



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

Distr.: General  
24 July 2017

Original: English

---

## Committee on the Elimination of Discrimination against Women

### Concluding observations on the second periodic report of Montenegro\*

1. The Committee considered the second periodic report of Montenegro (CEDAW/C/MNE/2) at its 1512th and 1513th meetings (see CEDAW/C/SR.1512 and 1513), held on 11 July 2017. The Committee's list of issues and questions is contained in CEDAW/C/MNE/Q/2 and the responses of Montenegro are contained in CEDAW/C/MNE/Q/2/Add.1.

#### A. Introduction

2. The Committee appreciates the submission by the State party of its second periodic report. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group, the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its high-level delegation, which was headed by the Minister for Human and Minority Rights, Mehmed Zenka. The delegation also included representatives of the Ministry of Agriculture and Rural Development, the Ministry of Labour and Social Welfare, the Ministry of the Interior, the Ministry of Health, the Ministry of Education, the Supreme Court of Montenegro and the Supreme State Prosecutor's Office of Montenegro, the Ministry for Human and Minority Rights and the Permanent Mission of Montenegro to the United Nations Office and other international organizations in Geneva.

#### B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2011 of the State party's initial report (CEDAW/C/MNE/1) in undertaking legislative reforms, in particular the adoption of the following:

(a) Amendments to the Law on Gender Equality, aligning it with European Union standards (2015);

(b) Amendments to the Law on Free Legal Aid (2015), which allows victims of domestic violence to receive free legal aid;

---

\* Adopted by the Committee at its sixty-seventh session (3-21 July 2017).



(c) Amendments to the Electoral Law (2014), which improves women's political participation.

5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption of the national action plan for gender equality, 2017-2021, and the strategy for the protection from family violence, 2016-2020.

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified or acceded to the following international and regional instruments:

(a) Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2013;

(b) Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, in 2013.

### **C. Parliament**

**7. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the parliament, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.**

### **D. Principal areas of concern and recommendations**

#### **Visibility of the Convention**

8. The Committee notes with concern the lack of information on any court or administrative proceedings, where the Convention has been directly applied or invoked.

**9. The Committee recommends that the State party promote capacity-building programmes on the Convention for judges, prosecutors, law enforcement personnel and lawyers, and the Protector of Human Rights and Freedoms of Montenegro, to enable them to directly apply or invoke its provisions in judicial or administrative proceedings and to interpret domestic legislation accordingly.**

#### **Legal framework for the prohibition of discrimination against women**

10. The Committee welcomes the solid legislative framework of the State party for the elimination of discrimination against women, including the Anti-discrimination Law, the Law on the Protector of Human Rights and Freedoms of Montenegro and the Law on Gender Equality. It also welcomes the various capacity-building and awareness-raising measures taken to prevent and address discrimination on the basis of sex and to promote gender equality, targeted, inter alia, at representatives of the judiciary, the police and civil society. However, it notes the following with concern:

(a) The limited impact of the above-mentioned legislation, which may point to a lack of implementation and of the political will to prioritize gender equality and

non-discrimination, as well as to the inadequacy of the capacity-building conducted on gender equality and on the prohibition of discrimination on the basis of sex;

(b) The small number of complaints about discrimination on the basis of sex or gender filed with the Protector of Human Rights and Freedoms and the absence of any such complaints filed with the Supreme Court. The Committee is concerned that this may be a reflection of an insufficient level of trust in State institutions among women who are victims of discrimination.

**11. The Committee recommends that the State party significantly increase the human, technical and financial resources allocated to the implementation of the legislation on gender equality and the prohibition of discrimination on the basis of sex or gender, that it conduct an assessment of the impact of the various capacity-building efforts and, based on the outcome, take the measures necessary to increase their efficiency. Those measures should include the dissemination of information, including in cooperation with the Protector of Human Rights and Freedoms, targeted at the general public on accessing justice and the remedies available for obtaining redress and reparation.**

#### **National machinery for the advancement of women**

12. The Committee appreciates the efforts made by the Gender Equality Department within the Ministry for Human and Minority Rights, the creation of the National Council for Gender Equality, in 2016, and the Parliamentary Committee for Gender Equality and the adoption of the national action plan for gender equality, 2017-2021. It also appreciates the appointment of coordinators on gender-related issues and the creation of councils and offices for gender equality, as well as the adoption of local action plans on gender equality in a significant number of municipalities in the State party. However, it notes the following with concern:

(a) The insufficient funding of the above-mentioned bodies and action plans, which has a negative impact on the effective implementation of the national and local action plans on gender equality;

(b) The lack of effective gender impact assessments by the bodies forming part of the national machinery in relation to the implementation of legislation and budgeting, and the largely symbolic role of those bodies, as demonstrated by the weak status of the National Council for Gender Equality, which was not consulted during the formulation of the national action plan for gender equality, 2017-2021, and the reportedly passive role of the parliamentary Committee for Gender Equality;

(c) The limited impact of the previous national action plan for gender equality, 2012-2017.

**13. The Committee recommends that the State party:**

(a) **Strengthen its machinery for the advancement of women by significantly increasing the human, technical and financial resources allocated to it at both the central and municipal levels;**

(b) **Strengthen accountability mechanisms for achieving gender equality and ensure the conduct of systematic gender impact assessments, in consultation with the above-mentioned bodies, and actively involve them in the formulation and implementation of national and local legislation, policies and action plans;**

(c) **Set time-bound targets in the national and local action plans and assess the efficiency of those action plans based on such targets.**

**Non-governmental organizations**

14. The Committee notes the important role of non-governmental organizations (NGOs) in the implementation of the Convention. However, it is concerned about the recent adoption of restrictive legislation on the financing of NGOs, which hampers their establishment and activities.

**15. The Committee recommends that the State party amend its legislation to provide an enabling and conducive environment for the establishment and active involvement of NGOs, notably those advocating for and supporting the implementation of the Convention in the State party.**

**Temporary special measures**

16. The Committee is concerned about the lack of any temporary special measures with regard to areas where women are underrepresented or disadvantaged, such as in employment, and with regard to intersecting forms of discrimination in the labour market. It also notes with concern the limited understanding of the concept of temporary special measures in the State party, including among political leaders.

**17. The Committee recommends that the State party raise awareness of gender equality among politicians, in particular parliamentarians, journalists, teachers and the general public, especially men, to promote an understanding of the importance and non-discriminatory nature of temporary special measures. It also recommends that the State party adopt temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures, in all areas in which women are underrepresented or disadvantaged, in order to accelerate the achievement of the substantive equality of women and men in the areas covered by the Convention, in particular with regard to women facing intersecting forms of discrimination.**

**Stereotypes and discriminatory practices**

18. The Committee welcomes the different educational measures taken by the State party to counter sexist stereotypes and the increased use of gender-sensitive language in the media, in accordance with the Law on Gender Equality. It is concerned, however, that patriarchal attitudes and stereotypes regarding the roles, responsibilities and expected behaviours of women and men in society and in the family continue to be deeply entrenched within society, thereby undermining women's social status, autonomy, educational opportunities and professional careers, significantly impeding the implementation of the Convention and constituting a major root cause of gender-based violence against women. In that regard, it also notes the following with concern:

(a) The prevalence of son preference in families and within society and the attribution of a subordinate status to women vis-à-vis men, as reflected and perpetuated by a relatively high number of sex-selective abortions and strong societal pressure on women to refuse inheritance to the benefit of male family members;

(b) That women are frequently assigned traditional family roles and discouraged from engaging in formal employment and that fathers are considered as the head of the family;

(c) The inadequacy of the measures taken by the State party to address the prevalence of such discriminatory stereotypes.

19. The Committee recommends that the State party put in place and sufficiently resource a comprehensive strategy with proactive and sustained measures, targeted at women and men, girls and boys, including mandatory courses for university students in law and medicine, to eliminate the patriarchal attitudes and stereotypes that discriminate against women. The strategy should include a monitoring mechanism to regularly assess the impact of the measures taken and design remedial action. In that regard, the Committee recommends that the State party:

(a) Develop and implement awareness-raising measures for the general public and relevant professional groups, such as doctors and nurses, on the pervasiveness and adverse effects of sex selection giving preference to boys on women's human rights;

(b) Strictly implement the prohibition of sex-selective abortions, establish services, including helplines for women who are pressured into undergoing sex-selective abortions;

(c) Continue sensitizing the media to the need to eliminate gender stereotypes by promoting positive images of women as active participants in social, economic and political life and of men as active participants in household and child-rearing responsibilities;

(d) Adequately monitor the use of gender-sensitive language by the media and extend the introduction of gender-sensitive language in educational materials.

#### **Child and/or forced marriage**

20. The Committee is concerned that the legal minimum age of marriage is only 16 years and that there is a high prevalence of child and/or forced marriages within the Roma, Ashkali and Egyptian communities, often resulting in early pregnancy. It notes with concern that a significant number of girls who are victims of child and/or forced marriage or forced cohabitation with adult men leading to child and/or forced marriage are victims of sexual exploitation. The Committee is concerned that the State party has made limited efforts to identify children who are victims and to adequately prosecute and sanction the perpetrators of such crimes.

21. The Committee draws the State party's attention to joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices and recommends that the State party:

(a) Increase efforts to raise awareness of the harmful impact of child and/or forced marriage on the health, development and education of girls;

(b) Identify, rescue and protect victims of forced cohabitation or child and/or forced marriage and those exposed to sexual exploitation following their marriage;

(c) Strictly enforce the prohibition of forced cohabitation or child and/or forced marriage, in particular in cases of further sexual exploitation of the victim, as well as adequately prosecute and sanction perpetrators of such acts;

(d) Raise the minimum age of marriage to 18 years.

#### **Gender-based violence against women**

22. The Committee notes with appreciation the many legislative, policy and awareness-raising and educational measures undertaken by the State party to

prevent and combat gender-based violence against women, such as the 2014 amendments to the Law on Protection from Domestic Violence, the strategy for the protection from family violence, 2016-2020, and the establishment of free legal aid offices attached to all first instance courts of the State party. The Committee, however, notes the following with concern:

(a) That gender-based violence against women, including gender-based killings, remains prevalent and socially accepted in the State party, in particular among the Roma, Ashkali and Egyptian communities;

(b) Discriminatory attitudes and/or passiveness continue to be displayed towards victims by judges, prosecutors and police and other law enforcement officers, who often give priority to reconciliation over prosecution in order to preserve the family and consider domestic violence as a private matter;

(c) The lack of implementation of the legislative framework to prevent and punish gender-based violence against women owing to weak intersectoral cooperation, insufficient human, technical and financial resources, a low level of gender sensitivity among members of the legal profession, the very small number of protection orders issued even after repeated reports of violence and the growing resort to issuing double charges to both spouses in cases of domestic violence;

(d) The lenient sentences handed down for perpetrators of gender-based violence against women, despite the recent decision by the Judicial Council to implement tougher sentences;

(e) That victims are reluctant to report gender-based violence against women because of stigma and the social acceptance of family violence, their limited knowledge of how to access protection and services when they are available and the limited number of shelters;

(f) The fact that marital rape is not specifically criminalized in the Penal Code;

(g) That the definition of rape in the Criminal Code of the State party is not based on absence of consent;

(h) That the Law on the Compensation of Victims of Violent Crimes will only be applied once the State party has become a member of the European Union;

(i) The lack of accurate data on gender-based violence against women, in particular owing to each institution collecting and processing data according to a different methodology.

**23. In line with its general recommendation No. 19 (1992) on violence against women and its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, and with target 5.2 of the Sustainable Development Goals on the elimination of all forms of violence against all women and girls in the public and private spheres, the Committee recommends that the State party:**

(a) **Address the underlying causes of gender-based violence against women and develop specific measures to sensitize women and men, including from the Roma, Ashkali and Egyptian communities, on the criminal nature of gender-based violence against women;**

(b) **Allocate adequate human, technical and financial resources to combat stereotypical attitudes and tolerance for gender-based violence against women within law enforcement institutions and establish mechanisms for the anonymous reporting of such acts and the punishment of perpetrators;**

(c) Take the necessary awareness-raising measures to combat any approach which gives preference to preserving the family over women's rights, ensure that reconciliation is not given priority over the prosecution of perpetrators and provide redress and reparations, including compensation and rehabilitation, to victims of all forms of gender-based violence against women;

(d) Continue its efforts to harmonize domestic legislation with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and ensure that criminal law provisions punishing gender-based violence against women are strictly enforced, including by providing capacity-building to judges, prosecutors and police and other law enforcement officers on the strict application of those provisions;

(e) Implement the possibility of issuing protection orders against abusive partners, ensure their enforcement and impose sanctions for non-compliance with protection orders;

(f) Ensure that perpetrators of gender-based violence against women are prosecuted and adequately punished with sentences that are commensurate with the gravity of their crimes and abolish the possibility of issuing any charges against the victim;

(g) Encourage the reporting of domestic violence against women and girls, including by launching awareness-raising campaigns through media and public education campaigns and by increasing the number of well-trained and gender-sensitive judges and law enforcement officials and ensure that reports are effectively investigated and victims provided with adequate assistance and protection;

(h) Ensure the availability of a sufficient number of adequate shelters in all regions of the State party and that victims of violence receive counselling, rehabilitation and support services for their reintegration into society;

(i) Amend the relevant laws to specifically criminalize marital rape;

(j) Speedily adopt the proposed changes to article 204 (2) of the Criminal Code, with a view to ensuring that the main element of the definition of rape is lack of fully voluntarily given consent by the victim;

(k) Expedite the entry into force of the law on the compensation of victims of violent crimes and provide for a special fund for the compensation of victims of gender-based violence against women;

(l) Align the methodologies for collecting and processing data among the relevant institutions.

#### **Trafficking and exploitation of prostitution**

24. The Committee notes with appreciation the efforts undertaken by the State party to address trafficking in women, including the increased funding for the Office for the Fight against Trafficking in Persons, the recent adoption of a plan of action for the implementation of the anti-trafficking strategy, 2012-2018, its increased cooperation with other States in combating trafficking and the financial support for a shelter for victims of trafficking run by an NGO. However, the Committee notes the following with concern:

(a) The absence of prosecutions or convictions under article 444 (trafficking in human beings) of the Criminal Code in 2015 and 2016 and that several potential trafficking cases were tried as crimes carrying lighter penalties, such as the penalty provided for brokering prostitution;

(b) That Roma, Ashkali and Egyptian women and girls, as well as refugee and asylum-seeking, displaced and internally displaced women and girls and women and girls with disabilities are particularly vulnerable to becoming victims of trafficking;

(c) Reports on the collusion of law enforcement officials in cases of trafficking;

(d) That State-provided services to assist victims of trafficking are inadequate and underresourced;

(e) The lack of clarity as to whether foreign victims of trafficking, who are unwilling or unable to cooperate with the prosecution authorities, have full access to assistance and protection measures for victims.

**25. The Committee recommends that the State party ensure that all cases of trafficking in persons, especially women and girls, are effectively investigated and prosecuted and that the sentences imposed on perpetrators of trafficking-related crimes, including corrupt law enforcement officials, are commensurate with the gravity of those crimes. It also recommends that the State party provide effective protection to and address the specific vulnerability, due to factors such as poverty, stigmatization and marginalization, of Roma, Ashkali and Egyptian women and girls, as well as refugee and asylum-seeking, displaced and internally displaced women and girls. The Committee further recommends that the State party ensure that all victims of trafficking have free and immediate access to shelters, medical care, psychosocial counselling, legal assistance and specialized rehabilitation and reintegration services, as well as temporary residence permits, irrespective of their willingness or ability to cooperate with the prosecution authorities.**

26. The Committee notes that pimping is prohibited in the State party. It notes the following with concern:

(a) That women in prostitution are often fined or sentenced to prison terms and are frequently separated from their children;

(b) That the vast majority of women in prostitution are driven into it because of economic hardship or drug dependence.

**27. The Committee recommends that the State party:**

(a) **Decriminalize women in prostitution and discontinue the practice of separating mothers from their children based on the mother's involvement in prostitution;**

(b) **Address the root causes of prostitution, including poverty, discrimination and drug dependency;**

(c) **Carry out educational and awareness-raising measures targeted at the general public, in particular men and boys, to reduce the demand for prostitution. Such measures should place a particular focus on combating all notions of the subordination of women and all forms of objectification of women;**

(d) **Allocate sufficient resources for exit programmes for women wishing to leave prostitution, including by providing alternative income-generating opportunities.**

### **Participation in political and public life**

28. The Committee notes the measures taken by the State party to increase women's political participation. It nevertheless notes with concern that women, including women belonging to minorities, continue to be underrepresented in public and political life. In that regard, it reiterates its concern raised in its previous concluding observations (CEDAW/C/MNE/CO/1, para. 22) that the Law for the Election of Councillors and Representatives, providing for a 30 per cent quota for women candidates on the electoral lists of political parties, does not require that every third place on such a list be given to a woman candidate. Furthermore, the Committee notes with concern that women's participation in political life is additionally hampered by widespread patriarchal attitudes, as well as the rather limited public dialogue and media coverage on women's political participation.

**29. The Committee reiterates its previous recommendation (CEDAW/C/MNE/CO/1, para. 23 (a)) to review the quota of 30 per cent in the electoral law, to ensure that in each group of three candidates on the electoral lists of political parties, at least one candidate is a woman. Furthermore, the Committee recommends that the State party:**

(a) **Create an enabling environment for women's participation in political and public life, in particular with regard to women belonging to minority groups, including by raising awareness among political leaders and the general public that the full, equal, free and democratic participation of women on an equal basis with men in political and public life is a requirement for the full implementation of the human rights of women;**

(b) **Strengthen capacity-building in political leadership and campaigning for women wishing to enter political life or hold public office and encourage the media to ensure that female and male candidates and elected representatives receive equal visibility in the media, especially during election periods.**

### **Education**

30. The Committee notes with appreciation that several elements on gender equality have been introduced into school curricula at the primary and secondary levels of education. However, it is concerned about the following:

(a) The insufficient emphasis placed on dismantling traditional gender roles, both in training for teaching staff and in educational materials;

(b) Sex education being insufficiently taught and not covering the social relations of gender and the impact of patriarchal attitudes and discriminatory stereotypes on sexual relations;

(c) The low literacy rate among women from the Roma, Ashkali and Egyptian communities and the high dropout rates among girls from those communities, especially at the secondary level of education;

(d) The limited access to education for asylum-seeking, refugee, displaced and internally displaced girls;

(e) The concentration of girls in traditional fields of study;

(f) The absence of gender studies in university education.

**31. The Committee recommends that the State party:**

(a) **Conduct capacity-building programmes for teachers at all levels of education with a view to changing existing stereotypical views and attitudes about the roles of women and men in the family and in society;**

(b) **Ensure the integration into the school curricula of mandatory, age-appropriate sex education, including education on sexual and reproductive health and rights, paying special attention to the prevention of both early pregnancies and sexually transmitted diseases, as well as to patriarchal attitudes and violence;**

(c) **Adopt and implement further targeted policies and programmes, to overcome the educational barriers faced by Roma, Ashkali and Egyptian women and girls and asylum-seeking, refugee, displaced and internally displaced women and girls, and take effective measures to retain them in school and increase their attendance at the primary and secondary levels;**

(d) **In line with target 4.3 of the Sustainable Development Goals on ensuring equal access for all women and men to affordable and high-quality technical, vocational and tertiary education, including university education, give priority to eliminating traditional stereotypes and structural barriers that may deter girls from enrolling in traditionally male-dominated fields of study, such as science, technology, engineering and mathematics, and provide girls with career counselling on non-traditional fields of study and career paths;**

(e) **Facilitate the introduction of specialized master's and doctoral programmes in gender studies.**

### **Employment**

32. The Committee appreciates the measures taken by the State party to address horizontal and vertical segregation in the formal employment sector, including through the labour law, which is currently being further amended. However, it notes the following with concern:

(a) That the unemployment rate among women remains disproportionately high, in particular among women belonging to minority groups, such as Roma, Ashkali and Egyptian women, women with disabilities and transgender women;

(b) The low representation of women in managerial positions and among business owners;

(c) The significant gender pay gap of 16 per cent, despite the adoption of the law on equal pay for work of equal value, resulting in lower pension benefits and a higher risk of poverty for women as compared with men;

(d) The persistence and underreporting of discrimination against women in the labour market on the basis of marital status and maternity;

(e) The limited availability of affordable childcare facilities of adequate quality and the absence of non-transferable paternal leave, forcing many women to exit the labour force after giving birth, especially when their salary is low in comparison to the cost of childcare;

(f) The lack of information on cases where fathers have taken paternal leave.

33. **The Committee recommends that the State party create more opportunities for women to gain access to formal employment, including by adopting and implementing policies, with time-bound targets and indicators, to reverse discriminatory gender stereotypes in order to eliminate occupational segregation and achieve the substantive equality of women and men in the labour market, including in traditionally male fields, through intensified technical and vocational training for women in those areas. It also recommends that the State party:**

(a) **Adopt measures to effectively implement the principle of equal pay for work of equal value and to narrow and close the gender wage gap, including by applying gender-neutral analytical job classification and evaluation methods and regular pay surveys;**

(b) **Develop a confidential and safe system for filing complaints relating to discrimination on the basis of sex or gender in employment, ensure that victims have effective access to such means of redress and impose timely and commensurate sanctions for employers engaging in discriminatory practices;**

(c) **Promote the equal sharing of domestic and family responsibilities between men and women, increase the number of adequate and affordable childcare facilities and introduce non-transferable paid paternal leave and provide statistical information in its next periodic report on the number of fathers who have taken paternal leave.**

### **Health**

34. The Committee notes the following with concern:

(a) Services in maternity wards are inadequate with regard to hygienic conditions, access to pain relief, respect for privacy and adequate involvement in decisions;

(b) Women who are not in possession of identity documents, mostly Roma, Ashkali and Egyptian women and girls and refugee and asylum-seeking women and girls, only have access to emergency medical assistance;

(c) The use of modern forms of contraception and awareness of sexually transmitted diseases such as HIV is very low, including among women and girls from the Roma, Ashkali and Egyptian communities.

35. **The Committee recommends that the State party:**

(a) **Regularly monitor and significantly improve hygienic conditions, access to pain relief, respect for privacy and the adequate involvement of patients in decisions taken in maternity wards;**

(b) **Ensure that women's access to basic health care is not dependent upon their possession of identity documents;**

(c) **Make modern forms of contraception available to all women and girls, if necessary free of charge, and raise awareness of the prevention of unwanted pregnancies and sexually transmitted diseases, such as HIV, including among Roma, Ashkali and Egyptian women and girls.**

### **Economic and social benefits**

36. The Committee is concerned about the economic repercussions on women who chose to opt for the benefits introduced by the amendments to the Law on Social and Child Protection, in 2015, which were subsequently declared unconstitutional and void, a problem also acknowledged by the State party. It notes with concern that the amendments were adopted without any prior gender impact assessments and reinforced women's traditional role as housewives and mothers by creating an incentive for them to leave the formal labour market, as the law promised lifelong benefits to mothers with three or more children. The Committee is particularly concerned that, following the annulment of the law, women who opted for such benefits will only receive them for a very limited period and are facing unemployment and a heightened risk of poverty.

**37. The Committee recommends that the State party establish a fund to support all women who left their formal employment to opt for the benefits under the annulled 2015 amendments to the Law on Social and Child Protection and who are experiencing difficulties in re-entering the workforce.**

**Rural women**

38. The Committee notes with concern that rural women, many of whom are older women, carry a disproportionate burden of unpaid and physically challenging work under difficult conditions, such as having limited access to running water and/or electricity and childcare facilities, and that rural women:

(a) Are particularly exposed to gender-based violence and have only limited access to justice, victim assistance and protection, health care, social security and other basic services;

(b) Are frequently excluded from political and public life, in particular from decision-making on rural development.

**39. The Committee draws the State party's attention to its general recommendation No. 34 (2016) on the rights of rural women. It recommends that the State party:**

(a) **Ensure that rural women engaged in unpaid work or in the informal sector have access to non-contributory social protection schemes in line with its general recommendation No. 16 (1991) on unpaid women workers in rural and urban family enterprises;**

(b) **Introduce a system of mobile courts aimed at facilitating access to justice for women living in rural and remote areas and ensure that they have access to protection from gender-based violence, including a sufficient number of shelters, as well as to victim assistance, rehabilitation and reparation;**

(c) **Adopt gender-responsive social protection floors to ensure that all rural women have access to essential health care, childcare facilities and income security, deploy mobile health units and enhance public transportation services in remote rural areas;**

(d) **Ensure the free, effective and informed participation of rural women in political and public life and at all levels of decision-making, including with regard to rural development, in line with its general recommendations No. 23 (1997) on women in political and public life and its general recommendation No. 25.**

**Women with disabilities**

40. The Committee is concerned that women with disabilities are exposed to high levels of discrimination in the State party. It particularly notes with concern:

(a) The insufficient consideration of the specific needs of women and girls with disabilities in laws and policies to promote gender equality and in laws and policies for persons with disabilities, such as the strategy for the integration of persons with disability, 2016-2020;

(b) That women with disabilities are frequently deprived of access to sexual and reproductive health and rights and parenthood and may have their children taken away from them;

(c) The disproportionately high risk of poverty among women with disabilities owing to their very low employment rate, because their earnings and/or the benefits they receive are frequently shared or entirely used by their families.

41. **The Committee recommends that the State party:**

(a) **Ensure that the specific needs of women and girls with disabilities are systematically taken into consideration, for example through impact assessments, in the formulation and implementation of laws and policies to promote gender equality and equality for persons with disabilities;**

(b) **In line with the Programme of Action of the International Conference on Population and Development and the Beijing Declaration and Platform for Action and their outcome documents, ensure that women with disabilities have the right to choose the number and spacing of their children, as well as the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence;**

(c) **Ensure that children are not taken away from their mother on the basis of the mother's disability and that, if needed, community services are provided to assist the mother in child-rearing;**

(d) **Raise awareness of the importance of economic autonomy for women with disabilities, establish appropriate procedures enabling women with disabilities to claim their earnings and/or benefits in case they are taken away from them by family members and ensure that benefits are directly transferred to women with disabilities rather than to their family members.**

**Roma, Ashkali and Egyptian women**

42. The Committee notes the measures taken by the State party to improve the situation of Roma, Ashkali and Egyptian women and girls, who are frequently exposed to intersecting discrimination and pervasive levels of poverty. In that regard, it also notes with concern the particularly dire situation of Roma, Ashkali and Egyptian women and girls living in the refugee camps in Konik, Podgorica, who are exposed to a lack of basic services and infrastructure. It notes with concern that the measures taken by the State party remain inadequate and that they are not supported by sufficient political will to effectively address discrimination against and the marginalization of Roma, Ashkali and Egyptian women.

43. **The Committee recommends that the State party:**

(a) **Adopt targeted measures, including temporary special measures, to combat intersecting forms of discrimination against Roma, Ashkali and Egyptian women and girls, including in education, employment and health care;**

(b) **Develop specific poverty alleviation and social inclusion programmes for Roma, Ashkali and Egyptian women;**

(c) **Continue to strengthen its efforts to improve the situation in the refugee camps in Konik and take measures towards integrating persons living in the camps into the community.**

**Women in detention**

44. The Committee notes with concern that there is only one prison for women in the State party, where women in pretrial detention are not separated from convicted women, including those serving long sentences for serious crimes. It is concerned that the need to travel long distances to the prison deprives many incarcerated women of regular contact with their children or other members of their family if they live in other parts of the State party. It furthermore notes the following with concern:

(a) Reports of gender-based violence, including sexual harassment and/or assault, against female prisoners by male penitentiary staff;

(b) The limited access for female prisoners to literacy and educational programmes, drug dependence treatment and reinsertion programmes.

**45. The Committee recommends that the State party allocate the necessary resources to implement the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and the take following measures:**

(a) **Ensure that all staff, including male staff in detention facilities, receive mandatory training on women's rights and gender-sensitive behaviour, that the number of female staff is significantly increased and that women in detention have confidential and effective access to independent judicial and other complaints bodies outside the prison system and to closed complaints boxes in prisons;**

(b) **Open additional women-only detention facilities throughout the State party and ensure that women with children are placed in a facility within a reasonable distance of the home of their children;**

(c) **Offer adequate literacy and educational programmes, drug dependence treatment, remunerated work and reinsertion programmes to women in detention.**

#### **Lesbian, bisexual and transgender women**

46. The Committee notes the measures taken by the State party to address discrimination against lesbian, bisexual and transgender women, including the strategy for improvement of the quality of life of lesbian, gay, bisexual and transgender people, 2013-2017, and the prohibition of discrimination on the basis of sexual orientation and gender identity in the Law on the Prohibition of Discrimination and the Law on Gender Equality. However, it is concerned about the severe discrimination and gender-based violence against lesbian, bisexual and transgender women, widely considered diseased by society. It is also concerned about the legal requirement for transgender persons to undergo a surgical intervention in order to obtain legal recognition.

**47. The Committee recommends that the State party raise awareness to combat discrimination, including common misconceptions about lesbian, bisexual and transgender women. It further recommends that the State party:**

(a) **Apply a policy of zero-tolerance of discrimination and violence against lesbian, bisexual and transgender women, including by prosecuting and adequately punishing perpetrators;**

(b) **Facilitate the procedure for legal recognition of a sex change, including by removing the requirement to undergo sterilization.**

#### **Marriage and family relations**

48. The Committee notes with concern that judges rarely take gender-based violence against the mother in the domestic sphere into account when deciding child custody cases, despite the recent amendment to article 363 of the Family Law stipulating that due consideration shall be given to the safety of the child and the victim in such cases. The Committee also notes the following with concern:

(a) The lack of information exchange between the misdemeanour court and the judges hearing family law cases in the first instance courts, which results in judges being unaware of the existence of a protection measure;

(b) Several instances in which judges reportedly expressed concern that a woman might fabricate allegations of domestic violence to influence decisions on child custody and visitation rights, and the increase in society of defamatory attitudes undermining the credibility of women who are victims of gender-based violence by portraying them as manipulative and dishonest.

**49. The Committee recommends that the State party:**

(a) **Ensure that members of the judiciary receive adequate mandatory training on the requirement to take gender-based violence into account in child custody cases and to give priority to the prosecution of crimes over family reconciliation, in order to adequately punish gender-based violence against women and prevent its recurrence;**

(b) **Ensure that experts on gender-based violence against women are systematically heard in child custody proceedings;**

(c) **Take the necessary measures to ensure a systematic exchange of information between the competent misdemeanour courts and family courts on existing or past protection measures in family law cases;**

(d) **Raise awareness so as to dismantle sexist stereotypes among the judiciary and ensure that judges who express such views receive appropriate disciplinary sanctions;**

(e) **Combat defamation and hate speech against women, including by applying defamation legislation, as appropriate.**

**Economic consequences of divorce and separation**

50. The Committee is concerned about the particularly difficult economic conditions of single mothers, who often receive no alimony from a child's father, and about the insufficient support provided to them by the State party and its frequent failure to enforce alimony payments. In that regard, it also notes with concern that a mother who does not receive alimony payments from a child's father is required to formally sue the father in order to be eligible to receive social benefits instead.

**51. The Committee recommends that the State party allocate adequate human, technical and financial resources to provide support to single mothers and to establish and enforce an efficient mechanism to secure and monitor the regular and timely payment of alimony and facilitate the procedure for mothers to obtain social benefits if a child's father does not comply with his alimony payments.**

52. The Committee notes with concern that:

(a) The definition of marital property in article 288 of the Family Law seems narrow and excluding of intangible assets such as accrued pension rights and other work-related benefits, in addition to future earning capacity, and does not adequately address gender-based economic disparities between spouses resulting from traditional work and family-life patterns, which often lead to men benefiting from an enhancement of their human capital and greater earning potential, whereas women often experience the reverse;

(b) Although the law provides for a community property regime that equally divides property acquired during marriage upon divorce, women are nevertheless required to prove their actual monetary contribution to the acquisition of property;

(c) Article 294 of the Family Law allows for unequal division of the joint property in cases where one spouse can prove that his/her contribution has been higher. That constitutes a disposition which, according to recent research, is detrimental to women.

**53. The Committee draws the State party's attention to its general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution and recommends that the State party:**

(a) **Revise the definition of matrimonial property so that a marital right includes pension rights and other work-related benefits, in addition to future earnings, and adopt other legal measures as may be necessary to redress economic disparities between men and women upon the dissolution of marriage, including, in particular, recognizing all career-related assets, such as earning potential, personal goodwill and enhanced human capital, as part of the marital assets to be distributed between the spouses upon divorce, or taken into account in the award of post-divorce periodic payments;**

(b) **Ensure the legally accurate enforcement of a joint property regime upon the dissolution of marriage, by abolishing any requirement for women to prove their share in and contribution to such joint property, abolish the possibility for unequal sharing of joint property and adopt the legal measures necessary to guarantee that women living in de facto relationships have economic protection, by recognizing their rights to the property accumulated during the relationship.**

#### **Data collection and analysis**

54. The Committee notes with appreciation the collection and compilation of data disaggregated by sex in the context of the publication entitled "Women and men in Montenegro in 2016". It is concerned, however, that the methodologies for data collection have not been fully aligned across the different sectors and institutions and that proper electronic data collection systems are lacking in various sectors.

**55. The Committee recommends that the State party strengthen the collection, analysis and publication of statistical data, disaggregated by sex, with a special emphasis on women's access to education, employment and health, women's economic situation and gender-based violence against women, in particular by modernizing and aligning its methodologies of data collection and regularly exchanging data between sectors and institutions, with a view to conducting comprehensive data analysis to inform policymaking.**

#### **Amendment to article 20 (1) of the Convention**

56. **The Committee encourages the State party to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.**

#### **Beijing Declaration and Platform for Action**

57. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

**2030 Agenda for Sustainable Development**

58. **The Committee calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development.**

**Dissemination**

59. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the parliament and the judiciary, to enable their full implementation.**

**Ratification of other treaties**

60. **The Committee notes that the adherence of the State party to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which it is not yet a party.**

**Follow-up to the concluding observations**

61. **The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 21 (c), 37, 43 (c) and 53 (b) above.**

**Preparation of the next report**

62. **The Committee requests the State party to submit its third periodic report, which is due in July 2021. The report should be submitted on time and, in case of delay, cover the entire period up to the time of its submission.**

63. **The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I).**

---

<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.