



UN Montenegro inputs for
3rd cycle Universal Periodic Review

Contents

Introduction	3
Judiciary reform and fight against corruption	3
Acceptance of international norms	5
Institutions and Policies – General	6
Rights related to Name, Identity, Nationality	7
Refugees & Asylum Seekers	8
Children, Women, Fight against Discrimination, Education and Training in Human Rights	8
Youth Development	18
Decent Work	20

Introduction

Montenegro has significantly developed its' legal and policy frameworks as a results of EU accession process, that the Government is pursuing since 2011, when it gained EU candidate status. Currently, Montenegro negotiates on 28 out of 35 negotiation chapters, with 3 of them provisionally closed. Chapters 23 (judiciary and fundamental rights) and 24 (justice, freedom and security) are considered as a cornerstone of the negotiation process. EU Accession is the primary reform process in the country.

The most recent EU Report on the country notes the legislative frameworks that guarantees human rights and non-discrimination is already in place, while implementation remains weak. Institutional capacities, mechanisms for coordination, project and financial management, as well as monitoring and evaluation systems are lacking and impede the implementation of many laws and policies.

Overall progress is also slower because traditional social norms and values shared by many prevent duty-bearers from fully embracing ideas of non-discrimination and, on the other hand, prevent right-holders, in this case persons with disabilities, from being aware of their rights.

System of United Nations in Montenegro prepared inputs for the 3rd cycle of Universal Periodic Review of Montenegro. Respective organisations contributed to the report include UNDP, UNICEF, UNCHR, WHO and ILO, following their mandate, experience and knowledge about the *status quo* in Montenegro. Representatives of UN System are also part of the national reporting mechanism.

Judiciary reform and fight against corruption

117.53 - Guarantee appropriate funding for the effective and efficient implementation of the judiciary reform and its related Action Plan.

UN Montenegro has been providing continuous support to the Ministry of Justice in the implementation of the measures defined by the Action Plan for EU Negotiation Chapter 23 – Judiciary and Fundamental Rights.

Recommendations and observations:

- ✓ Continuity of donor support in implementation of the Action Plan is crucial for the successful EU accession negotiations.
- ✓ Accelerate setting preconditions and upgrading capacities in judiciary so to effectively apply standards of child friendly justice in line with the international and regional instruments.

117.52 - Fully publish and implement a plan that addresses how the Government of Montenegro intends to make appointments and promotions in the judiciary a fair and transparent process, to ensure that the independence of the judiciary is fully protected;

117.54 - Strengthen accountability and integrity standards within the judiciary by ensuring merit-based appointments and promoting career development;

117.55 - Complete its constitutional, legislative and administrative reforms with the purpose of enhancing the independence of the judiciary, inter alia by way of improving the application of merit-based criteria in appointment and recruitment procedures.

UN Montenegro supported *drafting the Strategy for the Reform of Judiciary (2014-2018)*, and the relevant *Action Plan*. These documents are the roadmap for judicial reforms that strengthen independence, impartiality and efficiency. Furthermore, web portal for monitoring the implementation the Action Plan was developed.

Related to the normative framework, UN provided support in amending *the Law on Courts, Law on Judicial Council and Judges and Law on State Prosecution* in 2015, which introduced novelties in election of holders of judiciary functions, criteria for election, evaluation, and career improvement.

Following the adoption of the *Law on the Centre for Training in Judiciary and State Prosecution Service*, the Judicial Training Centre became an independent institution in charge of providing training to judges, prosecutors and judicial advisers.

Recommendations and observations:

- ✓ The greatest challenge is the effective and efficient implementation of the legislation, due to which continuous investment in professional capacities of judicial officials is necessary.
- ✓ Absorption capacity of the judicial authorities is an issue due to a heavy workload, migration of the staff and insufficient cooperation among institutions.

117.57 - Pursue reforms aimed at further protecting the judiciary from undue political interference and ensuring open, transparent and fair trial processes;

117.58 - Continue the improvements within the judicial reform process, including by eliminating political influence on the judiciary;

117.59 - Continue to combat corruption in the administration of justice sector by ensuring that anti-corruption procedures are free from political or under undue influences.

UN Montenegro supported all courts and prosecution offices in development of *integrity plans*, while *integrity managers* were appointed to monitor their implementation.

UN supported the *review of the existing Judicial Ethical Code*, laying down the ethical principles and rules of conduct that promote and improve dignity and reputation of the judiciary. The Ethical Code was harmonised with the most important international and European standards.

Furthermore, Judicial Training Centre conducted several trainings in ethics and integrity through the implementation of the Anti-Corruption Training Programme for Judges and Prosecutors.

In terms of normative framework, UN provided expert support to the Ministry of Justice in drafting of the *Law on Seizure and Confiscation of Material Benefit Derived from Criminal Activity*. This Law, *inter alia*, defines the scope and the manner of conducting financial investigations, along with the measures and actions to trace, identify and seize the property derived from criminal activities.

Recommendations and observations:

- ✓ In 2015, disciplinary proceedings were initiated against three judges, resulting in minor sanctions, while four disciplinary cases against prosecutors were dismissed. This brings into question effectiveness of the mechanism for identifying grounds for disciplinary actions and establishing the appropriate follow-up in such cases. Awareness of the citizens to use the existing complaint mechanisms should be raised.
- ✓ Capacities for conducting financial investigations and seizure and confiscation of criminal assets should be improved through relevant professional trainings.

Acceptance of international norms

119.4 - Consider ratifying OP-CRC-IC, OP-ICESCR as well as the ILO Convention 189;

119.5 - Complete the procedure of ratification of the Convention on the Reduction of Statelessness and take concrete steps at national level to prevent and eliminate the causes that led to stateless;

119.6 - Ratify the 1961 Convention on the Reduction of Statelessness.

Montenegro ratified Optional Protocol to the Convention on the Rights of the Child in 2013, while also initiated the procedure on ratification of ILO Convention 189, under the ongoing amendments of the Labour Law.

Montenegro ratified the 1961 Convention on the Reduction of Statelessness, which improved the legal framework for combatting statelessness and assist persons in need. Despite the ratification, there is no procedure to systematically identify, register and protect stateless person or person at risk of statelessness. Currently, there are no persons officially recognised as stateless in the country who can, consequently, benefit from the ratification of the Convention.

The 2011 Census identified 4,312 persons claiming to live in Montenegro without any nationality. However, only 11% (486 persons) responded to the Ministry of Interior's public call for finding a solution to the situation. Most of these persons face marginalisation, difficulties in enjoying basic human rights, including education, health care and lawful employment. Most of them come from the Roma and Egyptian communities.

With an aim of preventing and eliminating causes leading to statelessness, Montenegro introduced a dedicated judicial procedure for late birth registration through amendments to the *Law on Non-Contentious Proceedings*.¹

Recommendations and observations:

- ✓ Introduce the statelessness determination procedure, together with an exhaustive set of rights, for persons who are at risk of statelessness, to enable those recognized as stateless persons to enjoy the rights and entitlements attributed to their status.

¹ Please refer to the recommendations no 119.11, 119.10 and 117.32

Institutions and Policies – General

117.96 - Pursue the implementation of the regional refugee housing programme in municipalities.

Montenegro is the only country in the region that, in addition to the refugees from Bosnia and Herzegovina and Croatia, included the Kosovo refugees in the Regional Housing Programme (RHP) beneficiaries. By the end of 2018, RHP will secure the appropriate housing for 483 families. Providing 86 housing solutions for refugees throughout the country are still at the initial phase of implementation.

Still, 419 refugee families will remain without durable housing solution as they will not be covered by any housing interventions currently foreseeable.

UN Montenegro and the Ministry of Labour and Social Welfare are finalising the *Strategic Livelihood Plan*, which maps employment opportunities for refugees in Montenegro.

Recommendations and observations:

- ✓ Continue with the efforts for securing sustainable housing solution to the remaining 419 families. Furthermore, proceed with seeking more interventions to ensure full socio-economic integration of the RHP beneficiaries into Montenegrin society.

117.27 - Take steps to more effectively foster integration into Montenegrin society of particular vulnerable groups, through addressing the discrimination in the areas such as education and employment.

As per the 2009 *Law on Foreigners*, the Former Yugoslav refugees with the status of foreigner with permanent residence should have access to all basic rights (employment, health care, social welfare, etc.). However, the access to many of these rights is still partial due to the inconsistencies in the implementation.

Legislative changes related to health insurance in 2016 failed to address the specific circumstances of refugees, by imposing an obligation to all foreigners to submit certificates from their countries of origin proving they are not beneficiaries of the state health insurance scheme. Moreover, administrative fees for the status of foreigner were significantly increased in 2016². Despite several announcements, this issue has not been completely resolved yet.

The 2014 *Law on Foreigners* limited the access to the labour market for temporary residents, including refugees, only to seasonal jobs, despite the commitment reflected in the national strategies for these persons. Consequently, refugees granted temporary residence cannot avail of the national medical services, as they cannot register with the Employment Bureau, which provides the avenue for free medical care. This is in contravention to the commitment to provide for privileged access to the status of foreigner to these refugees, which was reflected in both the 2011-2015 and 2017-2019 *Strategy for Durable Solutions of Issues regarding Displaced and Internally Displaced Persons in Montenegro, with Special Emphasis on the Konik Area*.

² Amendments to the Law on Administrative Taxes increased taxes for ID cards for foreigners from 5 to 60 EUR.

In addition, integration of persons who were granted international protection under the 2006 *Law on Asylum* is still very challenging. Per the current *Law on Asylum*,³ refugees and persons granted subsidiary protection are entitled to accommodation for up to 6 months, and to a monthly social income for 12 months upon granting asylum. In practice, this has proven insufficient for successful integration, bearing in mind language and cultural barriers and non-existing supporting integration programs.

These barriers affect access to all other rights as well (health care, employment, education etc.). Resolution of integration obstacles require the development and implementation of tailor-made integration programmes, as foreseen by the new *Law on International and Temporary Protection of Foreigners*, whose implementation will commence as of January 2018.

Recommendations and observations:

- ✓ Provide fully-fledged access to health care for refugees who acquired the status of foreigners, as well as for those still holding the legal status of “internally displaced persons” or “displaced persons” until their applications for the status of foreigner are processed;
- ✓ Enable the access to the labour market for the former Yugoslav refugees who acquired temporary residence for up to 3 years, as a safeguard until they acquire permanent residence;
- ✓ Ensure timely creation of legal and administrative conditions for successful implementation of the *Law on International and Temporary Protection of Foreigners*, especially in the integration of persons granted international protection, which is fully lacking at present.

Rights related to Name, Identity, Nationality

119.11 - Establish a simple and accessible procedure of birth registration to guarantee that all children have access to it;

119.10 - Simplify the procedure for birth registration of persons born outside health-care institutions to contribute to measures carried out to eliminate discrimination;

117.32 - Continue efforts to achieve effective registration of all births, with special attention to children belonging to ethnic minority.

In 2015, Montenegro amended the *Law on Non-Contentious Proceedings*⁴ to introduce judicial procedure for late birth registration of persons born outside the health system. These amendments created conditions for erasing one of the main reasons for statelessness in Montenegro. However, birth registration of child abandoned by the mother or when the mother is without identity documents, remains an issue as institutions insist on birth registration based on the mother’s identity.

Recommendations and observations:

- ✓ Secure timely birth registration, as well as late registration, for all children born in Montenegro, considering the best interest of child.

³ See the text of the Law at: <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=48650f132&skip=0&query=law%20on%20asylum%20&coi=MNE>

⁴ See articles 70a to 70i of the 2015 Law on Non-Contentious Proceedings (OGM no 20 from 24.04.2015.), available on <http://www.refworld.org/docid/5552036d4.html>

Refugees & Asylum Seekers

117.95 - Continue to expand efforts to register, document and subsequently integrate displaced and internally displaced persons in Montenegrin society;

117.94 - To take further steps to regulate the legal status of the IDPs with focus on children born outside the health institution;

117.90 - Assist the Roma and Askhali persons displaced from Kosovo to allow them to obtain the necessary official documents to get permanent or temporary resident status in Montenegro;

117.91 - Continue addressing the situation of displaced and internally displaced persons in a durable, sustainable manner, such as through the Strategy for Permanent Resolution of the Problems of displaced and internally displaced persons.

In 2009, amends to the *Law on Foreigners*⁵ enabled the integration of refugees from former Yugoslavia through a privileged access to the status of foreigner. As of May 30th 2017, 893 applications from ex-Yugoslav refugees are still pending, while more than 11,550 gained status of foreigner so far.

From 2014, visits of Kosovo's Ministry of Interior mobile teams enabled some 1,000 refugees to obtain documents and thus complete application process for the foreigner's status. This practice will continue throughout 2017 as some 350 persons still need support from the Kosovo authorities.

Government of Montenegro adopted the *Strategy for Durable Solutions for the former-Yugoslav Refugees for the period 2017-2019*. The document defined measures for achieving durable solutions for the remaining 893 I/DPs waiting for a decision upon their applications and for ensuring an effective access to rights to the entire caseload, while supporting those opting for voluntary return.

Recommendations and observations:

- ✓ Fully implement the *Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro 2017-2019*, to enable the reform of the remaining regulation and the full implementation of the pertinent legislation, to lower administrative taxes for the acquisition of the status of foreigner, as well as to define a clear procedure for the transition from temporary to permanent residence.

Children, Women, Fight against Discrimination, Education and Training in Human Rights

118.2 - Harmonize its legislation with the CRC (Convention on the Rights of the Child).

Montenegro invested significant efforts harmonising with the child-related legal framework of United Nations and European instruments and standards. Even though important results have been achieved, continuous harmonisation is necessary, along with effective implementation.

⁵ See the Article105a of the 2009 Law on Foreigners (OGM no 72/09 from 30.10.2009.), available on <http://www.mup.gov.me/ResourceManager/FileDownload.aspx?rid=104845&rType=2&file=Foreigners%20law.doc>

Montenegro has enforced specialised legislation in *Juvenile Justice* (2012), adopted the new *Law on Social and Child Protection* (2013), the *National Strategy on the Development of Fostering in Montenegro 2012-2016*, the *Strategy on the Development of the Social and Child Protection System 2013-2017*, amended the *Family Law* (2016), adopted the new *National Strategy on the Protection from Family Violence 2016-2020*, *Strategy for Early and Preschool Education 2016 – 2020*, the *Strategy for Inclusive Education 2014 – 2018*, the *Strategy for the Reform of Judiciary 2014-2018* and the first *Strategy on the Prevention and Protection of Children from Violence 2017-2021*.

However, institutional capacities for oversight, coordination, monitoring and implementation of child rights related policy and practice are still not sufficient, hampering its' optimal respect and promotion.

National data collection and analytic capacities are not optimal, resulting in data gaps, no data disaggregation, and inconsistencies in data collection (between data sources), which does not allow for trends and progress to be adequately monitored, while linkages between existing national databases are not optimised.

Recommendations and observations:

- ✓ Strengthen institutional capacities and multi-sectoral cooperation by further strengthening the position, mandate and role of the Council on Child Rights, as well as continuous strengthening of the capacities of governmental bodies, institutions, Parliament, Ombudsperson's Office, civil society and academia for improved promotion and protection of children's rights.
- ✓ Sectoral information systems should be further integrated to increase capacity for incorporating disaggregated data and strengthen linkages between existing national databases.

117.16 - Continue its efforts to further strengthen capacity of social service providers and civil servants working on cases involving children, including the through continued human rights education and training;

117.24 - Effectively combat negative attitudes based on sex, age, race, nationality, ethnicity, religion and disability, especially to prevent discrimination against children of minority groups, refugee children and children with disabilities;

118.4 - Establish a monitoring system for special care institutions for children and develop an action plan to gradually integrate such children in the general school system;

117.73 Continue the efforts in the fight against exclusion and discrimination against persons with disabilities;

117.83 - Increase the necessary efforts to guarantee the inclusion of persons with disabilities in society, with special attention to access to education.

The country needs to address regional and urban/rural inequalities, as well as divergences between socioeconomic quintiles. Stigmas, gender stereotyping, and traditional mistrust, contribute to the difficult situation for certain groups, with notable child rights gaps, particularly for those affected by poverty, adversity and exclusion.

Per the latest available data,⁶ one in ten children live in poverty, with concentration in rural areas and in the north of the country. Despite very good targeting and relatively good adequacy, coverage of social cash transfer instruments remains an issue hampering overall effectiveness on poverty reduction.

In the last several years social and child protection system has undergone significant transformation. It has resulted in renewed policy and legal framework restricting placement of children in institutions and prohibiting placement of children under three in institutional care, introducing *Integrated Social Welfare Information System*, strengthening the institutional and administrative capacities for improved social work performance, establishment of the *Institute for Social and Child Protection*, introduction of case management and development of preventative services and care options as alternatives to institutionalisation.

These concentrated efforts led to a decrease by almost 45% of all children in institutional care between 2010 and 2017 and a total eradication of placement of children aged under three by spring 2017.⁷

Despite positive trends, children with disabilities remain overrepresented, accounting for over 60% of the children in institutional care.⁸ Poor early detection and lingering stigma, particularly in rural areas, drives persistent disability exclusion, particularly for families affected by poverty. Day care centres for children with disabilities have been expanding from 1 (2010) to 11 (2017), however, they need to be better integrated into the system to facilitate social inclusion, and a variety of services needs to be developed. Centres for Social Work have been reforming in terms of new operating methods (case management) and broad range of capacity building.

Positive changes have been achieved through national awareness raising campaigns since 2010. The percentage of citizens who find it acceptable for a child with disability to attend the same class with their children increased from 35% in 2010 before the *It's about ability* campaign to 80% at the end of this campaign in 2013. Similarly, the percentage of Montenegrin citizens who find it acceptable for a child with disability to be the best friend of their child increased from 22% in 2010 before the campaign to 60% in 2014.⁹

However, sustainability of the results is not ensured and it is up to authorities to provide financial and other means to sustain this work. The negative impact of this situation is visible, as the percentage of citizens who find it acceptable for a child with disability to attend the same class with theirs decreased from 80% (2013) to 73% (2016). Moreover, the percentage of citizens who find it acceptable for a child with disability to be the best friend of their child fell from 60% (2014) to 45% (2016).¹⁰

The Government with the support civil society has been developing safeguarding policies for child care institutions – institution for children without parental care, schools, and resource centres for children with disabilities, and day care centres. Despite five-fold increase in the period from 2010-2015, the number of non-kin foster families reached only 50% of 2016 target to have 65 non-kin foster. Currently efforts are being invested to amend legislation to enhance foster carers' entitlements and recruit additional foster carers.

⁶ Child Poverty Study in Montenegro (2012)

⁷ Ministry of Labour and Social Welfare reports 2010-2017

⁸ Ibid.

⁹ UNICEF Montenegro. It's about ability campaign. Retrieved on July 28, 2017 from https://www.unicef.org/montenegro/campaigns_15881.html

¹⁰ Ibid.

Montenegro has made progress in regulating position and status of persons with disabilities (*Strategy for the Integration of Persons with Disabilities 2016-2020, Law on Professional Rehabilitation and the Employment of Persons with Disabilities*). However, persons with disabilities remain marginalised, especially in when it comes to employment. Less than 10% of persons with disability registered within Employment Agency of Montenegro has been employed in 2015 through salary subsidies – total of 128 persons working in 93 companies (mainly in civil society organizations and private sector, while data for public sector are not available). Although the Fund for Professional Rehabilitation has been established funds available are not used in full capacity due to a lack of interest of employers to engage person with disability.

Recommendations and observations:

- ✓ Continue implementation of policy and regulatory framework in social and child protection with focus on continuation of Centres for Social Work reform.
- ✓ Further improve adequacy of social welfare instruments so to enhance coverage of the poorest quintiles, while developing social care service, especially for single mothers and families living in extreme poverty.
- ✓ Continued efforts need to be invested to:
 - i. sustain the progress and reduce rates of children separated from their families, and if separation proves necessary, increase the number of children enjoying a family environment,
 - ii. support to families at risk of child abandonment and separation through integrated systems of health care, education, child welfare and social protection services,
 - iii. support families and care for children, including early detection and intervention services for children with disabilities, upgrading home visitation and scaling up outreach to at risk families,
 - iv. put in place stronger accountability mechanisms and an organisational culture that sanctions poor performance, ensures specialisation, accreditation of programmes and continuity of mandates following the training provided,
 - v. develop capacities for communication for social change to ensure sustainability of the results and make positive social changes in future, while having in mind the cost-effectiveness of such initiatives.

118.3 Step up efforts to provide equal access to education and health care to all children, irrespective of their immigration status;

117.81 Continue the efforts started to fight against discrimination of minorities, especially Roma.

The commitment of the Government reflected in *Strategy for Inclusive Education 2014-2018* resulted in the growth of children with disabilities attending education (five-fold increase in from 2009 till 2015), but it has not yet translated into quality pedagogical service ensuring the learning and progress of children with disabilities. Even though there is a lack of precise data, there is undoubtedly a significant number of children with disabilities outside the formal education system. Cooperation between sectors, especially when it comes to teachers' training, needs to be improved so to ensure that benefits of having children with disabilities in mainstream schools are sustained.

The overall quality of the education system remains an issue. According to the OECD PISA 2015 report, following trend since PISA 2006, around 50% of Montenegrin 15-year-olds are below the basic

literacy levels in each of the tested areas: mathematics, language and sciences, lacking basic skills and competencies necessary for their future education, success in life and employment.

2013 MICS shows that 19% of Roma & Egyptian children attend preschool education (16% boys and 21% girls), in comparison to 40% of children from the general population. Also, while overall school attendance in Montenegro is at 98% and 93% for primary and upper secondary school, with the Roma and Egyptian community it is 58% (59% boys, 56% girls) and 6% (7% boys and 4% girls) respectively. There is also a trend of high drop-out rate among Roma & Egyptian children with less than a third of children enrolled in primary schools complete the last grade of this compulsory education level.

The analysis¹¹ explains some reasons behind this phenomenon through social norms (stigma and discrimination), lack of infrastructure and qualified teaching staff, poverty of Roma and Egyptian population, language barriers, cultural practices (early marriages – 18.2% of Roma girls enter marriage before age 15), etc. There is a consensus that improving access to education and providing quality pedagogical service are the most effective strategies for breaking the cycle of poverty and exclusion.

Strategy for Early and Preschool Education Montenegro (2016-2020) envisages inclusive programmes ensuring equitable access of vulnerable children, particularly children with special educational needs, Roma and Egyptian children, and children and families in remote rural areas. Considering the importance of early childhood and preschool education for later academic performance and for overall wellbeing, it would be necessary to ensure quality and timely implementation of envisaged measures.

Recommendations and observations:

- ✓ Improve data collection about children with disability, and their families', so that adequate services can be developed in line with the United Nations Convention on the Rights of Persons with Disabilities (CPRD).
- ✓ Improve quality and equity of the preschool, primary and secondary education levels, while defining necessary measures that achieve sustainability of reforms.
- ✓ Further efforts are needed to ensure quality pedagogical services are provided to children with disabilities.
- ✓ The pre-service teacher training curricula should include social, emotional and 21st century skills, having in mind their proven importance for individual and societal well-being.
- ✓ Efforts on education of Roma needs to be intensified at all levels and through multi-sectoral cooperation through development of effective mechanisms for drop-out prevention.

117.17 - Take measures to raise the public's awareness of the negative impacts of corporal punishment on children;

117.30 - Make further efforts to promote gender equality and protect all women and girls from all forms of violence;

117.38 - Take all necessary legal and other measures to curb violence against women and to provide support for victims of violence against women, and their children;

117.39 - Allocate adequate personnel and financial resources so that the Strategy for the Protection

¹¹ Study on Obstacles to Roma Education (UNICEF, 2013)

from Domestic Violence and the Law on Juvenile Justice System can properly ensure the protection of the rights of child and women, filling those gaps that still hinder the prevention of domestic violence and other abuses, as well as the fair prosecution of their perpetrators;

117.40 - Ensure the effective investigation of all reports of domestic and sexual violence against women and girls, the prosecution of perpetrators and the delivery of sentences that are commensurate with the gravity of the crimes committed;

117.41 - Provide for an adequate number of publicly funded shelter facilities for victims of domestic violence;

117.42 and 118.9 - Establish a mechanism for monitoring the number of cases and scope of abuse and strengthen the measures of protection from domestic violence;

117.44 - Further develop the support and protection system for the victims of domestic violence, including by providing an adequate number of safe houses;

117.45 - Continue and strengthen the efforts to combat against all kinds of gender violence and approve education and awareness-raising policies in that area;

117.50 - Intensify the fight against cybercrime, especially child pornography on the Internet;

119.9 - Enact legislation to prohibit explicitly corporal punishment of children in all settings, including at home and by members of their family.

The most significant work to combat violence against women and girls has been taking place in spheres of normative framework. In 2013 Montenegro ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence, the *Istanbul Convention*).

However, the prevalence of violence has not decreased. Almost every second woman in Montenegro, experienced some form of violence (psychological, physical, economic, or sexual) from her partner in her lifetime, while 18% of women experienced one of these forms of violence in last year.¹² At the same time, 68% of children aged 1–14 years were subject to psychological aggression within the family during the month preceding the survey, while 31% were subjected to physical punishment.¹³

Surveys also confirm patriarchal attitudes and discriminatory gender stereotypes are still widespread, resulting in high levels of tolerance for violence in the family. Every second citizen believes that not every case of violence needs to be reported, since some issues should better be resolved within family. Out of those who know personally a victim of violence, only 68% offered help, and most of them by talking either to the perpetrator or to the victim persuading them to reconcile. Acceptance of gender based violence is particularly high among Roma & Egyptian where 41% of women and 53% of men agree that a husband is justified in hitting or beating his wife.

Amendments to the Family Law ensured alignment with general international human rights treaties and the CRC, and the General comment no. 8 (2006)¹⁴ through banning corporal punishment of the child. The prohibition extends to parents, guardians and all persons who care for the child or meet the child, while the duty of carers is to protect the child against such actions of third parties.

However, violence against children is prevalent in society, and tolerance to violence high. In 2013 more than two thirds (68%) of children aged 1–14 years were subjected to psychological aggression

¹² Following results of 2017 UNDP survey on gender based violence

¹³ Following results of UNICEF survey

¹⁴ CRC/C/GC/8 of 2 March 2007, arts. 19; 28, para. 2; and 37.

within the family during the month preceding a household survey¹⁵ and 31% were subjected to physical punishment. The survey on violence against children in 2016,¹⁶ showed that half of inhabitants (49%) believed that there are situations in which beating a child is an acceptable method of child upbringing, or one of the most efficient methods.

Public debate on violence against children as well as engagement by professionals in this area has begun to increase following the End violence campaign (July 2016), by the Government and UNICEF Montenegro. The lack of trust in the institutions is evident - 62% of those who believe that majority of violence cases are not reported blame it on fear from perpetrator and retaliation. In other words, victims are not adequately protected when they decide to report the case of violence.

What's even more worrying is that professionals involved in the cases of violence make decisions based on their individual beliefs and values – decisions that are often driven by either a desire to keep the family together, or an overriding concern to protect the victim's privacy. These data complement those from the 2015 UNDP survey revealing that every second judge assesses violence as a private matter.

These surveys unpack the reasons lying behind some of the major challenges in implementation of the legal framework and international obligations. There are several them:

- Pattern of mild sentences - in 2016, out of all prosecuted cases in front of Misdemeanour courts, in 31% perpetrators were sanctioned with financial dues and in 6,8% with imprisonment. In more than 26% of prosecuted cases, perpetrators just got conditional conviction or warning, while in more than 35% cases perpetrators were released or process stopped. Orders on removal of violent perpetrators from the place of residence are rarely implemented.¹⁷
- The Rulebook on the implementation of protective measures, which stipulate mandatory psychosocial treatment of the perpetrator of violence has been adopted, but there are neither developed programmes nor trained professionals to provide such treatment. Nevertheless, these measures are ordered by the court.
- The biggest challenge is that inter-sectorial cooperation between organisations and institutions still lacks cohesion, efficiency and clear understanding of mandates. Not only surveys that have been conducted, but also experiences of the victims point to that when the case of violence is reported, victim is not adequately supported and protected, and the professionals involved in the case do not apply the principle of due attention and zero tolerance to violence. In addition, professional staff tend to encourage both parties to take responsibility for violence and to mediate, contradicting the Istanbul Convention's principle of zero tolerance towards violence.

An obvious indicator of the deficiencies in communication and cooperation among institutions in cases of violence is inconsistent statistics. Methodologies for data collection across sectors still differ, and the greatest gap is present in the cases of Centres for Social Welfare and the Police, reflected through three-fold difference in number of cases. This is a significant concern because social welfare system has a coordinating role in multidisciplinary response, meaning that not all the cases are referred to them, or they do not categorise each of these cases as violence in family. Inter-sectoral response to violence in the family needs continuous strengthening.

¹⁵ MONSTAT and UNICEF, 2014, Montenegro Multiple Indicator Cluster Survey (MICS) 2013: <https://app.box.com/s/zq4l86xhf53ck6gp2rftbr3cj3jazgdj> [accessed on 13 June 2017], key findings and infographics can be found at: https://www.unicef.org/montenegro/media_15873.html.

¹⁶ Ipsos Strategic Marketing. 2016. Ibid.

¹⁷ Following regular reports of Judicial System

Another problem is providing immediate shelter and protection to the victim after reporting the violence. In most of the cases these services are provided by NGOs, characterised by project-based funding leading to risk of unsustainability in provision of service. There are no state-run shelters for victims of domestic violence. Services are available to all ethnic minority groups, although not all services are available in minority languages, and not all of them are accessible in all geographical areas, as, for example, there are no shelters in the southern region.

Since the introduction of national toll-free SOS line for victims of violence in family, the number of reported cases has significantly increased, reaching 3,500 phone calls within one year of its functioning. However, SOS line is not integrated in multidisciplinary response, which is a standard of the Istanbul Convention.

Recommendations and observations:

- ✓ Enhance multi-sectoral approach on upgrading support services for prevention and protection of violence, adversity and exploitation through strengthening integrated and inter-sectoral response, establishment of counselling services, parenting programmes, safe houses, etc., to focus on the prevention and early multi-sectoral interventions, rather than reactive approach.
- ✓ Redefine the multidisciplinary response in cases of violence in family to reflect the case-management methodology of Centres for Social Work. Improve trust among members of multidisciplinary teams through more intensive cooperation and information exchange.
- ✓ Fully attend to the Istanbul Convention in due attention and prohibition of mediation.
- ✓ Strengthen immediate protection measures of the victim upon reporting violence and during the court proceedings.
- ✓ Amend legislation regarding sentences for the perpetrators of violence, while working with the judiciary on applying stricter sentences and make full use of protective measures.
- ✓ Continue with raising awareness on roots of violence and its' manifestations different forms, to be able to recognise, rather than take for granted and restrain from reporting.
- ✓ Continue with public debate on the impact of violence, neglect and other forms of adversity on children, long term human development and lasting public health and economic costs.
- ✓ Invest efforts in enhancing data related to violence against children in all sectors.
- ✓ Ensure the existence of safeguarding procedures in all institutions that encounter children and access to complaints mechanisms by children, including children in foster care.

117.18 - Improve existing and develop new rehabilitation and reintegration programmes for children in conflict with the law who are residing in semi-open and residential institutions.

By implementing juvenile justice system reform, considerable and sustained progress was made in alignment of legislation and practice with relevant UN and European instruments, making it "one of the most significant improvements in children's rights in the region".¹⁸

¹⁸ UNICEF Country Programme Document Mid-Term Review

Among others, rehabilitation and reintegration programmes for children in conflict with the law who are residing in one semi-open institution have been developed and capacities of employees improved. More work is needed on prevention and outreach, primarily with families and within the community.

Study on Children's Equitable Access to Justiceⁱ conducted in four countries of Europe and Central Asia, identified weaknesses in the delivery of justice to children, including procedures that are not child-friendly, too few specialised professionals and the lack of a multidisciplinary approach to providing support before, during and after legal proceedings.

The study revealed that vulnerable groups of children face greater obstacles in accessing justice. Discriminatory attitudes towards certain groups were acknowledged by children and their families as well as by the justice sector professionals.

Apart from the fact that significant efforts have been invested in specialisation of juvenile justice professionals, Montenegro still does not have professionals who work exclusively on juvenile justice.

Recommendations and observations:

- ✓ Having justice professionals who work exclusively on juvenile justice issues should be a prerequisite for setting child friendly justice system and reaching increased understanding of children as rights holders.
- ✓ The capacities of the Centre for Children and Youth "Ljubovic" should be upgraded in terms of prevention and outreach, primarily with families and within the community.

117.12 - Further the implementation of a comprehensive child protection system by investing more efforts in empowering the Council for the Rights of the Child and strengthening the role of the Deputy Ombudsman for the Rights of the Child.

Limited administrative and monitoring capacity as well as supporting structures, constrain the work of the Council on Child Rights and it is not recognised as a leading child-rights agency.¹⁹

National Human Rights institution has been supported throughout the years to strengthen its capacity to adequately promote children's rights and effectively respond to violations of children's rights. However, the Institution's "child rights department" works with limited capacities, in terms of human resources, budget allocations and child friendly arrangement of the department.

Challenges remain in terms of institutional capacity, lack of child-friendly space, reactive approach of work focused on individual complaints, low appearance in media.

Recommendations and observations:

- ✓ Due weight should be given to children's rights at the highest governmental level through reinforcing the Council, so it is publicly recognised as a leading child-rights agency.
- ✓ The capacities of Ombudsperson's Office should be strengthened with more human and financial resources invested to adequately address, present and challenge child rights

¹⁹ The Mid-term review of the 2012-2016 UNICEF country programme, 2015.

violations while suggesting improvements to the system. Accessibility of institution for children should be additionally improved. The Institution should foster its role in creating stronger, wider constituency and a public culture that openly challenges poor or discriminatory practice.

117.28 - Promote women participation in political life and their access to decision-making positions and management;

117.29 - Take further measures to promote women's economic empowerment and their participation in political life and decision-making;

117.31 - Intensify efforts on gender equality and take further steps in promoting women in all spheres of life especially in the political life;

118.6 - Consider the next phase of the Action Plan on Gender Equality to include comprehensive and achievable goals to combat discrimination towards women in all spheres of life, including work and education;

118.7 - Adopt necessary measures in order that shared possessions are divided equally, regardless of each spouse's individual contribution, and incorporate in the family law new necessary legal provisions to compensate for the fact that women undertake more non-remunerative work.

Montenegro ranks worst among countries in the region when it comes to political participation of women, being 78th out of 138 countries in the 2015 Inter-Parliamentary Union ranking.²⁰ Due to 2011 Electoral Law quota, women won 18% of parliamentary seats in 2012, with further increase to 23,4% in 2016 elections. Although the biggest ever, representation of women falls behind to nationalised SDG target of 40%. In addition, 21% of women in the Government at Ministerial level is distant from the legal minimum of 30%. Number of women in local governments gradually decreased since 2003, when reached the peak, and, currently, there are only two women mayors (out of 23 municipalities). There is, however, a slow positive trend when it comes to the share of women councillors in local assemblies.

Although progress is scored, it is far from significant, and despite introducing quotas and amending policies, the Parliament cannot ensure improved position of women. To improve this issue, CEDAW urged the Government to review the 30% quota in Electoral Law to ensure that in each group of three candidates at least one candidate is a woman on political parties' electoral lists (instead of in group of four candidates as currently prescribed). However, this has not been subject of discussions since. Dialogue of parliamentary political parties on increasing trust in electoral process neither included women, not discussions addressed women's political participation, leading to a conclusion of no proper follow-up to a CEDAW recommendation.

Meanwhile, country adopted *National Strategy for Sustainable Development (2016)*²¹ as well as *National Action Plan for Gender Equality (2017)* which introduced an indicator of 40% of women's participation in the Parliament.

Political interest and commitment is inadequate. Women are underrepresented in all parliamentary committees, while only the Committee for Gender Equality and the Committee for Education,

²⁰ More information following the link: <http://www.ipu.org/wmn-e/classif.htm>

²¹ This document is seen as a transposition of 2030 Agenda for Sustainable Development and Sustainable Development Goals in national context, translating 167 out of 169 targets proposed by the Agenda.

Science, Culture and Sport have more than 30% women. The distribution of women across sectors correlates with biases about the role of the women, particularly the longstanding notion that education is the only field where women traditionally play an important role. Furthermore, women are not present in committees tasked with addressing the “toughest” EU negotiation chapters (23 and 24).

UN Montenegro is providing support to all political parties to raise and integrate women's issues in their electoral programs prior to elections, and put more visibility on female candidates. For the first time, parties modestly integrated some of women's concerns, predominately entrepreneurship, in their rhetoric prior to 2016 Parliamentary elections. However, electoral lists reflected limited interest in women's political empowerment. Developing women`s political network is in progress, backed up by the second generation of trained women trainers for gender equality in political parties.

While women are becoming more entrepreneurial worldwide, with average 36% businesses owned, in Montenegro women own less than 10% of businesses. Despite efforts of governments at national and local levels, NGOs and international actors, women are still disproportionately underrepresented in entrepreneurship and lack the systemic coordinated support necessary to find their place in the economy. Per 2017 ILO Women in Business survey, women are mostly represented in mid-management level (50,1%) and underrepresented in senior management (36,6%).

The obstacles preventing women from becoming entrepreneurs and/or to achieve full potential in business leadership are rooted in traditional gender roles and heavy burden of home and care giving duties, leaving them with little social power and encouragement to step into a new ‘business’ role. The impact of gender stereotypes is reflected through a small number of women who own property that they can use as a collateral for business - to access loans or as space for starting their own businesses.

In an environment like this, it is essential that institutions introduce affirmative measures to boost women`s entrepreneurship and thus tap a significant development potential of the country.

Recommendations and observations:

- ✓ Improve Electoral Law provisions tackling women participation, by raising the 30% quota to 40% and ensure progress.
- ✓ Develop legislation fosters women's entrepreneurship such as Law on Social Entrepreneurships, Law on Guarantee Schemes for Entrepreneurship, etc.
- ✓ Introduce flexible taxation options that support existing women's businesses transition from informal zone into legal business environment.
- ✓ Attach financial commitment with the National Action Plan for Gender Equality and Strategy for women's entrepreneurship.

Youth Development

In 2016, the Government adopted *Youth Strategy 2017-2021* and *Law on Youth* covering areas such as employment, quality education, participation, transition to adulthood, culture and institutional set-up for youth policy.

As one of the biggest challenges, youth employment has been addressed by the *Youth Strategy, Strategy on Human Resources and Employment, Strategy for Lifelong Entrepreneurial Learning, Strategy for Career Development*, as well as *IPA II Sectoral Operational Programme for the Sector Employment, Education and Social Policy*. The Government is focused on the promoting vocational education, entrepreneurial learning programmes in schools, career guidance, seasonal jobs, internships, etc.

Nevertheless, successful transition of young people from school to decent work and to adulthood are burdened with multiple challenges, such as:

- High youth unemployment rate - 41.3%²² for the age 15-29.
- Nearly half of the youth population (15-29) has not yet started their transition to labour market²³ while only 15.5% completed their transition, that lasts nearly two years on average.²⁴ Young entrepreneurs face challenges related to the access to finance, navigating through the administrative and tax procedures and obligations, as well as up-to-date and holistic information.²⁵
- Decent jobs are mostly unavailable to young workers – 27.7% of employed young people works overtime while the 59.5% of employed young people are informally employed²⁶. One third of young workers do not have pension insurance or payed annual leave.
- Inequalities pertaining to the poverty, regional and rural discrepancies reflect the enjoyment of educational and work related rights of young people.²⁷

Recommendations and observations:

- ✓ Ensure further political, financial and institutional support to the youth policy implementation. Youth Strategy and the Law on Youth should be fully implemented, backed by strong cross-ministerial cooperation and the commitment of all institutions in charge of sectorial policies.
- ✓ Promote and ensure conditions for decent work for young people.
- ✓ Ensure systematic collection and regular monitoring of the youth related data which should inform design of the new and re-evaluation and adaptation of existing policies, programmes and interventions.

²² Labour market transitions of young women and men in Montenegro, ILO, 2016.

²³ Labour market transitions of young women and men in Montenegro, ILO, 2016.

²⁴ Labour market transition is defined as the passage of a young person (aged 15–29) from the end of schooling (or entry to first economic activity) to the first stable or satisfactory job.

²⁵ Policy Paper on Youth Entrepreneurship, UN System/Ministry of Finance/Directorate for the Development of Small and Medium Enterprises, 2017; The Report on Business Barriers Identified through the Campaign „No Barriers. So Business Doesn't Wait“, UNDP/Ministry of Finance, 2016; Labour market transitions of young women and men in Montenegro, ILO, 2016.

²⁶ Informal employment is made up of two categories: workers in the informal (unregistered) sector and paid employees holding informal jobs in the formal sector. 85.7% of the informally employed youth are in informal jobs in the formal sector and only 14.3% work in the informal sector.

²⁷ Youth from well-off households are twice as likely to complete the transition compared to youth from poor households. Only 6% of young people from poor households graduate university vs. 38% from well-off households. Huge discrepancy also exists in unemployment of young people from poor households (40%) compared to those from well-off families (7.2%). Youth from poor families and youth living in rural areas are more likely to be engaged in informal employment.

- ✓ Ensure youth voices are regularly heard and considered as part of systematic and sustained efforts on Government's agenda.
- ✓ Further strengthen the capacity of young people living in poverty, those coming from state care, young people with disability, LGBTIQ youth, young refugees and those from Roma and Egyptian backgrounds to engage in democratic processes and the labour market.

Decent Work

Despite the efforts to reduce unemployment rate through employment policies, it remains high at 17.7%.²⁸ Unemployment rate is particularly high for young people (35.9%) and in the northern region. The NEET rate is 18.4%²⁹, or 22.3%³⁰. Vocational trainings, requalification, local employment initiatives, but also tax benefits for employers need to be further promoted.

The concepts of "work of equal value" under the Convention is not adequately transposed in the *Labour Law*, to fully reflect the principle of equal remuneration for men and women for work of equal value.

Gender pay gap is existing evidently in all sectors of the economy, but not measured officially. Flexible working arrangements for women are scarce and traditional burden of (unpaid) domestic work is common.

Recommendations and observations:

- ✓ Resources and capacities, as well as the coordination between different inspection bodies of the Directorate for Inspection Affairs, need to be improved. Labour Inspectorate should take a more proactive role in addressing the informal economy and undeclared work, while continuously and effectively ensuring decent work.
- ✓ Disadvantageous and vulnerable groups, such as Roma and Egyptian population need facilitated access to the labour market, through affirmative measures, vocational training and employment, both in public and private sectors.
- ✓ Further improve system of incentives for employers to employ people with disabilities, while promoting cooperation and coordination of social partners and institutions engaged in vocational rehabilitation activities.
- ✓ Improve capacities of labour inspectorate and judiciary to identify and address unequal treatment in access to work and the rights deriving from employment, such as remuneration, on grounds of discrimination, regardless the cause.

²⁸ Source: Statistical Office of Montenegro - MONSTAT – Labour Force Survey (LFS)2016, <http://www.monstat.org/userfiles/file/ars/2016/ARS%20-%20Godisnje%20saopstenje,%202016.pdf>

²⁹ Age 15-24 Source: MONSTAT;

³⁰ Age 15-29 Source: MONSTAT;