; the NGO “Montenegrin Women’s Lobby” is engaged in activities in the area of fight against trafficking in human beings; the NGO “The House of Hope” is engaged in addressing the needs of single mothers; the NGO “Bona Fide” is engaged in development of gender equality at the local level and fight against violence against women; the NGO “Women for Better Tomorrow” and the NGO “Viva Vita” are engaged in women’s human rights; the NGO “Centre for Roma Initiatives” and newly established informal network of RAE women deal with the position of Roma women in Montenegro; lastly, the NGO “Paraplegic Association of Montenegro” deals with position of women with disabilities. In addition to the above mentioned women’s non-governmental organisations in Montenegro, there is a number of non-governmental organisations implementing activities on women’s empowerment and achievement of gender equality. The following ones are to be mentioned: Centre for Development of Non-Governmental Organisations, Centre for Civil Education, Centre for Monitoring, Centre for Democratic Transition, Nansen Dialogue Centre, Roma Scholarship Foundation, Women’s Government, Institute for Strategic Studies and Prognoses and Centre for Entrepreneurship and Economic Development. The Government mechanism for gender equality has cooperated with non-governmental organisations since its establishment in 2003 in various areas concerning gender equality, such as education, health, violence against women, media and culture, political and economic empowerment of women etc. It is worthwhile to note that the Action Plan for The Achievement of Gender Equality gender equality has been developed in cooperation with 11 non-governmental organisations. The Forum for Dialogue with Civil Society in the Area of Gender Equality was established in March 2009 in order to establish dialogue and system of efficient and direct transfer and exchange of information, views and perspective between the Government and civil society. The Forum convenes at least three times a year and organizes work by thematic groups which are in compliance with the Action Plan for the Achievement of Gender Equality. Logistic and financial support to the meetings is provided by the Gender Equality Department of the Ministry for Human and Minority Rights.

101. The parliamentary commission for allocation of funds to non-governmental organisations allocated EUR 286,174.00 for projects of non-governmental organisations in 2006, of which EUR 11,000.00 or 3.88% were committed to women’s non-governmental organisations. Of the total amount of EUR 283,675.00 in 2007, the amount of 8.700,00 or 3.07% was committed to women’s non-governmental organisations.

102. For several years now the University of Montenegro has implemented a project in cooperation with the University in Oslo on introduction of gender studies in the curricula. A series of workshops, seminars and research projects has been organized at the Faculty of Philosophy under the project with the basic aim of better understanding and expanding knowledge on gender relations between the University professors and students on the Western Balkans. The school “Gender Studies” was organized at the Mediterranean University in March 2009 with assistance of the Gender Equality Office and in cooperation with the UNDP Office in Podgorica. Private university UDG also launched implementation of women’s studies in the framework of postgraduate Master studies. The NGO “Anima” has been implementing the programme “Women’s Studies” since 2002 in order to develop women’s self-awareness and feminist theory and to encourage active involvement of women in public life.

#### **Article 4**

103. As it has been already mentioned in the section of the report on Articles 1–3 of the Convention, the laws in Montenegro do not place women at a disadvantage compared to men.

104. Official policy which is focused on accelerating equality between women and men is envisaged in the Action Plan for the Achievement of Gender Equality for the period 2008–2012 defining priority areas of action in the mentioned period as follows: European integration, education, health, violence against women, economy and sustainable development, politics and decision making, media and culture and institutional mechanisms for creation and implementation of the gender equality policies. The Law on Gender Equality prescribes special measures for ensuring and promoting gender equality. By making reference to the provisions of the Law on Gender Equality, the Ministry for Human and Minority Rights, the Gender Equality Committee of the Parliament and the municipality of Bar in November 2009 addressed the Working Group for amendments to the electoral legislation with the initiative to introduce quotas (of 30%) for less represented sex in electoral legislation.

105. Article 9 of the Labour Law defines a positive measure where paragraph 2 specifies that provisions of laws, collective agreements and employment agreements concerning special protection and assistance to certain categories of employees, and particularly those concerning the protection of persons with disabilities, women during pregnancy and maternity leave and absence from work for the purpose of care for the child or special care for the child, as well as provisions concerning special rights of the parent, adoptive parent, guardian and foster parent shall not be considered discrimination.

106. In terms of special measures for the achievement of the equality between men and women, the survey “Condition of Women’s Human Rights in Montenegro”<sup>9</sup> revealed that the highest percentage of women believes that the most important special measure for achievement of gender equality is introduction of payment and valuation of women’s work at home (33.3% of women and only 19.2% of men). Major percentage of men (28.8%) selects the measure – an advantage to be granted to the women or men in jobs with traditional division to “male” and “female” occupations. Men at the age of 25–35 (32.4%) select “special incentive to the fathers to occupy themselves with children” as an important measure.

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<sup>9</sup> The survey was conducted by NGO “Anima” in cooperation with female students of Women` Studies and women activists of women’s non-governmental sector, 2007.



## Article 5

107. According to the 2003 population census<sup>10</sup> in Montenegro there is a total of 162,153 families, 100,929 in urban areas and 61,224 in rural areas. There is the total of 30,456 spouses without children, 105,123 with children, 21,272 mothers with children and 5,302 fathers with children.

108. There were 3,462 marriages entered in 2006, 4,005 in 2007 and 3,445 in 2008, whereas there were 470 divorced marriages in 2006, 453 in 2007 and 460 in 2008.<sup>11</sup>

109. Montenegro still preserves and cherishes traditional division of domestic tasks and duties between sexes. Therefore, women still perform most of the domestic duties, which means that they are two times more burdened since they are also formally employed.

110. The survey “Gender Barometer – the Quality of Life of Men and Women”<sup>12</sup> revealed that men and women on average spend most of their time on formal employment, but men somewhat more than women since they are more often employed. On average, men spend very much time on socialising and recreation. Collectively, they spend more time on socialising and recreation than on formal employment. The only activity where women spend more time than men is performance of domestic duties on which women spend on average 3.6 hours per day. If all the activities that may be considered “work” are summed up then women work on average 8.2 hours per day and men 6.6 hours which means that women work 20% more than men do. At the same time, they contribute to the house budget in reverse proportion precisely because they perform works without being paid for it. Over two thirds of women and men accept the view “that every good family has to know who the head of the family is.” The view that every woman should be a good housewife is supported by 67% of men and 63% of women.

111. The Institute for Textbooks and Teaching Aids of Montenegro is launching a new series of textbooks while the textbooks designed for the nine year elementary school take care of gender sensitive language. In order to suppress gender stereotypes in the curricula, the Institute for Textbooks hired an expert commission that reacted in this area.

112. Civic education was introduced as a new, mandatory subject for the sixth and the seventh grade of elementary school. Gender equality and domestic violence are taught within this subject. Civic education is also taught from the first to the fourth grade as mandatory subject in high school. Around 1000 students in 19 out of 23 high schools decided to attend classes of civic education in the school year 2006/2007. Topics regarding gender equality are the following ones: Political Systems of My Country (which includes optional topic the Position and Gender Equality in Montenegro in Working and Local Environment); Tradition and Culture (operational goals – gender equality); Healthy Life Styles (operational goals – students should be introduced with and understand basic differences in relations between sexes in adolescence, social impact on sexual behaviour, transformation of manhood); Human Rights — Universal — Standards and Protection (optional topic: Feminism); Occupation, Profession and Gender (Gender equality – Discrimination in the Field of Gender); Position of the Woman and Gender Equality in Montenegro/Working/Local Environment – survey; Gender Equality – Discrimination in the Field of Labour (optional topic).

113. In August 2009 the Ministry of Health of Montenegro in cooperation with the UNICEF Office in Podgorica launched a three month campaign “First Years of Life – a

<sup>10</sup> Statistical Office of Montenegro.

<sup>11</sup> Ibid.

<sup>12</sup> The survey conducted for the Gender Equality Office by the Agency Altera MB, 2007.

Chance for Entire Life". The campaign aimed to raise awareness of parents and the public in Montenegro on the importance of breastfeeding, benefits of active involvement of fathers in upbringing of children, as well as the positive discipline of children, alternatives and physical punishment. In order to organize the campaign the survey was conducted on views and practice of parents of children below six years of age in Montenegro. According to the survey, 88% of persons taking care of the child are mothers, 9% are fathers, 2% are grandmothers, while the other guardians are represented in smaller percentage. A total of 92% of parents/guardians believe that involvement of the father in children's upbringing is important and as many as 82% believe it to be very important. The survey data reveal that only seven percent of fathers are involved in children's upbringing with regard to the first moral principles. Although the mother most frequently appears also in the role of the one who punishes children (70%), an increasing number of fathers (21%) also assume this role. In Roma families fathers are the ones who punish more frequently, in 39% of cases. Fathers participate significantly less in educational activities, but they spend much more time watching television with their children. When the parent/guardian has to leave the house for longer period of time, a greater number of them leave the child with the other parent (31%) or grandmothers or grandfathers (27%). Children in Roma families are frequently left with other adult relatives (8%), but there was also the answer that they leave children with brothers and sisters who are below 10 years of age (7%) which was almost not the case with general population. Persons taking care of children in Roma settlements considerably less observe the role of the father in upbringing of the child – merely two thirds believe his role to be important.<sup>13</sup>

114. Non-governmental organisations and institutional mechanisms for gender equality have worked on education of different target groups in the past decade (parties, media, civil servants and local government employees, trade unions, labour inspectors, judges etc.) and the general public about gender equality and elimination of stereotypes. Therefore, a number of seminars/workshops/trainings was organized in this field giving considerable contribution to the promotion of women's position in Montenegro and awareness raising about the need to mainstream gender perspective in all developments in the society.

115. Building upon the Constitution of Montenegro which lays down that everyone shall be entitled to the freedom of expression, the Montenegrin media laws (Law on Media, Law on Broadcasting, Law on Public Broadcasting Services of Montenegro) regulate this fundamental human right in more details.

116. The Law on Media prohibits publishing of information and opinions which promote discrimination, hatred or violence against a person or group of persons for their belonging or non-belonging to a race, religion, nation, ethnic group, sex or sexual orientation.

117. The Law on Broadcasting governs broadcasting and operation of electronic media as a specific form of exercise of the right to the freedom of expression based on the principles of freedom, professionalism and independence of electronic media, prohibition of any form of censorship or unlawful interference in their work, development of competition and pluralism in the field of broadcasting, objectivity, non-discrimination and public licensing procedure and other matters in the field of promotion of human rights and freedoms. In addition, Article 95 paragraph 3 of this Law prescribes obligation of the broadcaster to produce and broadcast programmes intended for all segments of the society without any discrimination and with particular regard to specific social groups such as children and the youth, minority ethnic groups, the disabled, those vulnerable in terms of social position and health etc.

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<sup>13</sup> The survey was conducted for UNICEF by Strategic Marketing Research, June 2009.

118. Decision on the minimum broadcast standards in electronic media in Montenegro prescribes that programmes and their parts must be based on the respect for dignity and fundamental human rights and also stipulates that they, among other things, may not broadcast programmes which may obviously cause damage to the physical, mental or moral development of children and other vulnerable social groups.

119. Article 2 of the Law on Public Broadcasting Services “Radio of Montenegro” and “Television of Montenegro” prescribes that broadcasting services are engaged in production and broadcasting of programmes which meet public interest needs of all segments of the society in the field of informing regardless of their political, religious, racial or sexual affiliation and provide diverse informative services in a quality and timely manner. The basic mission of the Public Broadcaster “Radio and Television of Montenegro” (Radio televizija Crne Gore – RTCG) is contained in Article 9 of this Law which lays down the following: RTCG shall produce and broadcast programmes by applying high standards of professional ethics and quality without any form of discrimination or social differentiation. In addition and in compliance with this Law, transparent and participative process of decision making of RTCG bodies shall be ensured by participation of the representatives of civil society in the work of the Council. Two candidates for the Council members of total 9 are nominated by non-governmental organisations from the field of the protection of human rights and freedoms engaged in the exercise and protection of: national, gender and overall equality, right to healthy environment; consumer rights; rights of persons with disabilities or rights to education and social care (Article 28 of the Law on Public Broadcasting Services).

120. The Code of Journalists of Montenegro signed by representatives of all relevant journalism associations in Montenegro on 21 May 2002 specifies 12 fundamental principles to be followed by a journalist. Principle 5 states that “race, religion, nationality, ethnic affiliation, sexual orientation and family status of a person shall be mentioned by the journalist only if so needed for the purpose of informing.” Guidelines for Implementation and Interpretation of Principle 5 of the Code state, among other things, that media may not publish material whose purpose is to disseminate hostility or hatred against people because of their race, ethnic background, nationality, sex, physical disabilities, religion or political affiliation.

121. The Law on Gender Equality prescribes the obligation of the media to promote gender equality in their programme concept. The media in Montenegro devote attention to gender equality. There is noticeable increase in coverage in print and electronic media on domestic violence and measures taken to protect women and children victims of violence. During the campaign “Sixteen Days against Violence against Women” the media are particularly willing to prepare coverage on the violence against women and domestic violence and to broadcast videos on television and radio jingles free of charge in support of the campaign. However, it is evident that both men journalists and women journalists are not sufficiently sensitive to gender equality and that media programmes frequently transmit patriarchal gender roles which restrict women to the private sphere only. It is also necessary to further work on the use of gender sensitive language in media since it is not yet fully used even though there is a good example of certain media using it continuously.

122. The Ministry of Culture, Sports and Media announces the annual competition for programmes and projects in media and media publishing activity in which the project “Gender Stereotypes and Media Culture” was approved in the framework of the theme Culture and Theory of Media.

123. The Criminal Code of Montenegro (Article 220) prescribes sanction for the criminal offence of domestic violence and violence in family community (“anyone who by use of violence and rude and inconsiderate conduct endangers tranquillity, physical or mental integrity of a member of his/her family or family community). In addition, the Government

of Montenegro approved a draft Law on Protection against Domestic Violence which prescribes the manner of protecting family members and other matters of relevance for the protection against family violence. The important innovation of this Law is urgent intervention.

124. The Police Directorate of Montenegro attaches particular attention to the victims of domestic violence and for that purpose it undertakes a series of actions to provide them an adequate assistance and support, to protect them and take all necessary measures to suppress violence. The rulebook on job descriptions, which has been implemented since 2007 has for the first time in regional offices of the Police Directorate, designed positions for police officers and police sergeants responsible for suppression of domestic violence.

125. The Special Post for the Suppression of the Criminal Offences of Domestic Violence has been set up in the Branch for the Suppression of Offences against Body and Life in the regional office in Podgorica in which three employees are hired to deal with this matter only. The Rulebook mentioned above also prescribes conditions to be met by police officers hired to perform these tasks as follows: university degree with minimum three years of working experience or college degree with eight years of working experience.

126. In addition to the efforts to specialize officers for criminal offences of domestic violence, through partnership cooperation with the Police Academy in Danilovgrad and non-governmental organisations (SOS Hotline among others) and aiming to provide education and raise awareness of police officers about the problems and consequences of domestic violence and the importance of preventive action and more efficient sanctioning of offenders, the Police Directorate supported a series of activities that had been launched by women activists from these organisations such as:

- Educational three-part seminars on domestic violence that have so far been attended by 238 officers of the Police Directorate, including managing structures
- Three-day seminars on building inter-professional cooperation and joint action (of the Police Directorate, Social Welfare Centre and the court, health institutions, local government and NGO) that have so far been attended by 67 officers
- Three-day education on domestic violence attended by 98 students (secondary school alumni of the Secondary Police School in Danilovgrad)
- Lectures and workshops for 125 employees of the police organized at the Police Academy in Danilovgrad

127. In 2007 the “SOS Hotline for Women and Children Victims of Violence” – Podgorica in partnership with the Gender Equality Office and Ombudsman organized the regional conference on “Institutional Mechanisms for the Protection against Domestic Violence and their Application”. The conference gathered 50 representatives of the police, judiciary, Ombudsman office and NGOs in Montenegro, Serbia, Vojvodina, Kosovo, Bosnia, Croatia, Macedonia and Slovenia. The aim of the conference was to share experience in the field of positive practice and legislation governing protection against domestic violence. After closure of the conference the publication on information and results of the conference was published (speeches, comments, recommendations and conclusions).

128. The Memorandum of Understanding and Mandatory Joint Action was signed between the Police Directorate, Social Welfare Centre, Basic Court, local government, health care centres and SOS Hotline in the municipalities of Podgorica, Bijelo Polje, Ulcinj and Nikšić with the aim of developing necessary inter-professional cooperation in the field of domestic violence. When referring to the presence of domestic violence in Montenegro one may conclude that it is much more widespread than it is reported or presented in official statistics.

129. In 2006, a total of 511 criminal offences of domestic violence and violence in family community were reported. A total of 499 criminal charges against 514 persons were filed to the competent prosecutors. Men accounted for 95% of cases, of whom 187 or 36.4% were recidivists. A total of 571 persons were victims of domestic violence, of whom 78% were women. Juveniles were recorded as victims of domestic violence in 53 cases, of which 50% of cases referred to the children below 14 years of age. In 2007, a total of 565 criminal offences of domestic violence and violence in family community were reported, which constitutes 10.5% increase compared to the previous year. A total of 556 criminal charges against 580 persons were filed to the competent prosecutors. Men accounted for 95% of cases, of whom 255 or 44% were recidivists. There were 676 victims of domestic violence of whom 493 or 72.90% were women. Juveniles were recorded as victims of domestic violence in 55 cases, of which 72% of cases included children below 14 years of age. In 2008, total of 507 (565) of criminal offences of domestic violence and violence in family community were reported, which constitutes 10.3% decrease compared to the previous year. A total of 503 criminal charges against 520 persons were filed to the competent prosecutors, where men accounted for 94%, of whom 212 or 40.80% were recidivists. There were 561 victims of domestic violence and violence in family community of whom 454 or 81% accounted for women. Juveniles were recorded in 47 cases as victims of domestic violence of which there were 25.5% of cases of children – juveniles below fourteen years of age. From January until November 2009 a total of 395 criminal offences of domestic violence and violence in family community were reported. A total of 394 charges against 406 persons were filed to the competent prosecutors. Of the total number of processed cases, 95% accounted for men of whom 144 were recidivists, while out of 429 victims of violence, 359 account for women.<sup>14</sup>

130. The number of women victims of violence recorded in the Social Welfare Centre in 2007 amounts 157, of that number 33 women are employed while 124 women are unemployed. The following is data on marital status and education of recorded victims.

<i>Marital status</i>				
<i>Age</i>	<i>Married</i>	<i>Common-law marriage</i>	<i>Divorced</i>	<i>Other</i>
18–35	55	17	9	
35–50	46	6	11	1
Over 50	9	1	2	

  

<i>Education</i>			
<i>Age</i>	<i>Elementary school</i>	<i>Secondary school</i>	<i>University</i>
18–35	29	41	9
35–50	34	27	5
Over 50	10	2	

131. The number of women victims of violence recorded in the Social Welfare Centre in 2008 amounts to 177, of that number 41 women are employed, while 136 women are unemployed. The following is data on marital status and education of recorded victims:

<sup>14</sup> Data of the Police Directorate.

<i>Age</i>	<i>Marital status</i>			
	<i>Married</i>	<i>Common law marriage</i>	<i>Divorced</i>	<i>Other</i>
18–35	55	22	11	
35–50	57	5	14	1
Over 50	9	1	2	

  

<i>Age</i>	<i>Education</i>		
	<i>Elementary school</i>	<i>Secondary school</i>	<i>University</i>
18–35	42	45	5
35–50	38	28	5
Over 50	11	3	

132. According to the data of the Supreme State Prosecutor's Office about the number of charges for certain criminal offences under the Criminal Code, there have been 1021 charges under Article 220 "Domestic Violence and Violence in Family Community" since Montenegro became independent.

133. Data from the survey "Gender Equality and Health of Women in Montenegro"<sup>15</sup> reveal that violence of men against women who are their partners is quite present threatening their health. Out of 614 women surveyed, 565 or 92% of women had a husband or partner. A total of 372 or 65.80% of women with experience in marriage or partnership were exposed to some forms of violence originating from their husband or partner. A total of 43.9% of women regardless of their education experienced insults or something similar from their husband/partner that made them feel bad. There is highly statistically relevant correlation between employment and insults from the husband. In fact, 55.6% of housewives and 46.2% of unemployed women experienced insults from their husbands, but that happens considerably less frequently to financially independent women, employees and clerks, equalling 34.3%, and retired women, equalling 28%. A husband or partner slapped or hit 26.1% of women by using something. The employment status and education of women are highly correlated with the presence of this type of violence. Slaps and hits were experienced by 37.4% of housewives, but that happened considerably less to employed women and clerks, equalling 19.1%, that is, 42.1% of women with elementary school education and 9.3% of women with university education. A husband pushed or shoved 23.4% of women. A husband pulled by the hair and beat 7.6% of women, of whom every fifth completed elementary school and 9.3% of women completed university education. A husband threatened 3.4% of women with a weapon. A husband forced 6.6% of women to sexual intercourse against their will, while he physically attacked 4.5% of pregnant women during pregnancy. Abused women most frequently suffer violence of their husband without seeking help from anybody. Rarely do they seek help from their family members or institutions. As a result of violence of their husband, 13.6% of women from urban areas and merely 2.3% of women from rural settlements seek help from the police. Reasons for not seeking help and support to end violence of the husband are different. Most frequently the abused women themselves do not know why they are not seeking help and support, often it happens because of fear, shame or care for the children. In the escalation of violence, 44%

<sup>15</sup> Survey of the Senior Lecturer Dr. Jelena Radulović was conducted within the project "Gender, Violence and Democracy on the Western Balkans" implemented by the Centre for Gender Research at the University of Oslo and Faculty of Philosophy of the University of Montenegro, 2007.

left their homes at least for one night. It was done once by 27.5% of women and several times by 16.5% of women.

134. Since its establishment, the Government mechanism for gender equality has marked the campaign “Sixteen Days of Activism against Violence against Women” every year in cooperation with non-governmental and international organisations. The Gender Equality Office, the Organization for Security and Co-operation in Europe (OSCE) Mission to Montenegro, the Foundation Open Society Institute Representative Office in Montenegro (FOSI ROM) and the United Nations team for Montenegro (UNCT) for the first time jointly organized the campaign in 2008. This campaign was different from the previous ones because it invited men to get involved in the resolution of the problem by teaching future generations that violence is not the right way. The target group of this campaign are men — like fathers, coaches, teachers, uncles, brothers and mentors — who spend time with pre-teenage and teenage boys. The campaign was supported by the Water polo and Swimming Federation, the Basketball Federation, the Volleyball Federation and the Football Association of Montenegro that displayed slogans in space for advertisements and on banners during the games saying “To Be Strong Does Not Mean To Be Violent”, “Domestic Violence Is Not Fair Play” and “You Are On The Move”. Players wore t-shirts with the same slogans during the games. In addition, videos on television and radio jingles were broadcasted during the campaign conveying the same messages, billboards were set up in all municipalities in Montenegro, posters were distributed in various educational and health institutions in Montenegro and broadcasts were organized on public and private television to discuss this topic.

135. The non-governmental organisations “SOS Hotline for Women and Children Victims of Violence” have been active in Montenegro for more than a decade providing legal and psychological assistance to women victims of violence and keeping records on the number of phone calls from citizens. In January 2009, the “SOS Hotline” in Nikšić set up the Crisis Centre for Women where it provides accommodation to women victims of violence, as well as the legal assistance, psychological and health care and organizes a twenty-four hour phone line to help victims in crisis. The Gender Equality Department has established cooperation with SOS hotlines, particularly with “SOS Podgorica” and “SOS Nikšić”, with which a set of joint projects has been implemented in terms of organisation of seminars and conferences, development of studies and reports on violence against women in Montenegro and the region. These organisations also significantly contributed to development of the Action Plan for the Achievement of Gender Equality in Montenegro, that is, its segment concerning violence against women. There is one shelter for women and children victims of violence in Montenegro run by the non-governmental organisation “Women’s Safe House” since 1999. In addition to this shelter there is also the shelter for single mothers and unmarried mothers who are juvenile run by the NGO “The House of Hope” since 2009.

## Article 6

136. The criminal offence of trafficking in human beings (Article 444 of the Criminal Code of Montenegro ) was for the first time regulated in the Criminal Law of Montenegro (Official Gazette of the Republic of Montenegro 70/03, 13/04 and 47/06). Through this basic form of criminal offence, a wide range of actions has been defined as those treated as criminal offences of trafficking in human beings if they are performed for the purpose of forced labour, bringing into the position of servant, performance of criminal activity, prostitution or begging, use for pornography purposes and deprivation of a part of the body for transplantation or use in armed conflicts. The manners of commission of this criminal offence have also been determined including force or threat, misleading and keeping misled and abuse of trust. The Criminal Code also prescribes special forms of this criminal offence

if has been committed in relation to a juvenile, if grievous bodily injury was inflicted on a person during the commission or if the death of a person has occurred or if the offence has been committed in organized manner. The same group of criminal offences also prescribes the offences “Trafficking in Children for Adoption” and “Submission to Slavery and Transportation of Enslaved Persons”.

137. The definition of the criminal offence of trafficking in human beings from Article 444 is taken over from the Palermo Protocol. We underline that if the criminal offence of trafficking in human beings and criminal offence of enslavement and transportation of enslaved persons has been committed on a juvenile such as act is considered an aggravating circumstance. Montenegrin legislation is thus harmonized with relevant international instruments in this field. The Criminal Code foresees a wide range of criminal offences which the injured party may refer to additionally if the offender committed several criminal offences with one action or more actions (concurrence of criminal offences), for instance trafficking in human beings and illegal border crossing. In such a case, the court will first determine penalties for each of those offences and impose a single judgment in accordance with Article 48 of the Criminal Code. Furthermore, if it is impossible to prove necessary elements of the essence of a criminal offence of trafficking in human beings, the offender may be prosecuted for one or several relevant criminal offences (for instance, falsification of official documents and bribe giving).

138. Other laws and secondary legislation regulating trafficking in human beings in Montenegro are as follows: Criminal Code, Criminal Procedure Code, Law on State Prosecutor, Law on Witness Protection, Law on Police, Law on the Agency for National Security, Law on Foreigners and Agreement of Mutual Understanding.

139. Having in mind the fact that Montenegro is a transit country for trafficking in human beings this phenomenon does not have the character of the occurrence, but may be observed only at the level of individual cases. Official statistics on the number of filed criminal charges, prosecutions and judgments for the period 2003–2009 clearly indicate that the existing legal regulations are efficiently applied. In the period from 2004 until 1 June 2009 the Police Directorate filed 15 criminal charges for the criminal offence of trafficking in human beings under Article 444 of the Criminal Code of Montenegro and 1 criminal charge for the criminal offence of trafficking in children for adoption under Article 445 of the Criminal Code of Montenegro. In the same period, state prosecutors filed indictments against 38 persons for the criminal offence of trafficking in human beings under Article 444 of the Criminal Code of Montenegro and filed indictments against 6 persons for the criminal offence of trafficking in children for adoption under Article 445 of the Criminal Code of Montenegro. In the same reporting period, the competent courts passed the total of 17 judgments against 44 persons.<sup>16</sup>

140. Prostitution is not legalized in Montenegro and is punishable as a misdemeanour. The competent departments in the Police Directorate operate efficiently to quite a good extent in terms of preventive detection of this issue. In any case, we cannot and must not believe that we as a society are so efficient that we are completely immune from the prostitution problem which is present in all countries, while existence of this phenomenon should not be denied. Solicitation of prostitution is illegal and defined in the Criminal Code: d) Solicitation of Prostitution, Article 210: “Anyone who instigates or incites another person to prostitution or participates in handing over a person to another person in view of prostitution or who by means of media and other similar means promotes or advertises prostitution, shall be punished by a fine or an imprisonment sentence not exceeding one

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<sup>16</sup> Government Office for the Fight against Trafficking in Human Beings, 2009.



year. Where an offence referred to in paragraph 1 of this Article was committed against a juvenile, the offender shall be punished by an imprisonment sentence of one to ten years.”

141. Having in mind frequent cause and effect relation between the criminal offence of trafficking in human beings and illegal state border crossing, the Office for the Fight against Trafficking in Human Beings, in cooperation with the Ministry of Interior, closely monitors illegal migration cases by processing data at the higher level. Illegal migrants and smugglers are accommodated in the Government Shelter for the Victims of Trafficking where they are provided all the necessary care, protection and assistance during their stay in Montenegro until completion of investigative actions.

142. In accordance with the Action Plan which effectuates the priorities stated in the National Strategy for Fight against Trafficking in Human Beings, a considerable number of training sessions has been designed and delivered to the staff at the Employment Office. On the other hand, the Government Office has excellent cooperation with the International Organization for Migration Office in Podgorica which employs an officer who with the assistance of the police monitors all advertisements of various employment services and controls their validity.

143. The Criminal Code of Montenegro which has been in force since April 2004 comprises a special group of criminal offences against sexual freedom, such as the criminal offences of “Pimping and Enabling Sexual Intercourse, “Solicitation of Prostitution” and “Display of Pornographic Material”.

144. As it has been mentioned, Montenegro is mainly a transit country for the victims of trafficking in human beings. In that regard we believe that cooperation needs to be reinforced with the countries recognized as countries of origin as well as those recognized as countries of final destination. Having in mind predominant international nature of the criminal offence of trafficking in human beings, the fight against this phenomenon may be efficient only if countries of origin and countries of final destination join their forces together.

145. Given that Montenegro is a tourist country, many preventive actions have been undertaken in order to avoid occurrence of sexual tourism. Over 200 hotels, travel agencies and transportation companies signed the “Code of Conduct for the Protection of Juveniles against Sexual Exploitation in Travels and Tourism” in the period from 2006 until today whereby they undertook to implement the following principles: 1) adopt common ethical principles in fight against commercial sexual exploitation of children; 2) train staff in the countries of origin and tourist destinations; 3) incorporate clauses in contracts with suppliers which contain usual statement of refusal of sexual exploitation of children; 4) provide information to travellers through catalogues, brochures, movies during summer time, passenger tickets, web pages etc. In addition, trainings are continuously organized for the staff that are able to perceive by nature of their job some kinds of atypical behaviour that would signal trafficking or sexual exploitation in terms of how to proceed in such situations and how to recognize them.

## **Article 7**

146. The electoral right is general and universal and exercised at elections. Article 45 of the Constitution guarantees the electoral right to every citizen of Montenegro of 18 years of age and above and with at least two years of residence in Montenegro. In addition to the criteria laid down by the Constitution, Article 11 of the Law on the Election of MPs and Councillors also prescribes business capacity of the citizens of Montenegro. Formally and legally, electoral right is not restricted by literacy and property status.

147. Under the Law on Gender Equality, and in the scope of their competences the Parliament of Montenegro and the Government of Montenegro will apply gender equality principles and particularly the principle of gender balanced representation during elections and appointment to certain positions, establishment of working bodies and determination of the composition of official delegations. Article 12 of the Law prescribes that political parties, in their regulations, determine the methods and measures for the achievement of gender balanced representation of women and men within the bodies of the party, on the candidate lists for the election of MPs and councilors, in elected clubs of MPs and councilors and in election for management positions at all levels.

148. The Action Plan for the Achievement of Gender Equality (APAGE) elaborates in detail the activities to be undertaken in order to reinforce involvement of women in life of Montenegrin society, series of strategic goals has been defined as well as the tools for their achievement, strategic partners have been also recognized.

149. Data on participation of women in organisational structures of political parties reveal the low level of representation of women in their work as well as their weak representation on high positions which include decision-making. Data on participation of women in organisational structure of parties was collected by the Gender Equality Department, 2009. Data covers all the political parties, except the Democratic Union and the Albanian Coalition Perspective:

	<i>Presidency</i>		<i>Head committee</i>		<i>Executive committee</i>		<i>Club of MPs</i>	
	<i>Total</i>	<i>Women</i>	<i>Total</i>	<i>Women</i>	<i>Total</i>	<i>Women</i>	<i>Total</i>	<i>Women</i>
Democratic Party of Socialists	<b>16</b>	1	<b>139</b>	24	<b>10</b>	1	<b>34</b>	4
Social Democratic Party	<b>14</b>	2	<b>82</b>	11	<b>6</b>	1	<b>7</b>	1
Social People's Party	-	-	<b>107</b>	9	<b>36</b>	3	<b>16</b>	3
New Serbian Democracy	<b>9</b>	-	<b>181</b>	18	<b>21</b>	-	<b>8</b>	-
Movement for Changes	<b>20</b>	2	<b>85</b>	19	-	-	<b>5</b>	1
Democratic Union of Albanians	<b>10</b>	2	<b>30</b>	5	-	-	<b>1</b>	-
New Democratic Force – Forca	-	-	<b>19</b>	3	-	-	<b>1</b>	-
Bosniak Party	<b>15</b>	1	<b>65</b>	3	<b>5</b>	0	<b>3</b>	0
Croatian Civil Initiative	<b>9</b>	1	<b>16</b>	1	-	-	<b>1</b>	1

150. As to the parliamentary parties, there is only one woman in one party performing the function of the President of the party (Croatian Civil Initiative), while a woman performs the function of the Vice-President of the party in the Movement for Changes.

151. Programs of political parties do not contain specific measures for increase of the number of women in responsible positions that involve decision-making, although the majority of parties in their Statutes indicate promotion of gender equality as one of their fundamental goals. The Law on Political Parties stipulates that the Statutes of parties should include a way to ensure affirmative action to achieve gender equality in the procedure of appointment of the bodies of the party.

152. The parliamentary elections held on 31 March 2009 demonstrate the trend of decline in participation of women on parties' electoral lists. Percentage of women on electoral lists, Parliamentary elections 2009, data collected by the Gender Equality Department:

<i>Title of Party/coalition</i>	<i>Total number</i>	<i>Women candidates</i>	<i>%</i>
Coalition "European Montenegro – Milo Đukanović"	<b>81</b>	12	15%
Socialist People's Party	<b>81</b>	15	18%
Movement for Changes — We Can Do It — Nebojša Medojević	<b>81</b>	18	22%
New Serb Democracy – Andrija Mandić	<b>81</b>	8	10%
People's Coalition NS i DSS Voice of the People	<b>81</b>	17	21%
LP and DC – For Different Montenegro-Dr. Goran Batrićević	<b>80</b>	16	20%
Serb National List – Rights for Serb	<b>81</b>	8	10%
Party of Pensioners and Disabled People of Montenegro	<b>66</b>	1	1.5%
OSS "For True Serbs"-Senior Lecturer Dr. Aleksandar Stamatović	<b>60</b>	8	13%
Coalition "Bosniaks and Muslims-Together, One"	<b>55</b>	14	25%
FORCA – Nazif Cungu	<b>27</b>	4%	15%
Democratic Union of Albanians	<b>31</b>	4	13%
Montenegrin Communists	<b>60</b>	5	8%
Albanian Coalition- Perspective	<b>27</b>	4	15%
Albanian list-Democratic Union Albanian Alternative	<b>36</b>	4	11%
<b>Total</b>	<b>929</b>	<b>138</b>	<b>15%</b>

153. In the last parliamentary elections, out of total number of registered voters equalling 498,825 (80.44% of the total population) there were 250,165 women which accounts for 50.15%. The number of women MPs in the new Parliament remained unchanged compared to the previous one and out of the total of 81 MPs, there are 9 which accounts for 11%.

154. Only two women MPs in the Parliament of Montenegro have been appointed as Presidents of the Committee, that is the Committee for Gender Equality and the Committee for Health, Labour and Social Welfare. The Committee for Gender Equality demonstrates a somewhat greater representation of women, while the Committee for Security and Defence, the Committee for Economy and Finances, the Committee for Tourism and the Administrative Committee are without women.

#### **Data collected by the Gender Equality Department, 2009**

<i>Working bodies at the Parliament of Montenegro</i>	<i>Number of members</i>	<i>Number of women</i>
Committee for Constitutional Matters and Legislation	11	2
Committee for Political System, Judiciary and Administration	12	2
Committee for Security and Defence	12	/
Committee for International Relations and European Integration	14	1
Committee for Economy, Finance and Budget	13	/
Committee for Human Rights and Freedoms	13	3
Committee for Gender Equality	10	7
Committee for Tourism, Agriculture, Ecology and Spatial Planning	12	/
Committee for Education, Culture, Science and Sports	10	1
Committee for Health, Labour and Social Welfare	10	2

<i>Working bodies at the Parliament of Montenegro</i>	<i>Number of members</i>	<i>Number of women</i>
Administrative Committee of the Parliament	12	/
Commission for Monitoring and Control of Privatisation Procedures	7	1

155. A man runs the National Council for European Integration, while out of 28 members of the Councils, there are 7 women which accounts for 25%.

156. Data at the level of local government also reveals a low percentage of women's representation in decision making positions. Only in one municipality, a woman serves as Mayor of the municipality. In the total 21 municipalities, two women serve the position of Deputy Mayor of the municipality. Women are the Speakers of Municipal Assemblies in 4 municipalities. Women perform the function of Chief Administrator in two municipalities, while one woman performs the function of City Manager in one municipality. The Council for Gender Equality as a working body has been set up by Municipal Assemblies of Budva, Kotor, Bar, Nikšić and Cetinje. A very small number of women councillors in Municipal Assemblies is also evident. At the level of the local government as well, women predominantly occupy positions in sectors related to the areas of family, culture and education. The following is data on the number of men councillors and women councillors in municipal assemblies in Montenegro. The data was collected by the Gender Equality Department, 2009.

<i>Municipality</i>	<i>Councillors</i>		
	<i>Total</i>	<i>Women</i>	<i>%</i>
Tivat	32	7	21.8
Mojkovac	31	4	13%
Plužine	31	4	13%
Ulcinj	33	2	6%
Plav	32	3	9%
Herceg Novi	35	7	20%
Cetinje	33	4	12%
Pljevlja	35	2	5%
Andrijevica	31	1	3%
Žabljak	31	6	19%
Nikšić	41	4	9%
Berane	35	2	5%
Danilovgrad	33	6	18%
Rožaje	33	3	9%
Bijelo Polje	38	4	10%
Kolašin	31	6	19%
Bar	36	5	14%
Budva	32	7	21%
Kotor	33	7	21%
Podgorica	55	8	14%
<b>Total</b>	<b>724</b>	<b>92</b>	<b>12.7%</b>

157. There is a significant number of women in judicial power. Women perform function of the Supreme State Prosecutor and President of the Supreme Court. The following is data on participation of women in courts (source: Judicial Council as on 31 December 2009).

<i>No.</i>	<i>Court</i>	<i>No. of women judges</i>	<i>Total number of judges</i>	<i>President of the Court</i>	<i>Percentage of women</i>
1	Supreme Court	6	<b>15</b>	woman	40%
2	Administrative Court	3	<b>9</b>	man	33.3%
3	Appellate Court	5	<b>9</b>	man	55.5%
4	Commercial Court Bijelo Polje	1	<b>5</b>	man	20%
5	Commercial Court Podgorica	13	<b>19</b>	man	68.42%
6	Higher Court Bijelo Polje	2	<b>15</b>	man	13.32%
7	Higher Court Podgorica	23	<b>34</b>	man	67.64%
8	Basic Court Bar	4	<b>12</b>	man	33.3%
9	Basic Court Berane	5	<b>10</b>	man	50%
10	Basic Court Bijelo Polje	8	<b>13</b>	man	61.53%
11	Basic Court Cetinje	2	<b>5</b>	man	40%
12	Basic Court Danilovgrad	1	<b>4</b>	man	25%
13	Basic Court Herceg Novi	5	<b>9</b>	woman	55.5%
14	Basic Court Kolašin	2	<b>4</b>	man	50%
15	Basic Court Kotor	7	<b>14</b>	man	50%
16	Basic Court Nikšić	8	<b>17</b>	man	47.05%
17	Basic Court Plav	1	<b>3</b>	man	33.3%
18	Basic Court Pljevlja	6	<b>8</b>	man	75%
19	Basic Court Podgorica	23	<b>37</b>	man	62.16%
20	Basic Court Rožaje	1	<b>4</b>	man	25%
21	Basic Court Ulcinj	0	<b>5</b>	man	0%
22	Basic Court Žabljak	0	<b>3</b>	man	0%

158. The Judicial Council is run by a woman, while out of 9 members 3 are women. The Prosecutorial Council has 10 members, of whom 4 are women.

159. The State Electoral Commission has 16 members, of whom 6 are women accounting for 37.5%. Data on the number of women in municipal electoral commissions reveal on average a low level of women's participation, although there are municipalities in which women account for more than half of members.

#### Data collected by the Gender Equality Department, 2009

<i>No.</i>	<i>Municipality</i>	<i>Municipal electoral commissions</i>			<i>% of women</i>
		<i>Men</i>	<i>Women</i>	<i>Total</i>	
1	Andrijevica	20	2	<b>22</b>	9.1
2	Bar	12	6	<b>18</b>	33.33
3	Berane	5	2	<b>7</b>	28.58
4	Bijelo Polje	14	2	<b>16</b>	12.5
5	Budva	7	4	<b>11</b>	36.36

No.	Municipality	Municipal electoral commissions			
		Men	Women	Total	% of women
6	Danilovgrad	9	2	11	18.18
7	Žabljak	9	2	11	18.18
8	Kolašin	3	4	7	57.14
9	Kotor	13	4	17	23.53
10	Mojkovac	10	2	12	16.66
11	Nikšić	10	3	13	23.07
12	Plav	9	2	11	18.18
13	Plužine	6	5	11	45.45
14	Pljevlja	11	6	17	35.29
15	Podgorica	13	6	19	31.58
16	Rožaje	13	1	14	7.14
17	Tivat	3	4	7	57.14
18	Ulcinj	6	1	7	14.28
19	Herceg-Novi	21	7	28	25
20	Cetinje	17	5	22	22.72
21	Šavnik	5	2	7	28.57
<b>Total</b>		<b>216</b>	<b>72</b>	<b>288</b>	<b>25.00</b>

160. The Trade Union of Montenegro consists of around 70,000 employees of whom women account for 25,000 or 43%. Women's Network of the Confederation of Trade Unions of Montenegro became integral part of the Confederation of Trade Unions of Montenegro in 2008. Women are Presidents of only 3 out of 24 sectoral trade unions in the Confederation of Trade Unions of Montenegro (Sectoral Trade Union of Tourism and Catering, Sectoral Trade Union of Trade and Forestry and Sectoral Trade Union of Timber Processing), whereas out of 21 Municipal Trade Union Agencies there is only one woman President in Mojkovac. The Assembly of the Confederation of Trade Unions of Montenegro has 71 members, of whom 9 are women. The woman coordinator of the Women's Network is at the same time Councillor at the Municipal Assembly. The Executive Board has 15 members, of whom two are women, but this body has no representative of the Women's Network. Men perform functions of the Speaker at the Assembly, Secretary General and Executive Secretaries. Women perform functions of the President of the Committee for Education and Information in the Confederation of Trade Unions of Montenegro and Technical Services of Montenegro.<sup>17</sup>

161. Men perform function of the Prime Minister and Deputy Prime Minister. Out of 17 ministries there is only one woman performing function of the Minister. Women perform the function of Deputy Ministers and Heads of public bodies in 22% of cases. Of the total number of employees in public bodies of Montenegro, 54% are women and 46% are men.<sup>18</sup>

162. Data from the survey "Gender Barometer"<sup>19</sup> reveals that as a rule women are less active than men. Both women and men are most frequently engaged in political parties and

<sup>17</sup> Data of the Confederation of Trade Unions of Montenegro, 2009.

<sup>18</sup> Data of the Human Resources Management Authority, October 2009.

<sup>19</sup> Survey for the Gender Equality Office was conducted by the agency Altera MB in 2007.

charity work, followed by protests, activities in local community and finally the NGO sector. Major differences between men and women are reflected in the cases of protests and engagement in parties, while the smallest ones are present in cases of charity work and NGO activities. More educated women are two times more frequently members of the parties than the uneducated ones. Women in the rural areas are members of parties only in 7% of cases, unlike women in the cities who are members of parties in 17% of cases.

163. In order to increase women's involvement in politics and empower them, there has been a considerable number of education activities for women and men – members of political parties. Education activities were mostly conducted by women's non-governmental organisations under the project "Women Can Do It". Since 2004 the Gender Equality Office in cooperation with the foundations Konrad Adenauer and Eduardo Frei has implemented the project whose target group are women from political parties. Initially, the project included conferences on various topics concerning women, whereas since 2007 we have been implementing a cycle of three education activities for women from political parties aiming to empower them and have the more actively involved in politics. The Gender Equality Department continued implementation of this activity.

164. In 2002 and 2006 the two women's non-governmental organisations "Women's Actions" and "Women's Forum" initiated signature of the document which binds parliamentary parties to have at least 30% of women on electoral lists for the upcoming elections. However, despite the majority of parties signing the document the obligation remained unfulfilled.

165. According to the data of the survey "Condition of Women's Right in Montenegro"<sup>20</sup> one third of men believe that there is a sufficient number of women in political life of Montenegro (30.7%), while as many as 73.3% of women believe that the number is not enough. The same survey reveals that one third of men say that the number of women MPs should be proportionate to the number of women in total population (29.6%) and the same statement is supported by more than half of women (54.6%). Furthermore, data reveals that the largest share of both male and female population (38.5% of women and 30.5% of men) see a patriarchal view of the world as one of the most important reasons of low interest of women to engage in politics.

166. Having in mind the level of representation of women in politics and decision-making positions which is still low, in the time to come the Gender Equality Department of the Ministry for Human and Minority Rights will focus more intensive efforts to increase involvement of women at all levels of decision-making. In that regard, activities will focus on implementation of the segment Politics and Decision Making from the Action Plan for the Achievement of Gender Equality.

## Article 8

167. Women have the right and possibility to represent the Government at international level and to participate in the work of international organisations under equal conditions as men.

168. In Montenegro, of the total number of ambassadors on residential basis (20) there are two (9.52%) women ambassadors (Ukraine and Bulgaria). Of 36 non-residential ambassadors, 9 (25%) are women.

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<sup>20</sup> The survey was conducted by NGO "Anima" in cooperation with female students of the Women's Studies and women activists of the women's non-governmental sector, 2007.

169. As regards Charges d'Affaires, there are 6 of them in Montenegro on residential and non-residential bases, of whom one is the woman. One Consul General and seven Honorary Consuls in Montenegro are men.

170. There are no cases of sex-based denial of women's right to represent their country or participate in the work of international organisations.

171. The home service of the Ministry of Foreign Affairs of Montenegro employs 87 persons of whom 60 (69%) are women. Of 92 employees in diplomatic and consular missions of Montenegro, 27 (30%) are women. Total percentage of representation of women employed in foreign affairs services equals 49%.

#### **Structure of employees of the Ministry of Foreign Affairs (as on 10 April 2009)**

<i>Home service</i>	<i>Total number</i>	<i>Men</i>	<i>Women</i>
Minister	1	1	
Political Director	1	1	
Secretary	1	1	
Deputy Minister	3	2	1
Chief of Cabinet	1		1
Chief of Protocol	1		1
Director of Directorate	7	3	4
Senior Advisor I	1	1	
Advisor	2		2
I Advisor	2	2	
Senior State employee	1		1
Head of Service	2	1	1
I Secretary			
II Secretary	5	1	4
III Secretary	13	4	9
State employee IV	17	3	14
Trainee	4		4
Temporary Service Agreement	17	3	14
Ambassador	4	4	
Not posted	4		4
<b>Total</b>	<b>87</b>	<b>27</b>	<b>60</b>

<i>Diplomatic and consular missions</i>	<i>Total number</i>	<i>Men</i>	<i>Women</i>
Ambassador	21	17	4
Consul General	2	2	
Advisor	3	2	1
Consul	3	3	
Vice-Consul	2	1	1
Minister Advisor	9	6	3
I Advisor	10	6	4



<i>Diplomatic and consular missions</i>	<i>Total number</i>	<i>Men</i>	<i>Women</i>
I Secretary	12	6	6
II Secretary	4	1	3
III Secretary	5	4	1
State employee	21	17	4
<b>Total</b>	<b>92</b>	<b>65</b>	<b>27</b>

172. Participation of women at international conferences and meetings on average amounts to 60%. In most cases, women in Montenegrin delegations occupy the position of Deputy Head of Delegation or Advisor.

173. In 11 international organisations, out of 14 to which the questionnaire was sent, the representation of women is as follows:

174. UNDP – the local staff includes 47 employees of whom 26 (55.3%) are women and 21 (44.7%) are men. As regards the Programme Manager position, out of the total number of employees on this position (25), 13 (52%) are women, while out of the total 14 employees occupying the position of Programme Assistant 9 (64.25%) are women. Out of the total 5 employees occupying the position of Operations Manager, 3 (60%) are women, while out of 3 employees on the position of Assistant to Operations, one is the woman (33.33%). A man performs function of UNDP Resident Representative.

175. UNICEF – of the total 11 Montenegrin citizens employed in UNICEF Office, 9 (81.8%) are women. Women are employed on the following positions: Programme Specialist, Operations Officer, Officer for the Area of Child Protection, Officer for the Juvenile Judiciary Project, Communications Officer, Financial Assistant, Assistant to the Juvenile Judiciary Project, Programme Assistant, Executive Assistant. The head of the UNICEF Office is a woman.

176. UNHCR – of 15 employed in the Office, 11 are local staff of whom 6 (54.54%) are women on the following positions: Programme Assistant, Financial Advisor Assistant for General Affairs, Senior Administrative Officer, while two women volunteers work on the position of Project Assistant and Operations Assistant. The head of UNICEF Office in Podgorica is a man.

177. World Health Organisation (WHO) – of the total number of employees (2) in the World Health Organisation Office in Montenegro, two women are employed on the positions of Head of Country Office and Administrative Assistant.

178. International Organization for Migration (IOM) – of the total 8 employees, 4 employees are women of Montenegrin nationality. They are employed on the positions of Project Assistants (3) and Consultant (1).

179. OSCE – the local staff includes 37 employees, of whom 22 are women (59.45%) employed under fixed duration contracts and staff responsible for implementation of certain programmes; women are respectively employed on the position of Assistant to the Support to Programme, Assistant for Public Information, Assistant Head of Mission, Interpreter, Officer for National Training, Officer for National Education, Assistant to the Police Reform Programme, Financial Assistant, Assistant in the Area of Human Resources and the Hygienist, while two women respectively are employed on the following positions: Associate to the Programme for Democratisation, Associate for National Legislation, Associate on the Court Monitoring Project, Associate to the Police Reform Project, Associate to the Police Reform Programme, Language Assistant in the Police Training

Centre in Danilovgrad. A woman performs function of the Head of Mission and Ambassador.

180. Council of Europe – of the total 6 employees, 5 are local staff (60%) of whom 3 are women on the positions of Legal Advisor, Coordinator of the Local Government Reform Project and Secretary.

181. World Bank – of the total 4 employees, 3 are women on the position of Economist, Operations Officer and Programme Assistant which accounts for 100% of local staff. A man is World Bank Resident Representative.

182. European Bank for Reconstruction and Development – in the Office of the European Bank for Reconstruction and Development, of 4 local employees 2 are women on the positions of Analysts and Administrative Assistant respectively. A man is the Head of Office.

183. Save the Children UK — the local staff includes 8 employees, of whom 6 (75%) are women working full time — 2 Programme Managers and 3 Programme Coordinators and one woman is working part time as a Hygienist.

184. National Democratic Institute (NDI) – of the total 4 Montenegrin citizens employed in NDI, three are women with the following titles: Assistant Director responsible for Parliamentary Programme, Assistant Director responsible for the Political Parties Programme and Programme Coordinator.

185. From the perspective of internal legal order, women are granted equal opportunities to represent their country and participate in work of international organisations. In recruitment of new employees and trainees the Ministry of Internal Affairs takes into account equal gender representation, besides their professional qualifications and capabilities.

## **Article 9**

186. The Constitution defines citizenship by prescribing that in Montenegro there shall be a Montenegrin citizenship, that the state shall protect the rights and interests of Montenegrin citizens and that Montenegrin citizen shall not be expelled or extradited to other state, except in accordance with the international obligations of Montenegro (Article 12).

187. Montenegrin citizenship is a legal bond between a natural person and Montenegro and does not indicate any national or ethnic origin. Montenegrin citizenship shall be acquired by:

- (a) Origin;
- (b) Birth on the territory of Montenegro;
- (c) Admittance;
- (d) Under international treaty.

188. Montenegrin citizenship through origin shall be acquired by a child:

- Whose both parents are of Montenegrin citizenship at the moment of birth
- Born on the territory of Montenegro, one of whose parents is Montenegrin citizen at the moment of birth

- Born on the territory of another state, one of whose parents is a Montenegrin citizen at the moment of birth, the other one being stateless, of unknown citizenship or unknown
- Born on the territory of another state, one of whose parents is a Montenegrin citizen at the moment of birth, provided that he/she will become stateless otherwise

189. A person who has been married to a Montenegrin citizen for at least three years and takes up lawful and uninterrupted residence in Montenegro for at least five years may be granted Montenegrin citizenship if the conditions of the law are fulfilled (besides: discharge; legal stay; knowledge of Montenegrin language; evidence on settlement of all tax and other legal obligations).

## Article 10

190. The Constitution of Montenegro and the laws in the field of education provide equal access to education for men and women in Montenegro. The Constitution of Montenegro guarantees the right to education under equal conditions while primary education is compulsory and free of charge. In addition, it guarantees the autonomy of universities, academic and scientific institutions. Minority peoples and other minority ethnic communities are guaranteed the right to education in their own language and alphabet in public institutions, while curricula include the history and culture of minority peoples and other minority ethnic communities.

191. The education system in Montenegro is organized through pre-school, primary education, secondary vocational education, general secondary education (high school), adult education, education of children and youth with special needs and higher education. These levels of education are regulated by special laws. The following ones were adopted in 2002: Law Pre-School Education, Law on Primary Education, Law on High School, Law on Vocational Education, Law on Adult Education and Law on Education of Children with Special Needs adopted in 2004 and Law on Higher Education, adopted in 2003. Also, the General Law on Education was adopted in 2002 defining matters that are common to all areas of education.

192. The changes in education contained in these laws required the appropriate infrastructure for the implementation of changes and further development of education system. For this purpose, and also with the aim of depoliticizing and deregulating the system and deciding on technical issues and providing expert assistance in decision making process and the preparation of regulations in the field of education, a significant part of the powers and responsibilities from the Ministry of Education and Science has been delegated to the Technical Councils founded by the Government of Montenegro, namely: the Council for General Education, Council for Vocational Education, Council for Adult Education and the Council for Higher Education.

193. The General Law on Education prescribes that education is an activity of public interest, that education aims to provide the opportunity for comprehensive development of the individual, regardless of their sex, age, social and cultural background, national and religious affiliation and physical and mental constitution, while citizens shall be equal in exercising their rights to education, regardless of national affiliation, race, sex, language, religion, social background or other personal feature. It addition, it is prescribed that the distribution of educational institutions in the territory of Montenegro provides citizens equal accessibility in acquiring education.

194. The manner of establishment of educational institutions is fully liberalized. Educational institutions are established either as public or private. The founder of an institution may be the state or municipality, the capital or historic royal capital. A private

institution may be established by domestic and foreign legal or natural person, with a restriction that foreign legal or natural person may not establish elementary school. High school as a public institution may be established either by the state or the capital or historic royal capital. Public institutions are established in accordance with the network of institutions adopted by the Government of Montenegro which determines the type of activities and distribution of public institutions in the territory of Montenegro.

195. The activity of public institutions is unprofitable, they are financed from the budget and possibilities and conditions under which private educational institutions implementing publicly valid curricula can be financed from public revenues are also prescribed. The institution begins operating once the ministry in charge of education has determined that the institution meets the requirements for operation, that is once it has issued a decision on licensing.

196. Pre-school education, as part of a unified educational system, includes children before entering elementary school and is implemented in kindergartens and infant nurseries and other pre-school organisations and institutions. Children below three years of age stay in infant nurseries, while children above three years of age stay in the pre-school until they enter school. Pre-school education is not mandatory. Public institutions implement primary educational program, which can be a full day in duration from six to ten hours and half day in duration from four to six hours, as well as other programs in accordance with the capabilities of the institution and the needs and interests of children and parents. Pre-school education can be achieved in the family and in educational units of pre-schools which are located in elementary schools and other legal entities. The cost of children's food in public pre-school institutions is borne by parents, while the amount of those costs is determined by the institution subject to the approval of the Ministry responsible for education. In 2006 in Montenegro the number of users of pre-school institutions totalled 10,511, of whom 5,031 were female (47.8%), whereas in 2007 the figure totalled 11,277, of whom 5,421 were female (48%), while in 2008 the total was 12,084, of whom 5740 were female (47.5%).<sup>21</sup> Children of the RAE population below 7 years of age attend pre-school in 14% of cases do not attend pre-school in 67% of cases while for 19% it is unknown.<sup>22</sup>

197. Primary education is implemented in accordance with the Law on Primary Education. It lasts nine years and is compulsory for all children between the ages of six and fifteen. Parents or guardians have to provide schooling to the child i.e. comply with compulsory primary education. A pupil who turns fifteen years of age during school year may not leave school before the end of the given school year. Pupils are entitled to pursue education in arts in art schools in parallel with primary education. Children with special needs obtain primary education in schools or in special institutions/institutes. Primary education of persons older than fifteen years of age (adults) is provided in special classes of a school or at the premises of adult education providers.

198. Vocational education is implemented in accordance with the Law on Vocational Education. Lower, secondary and post-secondary levels of vocational education are available. Lower vocational education lasts two years and is provided by two-year vocational schools; secondary vocational education lasts three or four years and is provided by three- or four-year secondary vocational schools. General secondary education is implemented in accordance with the Law on High School; it is provided by high schools and lasts four years.

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<sup>21</sup> Statistical Yearbook of Montenegro, 2008.

<sup>22</sup> Data Base on RAE Population in Montenegro, October 2008.

199. Data on the numbers of students in primary and secondary schools does not indicate significant disparities in the share of boys and girls at these levels of education. Namely, in the school year 2006–2007, out of the total number of 75,116 of primary school pupils, 38,937 or 51.84% were boys, while 36,179 or 48.16% were girls. In the school year 2007–2008, out of the total number of 75,058 primary school pupils, 38,805 or 51.7% were boys, while 36,253 or 48.2% were girls. The data for the school year 2008–2009 are the following: out of the total number of 74,220 primary school pupils, 38,149 or 51.39% were boys, while 36,071 or 48.6% were girls.<sup>23</sup>

200. The data for secondary schools are the following: in the school year 2006–2007, out of the total number of 31,571 students, 15,944 or 50.5 % were male and 15,627 or 49.5% female; in the school year 2007–2008, out of the total number of 31,381 students, 15,847 or 50.49% were male and 15,534 or 49. 5% female; in the school year 2008–2009, out of the total number of 31,333 students, 15,761 or 50.3% were male and 15,572 or 49.6% female.<sup>24</sup>

201. The Law on Adult Education, which, for the first time in Montenegro, regulated this field of education by a special law, stipulates that one of the goals of adult education is accomplishment of at least primary education and first occupation for all citizens. Adults do not pay tuition when pursuing primary education or lower vocational education i.e. such education is financed from the national budget; when pursuing other forms of education and training, adults pay a fee, in accordance with the special law and regulation of education provider. According to the method and place where it was obtained, adult education may be formal, non-formal or informal. Adults obtain formal i.e. schooling in the manner prescribed by the special law from the domain of education, while non-formal and informal education are validated by taking examinations administered by the Examination Centre.

202. The Law on Education of Children with Special Needs stipulates compulsory education i.e. education and rehabilitation of children with special needs from the moment of identification of the child's special need. Education of children with special needs provides the level of education that corresponds with the child's physical, intellectual, emotional and social development. A child with special needs is admitted to a pre-school institution, school or special institution based on the decision on referral. Inclusive teaching is a novelty in this area. Namely, children with special needs who can be included in regular classes or groups are referred to regular institutions, with additional professional assistance and individualized curricula, whereas education of those children with special needs who cannot obtain education in schools is carried out in special institutions/institutes, due to the required support and close link between education, education and rehabilitation.

203. The Law on Higher Education stipulates that higher education is available to all under the conditions set by the law and statutes of higher education institution. Discrimination in the exercise of the right to higher education, on the grounds of sex, race, marital status, colour, language, religion, political or other belief, national, ethnic or other background, affiliation with an ethnic community, property, incapacitation (disability) or based on any similar grounds, position or circumstance, is prohibited.

204. Higher education institutions are established as public or private. Public institutions are founded by the Government. Teaching, research and work in the arts in such institutions are funded from the national budget. Private institutions may obtain funds from the budget for the purpose of teaching and research that are in the public interest, following a proposal from the Higher Education Council. As of 2003, the study programmes have been innovated in compliance with the Bologna Declaration.

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<sup>23</sup> Ministry of Education and Science data.

<sup>24</sup> Ibid.

205. These constitutional and legal provisions that define the main issues concerning the exercise of the right to education provide the opportunity i.e. serve as the basis for equal access to education, irrespective of sex, i.e. equal starting positions and conditions for men and women in acquiring education. A characteristic shared by all these laws is that they do not contain any recognizable form of sex discrimination, except that the texts are not gender sensitive i.e. male forms are used when referring to students, teachers or institution managers. Since all schools in Montenegro are of mixed-gender type, and the curricula, teaching staff, school buildings and equipment in formal education are entirely equal for both sexes.

206. Teaching in primary and secondary schools and university departments is implemented based on the curricula i.e. study programmes that are uniform for boys and girls i.e. male and female students. All educational institutions are of mixed-gender type i.e. in all public and private institutions boys and girls are taught together and may learn the same subjects defined by the curriculum for the given field of education. The names of curricula and occupations in vocational education are gender sensitive, which is a novelty in our educational system (e.g. Curriculum Name: Wood-processing Technician – (male/female form)).

207. The high school curriculum includes both compulsory and elective subjects. Vocational schools also teach compulsory subjects, attended by all students in the given occupational sector. Students choose elective subjects, whose contents are linked with the occupation, according to their own interests and affinities. A curriculum implemented by a private institution becomes publicly valid once it is approved by the competent Council. The Ministry publishes the publicly valid curricula three months prior to their implementation.

208. The procedure for enrolment in secondary schools and university departments is public and is prescribed by the laws for the respective areas of education and by secondary legislation; this ensures that everyone, irrespective of sex, attend the school or university department available to them and use such opportunities according to their own choices and affinities.

209. The total number of pupils who completed regular primary education in the school year 2007–2008 was 9,007; out of this number 4,368 or 48.4% were girls. The total number of students who completed regular secondary education was 8,480; out of this number, 4,251 or 50.11% were female.<sup>25</sup>

210. Data from the Statistical Office of Montenegro – Monstat 2003 Population Census showed that the number of illiterate persons in Montenegro was 12,617. Out of the total number of illiterate persons in Montenegro, majority were women – 10,611, while the number of illiterate men was 2,006. Data showed that there were more illiterate persons in rural areas – 8,245, compared to 4,372 in urban ones. The number of illiterate women was higher than that of illiterate men both in urban (3,572) and in rural areas (7,039).

211. In the 15–24 age group, the total number of illiterate persons was 580, out of which 272 men and 308 women. Within this age group, more illiterate persons – 427 in total, out of which 194 men and 333 women – lived in urban areas, while 153 illiterate persons – 78 men and 75 women – lived in rural areas.

212. In the 25–44 age group, the total number of illiterate persons was 954, out of which 362 men and 612 women. Within this age group, more illiterate persons – 543 in total, out

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<sup>25</sup> 2009 Statistical Yearbook.

of which 193 men and 350 women – lived in urban areas, while 411 illiterate persons – 169 men and 242 women – live in rural areas.

213. In the 45–59 age group, the total number of illiterate persons was 1,036, out of which 243 men and 793 women. Within this age group, more illiterate persons lived in rural areas – 642 in total, out of which 151 men and 491 women – while 394 illiterate persons – 92 men and 302 women – lived in urban areas.

214. The age group over 60 years of age included most illiterate persons – 9,374, out of which 921 men and 8,453 women. Within this age group, more illiterate persons were from rural areas: 6,697 in total, out of which 730 men and 5,967 women; 2,677 illiterate persons – 191 men and 2,486 women – lived in urban areas.

215. In total, 40,665 of the inhabitants of Montenegro completed 4–7 grades of primary school, out of which 13,127 men and 27,528 women. 13,608 live in urban areas – 3,470 men and 10,138 women; 27,047 live in rural areas – 9,657 men and 17,390 women.

216. 113,085 of the inhabitants of Montenegro completed primary education, out of which 50,671 men and 62,414 women. 60,412 live in urban areas – 24,945 men and 35,467 women. 52,673 live in rural areas – 25,726 men and 26,947 women.

217. Data on enrolled university students<sup>26</sup>

<i>Year</i>	<i>Total number</i>	<i>Female</i>	<i>Male</i>	<i>Breakdown by sex, %</i>	
				<i>Female</i>	<i>Male</i>
2000–2001	<b>8 271</b>	4 675	3 596	56.5	43.5
2001–2002	<b>7 878</b>	4 503	3 375	57.1	42.9
2002–2003	<b>8 333</b>	4 891	3 442	58.7	41.3
2003–2004	<b>9 759</b>	5 961	3 798	61.1	38.9
2004–2005	<b>11 011</b>	6 630	4 381	60.0	40.0
2005–2006	<b>12 903</b>	7 712	5 191	59.7	40.3
2006–2007	<b>16 173</b>	9 248	6 925	57.2	42.8
2007–2008	<b>18 009</b>	9 651	8 358	53.5	46.4
2008–2009	<b>20 490</b>	11 048	9 442	53.9	46.0

218. Data on graduated university students<sup>27</sup>

<i>Year</i>	<i>Total number</i>	<i>Female</i>	<i>Male</i>	<i>Breakdown by sex, %</i>	
				<i>Female</i>	<i>Male</i>
2000	<b>879</b>	505	374	57.4	42.6
2001	<b>1 025</b>	596	429	58.1	41.9
2002	<b>1 274</b>	673	601	52.8	47.2
2003	<b>1 271</b>	727	544	57.2	42.8
2004	<b>1 456</b>	864	592	59.3	40.7
2005	<b>1 656</b>	958	698	57.8	42.2

<sup>26</sup> Source: The Statistical Office of Montenegro.

<sup>27</sup> Ibid.

<i>Year</i>	<i>Total number</i>	<i>Female</i>	<i>Male</i>	<i>Breakdown by sex, %</i>	
				<i>Female</i>	<i>Male</i>
2006	<b>1 867</b>	1 087	780	58.2	41.8
2007	<b>2 389</b>	1 685	704	70.5	29.4
2008	<b>2 812</b>	1 792	1 020	63.7	36.2

219. Data on holders of master's degrees<sup>28</sup>

<i>Year</i>	<i>Total number</i>	<i>Female</i>	<i>Male</i>	<i>Breakdown by sex, %</i>	
				<i>Female</i>	<i>Male</i>
2000	<b>17</b>	9	8	52.9	47.1
2001	<b>15</b>	8	7	53.3	46.7
2002	<b>16</b>	7	9	43.7	56.3
2003	<b>21</b>	8	13	38.0	62.0
2004	<b>32</b>	17	15	53.1	46.9
2005	<b>40</b>	15	25	37.5	62.5
2006	<b>37</b>	19	18	51.3	48.7
2007	<b>186</b>	104	82	55.9	44.0
2008	<b>140</b>	69	71	49.2	50.7

220. Data on holders of master's degrees in 2007, by the field of science<sup>29</sup>

	<i>Total number</i>	<i>Female</i>	<i>Male</i>	<i>Breakdown by sex, %</i>	
				<i>Female</i>	<i>Male</i>
<b>Total</b>	<b>186</b>	<b>104</b>	<b>82</b>	<b>55.9</b>	<b>44.0</b>
Social Sciences, Business, Law	<b>115</b>	68	47	59.1	40.8
Engineering, Technology, Civil Engineering	<b>21</b>	6	15	28.5	71.4
Arts and Humanities	<b>15</b>	8	7	53.3	46.6
Natural Sciences, Mathematics and IT	<b>24</b>	16	8	66.6	33.3

221. Data on holders of doctoral degrees<sup>30</sup>

<i>Year</i>	<i>Total number</i>	<i>Female</i>	<i>Male</i>	<i>Breakdown by sex, %</i>	
				<i>Female</i>	<i>Male</i>
2001	<b>11</b>	3	8	27.2	72.8
2002	<b>10</b>	2	8	20.0	80.0

<sup>28</sup> Ibid.<sup>29</sup> Ibid.<sup>30</sup> Ibid.



Year	Total number	Female	Male	Breakdown by sex, %	
				Female	Male
2003	5	1	4	20.0	80.0
2004	10	3	7	30.0	70.0
2005	17	7	10	41.1	58.9
2006	7	2	5	28.5	71.5
2007	6	6	-	100.0	-
2008	14	3	11	21.4	78.5

222. Doctoral degree holders in 2008, by the field of science<sup>31</sup>

	Total number	Female	Male	Division by sex, %	
				Female	Male
<b>Total</b>	14	3	11	21.4	78.5
Social Sciences, Business, Law	10	2	8	20	80
Engineering, Technology, Civil Engineering	4	1	3	25	75
Arts and Humanities	-	-	-	-	-
Natural Sciences, Mathematics and IT	-	-	-	-	-

223. The Ministry of Education and Science grants loans to students financed from the national budget. Scholarships are granted to gifted secondary school and university students – 35 and 50 scholarships respectively. The Science Sector of the Ministry of Education allocates grants to postgraduate students (preparation of master's and doctoral theses). The General Law on Education (Official Gazette 64/2002) envisages the rights and responsibilities pertaining to student standard, which entitle students to: accommodation and meals at student residences; scholarships for gifted students; coverage of a share of transport costs. The Law on Higher Education (Official Gazette 60/2003) stipulates the rights and responsibilities pertaining to student standard, entitling students of public institutions to: accommodation and meals at student residences; student loans; scholarships for top students; coverage of a share of transport costs for urban and inter-urban lines for the students financed from the budget; professional development, and health care.

224. All students' rights envisaged by the law are equally available to male and female ones. Male and female students are equally entitled to all scholarships and forms of support, the sole criterion being the success in the course of their studies. The legislation that regulates the rights and responsibilities of students consists of the General Law on Education and Law on Higher Education.

225. Granted scholarships, breakdown by sex<sup>32</sup>

<sup>31</sup> Ibid.

<sup>32</sup> Ministry of Education and Science data.

	<i>Secondary school students</i>		<i>University students</i>		<i>Granted</i>		<i>% granted</i>		<i>Total</i>
	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	
2003/04	30	19	59	25	89	44	67	33	<b>133</b>
2004/05	46	24	75	29	121	53	70	30	<b>174</b>
2005/06	51	22	76	34	127	56	70	30	<b>183</b>
2006/07	46	27	109	41	155	68	69	31	<b>223</b>

226. Pursuant to the provisions from the Law on Primary Education stipulating that primary education is compulsory and that parents have to ensure compliance with this obligation, the local government authority is required to deliver to the individual school the list of children of school age from the neighbourhoods covered by the school by the end of February each year; schools are required to report to the competent education inspection parents of any child that is not enrolled or is not attending school. Schools are required to file such a report within 15 days from the deadline for enrolment i.e. from the date primary education was discontinued.

227. There are no provisions in the Law on Vocational Education, Law on High School or Law on Higher Education that would impact retention of students in secondary school or university department. However, opportunities and incentives are provided to students to complete their education. Namely, a student who discontinues regular schooling may continue as a person who does not have the student status by taking an exam, with the passing grades obtained in the course of regular schooling at the end of the academic year or at the previous exam recognized. In addition, the given laws prescribe the options for a student to transfer to a different type of school, choose a different occupation within the same school, or become qualified in another occupation after obtaining qualifications in one, all by means of taking additional i.e. differential exams.

228. The above indicates that there are no specific provisions in education laws that would specifically motivate girls to complete their schooling. Based on the data from misdemeanour procedures instigated by the Ministry of Education and Science against the parents who fail to enrol their child in school i.e. fail to enable the child to attend school give rise to the conclusion that out of 80 misdemeanour procedures in the past four years 90% of cases involved female children from rural areas, who drop out after completing the fourth grade of primary school. The reasons stated by parents of such children include: poor financial situation; being unable to afford textbooks, footwear and clothes; the need for female children to work on the farm and in the household; schools being distant from some rural areas, etc. Such parents are subject to misdemeanour liability, which is punishable by a fine. In the majority of cases, the minimum amount of the fine is imposed, since the persons involved are predominantly of poor financial situation or unemployed. Yet if, once the fine has been administered, parents do not enrol the child or ensure that the child attends school, fines may be imposed again.

229. Besides the given data concerning female students of primary schools, there is no data available on the percentage of female students of secondary school who drop out, and identification of main reasons for drop out for female students of primary and secondary schools would require a complete and professional analysis carried out by the competent institutions, both those involved in education and other relevant ones. Nevertheless, even though all laws from the area of education grant to male and female children equal opportunities for education, it is evident that there is a disparity in education, which is larger in rural areas. Although primary education is compulsory, the impression is that the number of children who do not complete primary education is higher than the figure

processed by the Ministry, and that perhaps a more efficient mechanism than the existing one needs to be identified to ensure primary education of girls.

230. The structure of personnel in educational institutions for the academic years 2007–2008 and 2008–2009:<sup>33</sup>

<i>Number of employees</i>	<i>Preschool education</i>			<i>Primary education</i>			<i>Secondary education</i>		
	<i>M</i>	<i>F</i>	<i>Total</i>	<i>M</i>	<i>F</i>	<i>Total</i>	<i>M</i>	<i>F</i>	<i>Total</i>
2007–2008	61	1 306	<b>1 367</b>	2 079	4 548	<b>6 627</b>	1 109	1 855	<b>2 964</b>
2008–2009	71	1 407	<b>1 478</b>	2 074	4 685	<b>6 759</b>	1 116	1 904	<b>3 020</b>

231. The structure of principals in educational institutions for the academic years 2007–2008 and 2008–2009:<sup>34</sup>

<i>Number of principals</i>	<i>Preschool education</i>			<i>Primary education</i>			<i>Secondary education</i>		
	<i>M</i>	<i>F</i>	<i>Total</i>	<i>M</i>	<i>F</i>	<i>Total</i>	<i>M</i>	<i>F</i>	<i>Total</i>
2007–2008	6	14	<b>20</b>	138	23	<b>161</b>	44	5	<b>49</b>
2008–2009	7	14	<b>21</b>	136	26	<b>162</b>	44	5	<b>49</b>

232. There is an evidently predominant share of women in pre-school institutions, working as instructors as well as managers. This can be explained by the existence of prejudice about this being a “female” profession. In primary and secondary schools, female teachers are also predominant, but the situation is entirely different with regard to management, where the number of male principals is considerably higher. Data concerning deputy principals is somewhat more favourable. The data presented clearly shows that men occupy the managerial and decision-making positions in educational institutions.

233. Girls and boys, women and men, have equal opportunities to engage in physical education and sports. There are no regulations prohibiting girls and women from engaging in physical education and sports. There are no regulations on clothing that prevent girls and women from equal participation in sports. Sports facilities are equally accessible to boys and girls, men and women. There is no article in the Law on Sport prescribing discrimination against women’s rights.

234. In the past five years, 2,086 persons, out of whom 603 women, attended the adult education programme implemented in adult education institutions with years of tradition – education centres (three such centres operate in Montenegro – in Podgorica, Nikšić and Herceg Novi). Over the past five years, adult education programmes in the three communities involved more men (840 men and 380 women in Podgorica; 612 men and 380 women in Nikšić; 29 men and 15 women in Herceg Novi), although equal access has been provided to all those wishing to join such a programme. 75 participants, out of which 33 women, enrolled the basic functional literacy programme implemented within the project “Second Chance – Literacy and Vocational Training for Social Integration” for domicile Roma from the municipalities of Podgorica and Nikšić.

235. The programmes are carried out by the teaching staff of the same level of education and qualifications as the staff teaching in regular schools. Teachers with more extensive experience are hired, for the purpose of better quality and more successful implementation

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

of the programme. Since adult education requires a specific approach and method of work, over the past year we aimed to train the teachers involved in adult education, from the standpoint of andragogy, to work with adult participants (through seminars, workshops etc.). For the purpose of most effective implementation of the primary education and literacy programmes for Roma, Roma assistants, who also undergo training for this activity, are engaged alongside with teachers.

236. Besides these programmes, we considered women's participation in the programmes carried out in these institutions – computer courses and language courses. In the past 5 years, the total number of participants in computer courses was 2,902, out of which 1,536 women. Women were in the majority in Podgorica (810 of the total number of 1,162) and in Herceg Novi (285 out of the total number of 457), whereas in Nikšić most participants were men (840 of the total number of 1,283). Over the past 5 years, foreign language courses were attended by 1,424 persons in total, out of which 726 women. Women were the majority in Podgorica (240 out of 375) and Herceg Novi (338 out of 533), whereas in Nikšić most participants were men (368 out of 516).

237. Roma women face the most obstacles to education and learning. According to UNDP and Institute for Strategic Studies and Prognosis data from 2003, out of the refugees aged 11–18 that dropped out of school, around 17.6% did so due to lack of motivation, around 30% due to lack of financial resources, transport or textbooks, while 17.6% had to start working.

238. According to the data of Roma Scholarship Foundation and Employment Office, among the domicile Roma living at the territory of Montenegro,<sup>35</sup> 63.1% have no formal education, 21.3% did not complete primary school, 9.2% completed primary school, 1% completed two years of vocationally oriented secondary school, 2.5% completed three years of vocationally oriented secondary school, 2.3% completed vocational school and 0.3% had a university degree.

239. The UNICEF-funded survey of the NGO SOS from Nikšić shows that 81.4% of Roma families have no regular monthly income. Roma families are particularly large: more than 70% have 5–10 members, and more than 10% have more than 10 members. 45% of parents are not aware of their children's movement, 31% do not oversee their children's studying. Roma parents are mainly illiterate or did not complete primary education; around 70% of parents are illiterate. 54% of parents speak Romani and Albanian as their mother tongues. In 75% of families, the grandfather, father or son makes the decisions concerning children's education; in 13% of families parents jointly make such decisions; in 12% of families, the mother or brother make such decisions. Around 25% of Roma children work; around 40% of parents said that they would make their daughter leave school if prospects of marriage appeared. Over 56% of Roma children have no support or assistance in learning.

240. According to the survey<sup>36</sup> that included participants in basic functional literacy programme and their families, 81.8% of Roma women had no formal education, 6% completed the first grade of primary school, 3% completed the second grade, and 9.1% completed the third grade. In the target group, 75.8% of Roma women were illiterate in Podgorica and Nikšić, while 24.2% were literate; 60% of men were illiterate. 94% spoke the official language, while 6% did not. 66.6% of single Roma women aged 15–30, 27.2% of married and 6.1% of divorced Roma women expressed readiness to pursue education and learn. 67% of Roma men were single, 30% were married and 3% divorced. 48.5% of women were not registered with the Employment Bureau, compared to 51.5% registered

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<sup>35</sup> Survey involving around 2,000 domicile Roma in 9 municipalities in 2006.

<sup>36</sup> Roma Scholarship Foundation, 2007.

ones. 61.8% men were registered, while 38.2% were not. 72.7% of Roma women did not have any specific knowledge or skills, while 27.3% had some specific knowledge and skills (dressmaking, hairdressing). 40% of Roma men had no specific knowledge or skills, while 60% did (manual labour, music, drawing, carpentry, masonry, collecting recycled raw materials). 90% of Roma women expressed the wish to learn a craft (to become beauticians, dressmakers, hairdressers, some also shop-assistants, tourism workers), while a very small share expressed ambitions concerning professions in the field of arts or science. 93.9% of Roma women and 61% of Roma men had no work experience. 45.4% of Roma women were supported by their parents, 33.3% received social welfare, 18% worked occasionally. 87.9% of Roma men were not satisfied with their monthly income. 67% of Roma had monthly income mainly between €50 and €200, while 6.1% had monthly income over €300.

241. According to the database on RAE population,<sup>37</sup> out of the total number of RAE aged 15 and above who obtained some education, 2,729 did not complete primary school. Out of this number, 2,758 completed primary school – 1,686 men and 1,072 women. 250 completed secondary education – 174 men and 76 women. Only 14 RAE had post-secondary college degree – 8 men and 6 women. 2,434 of RAE older than 15 – 842 men and 1,592 women – were illiterate.

242. An adjustment of primary school curriculum to adult education has been developed for the purpose of primary education of adults in Montenegro. The adjustment is implemented with regard to curriculum implementation, namely: duration of education; mandatory testing and assessment method; enrolment requirements; requirements for progress and completion of education; and teacher development. The curriculum itself is also adjusted, the contents that are not suited to adult participants are eliminated and functional contents needed in everyday life are included. This provides the opportunity to those adults who for some reason dropped out of regular schooling and did not complete primary education to obtain such education.

243. Basic functional literacy programme has been developed for the illiterate. The programme consists of 6 thematic areas: Basic Linguistic Literacy in Mother Tongue (150 lessons); Official Language as Non-Native Language needs to be organized for the programme delivered in Albanian Language (72 lessons); Basic Mathematics (120 lessons); Education for Parenthood and Family with Basics of Health Education (20 lessons); Education for Environment Protection (10 lessons); Education for Living in the Community (10 lessons); and Functional Skills (20 lessons).

244. One of the thematic areas within the basic functional literacy programme is Education for Parenthood and Family with Basics of Health Education. The thematic area of education for parenthood and family envisages the following contents:

- Concept, form and functions of family
- Stages of family life
- Basic rights and responsibilities of family members
- Different ways of decision making in the family (support and patience, agreement, mutual respect, establishing and adhering to rules)
- Family relations (emotional relations in the family, decision making in the family – ways of decision making in the family, indicating the differences between equality and inequality in the family, links and lack of links between family members)

<sup>37</sup> The Statistical Office of Montenegro, October 2008.

- Shared family needs
- Basic dysfunctions (problems) in family life and ways to overcome them (types of problems, conflict resolution, strengths and weaknesses in the family, punishment, violence in the family)
- Family planning

245. The thematic area concerning health education envisages the basic contents necessary for preservation and improvement of one's physical and mental health and the health of the family:

- Health risks and factors of health preservation and improvement
- Personal hygiene
- Nutrition (vitamins, foodstuffs, adequate preparation)
- Addictions
- Administering first aid
- Institutional and social support in case of health problems
- Basic knowledge to identify the symptoms and proper responses to specific diseases

246. The Vocational Education Centre together with the Employment Office of Montenegro identified simple occupations (ranked II according to level of complexity) and developed new training programmes for vocational training for the "Second Chance" project and UNDP project "Reducing the Vulnerability of Domicile RAE in Montenegro", which were implemented in Montenegro. These programmes were used to train RAE with the aim to include them in the field of labour.

247. The Vocational Education Centre prepared 2 projects intended for minorities, primarily RAE: "Literacy for vocational training and better position of Roma in Montenegro" and "Step by Step – CHANGE". The former project is a logical follow-up to the successfully initiated practice implemented under the "Second Chance" project, dealing with the problem of RAE literacy and funded by the European Agency for Reconstruction and DVV International. The latter project aimed to initiate active and permanent socio-educational programme involving both Roma parents (with children of pre-school age), covering the topics of family and healthy environment and fostering communication skills and better integration of Roma into the community.

248. For a number of years, the Vocational Education Centre has been promoting adult education, together with social partnership institutions, by organizing the event "Adult Education Festival". By 2009, seven adult education festivals were organized in Montenegro. In organizing and carrying out these events, the Vocational Education Centre partnered with the following institutions: Employment Office, Chamber of Commerce, Centre for Development of NGOs – CRNVO, Gender Equality Office (currently Department), Human Resources Management Authority, Institute for Public Health of Montenegro, adult education providers, vocational schools etc. The goal of Adult Education Festivals refers to informing the general public, promoting the concept of lifelong education and learning, promoting the society that keeps learning, the importance of education and learning for the development of the individual and the society, as well as the adult learning practice, which is missing. Within the seven festivals organized to date, various forms of education of women were organized in cooperation with the Gender Equality Office with the aim of achievement of gender equality (round tables, lectures, workshops etc.).

249. According to the survey on use of ICT in Montenegro,<sup>38</sup> 46.6% of female respondents used computers, whereas 53.4% did not. It needs to be emphasized that the share of female respondents from the northern region who used computers was the lowest, indicating a digital gap between the regions in Montenegro. Most female respondents (60%) did not have the need or were not personally interested in becoming computer literate. Among the women who used computers, 77.7% used the Internet, mainly for e-mail communication, searching for information and chatting; for 45.7% of female respondents this was daily routine. The need for further education definitely exists; 37% of female respondents agreed with this statement, and the average age of those who wanted further education was 24.

## Article 11

250. Under the Constitution of Montenegro, everyone is entitled to work, free choice of occupation and employment, to fair and humane work conditions and protection during unemployment (Article 62). The Constitution stipulates that youth, women and disabled persons enjoy special protection in the workplace (Article 64, paragraph 4).

251. The basis necessary for quality decisions in designing the employment policy is provided by the set of laws, decrees and rulebooks, primarily the Labour Law (Official Gazette of Montenegro 49/2008) and the Law on Employment (Official Gazette of the Republic of Montenegro 5/2002, 21/2008). Other regulations pertaining to the operation of the Employment Office are the following: Rulebook on assistance in employment (Official Gazette of the Republic of Montenegro 52/2002), Rulebook on preparation for employment (Official Gazette of the Republic of Montenegro 52/2002 and 1/2004), Law on Labour and Employment Records (Official Gazette of the Republic of Montenegro 69/2003), Rulebook on the types, method and instruments for keeping supplementary employment records (Official Gazette of the Republic of Montenegro 52/2002), Law on professional rehabilitation and employment of persons with disabilities (Official Gazette of Montenegro 49/2008), Law on employment and work of foreign nationals (Official Gazette of Montenegro 22/2008), etc.

252. The Labour Law prohibits any direct or indirect discrimination of persons seeking employment as well as employed persons, on the grounds of sex, birth, language, race, religion, colour, age, pregnancy, health condition i.e. disability, nationality, marital status, family responsibilities, sexual orientation, political or other belief, social origin, property, membership in political or trade-union organizations or any other personal characteristic. The Law specifies the concepts of direct and indirect discrimination. Any treatment caused by any of the grounds mentioned above that places a person seeking employment or an employed person in a less favourable position compared to other persons in identical or similar situation constitutes direct discrimination. Indirect discrimination, under this law, takes place when a certain provision, criterion or practice place or would place a person seeking employment or an employed person in a less favourable position, due to a certain characteristic, status, orientation or belief.

253. Discrimination, in the sense of this Law, is prohibited with regard to:

- (a) Employment requirements and selection of candidates for a specific job;
- (b) Work conditions and all employment rights;
- (c) Education, training and professional development;

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<sup>38</sup> Institute for Strategic Studies and Prognosis, 2008.

- (d) Promotion at work;
- (e) Termination of employment contract.

254. The Labour Law also prohibits any harassment or sexual harassment at work or related to work; harassment is defined as any undesired behaviour caused by any of the grounds mentioned above, as well as harassment by means of audio or video surveillance, which aims to offend or constitutes an offence of the dignity of the person seeking employment or an employed person, and which generates fear or a hostile, humiliating or offensive environment.

255. Sexual harassment, in the sense of this Law, is any undesired verbal, non-verbal or physical action that aims to offend or constitutes an offence of the dignity of a person seeking employment or an employed person in the sphere of sexual life, and which causes fear or generates a hostile, humiliating, uncomfortable, aggressive or offensive environment. An employee may not suffer harmful consequences in case of reporting i.e. witnessing harassment or sexual harassment at work or related to work. In cases of discrimination, a person seeking employment or an employee may instigate procedure before the competent court, in accordance with the law.

256. Some articles of the Labour Law refer, inter alia, to special protection of women (Article 11), so that an employed woman during pregnancy, an employed woman with a child younger than five years of age, and a single parent with a child younger than seven years of age, an employed parent with a child with severe disability, an employed young person of 18 or an employed person with disability may not be transferred to another workplace outside the place of temporary or permanent residence.

257. A separate section of the Labour Law (VI Protection of Employees) relates to protection of women, youth and persons with disabilities, who are all entitled to special protection. An employed woman or an employed young person of 18 years of age may not be assigned to jobs that imply mainly particularly heavy manual labour, work under the ground or under water or jobs that might harm or increase the risk for their health and life. A specific article concerns protection of women in industry and construction industry, in the sense that an employed woman working in industry and construction industry may not be assigned to work at night; this is possible only exceptionally, when it is necessary to continue work disrupted due to natural disasters i.e. to prevent damage to raw material or other material. This prohibition does not apply to women in management or performing duties in health care, social or other protection.

258. The Labour Law defines special protection of women due to pregnancy and child-care, so that an employer may not refuse to conclude an employment contract with a pregnant woman or terminate the employment contract on the grounds of pregnancy or maternity leave. Likewise, based on the findings and recommendations of the competent physician, a woman may be temporarily transferred to another job during pregnancy and while breastfeeding, if this is in the interest of preserving her health or her child's health. If the employer is not able to provide the transfer, the employed woman is entitled to leave of absence from work, with her salary compensated in line with the collective agreement, in the amount that may not be lower than the salary she would have obtained on the job. During temporary transfer to another job an employed woman is entitled to the salary pertaining to the post she covered originally, prior to the transfer. An employed woman during pregnancy or an employed woman with a child under the age of three may not work longer than full working hours or work at night. Exceptionally, an employed woman with a child older than two years of age may work nights only if she provides written consent to that.

259. Within the section concerning protection of maternity and rights of the employees who care for children, it is specified that an employed woman during pregnancy, childbirth



and child-care is entitled to maternity leave of 365 days from the day of childbirth. If she is willing, an employed woman may start working before the end of the legally prescribed leave, but not earlier than 45 days from the day of childbirth. If an employed woman starts working before the end of her maternity leave, she is entitled, in addition to a daily break, to additional 60 minutes of leave for breastfeeding. Once she terminates the maternity leave and starts working, an employed woman is not entitled to resume the leave. During maternity leave, an employed woman is entitled to compensation of salary, in line with the law and collective agreement. A father may use the right to parental leave i.e. child-care leave in cases when the mother abandons the child, passes away or is prevented from using this right due to other valid reasons (serving a prison sentence, severe illness etc.). During this leave, the employed woman or the child's father is entitled to compensation of salary in line with the law and collective agreement.

260. The Law envisages protection of an employed woman in the event of stillbirth. If an employed woman gives birth to a stillborn baby or if the baby passes away before the end of the maternity leave, she is entitled to extend the leave by as long as the authorized specialist physician determines is needed to recover from childbirth and psychological condition caused by the loss of the child, and at minimum 45 days; during this time, she is entitled to all the rights stemming from maternity leave.

261. Pursuant to the provisions of the Law on Employment (Article 3), unemployed persons are equal in the exercise of the right to employment, regardless of their nationality, race, sex, language, religion, political or other belief, education, social origin, property or other personal characteristic. This Law regulates hiring, unemployment insurance, rights of all unemployed persons and conditions and procedure for their exercise, method of financing and other issues of importance for organized and productive employment. In this sense, all the provisions of the Law apply to all unemployed persons and no single provision specifies the rights of women.

262. In the sense of this Law, all unemployed persons are entitled to:

- (a) Information on employment opportunities and requirements;
- (b) Mediation in employment and work engagement;
- (c) Involvement in active employment policy programmes;
- (d) Preparation for employment;
- (e) Unemployment insurance;
- (f) Financial assistance;
- (g) Health insurance.

263. In mid-2008, the Government of Montenegro adopted the National Strategy for Employment and Human Resources, which defined the goals for the given period. With regard to the contents and methodology, the Strategy is similar to those of EU member states. With regard to the contents, main directions and structure of the set goals, the Strategy is a synthesis of knowledge concerning the problem of unemployment in Montenegro and outlines the ways to reduce the unemployment rate, with the ambition to make it drop below 10% in the imminent period. The goals, measures and activities were defined in line with the general features and guidelines of the EU employment policy. One of the guidelines refers to elimination of all forms of discrimination in the labour market and enabling equal opportunities for all.

264. One of the measures for Strategy implementation is ensuring gender equality in the labour market and efficient prevention of discrimination in this regard. Increasing the employment rate for women is a significant effort towards gender equality with concern to

employment, unemployment and pay. An important factor for greater active participation of women in the labour market is reconciliation of professional and family life, primarily in the form of provision of protection for children and elderly dependents. Social partners have an important role in ensuring gender equality.

265. The Strategy defines the measures and activities in the domain of gender equality in employment:

- Establishing efficient and timely legal protection from all forms of infringement of the right to gender equality in the labour market and efficient implementation of appropriate measures in cases of infringement of these rights.
- Introduction of standards for identification of various forms of discrimination on employment and mechanisms for their elimination.
- Introduction of measures facilitating a woman's return to work after a leave of absence. This may be also implemented by means of a contract that would specify the details so as to prevent the situation that women who plan to have children lose their jobs.
- In granting loans to start up and stimulate entrepreneurship, in the forthcoming period preference will be given to projects implemented by women.
- Implementation of targeted programmes for women in the labour market.
- Enhancing women's motivation for education and training by means of professional approach, in order to ensure their greater participation in training programmes, especially in non-traditional occupations.
- Improving the position of homemakers. They handle numerous family responsibilities and their contribution to the family and society is invaluable; therefore, their status needs to be legally defined and monetized, in order to enable them to achieve, to the extent possible, economic independence.

The indicators for monitoring the implementation include the following:

- Employment and unemployment rates for men and women
- Salaries of men and women
- Professional structure by sex (share of women in senior positions)

266. The most relevant institution for implementation of measures in the area of employment in Montenegro is the Employment Office of Montenegro. Its main activity is assistance to unemployed persons (mediation in employment and professional counselling for the unemployed and youth; implementation of active employment policy programme; unemployment insurance) aimed at their faster and readier integration in the labour market. The Office has 348 employees, out of which 259 women (74.42%).

267. The stronger pace of economic activities and implementation of active employment policy measures caused a considerable increase in the demand for labour, which contributed to a decline in registered unemployment – from 85,000 in mid-2000 to less than 40,000 in the first half of 2006 and less than 30,000 at the end of 2008. The unemployment rate dropped from slightly over 32% (mid-2000) to below 15% (mid-2006), that is 10.75% on 31 December 2008.

268. The gender structure of unemployed persons in Montenegro indicates the need to recognize this aspect of supply in labour market analysis. The share of women in the overall number of the unemployed is around 45%.<sup>39</sup>

269. The number of unemployed persons by years, with the share of women indicated:

No.	Date							
	31 December 2006		31 December 2007		31 December 2008		15 March 2009	
2	<b>Total</b>	<b>Women</b>	<b>Total</b>	<b>Women</b>	<b>Total</b>	<b>Women</b>	<b>Total</b>	<b>Women</b>
3		17 975	14 250		12 785		13 017	
	<b>39 387</b>	(45.63%)	<b>32 011</b>	(44.51%)	<b>28 478</b>	(44.89%)	<b>29 130</b>	(44.68%)
	<i>Unemployment rate for women</i>				<i>Unemployment rate for men</i>			
	31 Dec. 2006		16.02%		14.08%			
	31 Dec. 2007		12.70%		11.68%			
	31 Dec. 2008		11.40%		10.32%			
	15 March 2009		11.60%		10.59%			

270. Prolonged unemployment is another characteristic of the registered supply in the labour market. Lengthy job seeking period is common for all levels of professional qualifications and both genders.

<sup>39</sup> Data for this Article obtained from the Employment Office of Montenegro.

## 271. Unemployed persons by the length of job seeking period:

No.		Date											
		31 Dec. 2006			31 Dec. 2007			31 Dec. 2008			15 March 2009		
2	Length of time	<i>Total</i>	<i>Women</i>		<i>Total</i>	<i>Women</i>		<i>Total</i>	<i>Women</i>		<i>Total</i>	<i>Women</i>	
3	Up to 6 months	<b>7 818</b>	3 733	47.75%	<b>8 115</b>	3 647	44.94%	<b>8 170</b>	4 043	49.49%	<b>8 941</b>	4 182	46.77%
4	6 to 9 months	<b>3 033</b>	1 333	43.95%	<b>1 874</b>	872	46.53%	<b>2 840</b>	1 393	49.05%	<b>2 092</b>	1 146	54.78%
5	9 to 12 months	<b>3 445</b>	1 325	38.46%	<b>2 006</b>	964	48.06%	<b>1 630</b>	773	47.42%	<b>2 384</b>	1 122	47.06%
6	Up to 1 year in total	<b>14 296</b>	6 391	44.70%	<b>11 995</b>	5 483	45.71%	<b>12 640</b>	6 209	49.12%	<b>13 417</b>	6 450	48.07%
7	1 to 3 yrs	<b>11 728</b>	4 981	42.47%	<b>9 268</b>	3 890	41.97%	<b>7 431</b>	3 055	41.11%	<b>6 953</b>	3 025	43.51%
8	3 to 5 yrs	<b>4 680</b>	1 990	42.52%	<b>5 017</b>	1 947	38.81%	<b>3 737</b>	1 381	36.95%	<b>4 007</b>	1 408	35.14%
9	5 to 8 yrs	<b>2 944</b>	1 346	45.72%	<b>1 885</b>	809	42.92%	<b>1 888</b>	723	38.29%	<b>2 008</b>	746	37.15%
10	More than 8 yrs	<b>5 739</b>	3 267	56.93%	<b>3 846</b>	2 121	55.15%	<b>2 782</b>	1 417	50.93%	<b>2 745</b>	1 388	50.56%
11	More than 1 year in total	<b>25 091</b>	11 584	46.17%	<b>20 016</b>	8 767	43.80%	<b>15 838</b>	6 576	41.52%	<b>15 713</b>	6 567	41.79%
<b>12</b>	<b>Total 6+11</b>	<b>39 387</b>	<b>17 975</b>	<b>45.64%</b>	<b>32 011</b>	<b>14 250</b>	<b>44.52%</b>	<b>28 478</b>	<b>12 785</b>	<b>44.89%</b>	<b>29 130</b>	<b>13 017</b>	<b>44.69%</b>

272. The structure of the unemployed by level of education or professional qualifications is the main parameter for identification of key characteristics of supply in the labour market. The gender and age factors serve to complete the picture of the work potential of candidates to be included in labour.

## 273. The unemployed by level of professional qualifications:

No.		Date											
		31 Dec. 2006			31 Dec. 2007			31 Dec. 2008			15 March 2009		
2	Secondary education	<i>Total</i>	<i>Women</i>	<i>%</i>	<i>Total</i>	<i>Women</i>	<i>%</i>	<i>Total</i>	<i>Women</i>	<i>%</i>	<i>Total</i>	<i>Women</i>	<i>%</i>
3	I	<b>8 000</b>	3 043	16.93%	<b>6 458</b>	2 230	15.65%	<b>6 149</b>	2 219	17.36%	<b>6 366</b>	2 292	17.61%
4	II	<b>2 134</b>	1 059	5.89%	<b>1 667</b>	769	5.40%	<b>1 526</b>	724	5.66%	<b>1 522</b>	718	5.52%
5	III	<b>12 494</b>	4 612	25.66%	<b>9 811</b>	3 539	24.84%	<b>8 298</b>	3 089	24.16%	<b>8 543</b>	3 152	24.21%
6	IV	<b>12 672</b>	7 232	40.23%	<b>9 763</b>	5 569	39.08%	<b>8 664</b>	4 930	38.56%	<b>8 801</b>	5 002	38.43%
7	V	<b>424</b>	45	0.25%	<b>538</b>	39	0.27%	<b>491</b>	36	0.28%	<b>470</b>	36	0.28%
8	VI <sub>1</sub>	<b>1 605</b>	829	4.61%	<b>1 465</b>	738	5.18%	<b>1 193</b>	558	4.36%	<b>1 224</b>	563	4.33%
9	VI <sub>2</sub>	<b>11</b>	1	0.01%	<b>9</b>	1	0.01%	<b>6</b>	1	0.01%	<b>6</b>	1	0.01%
10	VII <sub>1</sub>	<b>2 010</b>	1 136	6.32%	<b>2 249</b>	1 334	9.36%	<b>2 105</b>	1 203	9.41%	<b>2 158</b>	1 229	9.44%
11	VII <sub>2</sub>	<b>34</b>	17	0.09%	<b>48</b>	29	0.20%	<b>43</b>	23	0.18%	<b>38</b>	22	0.17%
12	VIII	<b>3</b>	1	0.01%	<b>3</b>	2	0.01%	<b>3</b>	2	0.02%	<b>2</b>	2	0.02%
<b>13</b>	<b>Σ</b>	<b>39 387</b>	<b>17 975</b>	<b>45.64%</b>	<b>32 011</b>	<b>14 250</b>	<b>44.52%</b>	<b>28 478</b>	<b>12 785</b>	<b>44.89%</b>	<b>29 130</b>	<b>13 017</b>	<b>44.69%</b>

## 274. The age structure of the unemployed:

No.		Date											
		31 Dec. 2006			31 Dec. 2007			31 Dec. 2008			15 March 2009		
	Age group	Total	Women		Total	Women		Total	Women		Total	Women	
3	Under 18	7	2		22	15		75	41		89	45	
4	18 to 25	5 332	2 272	42.61%	4 370	2 030	46.45%	4 247	2 022	47.61%	4 541	2 077	45.74%
5	<b>Total under 25</b>	<b>5 339</b>	<b>2 274</b>	<b>42.59%</b>	<b>4 392</b>	<b>2 045</b>	<b>46.56%</b>	<b>4 322</b>	<b>2 063</b>	<b>47.73%</b>	<b>4 630</b>	<b>2 122</b>	<b>45.83%</b>
6	25 to 30	5 700	2 720	47.72%	4 038	2 102	52.06%	3 066	1 551	50.59%	3 241	1 605	49.52%
7	30 to 40	9 142	4 765	52.12%	6 249	3 394	54.31%	4 629	2 552	55.13%	4 864	2 642	54.32%
8	40 to 50	8 851	4 632	52.33%	6 904	3 406	49.33%	6 191	3 234	52.24%	6 263	3 296	52.63%
9	Over 50	10 355	3 584	34.61%	10 428	3 303	31.67%	10 270	3 385	32.96%	10 132	3 352	33.08%
10	<b>Total over 25</b>	<b>34 048</b>	<b>15 701</b>	<b>46.11%</b>	<b>27 619</b>	<b>12 205</b>	<b>44.19%</b>	<b>24 156</b>	<b>10 722</b>	<b>44.39%</b>	<b>24 500</b>	<b>10 895</b>	<b>44.47%</b>
11	<b>Total 5+10</b>	<b>39 387</b>	<b>17 975</b>	<b>45.64%</b>	<b>32 011</b>	<b>14 250</b>	<b>44.52%</b>	<b>28 478</b>	<b>12 785</b>	<b>44.89%</b>	<b>29 130</b>	<b>13 017</b>	<b>44.69%</b>

275. The unemployed by years of service:

No.		Date							
		31 Dec. 2006		31 Dec. 2007		31 Dec. 2008		15 March 2009	
2	Years of service	Total	F	Total	F	Total	F	Total	F
3	None	<b>10 603</b>	4 973	<b>7 726</b>	3 832	<b>6 678</b>	3 284	<b>6 770</b>	3 237
4	Up to 1	<b>5 673</b>	2 901	<b>3 978</b>	2 096	<b>2 740</b>	1 448	<b>2 967</b>	1 517
5	1 to 2	<b>2 891</b>	1 681	<b>2 070</b>	1 285	<b>1 614</b>	957	<b>1 739</b>	1 036
6	2 to 3	<b>1 522</b>	853	<b>1 078</b>	618	<b>847</b>	493	<b>930</b>	528
7	3 to 5	<b>1 929</b>	1 068	<b>1 410</b>	833	<b>1 121</b>	676	<b>1 218</b>	712
8	5 to 10	<b>2 862</b>	1 461	<b>2 072</b>	1 061	<b>1 744</b>	977	<b>1 878</b>	1 024
9	10 to 20	<b>4 767</b>	1 994	<b>3 681</b>	1 431	<b>3 331</b>	1 489	<b>3 378</b>	1 548
0	20 to 30	<b>6 994</b>	2 632	<b>7 314</b>	2 623	<b>7 747</b>	3 015	<b>7 685</b>	2 981
1	More than 30	<b>2 146</b>	412	<b>2 682</b>	471	<b>2 656</b>	446	<b>2 565</b>	434
<b>2</b>	<b>Total</b>	<b>39 387</b>	<b>17 975</b>	<b>32 011</b>	<b>14 250</b>	<b>28 478</b>	<b>12 785</b>	<b>29 130</b>	<b>13 017</b>

276. Women constitute around 45% of the unemployed in Montenegro. If we consider the qualifications structure of unemployed women, the predominance of those with secondary education is evident: around 39% have level IV; around 24% have level III; around 16% have no qualifications. The main characteristic of the situation and tendencies in the area of employment of women in Montenegro over the recent years has been the constantly declining share of women in the overall number of the unemployed: 45.64% on 31 Dec 2006; 44.52% on 31 Dec 2007; 44.89% on 31 Dec 2008, and 44.69% on 15 March 2009. This trend was influenced by the significant increase in employment of women in certain industries that normally hire more women (retail, hospitality and tourism etc.). In addition, women are more active in seeking employment, accepting the jobs offered to them and responding to programmes of preparation for employment organized by the Employment Office of Montenegro (vocational training, retraining, and further training).

277. Due to the lack of practical skills, the persons who complete secondary school are incompetent and unprepared for the labour market; therefore, active employment policy measures are used precisely to narrow the gap between supply and demand in the labour market. If active employment policy projects are considered, it shows that the share of women is around 57% on annual basis. Women generally respond better to the training programmes organized by the Employment Office and are readier to accept a job offer even if the job is outside their profession. In its projects, the Employment Office has ensured equal terms for both sexes at all the stages within its competence. Women employment is highest in service industries such as hotel, hospitality, and retail. The share of women is high also in the education system, especially in pre-school education. It is telling that their share is higher in the industries that provide lower salaries. There are very few women in top and managerial positions, and they make up the majority of office personnel with lower levels of qualifications.

278. According to MONSTAT's Workforce Survey, the number of employed persons in the fourth quarter of 2008 was 221,200 (58.2% men and 41.8% women). The employment rate was 43.1%, 51.6% for men and 35.1% for women.

279. In addition to women's share of 45% in total unemployment and the fact that there are considerably fewer women among the employed and that they have a lower level of

qualifications, there are additional reasons for more efficient encouragement of their employment by means of specific programmes. Primarily, the traditional views on women's suitability for certain professions impacted, and will probably continue to impact for some time, the development of programmatic structure and capacities of mainstream education, especially secondary one, narrowing the range of career options for women. For the same reason, employers avoid hiring women, sometimes even for the jobs they are specifically suited for. The closing down of major companies in textile industry caused a sharp increase in the number of unemployed women with background in this particular industry. Besides, some of them had 20 or more years of service exclusively in the field of textile or leather industry and older than 50, which makes retraining additionally difficult and makes the employers less willing to hire them. Some of the unemployed textile workers that used to work in the sections for preparation and processing of raw materials, due to unfavourable work conditions (dust, noise, temperature, etc.) had reduced work capacity, which does not qualify as a specific category of disability, but is an obstacle even for the jobs within their own professions. The type of jobs, work requirements and conditions, current and anticipated, dynamic development of the industries such as construction, wood processing, transport and some additional ones will not be accompanied by more jobs for women.

280. The sectors that, in our context, give preference to hiring women and as such should be included in some forms of social economy, include the following:

- Agriculture, food production and processing
- Textile and leather industry
- Retail, hospitality and tourism
- Intellectual services
- Printing services
- Social services (child-care, care for the elderly etc.)
- Home assistance
- Cleaning buildings, work space, facilities and environment
- Landscaping and maintenance of green areas, gardens, parks etc.

281. Overview of unemployed persons by municipalities:

No.		Date							
		31 Dec. 2006		31 Dec. 2007		31 Dec. 2008		15 March 2009	
	Municipality	Total	F	Total	F	Total	F	Total	F
3	Andrijevica	<b>454</b>	188	<b>407</b>	171	<b>357</b>	142	<b>345</b>	141
4	Berane	<b>2 332</b>	839	<b>1 962</b>	729	<b>1 733</b>	671	<b>1 719</b>	660
5	Budva	<b>648</b>	422	<b>450</b>	298	<b>396</b>	233	<b>439</b>	268
6	Bijelo Polje	<b>4 958</b>	2 090	<b>4 290</b>	1 843	<b>3 552</b>	1 617	<b>3 589</b>	1 562
7	Bar	<b>2 579</b>	1 570	<b>1 666</b>	1 000	<b>1 314</b>	821	<b>1 392</b>	870
8	Cetinje	<b>1 015</b>	515	<b>779</b>	369	<b>1 674</b>	774	<b>1 662</b>	777
9	Danilovgrad	<b>947</b>	399	<b>728</b>	321	<b>761</b>	321	<b>728</b>	310
10	Herceg Novi	<b>1 213</b>	632	<b>943</b>	453	<b>955</b>	434	<b>989</b>	457
11	Kotor	<b>1 433</b>	613	<b>1 053</b>	388	<b>975</b>	374	<b>990</b>	387
12	Kolašin	<b>961</b>	426	<b>739</b>	305	<b>710</b>	284	<b>699</b>	274



No.		Date							
		31 Dec. 2006		31 Dec. 2007		31 Dec. 2008		15 March 2009	
2	Municipality	Total	F	Total	F	Total	F	Total	F
13	Mojkovac	1 010	358	759	278	642	233	752	278
14	Nikšić	5 221	2 467	3 884	1 879	3 268	1 663	3 351	1 668
15	Podgorica	8 845	4 081	6 723	3 161	5 824	2 696	5 900	2 773
16	Plav	719	282	497	183	406	119	445	132
17	Plužine	157	83	122	53	121	50	132	55
18	Pljevlja	2 945	1 324	2 723	1 209	2 448	1 106	2 545	1 103
19	Rožaje	1 232	385	1 563	451	1 303	392	1 333	391
20	Šavnik	244	94	198	70	187	68	189	61
21	Tivat	697	365	891	329	719	267	762	302
22	Ulcinj	1 357	622	1 220	543	843	380	872	404
23	Žabljak	420	220	414	217	290	140	297	144
24	<b>Total</b>	<b>39 387</b>	<b>17 975</b>	<b>32 011</b>	<b>14 250</b>	<b>28 478</b>	<b>12 785</b>	<b>29 130</b>	<b>13 017</b>

282. The unemployment rate by regions:

	31 Dec. 2006	31 Dec. 2007	31 Dec. 2008	15 March 2009
Northern	19.51%	17.29%	14.86%	15.23%
Central	13.02%	9.84%	9.37%	9.46%
Southern	11.83%	10.08%	8.60%	8.96%

#### By sex

	31 Dec. 2006		31 Dec. 2007		31 Dec. 2008		15 March 2009	
	F	M	F	M	F	M	F	M
Northern	20.41%	18.94%	17.88%	16.92%	15.65%	14.35%	15.58%	15.01%
Central	13.86%	12.38%	10.64%	9.22%	10.13%	8.78%	10.26%	8.83%
Southern	13.07%	10.81%	9.90%	10.22%	8.31%	8.83%	8.95%	8.97%

283. The unemployment rate by sex, shown by individual region, mirrors the unemployment at the national level, and is the highest in the northern region. According to the data from 31 December 2008 and 15 March 2009, the unemployment rates for men and women in the southern part of the country are almost identical.

284. Record keeping and mediation in employment are the most important activities of all employment public services. The Law on Records in the Fields of Labour and Employment prescribes that records on unemployed persons contain information on the persons seeking employment who are registered with the branch office of the Employment Office which is competent for the territory where such persons have place of residence. Records are administered by entering information in the main form of records for the unemployed person, which includes also information on the sex of the person seeking employment.

285. The Employment Office is implementing the active employment policy and is making an effort, by implementing the measures and development projects that include

creation of new jobs, to achieve a fall in the number of unemployed persons. In this sense, the right to be involved in the programmes within active employment policy measures pertains to the following: unemployed persons; employed persons working less than full working hours (part-time work) and persons who have been made redundant due to technological, economic or organizational changes. Thus, the right of women to be involved in active employment policy measures is not specifically defined; instead, identical rights are assumed for all unemployed persons.

286. Preparation for employment is one of the measures of active employment policy that includes: career guidance; professional training; retraining or further training; updating the knowledge of the unemployed persons who have waited for employment longer than two years; training of trainees for independent work in line with their professional qualifications, and other forms of training. In the sense of the Law on Employment, the right to preparation for employment pertains to unemployed persons below the age of 50 (men) or 45 (women).

287. With the aim of matching the supply and demand in the labour market, based on concrete requests of employers and monitoring of labour market needs, the Employment Office organizes various forms of preparation for employment. Such training aims to: reduce unemployment; enhance employability of persons seeking employment by means of upgrading the quality of supply; meet the current needs, requirements and conditions of work; narrow the gap between the supply and demand in the labour market.

288. Of the total number of unemployed persons who are trained, throughout the year, within different forms of vocational training for the identified employer and within the programmes of preparation for the labour market (occupational training and programmes for acquisition of specific knowledge), women make up around 57%.

289. One of the successful programmes of the active employment policy that alleviates the consequences of open unemployment is the public works programme. Public works are local or national employment schemes, organized to implement social protection, educational, cultural, communal and ecological programmes based on servicing the community and non-profit work. Such programmes foster new jobs and upgrading of the work potential, knowledge and skills of the unemployed, while at the same time assisting the development of local governments. The share of women in the overall number of persons annually involved in public works is around 44%.

290. The Employment Office is particularly concerned with hard-to-employ categories of unemployed persons. RAE in Montenegro and persons with disabilities are certainly among the most vulnerable categories among the hard-to-employ persons. For the purpose of their faster employment, certain programmes of active employment policy are fostered. These programmes aim not only to improve their social and financial status, but also to provide psychological empowerment, integration in the society, enhanced confidence in themselves and their capacities, and to encourage independent decision-making concerning issues important for their future lives.

291. The Employment Office implements various programmes and activities tailored to the capacities and limitations of persons facing obstacles in employment. Such persons also have priority in being included in programmes of active employment policy: public works; loans for self-employment; vocational training for specific occupations; co-financing of social security contributions for a certain period of time, as well as salaries for trainees.

292. In the context of discrimination and being in the category of hard-to-employ persons, Roma women are a doubly discriminated category of unemployed persons. On one side, there is illiteracy, a low level of education, an extremely low employment rate, while on the other the Roma tradition.

293. Women's response to involvement in active employment policy measures available to them is rather low, and for a number of reasons: early marriage, strong authority of their husbands, lack of time for training because of the large number of children and widespread illiteracy. Fathers do not allow their daughters to attend school or training for fear they may get in contact with the opposite sex. This is why men, fathers, take female children out of school, training etc. as soon as they perceive such a risk.

294. The "Second Chance" project, implemented jointly by the Roma Scholarship Foundation, the Employment Office of Montenegro, the Vocational Education Centre and the German international organization for adult education "DVV International", focused on reducing the poverty and marginalization of vulnerable groups. The project was financed by the EU via the European Agency for Reconstruction.

295. The project included training, from functional literacy to vocational training. The vocation education and training (VET) component of the project was implemented in the first half of 2008. In total, 60 RAE, 40% of them women, completed the training to work as support staff in construction industry, hospitality and personal services. Apart from this training, most candidates acquired basic computer skills and passed the driving test for B category vehicles.

296. The project "Reducing the vulnerability of domicile RAE population" was implemented by the Employment Office of Montenegro in partnership with the UNDP Office in Montenegro. The project is an effort to upgrade the professional qualifications of Roma and enhance the chances for success in the labour market. Within one of the defined projects that concerned improvement of employment services 57 persons completed one of the training programmes available between October 2007 and December 2008; the total number included 22 women, making up 38.60%.

297. The occupations belonged to the range of lower level of qualifications and there were stereotypes concerning choice of occupation, in the sense that most men signed up for training for car mechanics, while most women completed training for women's hair dressers.

298. One of the project aims was support to entrepreneurship by means of grants for setting up private businesses; one of the grants was awarded to a Roma woman, who set up — together with another ten women and helped by the NGO from Nikšić — the "Rukatnica" Co-operative, running a dressmaking shop and a hairdressing salon.

299. Data on RAE (unemployed) (on 15 March 2009)

No.	Municipality	REA – ALL			REA – ACTIVE*		
		M	F	Σ	M	F	Σ
		2	3	4	5	6	7
1	Andrijevica	1	2	3	0	0	0
2	Berane	64	40	104	2	0	2
3	Budva	9	12	21	1	0	1
4	Bijelo Polje	96	91	187	6	1	7
5	Bar	56	57	113	3	5	8
6	Cetinje	9	11	20	1	1	2
7	Danilovgrad	5	6	11	1	0	1
8	Herceg Novi	36	47	83	5	6	11
9	Kotor	25	26	51	2	2	4

No.	Municipality	REA – ALL			REA – ACTIVE*		
		M	F	Σ	M	F	Σ
	1	2	3	4	5	6	7
10	Kolašin	1	0	1	0	0	0
11	Mojkovac	0	0	0	0	0	0
12	Nikšić	92	75	167	16	17	33
13	Podgorica	196	136	332	29	9	38
14	Plav	0	0	0	0	0	0
15	Plužine	2	0	2	2	0	2
16	Pljevlja	1	0	1	0	0	0
17	Rožaje	0	1	1	0	0	0
18	Šavnik	0	0	0	0	0	0
19	Tivat	21	32	53	4	8	12
20	Ulcinj	30	10	40	7	1	8
21	Žabljak	0	0	0	0	0	0
<b>22</b>	<b>Total</b>	<b>644</b>	<b>546</b>	<b>1 190</b>	<b>79</b>	<b>50</b>	<b>129</b>

300. According to the database on RAE in Montenegro<sup>40</sup>, active male RAE older than 15 years of age make up 77%, 9% are supported, 6% have personal income, 3% are not engaged in any occupation and 5% are unknown. Active female RAE older than 15 years of age make up 17%, while 71% are supported, 7% have personal income, 2% are not engaged in any occupation, and 3% are unknown.

301. The Employment Office has continuously implemented the projects for employment and social inclusion of persons with disabilities.

302. Data on persons with disabilities (categories II and III).

No.	Municipality	Date							
		31 Dec. 2006		31 Dec. 2007		31 Dec. 2008		15 March 2009	
		Total	F	Total	F	Total	F	Total	F
3	Andrijevica	6	3	5	2	5	2	5	2
4	Berane	259	65	237	57	221	56	222	56
5	Budva	5	2	4	2	5	3	4	3
6	Bijelo Polje	407	159	368	143	309	127	305	122
7	Bar	40	20	31	17	24	16	25	14
8	Cetinje	3	2	6	2	22	13	22	14
9	Danilovgrad	63	27	63	28	68	30	64	30
10	Herceg Novi	63	17	62	17	57	11	63	13
11	Kotor	60	21	58	21	54	17	53	16
12	Kolašin	24	5	47	16	45	15	43	15

<sup>40</sup> Database on RAE in Montenegro, October 2008.

No.		Date							
		31 Dec. 2006		31 Dec. 2007		31 Dec. 2008		15 March 2009	
2	Municipality	Total	F	Total	F	Total	F	Total	F
13	Mojkovac	192	38	185	38	174	37	178	37
14	Nikšić	198	61	184	56	176	50	175	49
15	Podgorica	480	139	450	129	419	117	400	120
16	Plav	5	1	5	1	3	1	3	1
17	Plužine	0	0	0	0	1	0	1	0
18	Pljevlja	313	68	302	66	288	64	287	64
19	Rožaje	66	9	63	9	59	8	59	7
20	Šavnik	8	3	7	2	7	2	7	2
21	Tivat	7	2	22	1	19	2	22	2
22	Ulcinj	14	3	13	3	10	2	10	2
23	Žabljak	13	3	11	2	10	2	10	2
24	<b>Total</b>	<b>2 226</b>	<b>648</b>	<b>2 123</b>	<b>612</b>	<b>1 976</b>	<b>575</b>	<b>1 958</b>	<b>571</b>

## 303. Categorized youth:

No.		Date							
		31 Dec. 2006		31 Dec. 2007		31 Dec. 2008		15 March 2009	
2	Municipality	Total	F	Total	F	Total	F	Total	F
3	Andrijevisa	6	1	6	1	6	1	6	1
4	Berane	51	14	53	17	58	19	57	18
5	Budva	1	1	1	1	1	1	1	1
6	Bijelo Polje	69	29	80	35	79	34	77	33
7	Bar	34	14	27	8	32	14	38	16
8	Cetinje	17	6	17	5	18	5	18	5
9	Danilovgrad	16	8	15	7	15	7	15	7
10	Herceg Novi	13	5	11	5	10	4	10	4
11	Kotor	9	6	10	6	12	6	13	6
12	Kolašin	1	1	1	1	1	1	1	1
13	Mojkovac	15	4	15	4	15	4	15	4
14	Nikšić	41	23	34	18	33	18	36	19
15	Podgorica	205	74	204	81	202	83	202	82
16	Plav	15	5	16	5	14	4	14	4
17	Plužine	0	0	0	0	0	0	0	0
18	Pljevlja	51	26	45	23	49	27	44	25
19	Rožaje	9	3	11	3	12	3	12	3
20	Šavnik	4	0	4	0	3	0	3	0
21	Tivat	6	2	7	3	4	1	5	2
22	Ulcinj	15	6	14	6	13	6	13	6

No.		Date							
		31 Dec. 2006		31 Dec. 2007		31 Dec. 2008		15 March 2009	
2	Municipality	Total	F	Total	F	Total	F	Total	F
23	Žabljak	3	1	3	1	3	1	3	1
<b>24</b>	<b>Total</b>	<b>581</b>	<b>229</b>	<b>574</b>	<b>230</b>	<b>580</b>	<b>239</b>	<b>583</b>	<b>238</b>

304. The Employment Office records annually include on average 2,600 persons with disabilities (2,000 disabled workers of II and III category of disability and 600 categorized persons), which makes up around 9% of the overall number of the unemployed. Disabled workers lost their jobs due to bankruptcy or winding up of companies, or were made redundant. The share of women is around 29%. The numbers of unemployed persons with disabilities are the largest for the municipalities of Bijelo Polje and Podgorica (the share of women around 40% in Bijelo Polje and around 28% in Podgorica).

305. Active employment policy measures focused on improving the position of the disabled:

- Involvement in public works (multi-year project “Sunny Workshop”)
- Self-employment loans with favourable terms
- Vocational training in certain occupations
- Subsidized contributions
- Setting up a rehabilitation centre

306. The Employment Office has continuously implemented the public work activity titled “Sunny Workshop”, aimed at more efficient and faster employment of persons with disabilities, as one of the most difficult and long-term problems faced by our society. The share of women in this public work activity is around 53.8%.

307. Between May 2006 and December 2008, 10 self-employment projects of persons with disabilities were approved. Out of this number, 4 projects were awarded to women to start craft-service workshops (three in the municipality of Bar) and one was awarded for a clothes and footwear shop (municipality of Tivat).

308. The self-employment programme is one of the programmes implemented by the Employment Office of Montenegro within the active employment policy with the aim, inter alia, to expedite the equality between men and women. It is evident that female enterprises are achieving significant success, not only in the category of small businesses but in the sectors that were until recently considered untypical of female entrepreneurship such as IT, machine industry, construction industry and many others.

309. The Employment Office wants to motivate the women who are pursuing or are about to pursue the path of entrepreneurship in order to secure jobs and professional development. Therefore, as a special employment incentive, the interest rate has been structured to equal 3% annually for financing the projects implemented by women and those implemented in northern municipalities. For the rest of the projects, the annual interest rate is 4%.

310. Between May 2006 and February 2009, 959 projects were approved for existing and future enterprises owned by women; this is 39.33% of the total number of projects approved during this period. The projects employed 1,355 persons and the budget for their implementation was €5,089,197.

311. Most projects of current and future female entrepreneurs were approved in Nikšić (25.95%), Podgorica (12.61%), Pljevlja (8%), Rožaje (7.5%), Berane (6.8%), etc. The largest share of projects concerned agriculture and fishery (46.64%), trade (21.60%), crafts and personal services (13.43%), hospitality and tourism (6.80%), etc. Bearing in mind that almost one half of the approved projects concerned agriculture and fisheries, it is necessary to note another incentive for projects in this area. If the funds approved for implementation of project ideas in agriculture are used in line with the specified purposes and in line with the Agro-budget, up to 30% of the loan is envisaged to be written off. The share of loans granted to women would probably be even higher if there were no barriers concerning mortgage for the loans that women apply for. Namely, the Montenegrin tradition that implies that men predominate as title holders is an obstacle to women's access to loans, since banks require collateral whose value exceeds the value of the loan.

312. Within the Programme "State support and help to small and medium-sized enterprises in 2008 and 2009", by 5 November 2009, the Directorate for Development of SMEs, in cooperation with commercial banks approved a total of 88 projects under the "Start UP" and "Fostering Entrepreneurship" credit facilities. 30 projects were approved within the credit facility "Encouraging start up businesses"; in 10 projects the founders and managers were women, and in the remaining 20 they were men. 58 projects were approved within the credit facility "Fostering Entrepreneurship"; women were managers in 8 projects, while men were managers in the remaining 50.

313. The occupations in the Employment Office records are not gender sensitive. Out of the long list of occupations, there are traditionally those where women predominate, such as textile industry. There are occupations where by tradition men predominate, such as metal-working.

314. Out of the total number of persons who obtained seasonal jobs in 2008, according to the Employment Office data, over 50% were women. More women were hired, within level I of qualifications, to work as cleaning personnel or retail operators; within the same level of qualifications men were hired to almost 100% to work as construction operators, hospitality-tourism operators, carriers. Within level II, women were hired as assistant clothes manufacturer, laundry staff, attendant retail staff, attendant caterers, food preparation workers, food servers, assistant cooks, assistant bakers, hotel maids (practically 100%), assistant typists (100%), assistant women's hairdressers and assistant beauticians. Within level II, men were mainly hired to work as: assistant bakers, assistant carpenters, assistant tinsmiths, car mechanics, ancillary construction workers, assistant construction carpenters, assistant bricklayers and guards. Within level III, more women were hired to work as: tailors and clothes manufacturers, sewers, shoe-makers, shop-assistants, warehouse staff, bar tenders and women's hairdresser. The following jobs within this level of qualifications were exclusively taken by men: plant farmer, crop farmer, florist, milling-machine operator, locksmith, welder, ship mechanic, car mechanic, car electrician, construction carpenter, bricklayers. Within level IV, women predominated as retail and commercial technicians, nurses, physical therapists. More men were hired as machine engineering technicians and electrical engineering technicians for electronics and energy. Unemployed persons of both sexes were hired for the jobs within other levels of qualifications (V, VII, VI2, VIII1, VII2).

315. An insured person whose employment, in the sense of the Labour Law, is terminated without his/her request, consent or fault and who worked full working hours for one or more employers for a minimum of nine months without interruption or 12 months with interruptions in the past 18 months is entitled to cash benefit if he/she reports to the Employment Office within 30 days from the day of termination of employment. An insured person who terminated entrepreneurial activity is entitled to this right under the same conditions.

316. The Law on Amendments to the Law on Employment (Official Gazette of Montenegro, 21, of 27 March 2008), which came into force on 4 April 2008, stipulated that an unemployed person is entitled to a cash benefit in the amount of the minimum pension envisaged under the Law on Pension and Disability Insurance until becoming eligible for pension i.e. until one of the grounds for termination of the right to cash benefit under this Law becomes effective, upon completing:

- 60 (men) i.e. 55 (women) years of age and a minimum of 10 years of insurance record
- 30 years of insurance record and a minimum of 50 years of age

317. A separate article of the Law defines additional rights for women with regard to cash benefit, so that the previously defined rights in the sense of the given Law continue to be in effect during pregnancy and childbirth, recognized as maternity leave for employed women according to labour regulations. A person with disability trained in a social protection institution or another family is also entitled to cash benefit while job seeking.

318. Cash benefit recipients on 9 April, 2009:

<i>No.</i>	<i>Category</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Female older than 50</i>
1	Cash b.	<b>6 534</b>	3 748	2 786	1 173
2	Increased cash b.	<b>4 385</b>	2 936	1 449	1 446
<b>3</b>	<b>Total</b>	<b>10 919</b>	<b>6 684</b>	<b>4 235</b>	<b>2 619</b>

## Article 12

319. The health care policy in Montenegro until 2020 defined the goals of health care policy, which include reduction of disparities in health. The health care policy aims to act against deepening of these disparities, and for the purpose of their reduction through targeted and active measures of distribution of health care assets and resources to the vulnerable segments of the society.

320. By adopting the Strategy for Preservation and Improvement of Reproductive Health, Montenegro adopted and implemented WHO recommendations that the attitudes and policies for improved health of mothers and children need a special place in the health care policy. Improving the health of mothers and children is a priority in all strategic papers of the Government of Montenegro.

321. Adoption of the Law on Health Care provided equal opportunity to exercise the right to health care irrespective of sex, nationality, religion, territory or any other affiliation (Article 4).

322. Women have the same access to health care as men. The Law on Health Care (Article 2) aims to establish the conditions for: preservation, protection and improvement of citizens' health; better quality of life in relation to health; ensuring accessibility of health care under equal terms; special care for the categories that are vulnerable and disadvantaged socially and in the domain of health, and improved efficiency and quality of health care service.

323. Provisions of the Law on Health Care stipulate free health care for women during pregnancy, childbirth and maternity. Priority health care measures, in accordance with the provisions of the Health Care Law (Article 10), in addition to improvement of health, detection and prevention of illnesses and injury, provision of necessary medication and



education concerning health, include also health care for children and youth and women in relation to family planning, pregnancy, childbirth and maternity.

324. All public health care institutions at all levels of health care are available to women, along with all available personnel in such institutions. There are no special institutions and personnel designated for health needs of women, except gynaecology departments in primary health care centres and hospitals, maternity wards and Gynaecology Clinic of the Clinical Centre of Montenegro.

325. According to the data of the Institute of Public Health of Montenegro<sup>41</sup>, major causes of morbidity in women are vascular diseases (4,801); this is also the main cause of mortality in women (1,787).

326. According to the data from the 2007 Statistical Yearbook, one case of death at childbirth was recorded.

327. Lethality rate (stillbirths) was 0.3 in 2007, while infant mortality rate was 7.4. Out of the total number of 58 deceased infants in 2007, 36 were boys and 22 girls. The most frequent causes of infant death in 2007, for 26 boys and 15 girls, were perinatal conditions.

328. Life expectancy for live newborn infants, according to the latest calculations for 2004 is around 73.25 years (69.76 for men and 76.09 for women).

329. In 2007,<sup>42</sup> the total number of live newborn infants was 7,834, out of which 3,698 female and 4,136 male. Natural population growth was 1,855 in the same year. The total number of deceased in the same year was 5,979, of whom 2,931 female and 3,048 male. Population growth rate in 2007 was 3.01, live births rate 12.71, and mortality rate 9.70.

330. All women enjoy prenatal care, in line with the Law on Health Insurance and Law on Health Care.

331. Total number of live newborn infants in 2007 was 7,834; of this number, 394 were born of mothers younger than 20, and 961 of mothers over the age of 35.

332. The data from the survey conducted for the purpose of Reproductive Health Strategy, provided information on the most common methods of contraception: 13.9% condoms; 8.2% diaphragm; 4.7% contraceptive pills; 6.6 % other contraceptive devices; 20.5% other methods.

333. There are no legal or cultural obstacles for women to access health care services in Montenegro.

334. According to the Institute for Public Health data for 2006, out of the total number of 7,577 employees in public health institutions in Montenegro, 5,699 were medical staff and assistants, while 1,878 were non-medical staff. According to MONSTAT data, out of the total number of 15,300 employees in the sector of health care and social work, 4,400 are men and 10,900 women.

335. Abortion is regulated by the Law on the Conditions and Procedure for Termination of Pregnancy (adopted on 27 July 2009). The Law recognized the right to freely decide on the number and spacing of children, at the same time respecting the dignity and protection of the individual and creating the conditions for the procedure of termination of pregnancy to be carried out only in institutions of secondary and tertiary character. Assigning this form of health care to institutions of secondary and tertiary level, along with introduction of the Ethics Committee of the Clinical Centre of Montenegro as the body that provides

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<sup>41</sup> Statistical Yearbook of the Institute for Public Health, 2007.

<sup>42</sup> Ibid.

professional review on the validity of grounds for termination of pregnancy between weeks 20 and 32 from the date of conception, and aims to protect health, minimize the possibility of post-intervention complications, and preserve women's reproductive health.

336. The Law regulates that termination of pregnancy in minors and persons under guardianship may be performed only with the parents' consent. Termination of pregnancy may be performed after the end of week 10 to week 20 from the date of conception (Article 6) if it is assessed, based on medical indications, that there is no other way to save life or eliminate severe harm to a woman's health during pregnancy, childbirth or after childbirth; if it is to be expected, based on medical indications, that the child will be born with severe physical or mental disability; if the conception was associated with a criminal offence; if a woman could face difficult personal or family situation during pregnancy or after childbirth. Termination of pregnancy under this article is approved by a commission on termination of pregnancy. Termination of pregnancy later than 20 weeks from the date of conception may be performed only on the basis of the medical indications from Article 6. Termination of pregnancy between weeks 24 and 32 from the date of conception is preceded by mandatory feticide, as medical intervention, to avoid birth of live but harmed fetus. Termination of pregnancy from paragraphs 1 and 2 of this Article is approved by the Ethics Committee of the Clinical Centre of Montenegro. The expenses of termination of pregnancy up to week 10 from conception are borne by the pregnant woman. Article 18 of the Law prohibits termination of pregnancy motivated by sex selection.

337. The rate of abortions at the national level is unknown, due to no delivery of data from the private sector. For this reason data from public health institutions are used to present the abortion rate; this renders the indicator irrelevant for interpretation of abortion in Montenegro. At the Clinical Centre of Montenegro, 579 abortions were performed in 2006; in comparison with the previous 20 years, there was an evident drop in the number of terminations of pregnancy, although this may have been influenced by the fact that a large number of private practices opened in the meantime and a share of women, mainly younger ones, undergo such procedures there, so that a very small number of young women and minors approach the Clinical Centre.

338. Prenatal foetus screening is available. In case of medical indications, the expenses are covered by the health insurance. In all other cases, the expenses related to work and travel are borne by the pregnant woman. There is no precise data concerning the number of these procedures performed in Montenegro annually, the reasons for performing them, results with regard to the sex of the foetus, or outcomes of such pregnancies.

339. According to the data of the Institute for Public Health of Montenegro,<sup>43</sup> 1,683 abortions were recorded in all age groups. The number of abortions in women below the age of 20 was 73, and in those over the age of 35 it was 1,051.

340. The option of voluntary sterilization is available, but no precise data is available on the number of performed sterilization procedures in women and men.

341. The law does not allow any female genital mutilation, neither is this a tradition, so the problem may be considered as non-existent in the community.

342. The Government of Montenegro adopted the Strategy to Combat HIV/AIDS, designed as a five-year framework for development, implementation, monitoring and evaluation of HIV/AIDS programmes. The following programmes have been identified as priorities in this area: prevention of HIV/AIDS spreading among groups of particular importance (youth, sailors, tourism and hospitality industry workers, psychoactive

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<sup>43</sup> Ibid.

substance users, persons engaging in commercial sex, men who have sex with men, Roma and prisoners); protection and prevention in health care institutions; fighting stigma and discrimination of virus carriers and the diseased; upgrading supervision, monitoring and evaluation of implemented programmes.

343. The Strategy is based on the principles of respect for human rights, equal access to health care, multi-dimensional nature and confidentiality of data. The Strategy is planned to ensure coordination of a wide range of activities related to HIV/AIDS that are part of Government preventative programmes and strategies, laws and international conventions and declarations. The given activities have been elaborated in the Action Plan for Strategy Implementation. The breakdown by sex shows that men prevail among registered HIV/AIDS cases in Montenegro with a share of 76%; the breakdown by age shows that most registered cases fall into the 30–39 age group (42.6 %).<sup>44</sup>

344. From the perspective of protection of women's health, programmes of prevention related to workplace are of particular importance – hospitality and tourism, considering the share of female workforce, along with the programme for protection of persons engaging in commercial sex, since these are mainly women exposed to various forms of violence, whose human rights and health are at risk. The programmes address both sexes, without singling out the specific needs of women – women, girls and young women, female prisoners, working mothers etc.

345. The age at first childbirth is increasing for women in Montenegro: that age is mostly 25–29 (31.4%), followed by 20–24 (29.9%), and very often also 30–34 (21.0%). In this regard, Montenegro is keeping up with the modern demographic trends of delayed marriage and childbearing. Women mainly get married at the age 20–24 and men at the age of 25–29. As many as 14.3% of women marry before the age of 20. The number of divorces per 100 marriages was 12 in 2003.<sup>45</sup>

346. The data from the survey “Gender Barometer”<sup>46</sup> concerning health gives rise to the conclusion that men more frequently describe their health condition as excellent and that they describe it as poor less frequently than women. Women report chronic illnesses more frequently than men, while 46% of women included in the sample and 51% of men visit doctors only when they are ill. Women with a better education visit doctors more often and more regularly than women with a poorer education. 48% of rural women visit a doctor “only when ill”; this applies to as many as 54% of women living on the periphery of urban areas, unlike 37% among women from towns. 16% visit gynaecologists regularly, and 28% occasionally. As many as 43% of rural women never visit a gynaecologist, compared to 28% of women from towns. The survey showed that women smoked less than men and had a much lower alcohol intake; however, they use more sedatives. Women engage in recreation less frequently than men (22% of men and only 12% of women), which shows that women actually do not have the time for recreation and that it is probably not a habit among them. With regard to use of contraceptive devices, the survey showed that only 32% of female respondents used them, compared to 44% of men. Contraceptives are used mainly by the middle generation of women (40%). 17% of rural women use contraceptives.

347. Rural women and women from minority groups in the overall have less opportunity to influence their health and are more exposed to the pressure of traditional norms of behaviour that enhance the health risk for women. However, some steps forward are noted, for example in the case of Roma women: until five years ago up to 60% of them gave birth

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<sup>44</sup> Data from the HIV/AIDS Strategy.

<sup>45</sup> Data from 2003 Population Census.

<sup>46</sup> Survey for the Gender Equality Office, carried out by the Agency Altera MB in 2007.

at home, and today only 5% have such experience.<sup>47</sup> Still, as many as one half of Roma female respondents in Nikšić think that they cannot plan their families i.e. influence the number of children.

348. Data from the survey “Gender Equality and Women’s Health in Montenegro”<sup>48</sup> show that a considerable share of women in Montenegro have problems related to physical and mental health. Most women stated that they treated their health inadequately. 7.8% do not take care of their health at all; 38% do not take sufficient care although they should; and 10.4% cannot find the time to take care of their health although they would like to. The extent of taking care of their health falls with the increase in the women’s age. 11% of women aged 40–54 do not take care of their health. 17.9% of women aged 30–34 and 13.8% of women aged 40–44 cannot find the time to take care of their health. Women’s marital status and education do not correlate with their concern for their health. 13.6% of women from the northern region, 5% from the central and 4.8% from the southern region do not take care of their health. A large share of respondents, 47.7% do not engage in any physical activity, which puts their health at risk. 19.3% of women regularly engage in physical activity at work (in the workplace or in agriculture); 24.1% outside work (exercise, walking); 8.9% engage in physical activity throughout the day (at work and outside work). 44.5% of women had a gynaecology check-up in the past year. 44.5% of women see a gynaecologist only when ill, and 11.4% never visited a gynaecologist. There is a statistically highly significant correspondence between the women’s age and visits to a gynaecologist. 31.6% of women under the age of 24 never visited a gynaecologist, along with 13.7% of women aged 25–29, but also more than 12% of women aged 50 and above. 56.6% of homemakers only see a gynaecologist if ill or pregnant; 39.4% of university students and 15.1% of retired women never see a gynaecologist. 39.8% of women from urban areas and 52.4% of rural women see a gynaecologist only if ill or pregnant. The average age at which women in Montenegro engage in first sexual intercourse is 20.5. 93.6% of female respondents had sexual relations. The difference across regions in the age of girls at the time of first sexual intercourse is statistically significant. 30.2% of girls from the central region, 21.1% from the northern, and 31.9% from the southern region have sexual intercourse by the age of 18.

349. With the aim to raise women’s awareness concerning their health, and reproductive health in particular, the Gender Equality Office organized several conferences devoted to this topic, celebrated the Global Health Day, issued publications on this issue and participated in the activities to mark the month of fighting breast cancer. Health care centres in Montenegro are strengthening their activities to raise women’s awareness on reproductive rights, regular check-ups, especially public information on early cancer detection. For example, the Health Care Centre from Danilovgrad published a guide on “Early Detection of Breast Cancer”, which was distributed to all women in the municipality together with an invitation to attend a check-up. As follow-up, health care centres in other municipalities are undertaking these and similar activities.

<sup>47</sup> It needs to be noted that this disparity is at least in part caused by diverse samples, since the first figure refers to Roma women in the whole country and the second to Roma women in Nikšić and survey results.

<sup>48</sup> Research done by Senior Lecturer Dr Jelena Radulović within the project “Gender, Violence and Democracy in Western Balkans”, implemented by the Gender Research Centre of Oslo University and the Faculty of Philosophy of the University of Montenegro in 2007.

## Article 13

350. The Law on Social and Child Protection (Official Gazette of the Republic of Montenegro 78/05) prescribes the right to family cash benefit as a welfare benefit for a family in the state of social need. The Law prescribes the requirements to realize this right, related to assessment of work incapacity, income and property.

351. A family i.e. a family member may realize other basic rights pertaining to social protection, in line with the Law: personal disability allowance; assistance benefit; placement into an institution; placement in another family; assistance for upbringing and education of children and youth with special needs; health care; coverage of funeral costs, and one-time cash allowance. In addition, a family may realize the basic rights pertaining to child protection: allowance for accessories for a newborn child; childbirth allowance; compensation of salary for one half of full working hours, and child benefit.

352. The Law on Social and Child Protection (»Official Gazette of the Republic of Montenegro 78/05) prescribes that a family i.e. family member may exercise the right to family cash benefit in the event of:

- (a) Incapacity for work;
- (b) Capacity for work, in the case of a:
  - Pregnant woman
  - Self-supported person
  - Parent supporting a minor child or a child of age that is incapable of work whose incapacitation occurred prior to the age of 18
  - Person who completed education according to an educational programme with adjusted implementation and additional professional assistance or special educational programme
  - Child without parental care, by the time of taking up employment on the basis of an open-ended contract or employment for a fixed-term in excess of six months

353. Article 5 of the Law on Social and Child Protection prescribes that citizens are equal in the exercise of social and child protection rights, irrespective of nationality, race, religion, social origin or other personal characteristics.

354. No distinction is made concerning the in the exercise of rights for male and female individuals in the area of social protection, except that, with regard to the exercise of the right to family cash benefit, a pregnant woman is considered as a person incapable of work and earning. A single woman is entitled to identical rights in the field of social protection as a married one.

355. The number of women (children and adults) exercising the right to family cash benefit is 20,674, while the number of men (children and adults) is 18,364. The respective figures include 1,878 single mothers and 55 single fathers. The gap in the number of single parents is primarily due to the fact that upon dissolution of marriage or common-law marriage custody over children is mainly awarded to mothers and the fact that some fathers do not pay child support in compliance with the court decisions, so that single mothers are allocated family cash benefit.<sup>49</sup>

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<sup>49</sup> Data of the Ministry of Labour and Social Welfare, 2007.

356. In line with the provisions from the Law on Social and Child Protection, cash benefits are paid directly from the national budget.

357. Welfare benefits are paid directly to families i.e. individuals.

358. Women with disabilities exercise the rights in the area of social and child protection pursuant to the Law on Social and Child Protection (Official Gazette of the Republic of Montenegro 78/05). Basic social protection rights are the following: family cash benefit; personal disability allowance; assistance benefit; placement into an institution; placement in another family; assistance for upbringing and education of children and youth with special needs; health care; coverage of funeral costs, and one-time cash allowances. Basic child protection rights are the following: allowance for accessories for a newborn child; childbirth benefit; compensation of salary for one half of full working hours, and child benefit.

359. In Montenegro, women and men have equal access to all types of loans and credits. However, inequality mainly shows with regard to some types of credits that require mortgage. The problem may emerge for a woman to obtain such credit, since in majority of cases the title holder is a man, although according to law men and women have equal rights to possession and inheritance of property.

360. There are no obstacles for women in Montenegro to engage in recreational activities, sports or culture.

361. According to the data from the survey “State of Women’s Rights in Montenegro”<sup>50</sup> more men believe that the volume of investment is the same for male and female sports (36.2% of men and 21.3% of women). Considerably more women — 26.6% than men — 19.3% do not know whether female and male sports are equally encouraged in Montenegro.

362. The Gender Equality Office organized the event “Week of Women’s Cultural Work” twice, in 2006 and in 2008, during the week celebrating 8 March, the International Women’s Day. The event aimed to promote women’s cultural work in various areas and included organization of exhibitions, theatre performances, literary events, arts and culture programmes etc. It is important to note that the activities were implemented across the country and included presentation of cultural and art work of Albanian and Roma women. As an important area from the perspective of suppression of discrimination against women, culture has been recognized in the Gender Equality Law and Action Plan for Achievement of Gender Equality 2008—2012. However, no research has been done in Montenegro that would indicate existence of direct discrimination in the field of culture, and it is therefore important to work towards a strategy for gender sensitive culture i.e. a strategy that would focus on both empowering women to take part in culture and on strengthening the cultural production (publishing, theatre, literature, art etc.) committed to overcoming gender stereotypes.

## Article 14

363. The Constitution of Montenegro guarantees the right to property and inheritance, as well as entrepreneurship. All freedoms and rights are based on the principle of equality between men and women.

364. Pursuant to legislation, rural women enjoy the right to property and inheritance on equal terms with men. However, some rural areas still retain the traditional approach, so

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<sup>50</sup> Survey carried out by the NGO Anima together with students of Women Studies and activists of women’s NGO sector, 2007.

that in the inheritance procedure women mainly relinquish their share of property to the benefit of their male relatives. According to the survey “Gender Barometer” rural women are either owners or co-owners of the house or flat — 38% in aggregate, but they are less frequently owners or co-owners of the holding — 24% in aggregate. 19% of rural women own cars.

365. According to the population census data,<sup>51</sup> total agricultural population in Montenegro is 33,025, out of which 15,790 or 47.81% women. Out of the given number, 1,846 women are involved in agriculture in urban areas, and 13,944 in rural ones. Total active agricultural population working in Montenegro is 14,067. Out of this, 4,241 or 30.1% are women. Out of the given number, 439 work in urban areas and 3,802 in rural ones. Of the total active agricultural population, 12,701 are involved in individual agricultural activity i.e. work independently on their own or another person’s holding. Out of this number, 3,950 or 31% are women, 258 working in urban and 3,692 in rural areas. The supported agricultural population is 18,958, out of which 11,549 (60.9%) women; the number of homemakers is 4,919 (336 in urban and 4,583 in rural areas). There are 23,010 unmarried women in rural areas and 34,777 men. The number of married women is 53,354, while the number of married men is 53,225. The number of widows is 14,995, and the number of widowers 3,262. The total number of families in Montenegro is 162,153, out of which 61,224 in rural areas. The number of married couples without children in rural areas is 13,992, those with children 38,093, mothers with children 7,148 and fathers with children 1,991.

366. The Law on Social and Child Protection prescribes the requirements for the exercise of social protection rights, which are identical for all citizens. In line with this, rural women have access to social protection just as any other citizen, in accordance with the previously mentioned Article 5 of the Law on Social and Child Protection. There is no special programme in the area of social protection that would address only rural women.

367. As mentioned above, the law provides equal opportunity to exercise the right to health care, so that rural women have equal rights as women from urban areas. For the time being, there is no national policy concerning the provision of services of family planning to rural women.

368. Rural women are provided the services from the domain of family planning and counselling within the health care services provided by the gynaecologists in village outposts (several times a week, a gynaecologist from the central health care centre visits the village posts, if available, and provides health care services, including these). These services are not specially provided to rural women due to this health care service not being available in rural areas; however, they are available free of charge at the relevant health care centre.

369. Health care services related to use of safe contraception are available to rural women during gynaecologist’s appointments in village posts. On a needs basis, women in rural areas can also consult the general practitioner whose full-time responsibility is taking care of the health of village population.

370. Non-governmental organizations have been the most active so far with regard to educating rural women, by means of organizing seminars and workshops that aimed to enhance their knowledge of women’s human rights and the problem of domestic violence, empowerment and encouragement of rural women to take an active role in solving the problems in their rural communities.

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<sup>51</sup> Statistical Office of Montenegro, 2003.

371. According to the survey «Gender Barometer», there is a large interest in further education among rural women. As many as 36% of women that did not experience some form of such education wanted to acquire it, compared to only 19% of rural men.

372. The particularly difficult position of rural women implies that, in addition to regular household chores, they also cultivate the land, take goods to the market and thus fully contribute to the household budget. With such workload, a woman has little time to participate in development and design of economic and cultural policies.

373. The funds that the state allocates for agricultural credits and other purposes are equally available to men and women, since they are granted according to the submitted business plans.

374. There are specific areas for selling agricultural products and other goods in all towns; 90% is sold by women who produced the goods on display or women earning a living by selling the goods.

375. There is a programme in Montenegro that concerns socially vulnerable categories of population that acquired the right to old age benefit. These are persons who worked in agriculture in rural areas throughout their lives and have no other income. The benefit is provided on a monthly basis. In 2007, the percentage of women beneficiaries of this programme was higher (58.5%) than the percentage of men (41.5%). Therefore, 2,797 women or 45% of the total number of beneficiaries (male and female) exercise this right automatically, being either single, widows or divorced by their marital status. In total, 790 women or 12% of the total number of beneficiaries (male and female) are married; however, it is important to note that it is not a rare occurrence that the man (husband) does not fulfill the age requirement, so that the woman exercises this right. The percentage of women beneficiaries of the programme in 2009 was 59.9%.<sup>52</sup>

376. The research “State of Women’s Human Rights in Montenegro”<sup>53</sup> showed that men mainly stated heavy workload as the biggest problem of rural women – 37.4%, followed by lack of education – 26%, and poverty – 5.7%. Women identified similar or almost identical factors: heavy workload – 32.5%, lack of education – 30.5%, patriarchal upbringing – 8.9%, and unemployment – 7.7%.

377. Since there are still no special programmes intended for rural women in Montenegro and no comprehensive survey has been carried out on their needs and position in the society, special attention will be devoted in the coming period to identify their needs and improve their status.

## Article 15

378. Women and men in Montenegro are completely equal with regard to the legal capacity to conclude contracts and manage property. Article 8 of the Constitution of Montenegro envisages prohibition of direct or indirect discrimination on any grounds; the Constitution also guarantees and safeguards the rights and freedoms – all are equal before the law irrespective of any specific or personal characteristic (Constitution of Montenegro, Article 17). The state guarantees the equality of women and men and develops the policy of equal opportunities (Constitution of Montenegro, Article 18). The Law on Civil Procedure prescribes that any physical or legal person may be a party to a dispute, while the Law on

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<sup>52</sup> Data of the Ministry of Agriculture, Forestry and Water Management.

<sup>53</sup> Survey carried out by the NGO Anima together with the female students of Women’s Studies and activists from the women’s non-governmental sector, 2007.



Obligations states that parties in obligation relations may be physical or legal persons and that parties in obligation relations are equal (Article 2 of the Law on Obligations.)

379. Property relations of spouses are regulated by Articles 285–307 of the Family Law. These provisions stipulate that spouses may possess separate and joint property. Each of the spouses independently disposes of and manages the separate property, unless they agreed otherwise. During marriage or prior to entering into marriage, spouses may regulate their property relations concerning current or future property by an agreement (Article 301 of the Family Law). Women are entitled to conclude contracts in on their personal behalf under the same terms as men.

380. Article 58 of the Constitution of Montenegro envisages that nobody may be deprived of or restricted in property rights. The Family Law envisages that spouses manage joint property during marriage jointly and by mutual agreement, and that they may also agree to the effect that management and disposal of joint property or its parts is performed by one of them (Articles 291–292, Family Law).

381. The Law on Property-Legal Relations prescribes that the owner is entitled to hold his/her asset, use it and dispose of it within the limitations set by law (Article 6 of the Law on Property-Legal Relations), while the Constitution guarantees the equality of women and men and develops the equal opportunities policy (Article 18 of the Constitution of Montenegro). Spouses may possess separate and joint property (Article 285, Family Law); separate property is the property acquired by the spouse prior to entering into marriage as well as the property acquired during marriage through inheritance, gift or other forms of unencumbered acquisition. Each spouse independently manages and disposes of separate property, unless they agreed otherwise (Article 286, Family Law).

382. Ownership of property reflects the still traditional norms concerning property and the actually inferior economic power of women. The survey “Gender Barometer”<sup>54</sup> showed that the female respondents owned real estate property and cars less frequently than the male respondents. However, majority of respondents stated that they owned no real estate property. For example, only 25% of respondents were owners or co-owners of flats. Out of the total number of female respondents, 22% were owners or co-owners of flats; the corresponding percentage among male respondents was 28%. This means that women aged 20–50 are by some 20% less likely to own a flat than men of the same age, and by as much as 40% less likely to own a house (owners or co-owners) compared to men of the same age. Ownership of flats increases with age, so that only 3% of women aged 20–29 own this type of real estate, compared to 15% of women from the eldest group included in the survey. In addition, ownership increases also with education. Women with the lowest level of education are the least likely to own a flat (3%), while the likelihood for those with post-secondary or university degrees was more than quadruple (13%). It is interesting that rural women appear most frequently as owners and co-owners of houses or flats (as high as 38% in aggregate), but less frequently as owners or co-owners of holdings (24% in aggregate). The most drastic disparities with regard to property ownership concern ownership of cars. The share of women who are owners or co-owners of cars is 26.2%. 30% of women in a large town are owners or co-owners of cars, compared to 19% in rural areas.

383. The state of Montenegro has fully met the responsibilities under Article 15 of the Convention on the Elimination of All Forms of Discrimination against Women, since the national legal system does not contains no provisions that restrict women’s rights.

384. With regard to the right to trial, there is no distinction between women and men. Everyone is entitled to a fair and public trial within reasonable time before an independent,

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<sup>54</sup> Research for the Gender Equality Office, carried out by the Agency Altera MB, 2007.

impartial court established by the law (Article 32 of the Constitution of Montenegro). Any party that has full business capacity may conduct actions in a procedure on their own (Article 77 of the Law on Civil Procedure). Women are free to choose occupation and employment (Article 62 of the Constitution); Article 43 of the Family Law also prescribes that spouses are free in their choice of work and occupation. Women attorneys may represent their clients in court under identical terms as men. Articles 4, 5, 6, and 7 of the Law on the Bar envisage the conditions for practicing the profession. Women may be selected to serve as jurors under the terms envisaged by Article 70 of the Law on Courts.

385. There is no distinction between women and men in Montenegro with regard to access to legal services. The Constitution prescribes that everyone is entitled to access to information held by public authorities and organizations exercising public authority (Article 51 of the Constitution of Montenegro). Everyone is entitled to legal aid (Articles 20 and 21 of the Constitution of Montenegro); drafting and adoption of the Law on Free Legal Aid is underway.

386. There is no distinction between women and men with regard to the severity of imposed sanctions, under identical or similar circumstances. The Constitution of Montenegro prescribes the right to a fair and public trial within reasonable time before an independent, impartial court established by the law (Article 32 of the Constitution of Montenegro). The Criminal Code also prescribes the conditions for imposing sanctions (Article 3); the conditions contain no distinction between men and women.

387. No research has been carried out in Montenegro concerning court reasoning and case law that would impact women and men differently.

388. There are no legal concepts in the Constitution and legislation of Montenegro that refer to women but not to men.

389. Article 39 of the Constitution of Montenegro prescribes the freedom of movement and residence. The customs and tradition do not restrict women in the exercise of this right.

390. Women and men have equal legal rights of freedom of movement and choice of place of residence, which is a right guaranteed under the Constitution of Montenegro (Article 39). Likewise, the Family Law prescribes that spouses choose the place of residence by mutual agreement (Article 42, Family Law).

391. The Constitution of Montenegro guarantees the equality of women and men (Article 18), and the freedom of movement and residence, as well as freedom to leave Montenegro (Article 39).

## **Article 16**

392. Under national family law, family members have equal rights and duties regardless of their sex or status. This stems from the more general constitutional principle on prohibition of any form of discrimination in the society (Article 8 of the Constitution of Montenegro). The provision from the Family Law that provides for entirely equal position of man and woman in personal and property rights is particularly highlighted (Article 39, Family Law), since it highlights the distinction from the patriarchal family relations from the past where the woman used to have an unequal position and was subordinated as a wife, mother, adoptive parent, guardian and family member in general.

393. In addition to substantive family law, the Family Law (Official Gazette of the Republic of Montenegro 1/07) regulates also individual judicial and administrative procedures in legal matters pertaining to family relations – procedural family law (Articles 316–372, Family Law).

394. Religious rules and custom law are not a source of our family law. The criteria applied for the purpose of legal typology of families are the grounds for establishment and the scope of relatives included. According to the grounds for establishment, there are three types of families: the ones stemming from matrimony, the ones not stemming from matrimony and adoptive ones. A family stemming from matrimony is established by children being born in marriage, as legally regulated union of man and woman. Such a family is composed of the spouses and their offspring. A family not stemming from matrimony represents a factual union between man and woman in which children were born. This type of family is based on common-law marriage and children being born in such union. An adoptive family is established artificially, based on a regulation (decision or agreement) establishing the parental relation between an adult person (or spouses) and minor child of different parents. According to the scope of relatives included, families are divided into nuclear and extended ones. A nuclear family is composed of the spouses or partners in common-law marriage and their offspring in the first degree of kinship. An extended family is composed of the parents, their adult children and their spouses.

395. The constitutional principle (Article 71 of the Constitution of Montenegro) defines the individual's freedom to enter into marriage, which encompasses the option of entering or not entering into marriage and to freely choose the partner in marriage. In a certain way, this freedom is also regulated by the basic provisions of the Family Law (Article 3, Family Law). National law does not contain any provision that would instruct an individual that he/she must enter into marriage. Today, marriage can be said to be an institution of general public interest. This is reflected through appropriate social mediation and intervention in the conclusion, realization and dissolution of marriage. The norms used to implement this intervention are mainly imperative. Such is also the provision of the Family Law (Article 16), which requires consent of both future spouses as the main precondition for concluding a valid marriage; this means that valid marriage cannot be concluded if such consent is missing.

396. Entering into marriage generates certain rights and duties of spouses, envisaged by law; concerning these, both spouses are equal (Articles 39 and 40, Family Law). The number of legal provisions on these is rather modest, although the content of marriage is its essence, because the content of the rights and obligations of spouses is predominantly ethical and as such unsuitable for legal arrangement; also, given the growing autonomy, freedoms and rights of spouses, they are themselves entrusted with arranging mutual relations.

397. National family legislation contains a prohibition for a person who is already married to enter into new marriage (Article 19, Family Law). "No one can enter into a new marriage until a marriage entered into earlier terminates." The Family Law envisages certain measures of prevention in the aim of preventing polygamy (future spouses are required to submit birth certificates that may not be older than three months etc.). In addition to prevention, the law envisages certain repressive measures against polygamy. Marriage annulment, which is envisaged as a sanction for polygamy (Article 47, par. 1, Family Law), is not considered to be sufficient in this case; therefore, the criminal offence of bigamy is defined (Article 213 of the Criminal Code of Montenegro). It has two forms: a person who is already married entering into a new marriage (paragraph 1), or a person entering into marriage with a person that he/she is aware is already married (paragraph 2). This criminal offence is punishable by a fine or imprisonment of up to two years.

398. It stems from the constitutional principle that children born out of wedlock have the same rights and obligations as the ones born in wedlock (Article 72, par. 3); therefore, parents' have equal rights and obligations towards children whether they were born in or out of wedlock (Article 6, Family Law). The Family Law recognizes only maintenance and property-legal effects of common-law marriage, which means that a union of longer

duration between a man and a woman (common-law marriage) is rendered equal with marriage with regard to the right to mutual support and other property-legal relations, if there are no obstacles for a valid marriage (Article 12).

399. In addition to the spouses' mutual rights and duties, there are certain individual rights and freedoms that the spouses exercise individually. One such right is professional activity of spouses. The Constitution guarantees everyone the right to free choice of occupation (Article 62), while the Family Law prescribes that each spouse is independent in the choice of work and occupation (Article 43).

400. Entering into marriage generates certain spousal rights and duties, which are envisaged by law and with regard to which the two spouses are equal (Article 39, 40 and 44, Family Law).

401. Under national family legislation, joint property is property acquired by the spouses during marriage, as well as income from such property (Article 288, Family Law). Joint property of spouses is a specific property concept pertaining to family law. The title holder for such property is dual – husband and wife jointly. All rights and obligations pertain to the spouses jointly and without division. The spouses' unspecified share in joint property results in two rules explicitly prescribed by law: (a) a spouse may not dispose of his/her share of undivided property individually, nor encumber it with legal matters involving living persons (Article 290, Family Law); and (b) the spouses' rights over immovable property which is their joint property are entered in the real estate registry and other relevant registries to the name of both spouses as their joint property with unspecified individual shares. If only one spouse is entered in the real estate registry and other relevant registries as owner of joint property, which is frequently the case in reality, the entry will be considered as being to the name of both spouses, unless the entry was made based on a written agreement between the spouses (Article 289).

402. The family legislation of Montenegro regulates that both spouses are entitled to start legal action for divorce (Article 323). This is their general and subjective right. Our law contains one temporary restriction to the right of action. According to Article 58, "the husband may not seek divorce during the wife's pregnancy i.e. until their child reaches the age of 12 months, unless the wife agrees to divorce". This restriction was introduced to protect the interest of pregnant women, mothers and newborn children. This provision is aligned with the constitutional principle of special social protection of mother and child (Article 73, Constitution of Montenegro).

403. In addition to personal consequences, divorce generates certain consequences of property-legal nature, whose regulation most directly and to the maximum extent impacts the lives and positions of former spouses. One such consequence is division of joint property. The provisions of the Family Law stipulate that spouses may ask for a divorce based on their mutual agreement. In addition to the motion for amicable divorce, the spouses are required to submit a written agreement on the exercise of parental right and division of joint property (Article 57). If no agreement is reached, the spouses' property is divided into equal shares (Article 294).

404. The right i.e. obligation of mutual support between spouses exists not only during marriage, but also, under certain terms, following divorce. The spouse who does not have sufficient means of support, is incapable of work or is not employable is entitled to support following divorce, in proportion with the capacities of the other spouse (Article 262, Family Law). In order to obtain support after divorce, the spouse who is not provided for needs to claim support in the divorce procedure before the conclusion of the main hearing (Article 263, par. 1). Exceptionally, the spouse who did not claim support from the other spouse in the course of the divorce procedure may, subject to valid reasons, state such claims in a separate procedure within one year from the divorce, but only if the grounds for

support originated prior to divorce and continued without interruption until the conclusion of the main hearing in the procedure concerning support, or in case of becoming, within the given timeline, incapacitated for work due to bodily injury or damaged health prior to divorce (Article 263, par. 2).

405. If, in the case of divorce, the spouses agreed on support, or one of the spouses without any explicit agreement participated in supporting the other, by paying certain amounts of money or allowing use of his/her property or otherwise, the deadline for claiming support from paragraph 2 commences from the date of last payment for the purpose of support i.e. from the date the spouse received his/her property back (Article 263, par. 3). Under national law, the failure of a person whose duty was determined by an effective court decision or enforceable settlement in court or another competent authority to provide support, in the amount and in the manner stipulated by the decision i.e. settlement, constitutes a criminal offence which is punishable by a fine or imprisonment up to one year (Article 221 of the Criminal Code).

406. Provisions of the Family Law regulate division of joint property of spouses following divorce. Spouses may divide joint property by mutual agreement by identifying the shares of the overall property or of a single share of property or of a single asset, as well as by each spouse taking individual assets or rights stemming from the given property, or by one spouse paying to the other the monetary value of his/her share. The agreement from paragraph 1 of this Article must be drafted in writing. If no agreement is reached, the spouses' property is divided into equal shares. Upon request of the spouse who proves that his/her contribution in the acquisition of joint property was evidently and significantly larger than that of the other spouse, the court will divide joint property according to each spouse's individual contribution. When determining the individual spouses' shares, the court will take into account not only their individual incomes and salaries, but also one spouse's assistance to the other, work, household and family, care for the upbringing and rearing of children, as well as any other form of work and cooperation in managing, maintaining and enlarging shared property (Article 14, Family Law).

407. Under our law, a union of longer duration between a man and a woman (common-law marriage) is rendered equal with marriage with regard to the right to mutual support and other property-legal relations (Article 12, Family Law). With regard to support, if the common-law marriage terminated, both the man and the woman are entitled to support from the other one under the terms valid for spouses, if the union was of longer duration (Article 268, Family Law). The legal provisions on property relations between spouses apply to property relations between partners in common-law marriage (Article 306, Family Law).

408. The Family Law does not contain provisions on protection from domestic violence, because it was deemed that substantive and procedural rules on these relations, which are specific by nature, origin and protection, should be proposed in a separate law. Domestic violence is a serious problem in modern societies, therefore a growing number of legislations, including ours (Article 220 of the Criminal Code, Official Gazette of the Republic of Montenegro 47/06), include this criminal offence. The criminal offence has its basic form (paragraph 1), three serious forms (par. 2–4) and a special form (paragraph 5). The basic form (paragraph 1) occurs when physical or mental integrity of a family member is endangered by use of violence. The serious form (paragraph 2) occurs with regard to the manner of commission i.e. the instrument used. Use of weapons, dangerous instruments or other instrument fit for causing severe injury to the body or severe damage to health in the commission of the basic form is considered aggravating circumstance (paragraph 1). Another serious form (paragraph 3) occurs if the acts from par. 1 and 2 resulted in serious bodily injury or serious damage to health or were committed against a minor. The most severe form (paragraph 4) occurs if the acts from par. 1, 2 and 3 resulted in death of a

family member. The special form (paragraph 5) exists for the purpose of ensuring sanctions for infringement of measures of protection from domestic violence prescribed by the Family Law, since the Law does not envisage any sanctions in such cases.

409. The right to free parenthood is regulated by the Family Law. Everyone has the right to decide freely on bearing children, and parents have the right to enable and provide conditions for their healthy psychological and physical development in the family and society (Article 7, par. 1).

410. The national policy concerning family planning is regulated by the constitutional principle, in the manner that the state creates the conditions that facilitate childbearing (Article 73). Furthermore, the Family Law prescribes that the state, by means of measures of social, health and legal protection, the system of education and information, employment policy, housing and fiscal policy, and by development of all other activities to the benefit of family and family members provides the conditions for free and responsible parenthood (Article 7, par. 2).

411. Parental responsibility of taking care of children is envisaged by the Constitution (Article 72, par. 2). Taking care of children includes: minding, raising, upbringing, educating, representing, supporting and managing and disposing of child's property (Article 69, par. 2, Family Law).

412. When entering into marriage, the spouses may agree to keep their respective family names or to take one of their respective family names as a joint family name or to take both their family names or for one spouse to add the other's family name to their own (Article 41, Family Law). The method to determine the child's first name is prescribed by the Law on First Name (Official Gazette of Montenegro 47/2008). Parents determine the child's first name by mutual agreement; the child may get one or both parents' family names (Article 6).

413. Parents, whether mother or father, may not act as guardians of their own children; instead, they exercise the parental right jointly and by agreement. A child without parental care or an adult person who is unable to take care of him/herself, his/her rights, interests and obligations are placed under guardianship (Article 178, Family Law).

414. Parents are the child's "natural" guardians. The difference between natural and appointed guardians is formulated so that a guardian has no parental rights, but has parental tasks – duties instead.

415. Although the child has the right to live with both parents, following divorce this is no longer possible. The court is obliged to determine by its divorce judgment which parent will continue to take care of children, guided by the child's interest. For the first time, the Family Law introduces in our legislation the provision that parents may continue to jointly exercise parental right even when they cease cohabitation, provided that they sign an agreement on joint exercise of parental right and that the court deems that such an agreement is in the child's best interest (Article 76, par. 2). Thus, parents can exercise all the rights and duties from the scope of parental right even after they cease cohabitation (in marriage or common-law marriage) and thus make an additional effort to avoid hostility and discontent with the court decision awarding exercise of the right to only one of them.

416. The data from the table below clearly show that custody of children is mainly awarded to mothers.<sup>55</sup>

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<sup>55</sup> The Statistical Office.

<i>Following divorce, custody of children awarded to</i>														
<i>Divorces</i>		<i>Wife</i>				<i>Husband</i>				<i>Other</i>				
<i>Total</i>	<i>With supported children</i>	<i>One</i>	<i>Two</i>	<i>3 and more</i>	<i>Total</i>	<i>One</i>	<i>Two</i>	<i>3 and more</i>	<i>Total</i>	<i>One</i>	<i>Two</i>	<i>3 and more</i>	<i>Total</i>	
1980	<b>259</b>	125	47	30	15	<b>92</b>	15	11	6	<b>32</b>	0	1	0	<b>1</b>
2000	<b>435</b>	263	99	72	29	<b>200</b>	20	11	12	<b>43</b>	1	12	7	<b>20</b>
2001	<b>492</b>	307	132	92	24	<b>248</b>	18	12	10	<b>40</b>	1	8	10	<b>19</b>
2002	<b>506</b>	300	124	91	33	<b>248</b>	13	15	7	<b>35</b>	0	14	3	<b>17</b>
2003	<b>494</b>	274	86	85	27	<b>198</b>	17	24	16	<b>57</b>	0	12	7	<b>19</b>
2004	<b>505</b>	287	119	83	28	<b>230</b>	18	18	10	<b>46</b>	0	6	5	<b>11</b>
2005	<b>499</b>	277	113	79	32	<b>224</b>	11	15	5	<b>31</b>	1	11	10	<b>22</b>
2006	<b>470</b>	267	101	76	47	<b>224</b>	12	8	7	<b>27</b>	0	9	7	<b>16</b>
2007	<b>453</b>	238	105	51	24	<b>180</b>	9	7	5	<b>21</b>	0	7	3	<b>10</b>

417. Full age is attained upon reaching 18 years of age (Article 13, Family Law).

418. The age of becoming eligible for marriage matches the age of becoming eligible for business. By setting the age of 18 as the age when both sexes become eligible for marriage, the legislator literally implemented the constitutional principle of the equality of sexes (Article 1 of the Constitution of Montenegro). Exceptionally, the court may allow a minor older than 16 to enter into marriage, in line with a special law (Article 24, Family Law).

419. Custom law is not a source of our family law.

420. Our positive regulations do not mention the institution of engagement between children i.e. it is outside of legal provisions.

421. It is indisputable that sexual offences against persons who have not reached sufficient level of physical and psychological development for engaging in sexual intercourse need to be criminalized. However, that level of development is not reached by all individuals at the exact same age. The legislator set the age of 14 as the average age when most individuals reach full biological sexual maturity. Therefore, under our law, statutory rape constitutes a criminal offence (Article 206, Criminal Code). The criminal offence has a basic form (paragraph 1) and two serious forms (paragraphs 2 and 3). Paragraph 1 criminalizes commission of statutory rape or an act equal to it committed against a child i.e. a person under the age of 14. The serious form from paragraph 2 includes the following aggravating circumstance: occurrence of severe bodily injury of the child, commission of the offence by more than one person or resulting in pregnancy. The most severe form from paragraph 3 occurs if it results in the death of the child. Paragraph 4 envisages the grounds for waiving criminal offence for certain perpetrators. Namely, no criminal offence occurs if there is no significant difference between the perpetrator and the child in respect to their mental and physical maturity.

422. The Law on Registers (Official Gazette of Montenegro 47/08) stipulates that registers record births, marriages, deaths and other legally defined information concerning or in relation to the individual and family status of Montenegrin citizens, generated in Montenegro or in another state, as well as the information concerning citizens of other states and stateless persons that are generated in Montenegro. Immediately after the wedding ceremony, spouses are issued marriage certificate ex officio, as proof of marriage (Articles 37 and 38, Family Law).

423. The new family law, implementing the constitutional principle of separation of church and state, removed the influence of religion and religious organizations on marriage and family (Article 14 of the Constitution of Montenegro). Marriage and family relations are regulated by law and fall under the jurisdiction of the state. Rules of religious organizations cannot be applied in judicial and administrative practice, and potential religious rituals concerning marriage and family relations have no legal effect. Pursuant to the Law on Inheritance («Official Gazette of the Republic of Montenegro» 4/76, 10/76 and 22/78) citizens are under identical terms equal in inheritance (Article 4).

424. The law does not impose on spouses any arrangement that would concern household management. Spouses are independent and equal in this regard and decide by agreement on the way to arrange relations and conduct the affairs related to marriage i.e. family (Article 44, Family Law).

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