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EUROPEAN SOCIAL CHARTER

5th National Report on the implementation of the
European Social Charter

submitted by

THE GOVERNMENT OF MONTENEGRO

(Articles 1, 9, 10, 15, 20, 24 and

for the period

01/01/2011 – 31/12/2014)

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CYCLE 2016



Montenegro

Ministry of Labour and Social Welfare

Labour Directorate

**5TH NATIONAL REPORT ON THE IMPLEMENTATION OF THE REVISED
EUROPEAN SOCIAL CHARTER FOR 2015**

Revised European Social Charter

(Conclusions of 2012)

Report for the thematic group I "Employment, training and equal opportunities" - articles 1, 9,
10 paragraphs 1,2,3 and 4, 15, 20 and 24

October 2015



Article 1 - Right to work

Paragraph 1 - Policy of full employment

Committee takes into account the information contained in the report submitted by Montenegro.

Employment situation

Committee notes from the report that the rate of GDP growth in Montenegro fell from 10.7% in 2007 to 2.5% in 2010.

Employment rate has remained fairly stable, although low during the reference period, and amounted to 47.6% in 2010.

Committee notes based on information from the Statistical Office of Montenegro that the unemployment rate showed a slight increase between 2007 (19.4%) and 2010 (19.8%). As for youth unemployment rate, it reached 45.5% in 2010, while the rate of long-term unemployment (as a percentage of all unemployed persons) amounted to 13.8% in the same year.

Committee notes that there is an economic slowdown at the end of the reference period. The employment rate is still small, combined with high unemployment rate.

Employment policy

Law on Employment and Exercising Rights with respect to Unemployed Insurance, which entered into force in March 2010, is the legal framework for employment policy. Law applies to the unemployed persons, workers who want to change their job, employers and any other person seeking information related to employment. **Committee asks to be constantly informed about the main content of this Law and its implementation.**



ANSWER:

From the period of the adoption of Law on Employment and Exercising Rights with respect to Unemployed Insurance ("Official Gazette of the Republic of Montenegro", no. 14/2010) amendments were made thereof, namely 2012, 2013 and 2015.

The main objective of these amendments was the alignment and harmonization with European legislation. In this respect, the deadline for the publication of a vacancy is reduced, the authority of recruitment agencies is extended, and the area of records in the field of employment is standardized by this Law. Also, the reason for the amendments of Law is to improve the status of disabled workers of II and III category, who are registered as unemployed persons.

The last amendments of Law referred to the need for further innovation of particular legal provisions, i.e. the establishment of new ones, which will enable the implementation of measures and activities in employment policy, appropriate to these developments, and which are primarily related to the creation of a broader legal framework for their implementation. In addition, amendments were made of certain decisions of Law, which were not enough accurate in their operational and technical application.

Strategy for Employment and Human Resources Development 2007-2011 comprises three priority objectives: (i) increasing the employment/reducing the unemployment, (ii) increasing the productivity and quality of work, and (iii) strengthening of social cohesion. It also defines specific goals, such as raising the employment rate to 60%, maintaining the unemployment rate below 10% or the inclusion of at least 50% of the long-term unemployed persons in active measures. Employment Strategy is implemented through national action plans for employment.

The report mentions various active employment policies and the number of users. For example, in 2010, 237 programs of education and empowerment for the unemployed persons were conducted, with 3,920 participants. Employment Office also conducted 288 employment preparations for 4,521 participants. The other programs were also mentioned, including those available for people categorized as "harder-to-employ persons", as well as 132 public works which included 1,631 unemployed persons. **Committee asks to be informed about the development of these programs. It also requires that the next report contains information on the activation rate, i.e. the average number of participants in active measures as a percentage of the total number of unemployed persons.**



ANSWER:

Law on Employment and Exercising Rights with respect to Unemployed Insurance defines the active employment policy as a set of plans, programs and measures aimed at increasing employment, i.e. reducing unemployment. Measures of active employment policy are: informing on the possibilities and conditions of employment; mediation in employment; vocational guidance; training for independent work; support for self-employment; subsidies for employment; education and training of adults; professional rehabilitation of harder-to-employ persons; public work; other measures aimed at increasing employment.

Interviews are organized for all newly registered persons from the Employment Office records, and they are conducted by professionally trained employment counselors. At the interview unemployed persons receive information about their rights and obligations which they have while they are registered with the Employment Office. Unemployed persons, through these interviews in groups of 15-20 participants, meet with active employment policy programs, such as: informative - motivational seminars, trainings, retraining, specializations, vocational guidance, loans for self-employment, etc. Paying their attention on how important is their active role in seeking employment, presenting to them statistical data on relevant characteristics of the labor market, the demand for certain professions and the state of the Employment Office records, pointing to the need of acquiring new knowledge in order to preserve working condition and easier integration into the labor market and receiving a number of useful information about the functions of the Office and the labor market. In 2014, 4.883 persons went through this professional treatment.

Informative – motivational seminars (workshops) are programs intended for all unemployed persons, and their purpose is to inform the unemployed about all significant features of the labor market and employment. Also, they aim to motivate the unemployed persons to actively seek employment. These seminars greatly influence to the strengthening of confidence which is an important precondition for independent active job seeking. They learn the specific skills of writing applications, biographies, introducing to the employer. Specialist workshops are conducted for persons who intend to become entrepreneurs. In the first half of 2015, 195 unemployed persons went through this type of program. Our analyses show that these seminars have the stimulating impact on the unemployed persons to actively seek job and to participate actively in the programs of AEP.

For each unemployed person, employment counselors have been working on individual employment plan based on a structured interview. Employment plan helps unemployed person to quickly get to work with a highly professional and vocational guidance of the counselor. For the first six months of 2015, 16.369 interviews, 34.306 employment plans and 52.922 implementations of employment plans were made.



Professional treatment of unemployed persons

	<i>Branch unit</i>	<i>Interview</i>	<i>Informative conversation</i>	<i>Employment plan</i>	<i>The realization of the employment plan</i>	<i>Informative - motivational seminars</i>
<i>S.n.</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>1</i>	<i>Podgorica</i>	<i>4941</i>	<i>384</i>	<i>11255</i>	<i>15642</i>	<i>37</i>
<i>2</i>	<i>Nikšić</i>	<i>4150</i>	<i>376</i>	<i>5433</i>	<i>6952</i>	<i>33</i>
<i>3</i>	<i>Pljevlja</i>	<i>225</i>	<i>65</i>	<i>2019</i>	<i>3625</i>	<i>42</i>
<i>4</i>	<i>Herceg Novi</i>	<i>1268</i>	<i>159</i>	<i>2897</i>	<i>5727</i>	<i>34</i>
<i>5</i>	<i>Bijelo Polje</i>	<i>1483</i>	<i>302</i>	<i>3911</i>	<i>10420</i>	<i>12</i>
<i>6</i>	<i>Berane</i>	<i>2484</i>	<i>187</i>	<i>5567</i>	<i>6428</i>	<i>12</i>
<i>7</i>	<i>Bar</i>	<i>1818</i>	<i>86</i>	<i>3224</i>	<i>4128</i>	<i>25</i>
<i>8</i>	<i>Total:</i>	<i>16369</i>	<i>1559</i>	<i>34306</i>	<i>52922</i>	<i>195</i>

Review of professional treatments in the first half of 2014 and 2015

<i>Professional treatment of unemployed persons</i>	<i>First half</i>		<i>Nominal difference</i>	<i>Index</i>
	<i>2014.</i>	<i>2015.</i>		
<i>Interview</i>	<i>15414</i>	<i>16369</i>	<i>955</i>	<i>106.20</i>
<i>Informative conversation</i>	<i>2685</i>	<i>1559</i>	<i>-1126</i>	<i>58.06</i>
<i>Employment Plan</i>	<i>29814</i>	<i>34306</i>	<i>4492</i>	<i>115.07</i>
<i>The realization of the employment plan</i>	<i>50551</i>	<i>52922</i>	<i>2371</i>	<i>104.69</i>
<i>Informative - motivational seminars</i>	<i>174</i>	<i>195</i>	<i>21</i>	<i>112.07</i>



Programs of adult education and training were implemented for 223 persons from the Employment Office records, of which 133 participants in education programs for acquiring professional qualifications and 90 participants in education programs for the acquisition of knowledge and skills, which is for 73 persons above the planned number of participants in these programs for 2015.

The training programs for work on specific workplace which ensure full-time employment for participants of program were implemented for 86 persons from the Employment Office records, which is for 36 persons above the planned number of participants of this program for 2015.

Education programs for acquiring professional qualifications and training programs for work on specific workplace

Education programs for acquiring professional qualification and training programs for work on specific workplace were implemented in cooperation with education providers and employers, for 219 persons, of whom 133 persons were included in the education programs for acquiring professional qualifications, according to the needs of the labor market, which is for 33 persons above the planned number of participants, and there are 86 persons in training programs for work on specific workplace.

Eight persons were prepared to work in the manufacturing industry, 37 persons were trained for employment in the construction industry, 59 unemployed persons for tourist and catering professions, while 155 persons were included in the programs for work in the service industry.

Education programs for the acquisition of knowledge and skills for work on specific workplace

Education programs for the acquisition of knowledge and skills included 90 persons seeking employment, which is for 40 persons above the planned number of participants in 2015.

Computer literacy programs were organized for 10 persons, and programs for the acquisition of knowledge in foreign languages were organized for 80 unemployed persons.

The participants of programs of adult education and training and training programs



According to the level of education, the most included persons are with secondary school education (III and IV level of education), which is 189 persons, followed by faculty 91 persons, and 29 persons with completed elementary school.

Females, in the above-mentioned programs participate with 55% (170 participants).

According to age groups, the proportion of persons up to 25 years of age is 36% (110 persons), from 25 to 50 years of age 59% or 183 participants and over 50 years of age 5% or 16 participants.

The share of long-term unemployed persons is amounted to 45.50% (140 persons).

The training and employment program on the construction project of "Portanova" in Kumbor

The training program for the building occupations, in the Training Centre "Azmont Academy" in Bijelo Polje, was carried out for 98 persons from the records of the regional unit Bijelo Polje for the municipality of Bijelo Polje, Mojkovac, Berane and Rožaje. Unemployed persons were trained for the occupations: worker on concrete placing, carpenter, rebar fixer, mason, worker on mortar, ceramist, painter, worker on facade and plasterer, in order to be employed on the construction project of "Portanova" in Kumbor.

Public works are carried out through social protection programs, ecological, educational, cultural and other similar programs based on community benefit and non-profit work which does not create unfair competition on the market. These programs enable upgrading of the work potential, knowledge and skills of the unemployed persons which has a preventive effect on the consequences of their long-term unemployment. They are organized in collaboration with ministries, local governments, public institutions, NGOs, employers and other legal entities.

State public works

State public work "Keep it clean for 2015" is implemented in cooperation with the Ministry of Sustainable Development and Tourism, (PE) Public Enterprise for Coastal Zone Management of Montenegro, municipalities and Public Utility Enterprise, in the period of four months, for 100 persons from the Employment Office records. Activities on the implementation of this work are related to the adequate preparation of Montenegrin municipalities for the tourist season, improving the image of Montenegro as an ecological state and tourist destination and raising the quality of tourist product in Montenegro.

Local public works



Also, works at the local level with the participation of 633 unemployed persons are realized in cooperation with municipalities, public institutions and non-governmental sector. Works are carried out for a period of one to nine months, and they are related to the care of elderly people who are in need of social assistance, providing services to children and youth with disabilities, encouraging the development of rural and coastal tourism, production of souvenirs, arranging library material, arranging national and city parks, river beds and river banks, utility service of craftwork, etc.

According to the level of education the most included persons are with secondary school education (III and IV level of education), which is 404 persons, followed by faculty 171 persons and 154 persons with completed elementary school. Females participate with 56.48% (414 participants). Participation of persons up to 25 years of age is 11.87% (87), and over 50 years of age 16% or 117 participants. Afterwards, 60.17% of participants in public works are from the municipalities from the north of the country.

The share of long-term unemployed persons, i.e. persons who are registered as unemployed for more than 12 months and due to consequences of prolonged unemployment are insufficiently competitive on the labor market, amounts to 51.84%. The share of persons with specific health and social disorders, such as persons with disabilities (52), persons with reduced capacity for work who do not have the character of disability (77), persons of RE population (24), users of unemployment benefits (78) and social benefits, such as the family allowance (14), in the above-mentioned programs, amounts to 33.42% (245 persons).

General programs of vocational guidance

General programs of vocational guidance in relation to the method of work are divided into individual and group programs:

Individual programs of vocational guidance include on average two meetings of vocational guidance counselor and his/her beneficiary (pupil, student or job seeker). On the other hand, group programs are based on the workshop method where beneficiaries through group and individual activities acquire knowledge and skills. Group work includes a minimum of 7 to a maximum of 16 participants, while the time frame of providing services ranges from 45 to 90, i.e. 270 minutes per day, depending on the structure of the program.

General programs of vocational guidance imply providing services:

- *Professional informing;*
- *Professional counseling;*
- *Psychological treatment with the application of corresponding test batteries;*
- *Selection for employment.*

Showing beneficiaries of general programs of vocational guidance services



<i>General programs</i>	<i>The first half of the year 2015</i>	
	<i>The total number of beneficiaries of vocational guidance services</i>	<i>The number of unemployed persons who used the services of vocational guidance</i>
<i>Prof.informing - group</i>	3572	317
<i>Prof.counseling - group</i>	550	14
<i>Prof.informing - individual</i>	2033	1,067
<i>Prof.counseling - individual</i>	613	218
<i>Psychological treatment</i>	224	224
<i>Selection for employment</i>	273	273

In the first six months of 2015, the largest number of beneficiaries used the group professional informing services.(3.572 persons, of whom 317 persons are in the unemployment register), then the individual professional information services (2.033 persons). Psychological treatment is serviced to 224 users, and individual professional counseling is serviced to 218 unemployed persons and 319 persons who are in the process of education. Group professional counseling includes 550 persons. 273 persons went through the selection process.

Special programs of vocational guidance

The program "Career orientation and labor market in primary and secondary schools"

The program "Career orientation and labor market in primary and secondary schools" which was initiated by the Employment Office and the Ministry of Education and Sport, has been implemented continuously, starting from 2011. Activities envisaged by this Program are conducted with the vocational guidance counselor at the Centre for information and professional counseling as well as in educational institution.

The program was launched in order to provide the basis for encouraging career development, proper choice of profession, choice of employment, developing the idea about entrepreneurship, etc. for young people in the education system who are entering into the labor market and/or continuing education, i.e. that pupils in primary and secondary schools have the opportunity of timely professional informing about segments important for choice of profession and career development. This program is being implemented for



pupils of primary and secondary schools who continue their education and for pupils of vocational schools who are entering into the labor market.

Program service beneficiaries

"Career orientation and labor market in primary and secondary schools"

<i>ACTIVITIES</i>	<i>(Number of visited schools)</i>	<i>(Number of informed pupils)</i>
<i>Promotion of CIPS services in primary schools</i>	<i>30</i>	<i>2575</i>
<i>Promotion of CIPS services in secondary schools</i>	<i>12</i>	<i>608</i>

<i>PROGRAMS</i>	<i>Total:</i>
<i>Choice of occupations for primary school pupils</i>	<i>646</i>
<i>Choice of occupation for pupils of gymnasiums who continue their education</i>	<i>50</i>
<i>Choice of occupation for pupils of vocational schools who continue their education</i>	<i>14</i>
<i>Choice of occupation for pupils of vocational schools who are entering into the labor market</i>	<i>115</i>

Vocational guidance counselors have informed 3.183 pupils, about the services provided by the Employment Office in the Centers for informing and vocational guidance through visiting primary and secondary schools.

Program "Encouraging career development of directly employable unemployed persons"

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Program "Encouraging career development of directly employable unemployed persons" is intended for persons who are registered with the Employment Office for the first time, in order to encourage the professional development of candidates for employment.

In order to increase the employability of unemployed persons classified as directly employable, the responsibility of each newly registered person is to participate in this program immediately after registration, and the responsibility of counselor for records and mediation is to direct newly registered persons into this program who are classified as directly employable persons.

Program is implemented through workshops, in a period of one to three days. It is designed to concise a program aimed at social form, program focused on informing, motivating and actively job seeking. The number of participants of this program in the first half of 2015 is shown in the table.

Program service beneficiaries

"Encouraging career development of directly employable persons"

<i>GENERAL PROGRAMS</i>	<i>The number of participants</i>
<i>Program of one-day workshop</i>	<i>135</i>
<i>Program of two-day workshop</i>	<i>168</i>
<i>Program of three-day workshop</i>	<i>125</i>

In May 2015, in the Centers for informing and professional counseling, a traditional contest for best literary and artistic work, with the theme "My future profession" was organized, for pupils of final grades of primary schools. The aim of the competition is to develop awareness of the importance of proper choice of profession, as well as encouraging pupils to think about the choice of the direction of their career way.

Information Booklet on entry into secondary school is intended for pupils who finished primary schools, it is printed in 8,000 copies and distributed during May in all primary schools in Montenegro.

According to data of the Employment Office of Montenegro, the share of unemployed persons involved in active employment policy measures in the first half of 2015, compared



to the overall number of unemployed persons in the first half of 2015 (the sum of the number of unemployed persons at the beginning of the period and the number of newly registered at the Employment Office records) was 20%. Persons involved in the Program of vocational training of persons who acquired higher education (explanation of this Program is given through an answer to the high rate of youth unemployment) are not included in this percentage.

If we include the average number of unemployed persons who are entitled to financial compensation on the basis of unemployment, together with the persons involved in active employment policy measures, the percentage is 36.7%.

The report also provides a description of measures of financial compensation available during unemployment. Committee takes into account this information, but recalls that in assessing the national situation on the basis of Article 1, paragraph 1, it primarily considers active labor market policies adopted by States, and to a lesser extent passive schemes which consist of unemployment benefits/payments.

As for the costs of active measures, the consumption of Montenegro as a percentage of GDP was 0.34% in 2010. **Committee notes that this percentage is quite low compared to the other State Parties.**

ANSWER:

Consolidated expenditures on programs supporting employment reached in 2013 a level of around 0.4% of GDP, which is in this respect closer to the EU average. It should be emphasized the great, new, multisectoral designed Program of vocational training of persons with higher education. This trend was maintained in 2014 as well.

Taking into account the high rate of youth unemployment, Committee asks whether there are special measures aimed at this group (how many young people have received offers for activation, which were the effects, etc.).



ANSWER:

Program of vocational training of persons with acquired higher education is implemented in accordance with the provisions of Law on Vocational training of Persons with acquired Higher Education ("Official Gazette of the Republic of Montenegro", no. 38/12) and the Rulebook on the Manner of Publishing of Public Calls, Procedure and Criteria for Vocational training ("Official Gazette of the Republic of Montenegro", no. 46/12), for three years in a row, the Program of vocational training of persons with acquired higher education is implemented.

As prescribed by Law, the Program allows persons with acquired higher education, without working experience and who are registered at the Employment Office, that during the nine-month vocational training acquire knowledge, skills and competences for independent work and taking the appropriate professional exam.

The aim of this Program, on the one hand, is to support persons with higher education in acquiring adequate practical knowledge that would make them more competitive in the labor market, and on the other hand, to animate the private sector for employing as many young people and opening new workplaces. Through nine-month vocational training, beneficiaries have compensation in the amount of 50% of the average net salary in Montenegro in the previous year.

	<i>Program</i> <i>2012/13</i>	<i>Program</i> <i>2013/14</i>	<i>Program</i> <i>2014/15</i>
<i>Number of beneficiaries of the Program at the chosen employer</i>	<i>4.211</i>	<i>3.744</i>	<i>3.701</i>
<i>Number of advertised workplaces by the employer</i>	<i>5.317</i>	<i>5.800</i>	<i>6.930</i>



Based on the survey carried out in the first year of implementation of the Program, which was implemented from January, 15th 2013 until October, 15th 2013, the percentage of beneficiaries who have gained permanent employment, with the surveyed employers, is about 24%, while in the second year of implementation of the Program, which was implemented from January, 15th 2014 until October, 15th 2014, that percentage is about 22%.

The Program, in the first six months of 2015, included 3.701 persons with acquired higher education, of whom 1.482 in public and 2.219 in private sector.

Stimulating the employment of persons with acquired secondary education

Movements in the labor market in the last few years indicate at high participation of persons with acquired secondary education, of III and IV level, which amounted to 49.97% at the beginning of 2015. It caused several circumstances, first of all, slower employment, induced by the economic crisis and the mismatch between supply and demand for these persons, which results in their long-term unemployment. The share of persons seeking employment for longer than six months is above 70%, of young people 22.38%, while persons over 50 years of age 30.68%. The above-mentioned structure is even worse in the less developed northern municipalities, which has imposed the need for the implementation of programs that will enhance the employment of these persons, primarily in the municipalities of the northern region.

In the employment program, for a period of six months, exclusively in the private sector, particularly in small and medium-sized enterprises, the participants gain knowledge and skills in the working environment with 195 employers carrying out the program. Employers are able to, through a form of probation work which does not financially burden the company, recognize staff adequate for their needs and extend the contract after the expiry of the program.

In the reporting period, the program is being implemented for 298 persons, of whom 38 persons III level and 260 persons IV level of education, while the inclusion of long-term unemployed persons is at the level of their participation in total unemployment, as well as in unemployment of the municipalities of program implementation. In the implementation of this program, persons from the municipalities of the northern region participate with 55.70%, while persons from the municipalities of the central and southern regions participate with 44.30%. The participation of females is 44.29% (132 persons). From the aspect of the age structure of the program participants, it is evident the high participation of young people (46.99%) and persons over 50 years of age 15.55%.



Pilot Program "Young people are our potential, give them a chance"

Employment Office, for young persons with acquired higher education from all Montenegrin municipalities, implements Pilot program "Young people are our potential, give them a chance." The purpose of this program is to support the priorities and objectives of the National and local employment strategies and human resources development.

The program is implemented with the aim of helping young people in solving the problem of unemployment by raising their entrepreneurial competencies and specific job-related skills, with an emphasis on skills of development, management and implementation of projects, as well as cluster connection of business entities. The specific aim of the Program is to encourage the development of a partnership approach in solving problems in the field of employment, by establishing local employment teams.

The Program is consisted of two parts: theoretical part lasting for three months and practical part lasting for nine months. In the previous period, 49 young participants have successfully completed the theoretical part of the Program and in their municipalities started practical application of acquired knowledge and skills from all three thematic areas of the Program. In addition, carried out program activities were focused on creating the preconditions for an innovative approach to the work of employees in the Employment Office, with the unemployed persons, with particular emphasis on young persons.

Finally, Committee recalls that labor market measures should be targeted, effective and regularly monitored. In that sense, asking whether some control of employment policies is in force and how to evaluate their effectiveness.

ANSWER:

Law on Employment and Exercising Rights with respect to Unemployed Insurance stipulates that monitoring and assessing the impact of the implementation of active employment policy measures is carried out by the Ministry.

The Ministry of Labour, through the annual reports on the implementation of the action plans, reports about the success of implemented measures of active employment policies.

Also, based on the implementation of annual commitments under the Work Plan of the Employment Office, which is made on the basis of the Action Plan of Employment, an assessment of employment policy measures is carried out. Employment Office monitors the



implementation of all measures, envisaged by the Rulebook on conditions, manner, criteria and scope of the implementation of active employment policy measures, Monitoring of measures, i.e. programs of active employment policy, implying the systematic data collection on the status and dynamics of the implementation of measures, problem identification, risk assessment and proposing corrective actions. It refers to the technical monitoring measures - monitoring relations of conducted and planned program activities and financial monitoring, which entails monitoring relations of actual and projected costs of the implementation of the program.

Based on these conducted assessments, the selection of measures and activities is carried out which will be implemented in the coming period.



Article 1 - Right to work

Paragraph 2 – Free choice of employment (non-discrimination, prohibition of forced labor, other aspects)

Committee takes into account the information contained in the report submitted by Montenegro.

It notes that no information is provided, which were requested by Committee to assess the situation. Committee emphasizes that if the requested information is not provided in the next report there will be nothing that may prove that the situation is in conformity with the Charter.

1. Anti- discrimination in employment

Committee notes that there are not any relevant information in the report. However, it notes from other sources (Report of the European Commission against Racism and Intolerance (ECRI) of Montenegro, in February 2012) that Law on Prohibition of Discrimination was adopted on July, 27th 2010. Article 2 of this Law prohibits any form of discrimination on any grounds. It further defines direct and indirect discrimination, and enumerates a series of infinite grounds, including "race, color, nationality, social or ethnic origin, language, religion, sexual orientation and disability."

As with other states which have accepted Article 15, paragraph 2 of the Charter, Committee will examine the legislation of Montenegro, which prohibits discrimination based on disability under this provision. Similarly, in accordance with this provision, the right to equal treatment and opportunities, without discrimination on grounds of sex, is considered for States Parties that have accepted the Article 20.



Article 5 of the aforementioned Law contains provisions on special measures for achieving equality and protection of persons in an unequal position on any grounds. Article 29 envisages the transfer of burden of argumentation, and Article 30 provides third parties (including NGOs) the ability to initiate proceedings.

According to ECRI, Law from 2010 until recently could not be applied, primarily because it envisages that the Protector of Human Rights and Freedoms is responsible for monitoring of its implementation, but Law on the Protector of Human Rights and Freedoms did not provide jurisdiction contained in the new Law. However, in July 2011 the new Law on the Protector of Human Rights and Freedoms was adopted, establishing by Article 27, the Protector as the national mechanism for protection against discrimination by natural or legal persons.

Article 3 of the Labor Law of July 2003 envisages equal treatment of employees regardless of their nationality, race, sex, language, religion, political or other orientation, education, social background, financial status and other individual attributes.

Committee asks for further information on the following issues:

- **what is the mutual relation of Law on Prohibition of Discrimination and Labour Law?**

ANSWER:

Law on Prohibition of Discrimination experienced a number of significant amendments which were adopted at the end of March 2014 (Law on Amendments to Law on Prohibition of Discrimination, Official Gazette of the Republic of Montenegro, no. 18/14).

The provision is amended under which the discrimination is considered as encouraging, helping, giving instructions, as well as the announced intention that a specific person or group of persons are discriminated on the grounds of Article 2 of this Law, i.e. based on race, skin color, nationality, social or ethnic origin, affiliation to minority nation or minority national community, language, religion or belief, political or other opinion, sex, gender identity, sexual orientation, health, disability, age, financial status, marital or



family status, belonging to a group or the assumption of membership in a group, political party or other organization, as well as other personal characteristics.

Discrimination in the field of work is complemented by the amended paragraph 3 of Article 16, which reads: "Distinction, exclusion or giving preference shall not be considered discrimination if so require the peculiarities of the particular work in which personal characteristics of a person represent real and decisive condition of doing the work, if the purpose to be achieved that way is justified and if the condition is proportionate, as well as taking measures of protection according to certain criteria of persons referred to in paragraph 2 of this Article.

Also, competencies of the Institution of Protector of Human Rights and Freedoms are specified, in 10 new items, by which institutional mechanism of protection from discrimination is fully established.

Law contains penalty provisions, inter alia, for the payment of unequal salary, i.e. remuneration for work of equal value to a person or a group of persons, on any ground referred to in Article 2, paragraph 2 of this Law (Article 16). Prescribed punishment ranged from EUR 500 - 20 000.

- Is discrimination based on age covered and if so, how is it interpreted?

ANSWER:

Law on Amendments to Law on Prohibition of Discrimination (Official Gazette of the Republic of Montenegro, No. 46/10 and 18/14) covers the prohibition of discrimination on the grounds of age by Article 2, paragraph 2 of this Law, and, the explicit mentioning of this discriminatory ground in Article 13 and Article 34 'Penal Provisions', which stipulate a fine from EUR 500 - 20 000 to the one who prevents or limits the exercise of rights, unduly makes a difference or unequally treats a person or a group of persons, on the grounds of age (Article 13);

- Whether Law permits an exception to the true demands of the profession?

ANSWER:



The Labour Law in Article 9 standardizes positive discrimination in a way that stipulates that distinction, exclusion or preference in respect of a particular job shall not be considered discrimination when the nature of the job or conditions in which it is performed are such that characteristics related to particular grounds referred to in Articles 5 and 6 of this Law (prohibition of discrimination, direct and indirect discrimination) constitute a genuine and determining requirement for a position and that the objective aimed at is legitimate. Provisions of Law, collective agreement and employment contract that relate to special protection and assistance to certain categories of employees, especially those concerning the protection of persons with disabilities, women during pregnancy and maternity leave and absence from work for child care, i.e. special child care, as well as provisions that refer to the special rights of parents, adoptive parents, guardians and foster parents shall not be considered discrimination.

- **the number of cases related to discrimination brought before the courts and the Ombudsman, as well as the number of findings of discrimination;**

ANSWER:

First of all, by Law on Prohibition of Discrimination ("Official Gazette of the Republic of Montenegro", No. 46/10) the issue of protection against discrimination for the first time is arranged in a new and systematic way in Montenegro. This was followed by amendments to Law on Protector of Human Rights and Freedoms of Montenegro ("Official Gazette of the Republic of Montenegro", No. 42/11) which stipulates that the Protector is the institutional mechanism for protection against discrimination. That same year, on the basis of Article 33 paragraph 3 of Law on Prohibition of Discrimination, the Ministry for Human and Minority Rights adopted the Ordinance on the content and manner of keeping special records on cases of reported discrimination ("Official Gazette of the Republic of Montenegro No.23/11"). This Ordinance prescribed the detailed content and manner of keeping records on cases related to discrimination in the courts, the inspection authorities and misdemeanor bodies. During 2014, Amendments to Law on Prohibition of Discrimination were adopted ("Official Gazette of the Republic of Montenegro", No.46/10 and 18/14) and subsequently a new Ordinance on the content and manner of keeping special records on cases of reported discrimination was adopted, which prescribes the detailed contents and manner of keeping special records of submitted applications,



initiated procedures and decisions issued in relation to discrimination in courts, public prosecutors' offices, misdemeanor bodies, authority body competent for police affairs and inspection authorities. Article 8 of the abovementioned Ordinance envisages that special records of discrimination cases represents an electronic-driven database that enables direct data access to the Protector of Human Rights and Freedoms. Data in the special records are systemized and kept in the form of registry. However, the registry of records of court cases related to the protection against discrimination has not yet been established, despite having passed the aforementioned bylaw, in order of that we emphasize that the Ombudsman has no precise data relating to the grounds and area of discrimination for the requested period, so in that sense we emphasize that we do not have exact data about the discriminated person, gender, time of decision-making, the number of accepted and rejected claims before the courts in Montenegro, but only general data.

When we talk about the ongoing court proceedings for protection against discrimination in the field of work during 2011, we were informed that before the Basic Court in Podgorica five proceedings were initiated regarding discrimination and thereat neither do we have data on the grounds nor of the field of discrimination. A single lawsuit was filed before the Basic Court in Ulcinj in order to establish discrimination and violations of labor rights. In 2012, four lawsuits were filed before the Basic Court in Podgorica related to discrimination, while before the Basic Court in Kotor we had two ongoing proceedings related to discrimination whereat neither do we have data on the grounds nor of the field of discrimination of any proceedings for that year. For 2013, we have an access to more precise data. Seven lawsuits were filed before the Basic Court in Podgorica due to discrimination on the grounds of work, two lawsuits for mobbing were filed before the Basic Court in Pljevlja, while a single lawsuit was filed before the Basic Court in Bar for discrimination in the field of labor. In 2014, seven lawsuits for mobbing were filed. As we have emphasized, the electronic database of the initiated proceedings and their outcomes relating to the protection against discrimination and to which the Ombudsman would have an access still has not been established, hence at this moment neither do we have data on the number of filed lawsuits for 2015 nor of the outcomes of all the above listed proceedings.

- **information on the procedure in the cases alleging discrimination;**

ANSWER:



During 2010 and 2011 there were no lawsuits filed to the Institution of Ombudsman for discrimination in the field of labor. We assume that at that time citizens still were not familiar with the possibilities of protection of their rights before institutions of the system, especially before the Protector of Human Rights and Freedoms of Montenegro in accordance with Law on Prohibition of Discrimination. During 2012, seven (7) complaints were filed to the Ombudsman against discrimination in the field of work. Out of this number, one recommendation was reached, in one case the violation of rights was eliminated, in three cases the violation of rights was not determined, in one case the applicant is referred to other legal remedies, and in one case the Ombudsman terminated the proceedings. During 2013, the Ombudsman had to work with three complaints relating to the violation of the right to work and employment benefits, while 15 complaints related to mobbing. Three complaints which were filed for violation of the right to work and employment benefits were resolved in a manner that in one case the violation of rights was eliminated, while in two other cases the Ombudsman did not determine any violation of rights. Complaints on the grounds of mobbing were largely related to business entities. After conducted test procedures in which statements of employers and competent inspections were acquired, the Ombudsman did not identify the existence of mobbing on complaints filed on this ground of discrimination. In most of these cases, upon the claims for the protection of employees' rights, acted both the employer and/or the relevant inspection. In certain cases the competent inspection identified a number of irregularities in the recruitment process and in the exercise of labor rights of employees, therefore ordered the elimination of these irregularities and set deadlines for their elimination. In 2014, during the reporting period, the Ombudsman had five ongoing cases which were related to mobbing. In two proceedings, the proceedings were suspended because the violation of rights was eliminated during the proceedings, in two cases violation of rights was not identified, while in one case the proceedings were suspended because of the court process. Institute of mobbing was regulated by Law on Prohibition of Discrimination ("Official Gazette of the Republic of Montenegro", no. 46/10) while Law on Prohibition of Harassment at Work ("Official Gazette of the Republic of Montenegro", no. 30/12) was adopted two years later on 08/06/2012. Amendments to Law on Prohibition of Discrimination ("Official Gazette of the Republic of Montenegro" no.18/20), provisions governing the institute of mobbing, were deleted. We add that the jurisdiction of the Ombudsman in dealing with complaints related to mobbing are limited so the Ombudsman acts upon hereof only if mobbing contains some of the discriminatory grounds envisaged by Law.

During this month the information is made on protection against discrimination from the perspective of the institution of the Ombudsman to Committee for the Human Rights of the Parliament of Montenegro for the period 01/01/2015-31/07/2015, therefore we have precise data for ongoing cases in 2015. We shall clarify that Law on Prohibition of Discrimination distinguishes general and specific forms of discrimination, and under specific form of discrimination implies types, grounds and areas of discrimination and in this sense we shall deliver an overview of the ongoing complaints in 2015. In this period, the



Ombudsman had 23 ongoing complaints in the field of labor and employment. Out of this number, six complaints were filed due to mobbing, four complaints were on the grounds of nationality, in three cases the ground was the political affiliation of the complainant, in two cases the ground was membership in a group, in two cases the ground was the trade union association, in one case the ground was the citizenship, in one a marital status, in one sex, in one case the ground was the letter and the freedom of speech, in one a professional qualification and in one residence. Regarding the outcome of the proceedings, out of the total number of complaints in the area of labor, in seven cases the Ombudsman did not identify any violation of law, in two proceedings Ombudsman did not act because of the lack of jurisdiction, in seven proceedings Ombudsman stayed proceedings (due to withdrawal of complainants/initiating of judicial procedure/underfilling of complaints), while there are seven ongoing cases.

- **information on remedies, i.e. returning to work or compensation of damages that can be awarded to the victim of discrimination and data of any pre-defined limits to the amount of compensation of damages that can be awarded. (RAD)**

ANSWER:

The Constitution of Montenegro ("Official Gazette of the Republic of Montenegro", no. 1/2007 of 25/10/2007) lays down as a basic human right the principle that everyone is equal before Law, regardless of any particularity or personal characteristic. Article 20 stipulates the right to legal remedy, and everyone has the right to legal remedy against the decision ruling on the right or legally based interest.

Furthermore, the Constitution of Montenegro in Article 8 prohibits discrimination, both indirect and direct, and on any grounds. It envisages that regulations and introduction of special measures aimed at creating conditions for national, gender and overall equality and protection of persons on any grounds in an unfavorable position are not considered as discrimination. Such special measures may be applied only until the achievement of objectives for which they were taken.

Question of discrimination regarding the protection of persons seeking employment and thus the employees is envisaged in the Labour Law ("Official Gazette of the Republic of Montenegro", no.49/08, 59/2011, 66/2012), by which in Article 5 direct and indirect discrimination against persons seeking employment as well as employees with respect to sex, origin, language, race, religion, skin color, age, pregnancy, health condition, i.e. disability, nationality, marital status, family responsibilities, sexual



orientation, political or other belief, social background, assets, membership in political and trade union organizations as well as on the grounds of other personal features shall be prohibited.

Law considers as indirect discrimination any action caused by any of the grounds referred to in Article 5 by which a person seeking employment or an employee is treated less favorably than other persons in the same or similar situation. On the other hand, direct discrimination exists when a certain provision, criterion or practice puts or would put in an unfavorable position compared to other persons, the person seeking employment as well as an employed person because of certain characteristics, status, orientation or belief.

Discrimination is prohibited in relation to:

- 1) conditions of employment and selection of candidates for performing a specific job;*
- 2) working conditions and all rights arising from employment;*
- 3) education, training and professional development;*
- 4) promotion at work;*
- 5) termination of employment.*

Also, the provisions of employment contract defining discrimination on any of the grounds envisaged by law are null and void.

When it comes to the right of legal remedy, the Constitution of Montenegro guarantees in Article 20, the right to the legal remedy to everyone against the decision ruling on his/her right or legally based interest.

Also, the Labor Law stipulates the protection for the person seeking employment, as well as for the employee, that they can initiate proceedings before the competent court in cases of discrimination, in accordance with Law.

Also, the abovementioned Law envisages the possibility that resolving disputes that arise from labor and on the grounds of labor, the employee and the employer may entrust to the Office for peaceful settlement of labor disputes.

The authority of the Office in dealing with mobbing as a form of discrimination is prescribed by Law on Prohibition of Harassment at Work ("Official Gazette of the Republic of Montenegro", no.30/12). In connection with the abovementioned legal ground, from the date of entry into force of this Law, i.e. of 17/06/2012, a total number of 11 Proposals were submitted to the Office.

Out of abovementioned number of submitted proposals:



- *in 6 cases, proceedings of peaceful settlement of the concerned labor dispute were conducted, and the said ended with the suspension, given that the parties in the dispute did not reach agreement on the settlement of the same;*
- *in the remaining 5 cases, proceedings of peaceful settlement of the labor dispute were not conducted because the other party in the dispute did not accept a peaceful settlement of the concerned labor dispute. The Office, from the abovementioned reason, as the previous condition for conducting the proceedings, in accordance with Articles 6 and 26 of Law on Peaceful Settlement of Labor Disputes ("Official Gazette of the Republic of Montenegro", no.16/07, 53/11, 11/15 and 42/15) within the prescribed period, suspended proceedings by the Conclusion.*

According to Article 1, Paragraph 2 of the Charter, while it is possible for states to provide foreign nationals the access to employment on their territory only under condition of possessing work permit, they cannot prohibit nationals of States Parties in general, to be engaged in work, for reasons other than those listed in Article G; restrictions on the rights guaranteed by the Charter are recognized only if they are prescribed by Law, they serve a legitimate aim and they are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or moral. The only jobs which foreigners may not perform are therefore those jobs that are inherently connected with the protection of public interest or national security and involve the exercise of public service. **Committee asks whether there are and if so, what categories of jobs are closed to non-nationals.**

ANSWER:

Law on Civil Servants ("Official Gazette of the Republic of Montenegro", no.39/11 of 4/08/2011), which has been in force since 1/1/2013 prescribes the general conditions of entering employment within the state authority body. Therefore, a person may enter employment within state authority body provided that he/she is a citizen of Montenegro, is of legal age, is in a good health condition, has the required qualifications and has not been convicted of a criminal offence which makes him/her unsuitable for work in the State Administration and against whom there are no pending criminal proceedings for a criminal offence prosecuted ex officio.



In addition to these requirements and other requirements prescribed by Law, other regulation or act on internal organization and systematization, other requirements for entering employment may be prescribed.

A foreign national or a stateless person may enter employment within the state authority body as a state employee under the conditions stipulated by a separate law and international conventions.

Civil servant shall mean a person who entered employment in a state authority body to perform the tasks for the purpose of exercising competency of that authority prescribed by the Constitution, law and other regulations. Civil servant shall also mean a person who performs in a state authority body information technology, financial, accounting and other tasks of administrative nature. State employee shall mean a person who entered employment in the state authority body to perform administrative, technical and ancillary tasks.

State authority body, under this Law shall mean the ministry, the administrative authority, the service of the President of Montenegro, of the Parliament of Montenegro, of the Government of Montenegro, and of the Constitutional Court of Montenegro, the court, and State Prosecutor's Office. Civil servants, in terms of Law on Civil Servants and State Employees, are the employees of the Pension and Disability Insurance Fund of Montenegro, Health Insurance Fund of Montenegro, Employment Office of Montenegro, the Labour Fund and the Office for Peaceful Settlement of Labour Disputes.

Law on Foreigners ("Official Gazette of the Republic of Montenegro", no. 56/14 and 28/15) prescribes the conditions for employment and work of foreigners in Montenegro. Foreigners can work on the basis of the permit for temporary residence and work or work registration certificate, unless this law provides otherwise. Permit for temporary residence and work and work registration certificate shall be issued by the Ministry of the Interior Affairs. Law on Foreigners which was applied on 01/04/2015 characterizes simplifying the procedures for obtaining permit for temporary residence and work of foreigners. In this sense, the most important novelty in Law is the introduction of a unique permit for temporary residence and work of foreigners, in accordance with Directive 2011/98/EU on a uniform procedure for issuing a unique permit to third-country nationals for temporary residence and work in the territory of a Member State.

In accordance with the provision of Article 42 of Law on Foreigners, a foreigner may be issued a permit for temporary residence and work, if he/she:

1)has allowance assets;



- 2) *has provided accommodation;*
- 3) *has health insurance;*
- 4) *has a valid foreign passport or identity card issued by the competent authority of another State;*
- 5) *was not banned from entering and staying in Montenegro;*
- 6) *has not been sentenced in Montenegro to an unconditional prison sentence of more than six months for a criminal offense prosecuted ex officio or ceased legal consequences of conviction;*
- 7) *has not been sentenced in the country of origin to an unconditional prison sentence of more than six months for a criminal offense prosecuted ex officio or ceased legal consequences of conviction;*
- 8) *there are no threats to the national security, public order or public health;*
- 9) *presents proof of claim justification for issuing a permit.*

There are regulations restricting the employment of foreigners in certain sectors, such as Law on Civil Servants and State Employees, General Law on Education. The General Law on Education stipulates that a foreigner with permanent residence in Montenegro may enter into employment as a teacher under conditions provided by special law. This right does not have a foreigner with temporary residence in Montenegro.

In accordance with Law on Foreigners, which at this stage of the accession of Montenegro to the European Union, has received a positive opinion from the European Commission, there is neither discrimination in employing foreigners, nor this law stipulates what are the categories of jobs closed to non-nationals, except the issuance of unified permit for temporary residence and work in accordance with this Law.

Committee notes according to the report of ECRI (and the report of EU Commission on the progress of Montenegro in 2012) that Roma, Ashkali and Egyptians (RAE), suffer from discrimination and have a very low level of employment. According to some data, more than 80% of RAE population is unemployed in Montenegro.

Employment is one of the eight priority areas in which the Government of Montenegro intends to undertake "appropriate, urgent and comprehensive measures" within its RAE



strategy. The strategy proposes training for RAE in order to allow them to be more competitive in the labor market, eliminate open or covert discrimination and increase the employment rate through measures of affirmative action. These measures include quotas for the employment of unemployed RAE in certain jobs, tax breaks and subsidies for entrepreneurs who employ RAE workers and special funds for interest-free or low-interest loans for RAE entrepreneurs or self-employed RAE.

Committee asks to be informed on the progress in the fight against discrimination in access to employment for this group of persons.

ANSWER:

In March 2012 the Government adopted a Strategy for improving the situation of Roma and Egyptians in Montenegro 2012 - 2016. The strategy covers the period from 2012 to 2016, and it will be implemented through a one-year action plans to be prepared in the last quarter of the current year for the next year. Annual action plans will specify the priority measures and activities to be implemented in that year. The overall objectives of the Strategy in the field of employment of RE population are the participation increase of the Roma and Egyptian population in active employment policy measures, with the equal participation of women; improving opportunities for quality employment; employment rates increase and the maintenance of this trend; improving cooperation between the social partners and civil society; reducing discrimination in the labor market. Through the provision of quality education and training for Roma and Egyptians, as well as active measures of employment, the level of their employability will raise and generate the potential for making their own income, which will be the starting point for the development of the social economy, releasing of poverty and ensuring full membership in the society.

On the day of 30/06/2015, at the Employment Office records of Montenegro, there were 1.449 persons who declared themselves as members of Roma and Egyptians population, of whom 629 women or 43,40%.

The total registered unemployment of this population, on the same day, there is a share of 4.61%.

In the structure of the Roma and Egyptian population the largest share of persons is with no employment and professional qualifications, with 94.92% (a share of women 43.44%), followed by persons who have completed III level of professional qualifications, with 2.7%



(28.94% women), persons with completed IV level of professional qualifications, with 1.36% (57.89% women), persons with completed II level of professional qualifications, with 0.96% (64.28% women) and one male person with completed V level of professional qualifications (0.06%).

According to municipalities, the largest number of registered persons, members of Roma and Egyptians, are registered with the Regional Unit Podgorica, for Podgorica, Danilovgrad, Kolašin and Cetinje and city municipalities Golubovci and Tuzi – 47.17% (the share of women 42.83%), then registered with the Regional Unit Herceg Novi, for municipalities of Herceg Novi, Kotor and Tivat - 13.87% (the share of women 50%), Regional Unit Nikšić, for municipalities of Nikšić, Šavnik and Plužine - 13.45% (the share of women 40.51 %), Regional units of Berane, for municipalities of Berane, Andrijevica, Plav and Rožaje, Gusinje and Petnjica – 11.80% (the share of women 41,52%), Regional Unit Bar, for municipalities of Bar, Budva and Ulcinj - 7.72% (the share of women 43.75%), Regional Unit BijeloPolje, for municipalities of BijeloPolje and Mojkovac - 5.10% (the share of women 41.89%) and Regional Unit Pljevlja, for municipalities of Pljevlja and Žabljak - 0.89% (the share of women 46.15%).

Out of the total number of registered persons, to the category of young people aged 15 to 25 years, belongs to 503 persons or 34.71% (221 women or 43,93%).

In the structure of these persons the largest share of persons is with no employment and professional qualifications - 95.25% (the share of women 44.46%), followed by 3.37% persons who have completed III level of professional qualifications (23.52% women), 1.19% of persons with completed IV level of professional qualifications (50% women), 0.19% or one female person with completed II level of professional qualifications.

In the first half of 2015, 74 persons were registered at the Employment Office who declared themselves as Roma and Egyptians, of which 51.35% were women. Out of the total number of newly registered persons, 70 persons (94.59%) have no employment and professional qualifications, 3 persons (2 women) with completed IV level of professional qualifications and 1 male person with completed III level of professional qualifications.

The largest number of newly registered is from the territory of Podgorica – 64.82% of the total number of newly registered (47.91% women), Herceg Novi - 13.54% (60% women), Nikšić - 12.19% (77.77% women), Berane - 8.10% (33.33% women), Bijelo Polje - 1.35% (one male person).

In the period of 01/01/2015–30/06/2015, 34 persons-members of Roma and Egyptians population were involved in active employment policy programs. Out of this number 11 women, or 32%, as follows:

- In seven local public works in Podgorica, Nikšić, Tivat and Herceg Novi, 19 persons were involved (three women).



- *In the state public work "Keep it clean", five (5) persons were involved (one woman), in the municipalities of Bar, Cetinje, Herceg Novi and Tivat.*
- *In the program of education and training for the profession "women's hairdresser", nine (9) persons were involved (six women).*
- *In the program of education and training for the profession of "maid", which was implemented in Tivat, one female person was involved.*

On seasonal jobs in the reporting period, 15 persons of RE population were employed (six women or 40%).

Regional structure:

- *From the records of the Regional Unit Herceg Novi for municipalities Herceg Novi, Tivat and Kotor - eight persons (53.5%), four of them women (50%).*
- *From the records of the Regional Unit Podgorica for municipalities Podgorica, Danilovgrad, Kolašin and Cetinje and city municipalities Golubovci and Tuzi - two male persons (13.3%).*
- *From the records of the Regional Unit Bar for municipalities Bar, Budva and Ulcinj - three persons (20%), two of them women.*
- *From the records of the Regional Unit Nikšić for municipalities Nikšić, Plužine and Šavnik - one male person (6.6%).*
- *From the records of the Regional Unit Berane for municipalities Berane, Andrijevica, Plav, Rožaje, Gusinje and Petnjica - one male person (6.6%).*

Age structure:

- *15-25 years: six persons (two women);*
- *26-35 years: six persons (two women);*
- *46-55 years: three persons (two women).*



2. Prohibition of forced labor

Committee asks for information about the legislation that prohibits forced labor.

ANSWER:

The Constitution of Montenegro in the chapter "Economic, Social and Cultural Rights and Freedoms" shall guarantee to everyone the right to work and free choice of profession and employment, just and humane conditions of work and protection during unemployment.

Also, the Constitution shall prohibit forced labor therewith the following shall not be considered as forced labor: labor customary during the serving of sentence involving deprivation of liberty; performance of duties of military nature or duties required instead of military service; work demanded in case of crisis or accident that threatens human lives or property.

Furthermore, Montenegro has confirmed the ILO Convention 29 on forced labor and ILO Convention 105 on the prohibition of forced labor and thus introduced them into its legal system because the Constitution of Montenegro, in Article 9 stipulates that the ratified and published international agreements and generally accepted rules of international law shall make an integral part of the internal legal order, shall have the supremacy over the national legislation and shall be directly applicable when they regulate the relations differently from the internal legislation.

Prison work

Committee requests that the next report shall provide information on the work to be done in prisons. In this sense, it refers to its statement on interpretation in the General introduction.



ANSWER:

Law on the Execution of Prison Sentences, Fines and Security Measures ("Official Gazette of the Republic of Montenegro", no. 36/2015), which entered into force 18/07/2015 shall stipulate:

- *Article 55, paragraph 1, stipulates that a prisoner while serving a prison sentence or a prison sentence of forty years has the right and obligation to work, while paragraph 2 stipulates that the prisoner while serving his prison sentence is encouraged to work.*
- *Article 56 states that labor should not be imposed to the prisoner as a form of disciplinary punishment, and that the purpose of prison labor is to develop prisoner's work skills, acquiring work experience and knowledge in order to enable better reintegration into society after servitude.*
- *Article 57, paragraph 1 stipulates that prison labor is not counted as working experience.*
- *Article 58, Paragraph 1 stipulates that the prisoner who executes the sentence of imprisonment or imprisonment of forty years in the premises of semi-open or open type may be referred to work outside the prison by the Institute for Execution of Criminal Sanctions, with the employer whose activities are suited for the performance of that work. Paragraph 2 stipulates that the referral in paragraph 1 of this Article shall be done on the basis of the contract which the Institute concludes with an employer referred to in paragraph 1 of this Article. Paragraph 3 stipulates that the written consent of the prisoner is necessary for the referral of prisoners to work outside the prison.*



Rulebook on House Rules for the execution of imprisonment sentence, which entered into force on 09/10/2012 in the Section VIII regulates Work and remuneration:

- Article 43, paragraph 1 stipulates that the work of a convicted person is carried out in the Institute and outside the Institute within: handicraft production; agricultural production; ancillary-technical jobs; or in cooperation with state or private employer. Paragraph 2 stipulates that schedule and rearrangement of a convicted person to workplaces is performed by the Department for treatment of convicted persons, based on the needs of the Department of labor of convicted persons and the consent of the Department of security.

- Article 46 stipulates that the working hours of a convicted person last 40 hours per week, but may take longer under conditions provided by law.

- Article 47, paragraph 1 stipulates that during the allocation of a convicted person in the workplace, the instructor is required to brief him on the tasks to be performed during working hours, with safety measures at work, labor standard which must be achieved and other rights and obligations. Paragraph 2 states that a convicted person is obliged to comply with safety measures and to use envisaged protective equipment.

- Article 49 stipulates that convicted persons who have the work engagement are entitled to appropriate remuneration in accordance with Law.

- Article 50, paragraph 1 stipulates that the salary is defined based on work performance and time spent at work. Paragraph 2 stipulates that the salary is paid at least once in a month and not later than 10th in the month for the previous month.

- Article 51 stipulates that convicted persons who have the work engagement are entitled to remuneration in the amount of at least 30% of the minimum wage in Montenegro. Convicted persons who have the work engagement can achieve other benefits in the form of cash prizes if they particularly stand out in the work or have otherwise contributed to the successful performance of the tasks. The award from the previous paragraph on the basis of the proposal of the Department of work shall be determined by the chief of the organizational unit.

- Article 52, Paragraph 1 stipulates that out of the total remuneration, 30% is put aside in the deposit of a convicted person as savings that the convicted person receives when he-she is released to freedom, while 70% of the remuneration is at free disposal for the convicted person.

- Article 54 stipulates that a convicted person has the right to a daily, weekly and annual leave, in accordance with general labor regulations.



On the occasion of work engagement of convicted persons in prisons in Montenegro, we state the following data:

- 1. In the Prison for short sentences there are 100 convicted persons-72 convicted persons are engaged in work.*
- 2. In the Prison Bijelo Polje there are 57 convicted persons-15 convicted persons are engaged in work.*
- 3. In the Detention and Rehabilitation Centre there are 658 convicted persons-335 convicted persons are engaged in work.*

Compulsion in relation to domestic work

Committee refers to its statement of interpretation and the issue in the General introduction.

3. Other aspects of the right to earn a living at work that is freely chosen

Committee assumes that generally the payment of unemployment benefits, including all obligations for the acceptance of the offered employment is submitted to the conditions which should be assessed on the basis of Article 12, paragraph 1 of the Charter (or Article 12, paragraph 3, in the case of new events). However, in certain cases and under certain circumstances the loss of unemployment benefits on the basis of the refusal to accept the offered employment can indirectly lead to restrictions on the freedom to choose a job and as such, the situation would be assessed on the basis of Article 1, paragraph 2 (see General introduction to Conclusions in 2008).

Committee refers to its statement of interpretation in the General introduction. It asks that the next report include updated information on this issue.

ANSWER:

Law on Employment and Exercising Rights with respect to Unemployed Insurance, Article 23 stipulates, inter alia, that an unemployed person has the right to determine, with the Bureau and Office, an individual employment plan, as well as to participate in programs and measures of active employment policies. Article 24 of the said Law, inter alia, stipulates that the obligation of the unemployed person is to participate in the measures of active employment policy in accordance with Law and the individual employment plan. Furthermore, Article 34 of Law defines the individual employment plan as an agreement



between the employment jobs holders and the unemployed person on the activities of the unemployed person in seeking employment and inclusion in active employment policy measures. In accordance with the new findings and changed circumstances in the labor market, the individual employment plan has been amended.

Therefore, in accordance with the abovementioned, the individual employment plan represents the basis for the assessment of a possible offer of employment or engaging in certain measures of active employment policy of the unemployed person, and consequently the implementation of the provisions relating to the termination of the right to unemployment benefit in the sense of not accepting the offered job.

The number of users of unemployment benefit in 2015 ranged from 8.773 in January to 7.104 in June.

Total funds assigned for unemployment benefit for the first three months of 2015 amounted to 2.681.073.86 euro. At the amount of paid unemployment benefit, contributions for health and pension - disability insurance shall be calculated and paid.

Overview of unemployment benefit payments in 2015

Sn	Month	NN - € 77.20		Mini pension UNN - € 100.40		Total	
		Number of users	Funds gross	Number of users	Funds gross	Number of users	Funds gross
	1	4	5	6	7	8	9
1	January	6442	648461.67	2331	289876.93	8773	938338.60
2	February	6183	599303.68	2264	282006.01	8447	881309.69
3	March	6079	585446.63	2219	275978.94	8298	861425.57
4	April	5620	542373.60	2147	266574.71	7767	808948.31
5	May	5387	526104.35	2061	256179.61	7448	782283.96
6	June	5171	500440.23	1933	239004.34	7104	739444.57



Overview of unemployment benefit payments in the first half of 2014 and 2015

<i>Sn</i>	<i>Month</i>	<i>Number of users</i>		<i>Nominal difference</i>	<i>Index</i>
		<i>2014.</i>	<i>2015.</i>		
<i>1</i>	<i>January</i>	<i>9674</i>	<i>8773</i>	<i>-901</i>	<i>90.69</i>
<i>2</i>	<i>February</i>	<i>9720</i>	<i>8447</i>	<i>-1273</i>	<i>86.90</i>
<i>3</i>	<i>March</i>	<i>9362</i>	<i>8298</i>	<i>-1064</i>	<i>88.63</i>
<i>4</i>	<i>April</i>	<i>8905</i>	<i>7767</i>	<i>-1138</i>	<i>87.22</i>
<i>5</i>	<i>May</i>	<i>8755</i>	<i>7448</i>	<i>-1307</i>	<i>85.07</i>
<i>6</i>	<i>June</i>	<i>8606</i>	<i>7104</i>	<i>-1502</i>	<i>82.55</i>

On the basis of these data, it may be noticed the decrease in the number of unemployment benefit users in the first six months of 2015. On average, 7.973 unemployed persons used monthly this right. Total funds assigned for unemployment benefit for the first half of 2015 amounted to 5.011.750.70 euro.

The minimum period of service in the armed forces

Committee notes the submitted information on minimum periods of service in the professional armed forces. It emphasizes that the minimum period should be of reasonable lifetime, and in cases of longer minimum periods due to education or training that an individual receives, the length have to be proportionate to the duration of education and training. Also, all fees/costs due to the early termination of services have to be proportionate.

ANSWER:

Law on the Armed Forces of Montenegro ("Official Gazette of the Republic of Montenegro", no. 88/09, 75/10, 32/14), regulates the service in the Armed Forces, rights, duties and status of persons in the Armed Forces during their service, and other issues



relevant to the Armed Forces, in Article 6, paragraph 1, stipulates that professional military personnel shall include: contract soldiers, non-commissioned officers and contract non-commissioned officers, officers and contract officers, and Article 9 that cadets are persons being educated in professional military schools and academies for service in the Armed Forces, either as a non-commissioned officers or officers.

The provision of the said Law stipulates that a person who meets the requirements of Article 33, paragraph 1 hereof, shall be admitted to the service in the Armed Forces for a certain time and duty as a contract soldier, contract non-commissioned officer or contract officer, on the basis of a contract of service in the Armed Forces.

The contract referred to in paragraph 1 of this Article with the person who receives the service in the Armed Forces for the first time is concluded for the period of one year and the next contracts are concluded for the period of three years, if such needs are required by the Armed Forces.

Notwithstanding paragraph 2 of this Article, the contract may be concluded for a period shorter than three years if the person attains the number of years envisaged by Article 171, Paragraph 1 of this Law (Article 35).

Article 171 of the said Law stipulates that duration of service of professional military personnel in the Armed Forces shall be:

- 1) for non-commissioned officers, contract non-commissioned officers, officers and contract officers - up to 35 years of service in effective duration and at least 55 years of age;*
- 2) for contract soldiers under the age of 45 years.*

The person referred to in paragraph 1 of this Article, military service may last up to 40 years of service and at least 55 years of age.

Notwithstanding paragraphs 1 and 2 of this Article when service requires so, the Minister may, at proposal of the Chief of the General Staff, i.e. managing person in the Ministry of Defense, prolong duration of service in the Armed Forces to a professional military person.

Also, the provision of the said Law stipulates that a cadet, i.e. a scholar who has completed the education is obliged to spend in the service in the Armed Forces twice as much time than the duration of education or scholarship.



Professional military person who has been sent to education or training is obliged to spend in the service in the Armed Forces twice as much time than the duration of education or training, unless the contract provides otherwise (Article 82).

Privacy at work

Committee asks for information that would enable it to determine whether the human dignity and freedoms are protected by Laws and the courts against interference in personal or private life associated with or arising from the employment relationship. This refers to its statement on interpretation and issues in the General introduction.

ANSWER:

The Constitution of Montenegro guarantees and protects the rights and freedoms which are inviolable. Everyone is obliged to respect the rights and freedoms of others. Furthermore, the Constitution guarantees the dignity and security of a man, inviolability of the physical and mental integrity of a man, privacy and individual rights thereof. No one shall be subjected to torture or inhuman or degrading treatment, and no one shall be kept in slavery or servile position. Everyone has the right of respect of private and family life.

Furthermore, the Labour Law prohibits any conduct towards an employee or a group of employees with an employer which is repeated and which is intended to or actually undermines the dignity, reputation, personal and professional integrity (Article 8a). Also, the said Law stipulates the obligation of the employer to respect the personality, protect the privacy of the employee and provide protection of his/her personal information (Article 14)



Article 1 - Right to work

Paragraph 3 -Free services of employment

Committee takes into account the information contained in the report submitted by Montenegro.

Law on Employment and Exercising Rights with respect to Unemployed Insurance provides a legal basis for a system of employment services. The activities of the Employment Office and agencies (there are currently twelve) include, inter alia, providing information on possibilities and conditions of employment, mediation between employers and employees, career guidance and vocational guidance and implementation of certain employment programs. One of the basic principles of Law is that services are provided free of charge.

Committee asks how many persons within the Employment Office and agencies are engaged in mediation in employment and recruitment issues and asks for information about the relationship of staff for mediation towards the registered persons seeking employment.

ANSWER:



78 counselors for mediation in employment work in Employment Office for 34.162 (status on 06/10/2015) registered jobseekers so that one counselor on average mediates in employment of 422 jobseekers.

Rulebook on conditions for performing employment tasks in agencies for employment ("Official Gazette of the Republic of Montenegro, no. 6/2011), in so far as it relates to staff, stipulates that for the performance of employment tasks in the employment agencies, at least two employed persons with completed higher education and two years of work experience are needed, and one employed person with secondary education and a minimum of six months of work experience. At the end of 2014, five agencies for employment had work permit. Therefore, compared to the previous answer, some work permits were taken away, because some agencies did perform the employment tasks in accordance with Law.

Employment Office maintains a database of vacancies for the whole country, enabling the timely distribution of information on the demand in the labor market to all interested users through modern technologies such as the Internet and mobile phones (SMS). Employers are not under obligation to publish vacant jobs.

The report states that in 2010 the number of published job vacancies amounted to 39.168. **Committee asks what was the employment rate, i.e. the number of employed persons as a percentage of total job vacancies, registered at the Employment Office. It also asks that the next report indicates the average length of time needed to fill the job vacancies.**

ANSWER:

Whereas the employers are obliged to report a job vacancy to the Employment Office regardless if they plan to employ domestic or foreign labor force, so the rate of employment of domestic labor force, i.e. the number of employed persons as a percentage of total job vacancies reported to the Employment Office is much lower than the rate of total employment (domestic and foreign labor force).



In 2014 employers reported 43.227 job vacancies to the Employment Office through 21.229 applications for job vacancies. Compared to 2013, it was reported 5.358 job vacancies more or 14.15% (in 2013, 37.869 job vacancies were announced).

According to the received data, obtained by employers and Tax Administration of Montenegro through the system of Unified registration of taxpayers and insurers, in 2014, 14.318 persons received employment via Employment Office. Compared to 2013, when 14.646 persons were employed, there was a reduction of employment for 328 persons or 2.24%.

In 2014, 23.061 work permits were issued for work and employment of foreigners (of which 1.487 personal work permits) which is for 563 permits, or 2.5% more than in 2013 (22.498 issued permits).

Based on the presented data, the rate of employment of domestic labor force in 2014 would amount to 33.12%, while the overall employment rate would amount to 83.03%.

As far as private employment agencies are concerned, Committee asks how they are licensed, the way they do and coordinate their work with the public employment service.

ANSWER:

Law on Employment and Exercising Rights with respect to Unemployment Insurance, Article 8 stipulates that holders of certain employment tasks are the Employment Office and employment agencies

Article 19 of the said Law stipulates that an Employment Office may be established by the natural or legal entity.

Conditions in terms of premises, staff and equipment which the agency should fulfill are stipulated by the Rulebook on the Conditions for performing employment tasks in agencies for employment ("Official Gazette of the Republic of Montenegro no. 6/2011).



Ministry shall issue the license to the agency within 30 days from the date of the submission of application. Also, the Ministry shall keep the register of issued work licenses, while the agency can start operating only after obtaining license.

Law regulates the cases when the withdrawal of the license is carried out.

Cooperation of agencies with the Employment Office is also defined by Law. Namely, the employment agency is obliged to inform the Employment Office on the performed employment tasks within 30 days from the expiry of each term.

Committee notes that in 2010 the Employment Office made efforts to intensify cooperation with employers.

Finally, it asks whether trade union and employers' organizations participate in the organization and management of the Employment Office.

ANSWER:

Law on Employment and Exercising Rights with respect to Unemployment Insurance stipulates that the bodies of the Employment Office are board of directors and the director.

Board of directors manages the work of the Employment Office and it has five members:

- *President and one member nominated by the administrative authority competent for work operations and employment;*
- *One member nominated by the representative trade union organization;*
- *One member nominated by the representative association of employers;*
- *One member from the employees of the Employment Office nominated by the director of the Employment Office.*

Therefore, in accordance with Law both representatives of the social partners, i.e. trade unions and employers' associations participate in the management of the Employment Office's operations



Work with employers

Employment Office in 2014 had intensive cooperation with the employers. In order to improve the work, employers in regional units and offices are provided with necessary services such as:

- *advertising of job vacancies,*
- *direct mediation on the basis of employers' requests for filling vacancies, through the so-called pre-selection and selection of candidates,*
- *mediation for seasonal employment,*
- *information and submission of applications for credit,*
- *issuance of work permits for the employment of foreigners,*
- *employment development service,*
- *visits to employers,*
- *thematic meetings, presentations, round tables, etc.*
- *contacts with employers' associations and*
- *information and support for employment of persons with disabilities.*

In addition, the activities of organizing and participating of the Employment Office in trade fairs are continued, inclusion of employers in training, program development, monitoring and evaluation of training, vocational training of university graduates, public works etc.

Direct mediation

This method of mediation in a simple, easy and fast way satisfies all needs of supply and demand. At the request of employers to fill job vacancies, the employment agencies organize activities of so-called pre-selection, selection and interviews, which select candidates who can meet the expressed needs. Needs are determined through interviews with employers, by which more specific information on the requirements of the workplace are received (qualifications, work experience, special skills and knowledge, characteristics of the employee, etc.). Based on the acquired information counselors among the unemployed persons find suitable candidates, who then participate in the procedure of selection.



Work counselors with employers perform procedures of pre-selection and selection with chosen persons. The aim of pre-selection is to establish through group interviews with more unemployed persons, their experience, competences and motivation to work on an appropriate job vacancy and that candidates who meet the required conditions are sent to employers.

Selections are made in the presence of employers, who with the help of work counselors perform group or individual interviews with the unemployed persons. In this way the positive result is achieved, because at one place supply and demand are directly faced and acquainted with what is required and what is offered. Lately, this type of service of the Employment Office toward the employers has been highly popularized. They realize its importance and there is a great demand for this type of service.

In 2014, 2.835 employers who expressed the need for 8,798 workers are addressed to the Employment Office. At the pre-selection there were 6.115 unemployed persons. 5 945 unemployed persons went through the process of selection, while directly mediated for 3.237 persons.

Article 1 - Right to work

Paragraph 4 – Vocational guidance, training and rehabilitation



Committee takes into account the information contained in the report submitted by Montenegro.

As Montenegro accepted Article 9, Article 10 paragraph 3 and Article 15 paragraph 1 of the Charter, under these provisions measures were examined relating to vocational guidance, vocational training and retraining of workers, and the guidelines and vocational training for people with disabilities.

Committee postpones its conclusions in relation to these three provisions because of lack of information.

ANSWER:

Information provided in responses to the Article 10 paragraph 3 and Article 15 paragraph 1 of this report.

As the information on trainings and vocational guidance are above mentioned, here are clarified the information on persons with disabilities and professional rehabilitation as follows (for the first half of 2015):

Integration into employment of persons with disabilities

The legal basis for the implementation of measures and activities of professional rehabilitation and employment of persons with disabilities represent: Law on Employment and Exercising Rights with respect to Unemployed Insurance, Law on Professional Rehabilitation and Employment of Persons with Disabilities by which for the first time in Montenegro in a comprehensive manner is regulated this complex area, as well as subordinate legislation for the implementation of this particular law which are complied with the standards of international institutions and the European Union, namely: Rulebook on criteria and conditions for determining the percentage of disability, the remaining work capacity and employment opportunities; Rulebook on the method and conditions of exercising rights to professional rehabilitation; Rulebook on standards for the implementation of measures and activities of professional rehabilitation; Rulebook on the conditions to be met by the performer of professional rehabilitation, work center, safety workshop and safety plant; Rulebook on the conditions, criteria and procedures for exercising rights to subsidies; Price list for services of measures and activities of professional rehabilitation; Rulebook of the Employment Office on the composition and



work of the commission for professional rehabilitation and Rulebook on the procedure and methodology for funding the grant scheme.

The Government of Montenegro adopted the Strategy for Integration of Persons with Disabilities in Montenegro 2008-2016, aimed at improving the situation of persons with disabilities and their inclusion in all spheres of society on an equal basis, based on the objectives and measures set by the Strategy, action plans for a period of two years shall be adopted.

Work of Commission for professional rehabilitation

First instance commissions in the regional units of the Employment Office are formed by the decision of the Director of the Employment Office: Podgorica, Nikšić, Pljevlja, Berane, Bijelo Polje, Herceg Novi and second instance Commission in the Department for employment tasks.

First instance commission for professional rehabilitation gives an opinion on:

- the percentage of disability, remaining work capacity and employment opportunities for the unemployed person registered with the Employment Office records, in the manner and under the conditions laid down in the Rulebook on criteria and conditions for determining the percentage of disability, the remaining work capacity and employment opportunities and the Rulebook on standards for the implementation of measures and activities of professional rehabilitation.*
- the possibility of including the unemployed person, i.e. employed person in the measures and activities of professional rehabilitation, in the manner and under the conditions laid down in the Rulebook on the conditions and manner of exercising the right to professional rehabilitation.*

Based on the opinion of the commission, chief of the regional unit in the first instance, i.e. director of the Employment Office of Montenegro in the second instance makes a decision on:

- established percentage of disability,*
- recognition of the right to professional rehabilitation,*
- remaining work capacity,*
- employment opportunities.*

On the basis of individually submitted monthly reports on the work of first-instance Commissions, it was noted that in the first half of 2015, the first instance Commissions adopted findings and opinions on the established percentage of disability for a total of 115 persons (42.61% women).

For all persons decisions were made on the established percentage of disability.



Number of adopted decisions on the established percentage of disability, according to the regional units is as follows:

- *Regional unit Podgorica - 22;*
- *Regional unit Nikšić - 8;*
- *Regional unit Herceg Novi - 22;*
- *Regional unit Bijelo Polje - 15;*
- *Regional unit Bar - 3;*
- *Regional unit Berane - 29 and*
- *Regional unit Pljevlja - 16*

First instance Commissions for vocational guidance discussed on 91 cases at the request of persons for inclusion in the measures and activities of professional rehabilitation and for all persons they adopted opinions on the need for inclusion in the measures and activities of professional rehabilitation. Decisions have been made on recognition of the right to professional rehabilitation for all persons.

Number of adopted decisions on the recognition of the right to professional rehabilitation, by regional units is as follows:

- *Regional unit Podgorica - 19;*
- *Regional unit Nikšić -7*
- *Regional unit Herceg Novi - 13;*
- *Regional unit Bar -29*
- *Regional unit Bijelo Polje - 0*
- *Regional unit Pljevlja - 12*

Commission for professional rehabilitation RU Podgorica, in the reporting period, adopted an opinion on the remaining work capacity for 20 persons, while the Commission for professional rehabilitation of Employment Office Herceg Novi adopted the opinion on the remaining capacity for one person. Decisions have been made on the remaining work capacity for all persons.

For eight persons, Commission for professional rehabilitation of Employment Office Podgorica brought an evaluation on employment opportunities, on the basis of which decisions were made on employment opportunities.

The implementation of measures and activities of professional rehabilitation of persons with disabilities



Professional rehabilitation is a process that is being implemented with the aim of enabling the individual to the social and occupational integration, which includes measures and activities that allow persons with disabilities and other harder-to-employ persons as a target group, to be appropriately trained to work, to maintain employment, progress or change career.

The measures and activities of professional rehabilitation are implemented by the performer of professional rehabilitation, who has to meet the stipulated legal requirements regarding space, equipment, skilled personnel and standards for their realization.

The essence of professional rehabilitation is identification of problems, assessment of remaining work capacity, guidance and training for employment, with psycho-social support and ultimately employment, maintaining of employment and career advancement.

In the reporting period, measures and activities of professional rehabilitation were carried out in Podgorica, Pljevlja, Herceg Novi, Bar, Nikšić, Bijelo Polje and Tivat.

Since the beginning of 2015, 117 persons were included in all professional rehabilitation measures (50% women), with two performers (ZOPT - 57 persons, Pamark - 60 persons), namely in Podgorica, 38 (47.36% women), in Tivat one male person, in Pljevlja 19 persons (42.10% women), in Herceg Novi 12 persons (58.33% women), in Bar 29 (55.17% women), in Bijelo Polje 11 (63.63% women), in Nikšić, seven (42.85% women).

Out of the total number of participants in professional rehabilitation programs, 21 employed persons with disabilities (11 women) were included in order to exercise the rights of the employer to subventions for grants, for adapting the workplace and working conditions for employment of persons with disabilities and participation in financing of costs of personal assistant for persons with disabilities.

In recent period, 17 persons (eight women) who were included in the measures and activities of professional rehabilitation are employed or the recruitment procedure is in progress.

Employment of persons with disabilities

In the first half of 2015, 22 persons with disabilities were employed on an indeterminate period and 48 persons on a determinate period (8 persons prolonged employment). These employers were granted the right to wage subsidy.

52 persons with disabilities are employed on a determined period of two to four months in public works..



Professional rehabilitation fund and employment of persons with disabilities

Law on Professional Rehabilitation and Employment of Persons with Disabilities stipulates that the Employment Office of Montenegro organizes Professional Rehabilitation Fund and Employment of Persons with Disabilities and that the Fund assets are primarily provided from the special contribution paid by employers who do not fulfill the necessary quota for the employment of persons with disabilities. These funds are paid into the Budget of Montenegro. However, until January, 1st 2014, the Fund was not singled out as a separate budgetary position in the revenue and expenditure side of the Budget of Montenegro, i.e. the Budget of the Employment Office of Montenegro, but the assets intended for active employment policy measures were used for the obligations and program activities of professional rehabilitation and employment of persons with disabilities.

Rulebook on internal organization and job classification in 2013 establishes the Fund as a new organizational unit within the Employment Office, and Law on Budget of Montenegro for 2014, for the first time establishes as a separate program in the Budget of Montenegro - The Budget of the Employment Office of Montenegro with the foreseen amount of €2.000.000. For the year 2015, the amount of €2.000.000 was also paid in.

Fund assets, according to Law may be used for: measures and activities of professional rehabilitation for unemployed and employed persons with disabilities, co-financing of special organizations for employment, active employment policy programs involving persons with disabilities, subsidies, funding grant schemes and financial assistance for participants in professional rehabilitation measures.

For the implementation of professional rehabilitation program and employment of persons with disabilities, € 765.031.73 was spent in the first half of 2015, for:

- *programs of professional rehabilitation - € 20.518.38;*
- *income subsidies - € 224.875.05;*
- *subsidy (adapting the workplace and working conditions) - € 44.336.37;*
- *subsidy (participation in financing of costs of personal assistant in work) - € 30.377.46;*
- *active employment policy programs, with the participation of persons with disabilities (public work) - € 23.732.29;*
- *funding grant scheme - € 398.810.07;*
- *financial assistance of program participants - € 6.100.29;*
- *compensations to members of Commissions for professional rehabilitation and the Fund Council - € 16.281.82.*

After a public call for submission of project proposals for professional rehabilitation, for active employment policies and employment of persons with disabilities (grant scheme), which was published at the end of 2014, the Board of the Employment Office made a Decision on 20/02/2015, which authorizes financing of 19 projects, amounting to € 998.789.06.



On 02/03/2015, the contracts were concluded with the contractual parties - the beneficiaries, and the implementation of projects starts from that day.

Article 9 - The right to vocational guidance

Committee takes into account the information contained in the report submitted by Montenegro.

As Montenegro accepted Article 15 of the Charter, measures relating to vocational guidance of persons with disabilities are defined under this provision.

Committee notes the legislation related to vocational guidance.

It notes from the report that the vocational guidance in the education system is mainly implemented through the work of school counselors and psychologists. The most important document which regulates the work of the competent services in the field of vocational guidance is the work Program of the competent services in school and pre-school institutions



(pedagogue, psychologist, speech therapist and defectologist), issued by the Bureau for Education Services in 2008. Schools with more than 400 pupils may engage a school pedagogue, and schools with more than 800 pupils may engaged the psychologists as well. School psychologist is involved in vocational guidance.

As far as the labor market needs, the report states that within the Employment Office there is a special service - Centre for information and professional counseling (CIPS) whose main role is to establish the connection between employment and education, and to prepare and provide information which can be helpful in career planning. Vocational guidance is based on assisting young people and adults in making decisions about further education, occupation, employment and other issues related to career.

Vocational guidance is given in the form of: professional counseling, workshops and professional informing.

Committee also notes a number of projects that were in progress during the reference period, as well as the results of participation.

Committee recalls that Article 9 imposes on states to establish and operate service which helps all persons, free of charge, to solve their problems related to vocational guidance. The right to vocational guidance has to be guaranteed:

- within the school system (information on training and access to training);
- within the labor market (information on vocational training and retraining, career planning, etc.).

The indicators taken into account in order to assess the vocational guidance are: objectives, organization, operation, total consumption, number of employees and number of users. Vocational guidance must pay particular attention to persons who leave school, job seekers and the unemployed persons.

Vocational guidance must be provided:

- free of charge;
- by a qualified (counselors, psychologists and teachers) and sufficient number of personnel;
- to a significant number of people.

Committee asks for that the next report indicates in which way the right to vocational guidance is guaranteed in the school system (expenses, staff and users).



ANSWER:

In educational institutions there are professional services, as a rule pedagogue and psychologist, in whose description of the job, inter alia, there is also a vocational guidance of pupils.

For the purpose of continuous monitoring of pupils with special educational needs and their vocational guidance, it is necessary to increase the number of these pupils in secondary education. In order to achieve the coverage, continuity, it is necessary to operationalize cooperation of primary schools with secondary schools, secondary schools and the labor market. Therefore, we have developed "an individual transition plan - ITP" which is being implemented in two stages: at the end of primary school (includes elements of vocational guidance) and at the end of secondary education (focus on preparation for employment and skills for independent living). It contains informative part: the purpose and role of ITP; Roles and responsibilities of members of the ITP team and players; Background information (description of special needs, skills and abilities of the child), Plan of support during election of the education program (responsibilities/tasks/time frame), the list of desirable professions, the possibilities that the pupil can achieve within this profession and for employment, proposal and assumption for support that a child needs during education for a specific occupation. Instructions is prepared which provides a theoretical overview on the international standards, guidelines, offers a practical approach, precise landmark as the developmental and educational needs of these children may be fulfilled in the transition period. The document was adopted by the National Council and binding for use in primary and secondary schools.

It also asks in which way the qualifications and the criteria for determining the competence of counselors are followed, as well as the amount of funds allocated for vocational guidance in the labor market.

ANSWER:

Rulebook on internal organization and systematization of the Employment Office of Montenegro prescribes that for performing jobs of counselors, higher education is needed



in the scope of 240 credits MCTS, VII-1 level of professional qualification, the faculty of social sciences - psychology. It also stipulates that this workplace requires experience for at least five years.

Equal treatment in relation to vocational guidance must be guaranteed to everyone, including persons who are not citizens. According to the Annex to the Charter, equality of treatment shall be provided to nationals of other States Parties lawfully residing or regularly working on the territory of the State concerned. This implies that there are no conditions connected to the length of residence related to students and trainees residing in any capacity, or having authority to reside there because of their connections with persons lawfully residing in the territory of the concerned State Parties before beginning of training. This does not relate to students and trainees who without the existence of the connections above mentioned, entered the territory with the sole purpose of attending training. For this purpose, conditions of the length of residence or condition of employment and/or application of reciprocity clauses are contrary to the provisions of the Charter.

Committee asks whether there are conditions for foreigners, such as the length of previous residence or permanent residence so as the nationals of other State Parties enjoy equal treatment in terms of the access to vocational guidance in Montenegro.

ANSWER:

Vocational guidance is one of the active employment policy measures, stipulated by Law on Employment and Exercising Rights with respect to Unemployment Insurance.

By vocational guidance is considered:

-providing help to unemployed person, an employee, a pupil, a student and another person to objectively think about, plan for and succeed in his/her career;

-harmonization of individual needs and capabilities of the unemployed person with the needs and requirements of the labor market.

An unemployed person is a person between 15 and 67 years of age who is a citizen of Montenegro and a foreigner with a permanent residence permit, recognized refugee status or subsidiary protection, who is registered at the Employment Office of Montenegro, capable or partially capable of work, who is not employed and who is actively seeking employment.



According to above mentioned, foreigners who are registered at the Employment Office of Montenegro as unemployed persons, have the right to participate in active employment policy measures, including the vocational guidance.

Also, this right is entitled to foreigners who are not unemployed in terms of Law on Employment and Exercising Rights with respect to Unemployment Insurance, and who have legal residence in Montenegro (employee, pupil, student, etc.).



Article 10 - The right to vocational training

Paragraph 1 - Technical and vocational training; access to higher technical and university education

Committee takes into account the information contained in the report submitted by Montenegro.

It takes into account the legislation governing vocational education, specific programs and projects organized and carried out in this regard. Committee takes into account the figures on participation and budget for the activities of vocational education mentioned in the report. It notes that the number of program participants for occupations and skills in 2010 was 3.930 in total, which is 22% more than the Government plans for these programs.

Committee recalls that the term vocational training referred to in Article 10, paragraph 1 covers: initial training – i.e. general and vocational secondary education - university and non-university higher education, and vocational training organized by other public or private actors, including continuous training defined in paragraph 3 of the Charter. By university and non-university higher education is considered a vocational education that provides students with the knowledge and skills necessary to perform the given profession.

In this regard, Committee notes that the report does not give information about general secondary education and university and non-university higher education and asks for to submit them in the next report.

ANSWER:

In accordance with Law on Vocational Education, vocational education is acquired at the level of primary, secondary and higher vocational education through the following types of vocational schools: two-year vocational school, three-year vocational school, four-year vocational school, higher vocational school and art school. Vocational education also includes the Vocational exam.

School network for the implementation of secondary vocational education comprises 21 vocational schools, 7 art schools, 3 resource centers, 2 education centers and 10 mixed schools. Every school year pupils are offered about 80 education profiles - 35 in three-year



and about 45 in four-year term. There are about 21.000 pupils in vocational schools, representing 68% of the total number of pupils in secondary schools. Educational work in vocational education is carried out by teachers, professional associates, associates in practical education and instructors of practical education. Teaching is conducted by about 2,000 teachers. Center for Vocational Education, in accordance with Law laid competencies, implements training and development of teachers and principals of vocational schools. Enrollment of pupils in vocational schools is carried out through an open competition published by the Ministry of Education on a proposal from school.

Law on Vocational Education stipulates that vocational education is carried out by schools (school form) or employer together with a school (education with the employer, so-called dual form). The basis for acquiring qualifications in vocational education is the occupational standard, which defines the content of vocational qualification at a certain level of complexity, required knowledge, skills and professional competence.

Law on national qualifications framework identifies three types of qualifications: qualification of education level, vocational qualifications and other qualifications. Education system of Montenegro transferred from content-oriented educational programs to the target-oriented educational programs. Education programs are based on the principle of modules and credit values by determining learning outcomes correlated with the needs of the economy. Since the school year 2013/2014, the implementation of the first modularized, credit-valued education programs started in two sectors, and in the school year 2014/2015 started the implementation of the three more.

Center for Vocational Education in 2014, with the support of the project Lux-MNE/011, did methodology “Providing and improving the quality of educational work in institutions of vocational education and adult education”, which sets out procedures and manners of identifying quality by stages.

Development and promotion of entrepreneurial learning is one of the key competencies in vocational schools, therefore the subject Entrepreneurship was introduced as a compulsory or as an elective vocationally-theoretical subject. It is presented with the total of 72 hours (for certain three-year programs, four-year programs and programs of higher vocational education) or 36 hours (for certain three-year programs).

Priority areas of development of vocational education and strategic goals are: Quality and efficient vocational education, relevant to the labor market; Equal opportunities of acquiring qualifications in vocational education due to employment and social inclusion; Lifelong learning and mobility.

In addition, states must provide vocational training by:



- providing general and vocational secondary education, university and non-university higher education; and other forms of vocational training;
- building bridges between secondary vocational education and university and non-university higher education;
- introducing mechanisms for recognition/validation of knowledge and experience gained in the context of training/working activity in order to achieve a qualification or to gain access to the general, technical and university higher education;
- taking measures that qualifications in general secondary education and general higher education are made relevant from the perspective of professional integration in the labor market;
- introducing mechanisms for recognition of qualifications acquired by continuing vocational education and training.

Also, pupils must be provided with other benefits, besides financial assistance, in order to facilitate access to technical or university higher education based solely on individual ability. This commitment can be achieved by:

- avoiding that registration fees and other educational expenses represent financial obstacles for some candidates;
- establishing of educational structures which facilitate the recognition of knowledge and experience, as well as the ability to switch from one type or level of education to another.

The main indicators of compliance are the existence of education and training systems, its total capacity (in particular, the relationship between training place and candidates), total spending on education and training as a percentage of GDP; completion rates of young people enrolled in vocational trainings and students who are enrolled in higher education; the employment rate of persons with acquired higher education and the time period needed that these persons would get the first qualified job.

Committee requests that this information should be included in the next report.

ANSWER:

On the day of 30/06/2015, at the records of unemployed persons, the employment for over a year is asking for 3.888 or 46.8% of university graduates, over 3 years 1.014 or 12.2%, and



over 5 years 324 or 3.9% of university graduates. Up to one year there are 4.421 job seekers or 33.2% of university graduates.

Other data are not available.

Equal treatment in relation to access to vocational training must be guaranteed to persons who are not citizens. According to the Annex to the Charter, equality of treatment shall be provided to nationals of other States Parties lawfully residing or regularly working on the territory of the State concerned. This implies that there are no conditions connected to the length of residence related to students and trainees residing in any capacity, or having authority to reside there because of their connections with persons lawfully residing in the territory of the concerned State Parties before beginning of training. This does not relate to students and trainees who without the existence of the connections above mentioned, entered the territory with the sole purpose of attending training. For this purpose, conditions of the length of residence or condition of employment and/or application of reciprocity clauses are contrary to the provisions of the Charter.

Committee asks whether there are specific requirements for foreigners in relation to access to vocational education.

ANSWER:

Foreigners have equal access to education under the same conditions as the citizens of Montenegro.



Article 10 - The right to vocational training

Paragraph 2 -Internship

Committee takes into account the information contained in the report submitted by Montenegro.

The report states that during the reference period a number of programs and projects for internship and training of young workers are implemented. Committee asserts these programs and projects, especially the program of the Employment Office for trainees with secondary school qualifications, two-year post-secondary school qualifications and university qualifications with GPA over 8.5 and the program Opportunity for Young People, which aims to help young people to receive training. It notes that in 2010 there were 1.169 young persons included in the program for trainees, organized by the Employment Office.

Committee recalls that according to Article 10, paragraph 2, young people have the right to access to internship and other training arrangements. Internship means training based on a contract between the young person and the employer, while other training arrangements can be based on such contract, or presents vocational training related to school. Both of these arrangements must combine theoretical and practical training and must maintain close links between educational institutions and the working world.

The internship is assessed based on the following elements: length of the internship and division of time between practical and theoretical learning; the selection of trainees; the selection and training of trainers; fee for interns; termination of internship contract.

The main indicators of compliance are the existence of the internship and other training arrangements for young people, the number of attendees, total consumption, public and private, in this kind of training and availability of places for all those who are seeking the same.

Equal treatment in terms of the access to internship and other training arrangements must be guaranteed to persons who are not citizens, based on the conditions referred to in Article 10, paragraph 1. **Committee asks whether there are conditions for foreigners legally residing in Montenegro to gain access to internship.**

ANSWER:



The Labour Law ("Official Gazette of the Republic of Montenegro", no. 49/08, 59/11, 66/12 and 31/14) stipulates that the person who is engaged in employment for the first time in a certain degree of education, i.e. education level qualification or vocational qualification, the employer may conclude an employment contract for a definite period as a trainee, in accordance with Law and collective agreements.

Law on Foreigners ("Official Gazette of the Republic of Montenegro", no. 56/14 and 28/15), which entered into force on April, 1st 2015, stipulates that a foreigner in Montenegro may work on the basis of the permit for temporary residence and work or work registration certificate, unless this law stipulates otherwise.

Permit for temporary residence and work of foreigners and the work registration certificate shall be issued by the Ministry of the Interior.

If the employer wants to employ a foreigner due to the internship, it is necessary that the foreigner, i.e. the employer receives permit for temporary residence and work in order to be employed, by the Ministry of the Interior, which is issued with a validity of up to one year in order to conclude an employment contract based on the concerned with a foreigner for a definite period.

Without the permit for temporary residence and work or work registration certificate, the foreigner may work in Montenegro, if he/she has:

- temporary residence permit for family reunification with a Montenegrin citizen or a foreigner who has a permanent residence permit;

-been recognized refugee status or subsidiary protection, in accordance with Law governing asylum;

-temporary residence permit on humanitarian grounds.

In the abovementioned cases, the foreigner has free access to the labor market, unless a special regulation provides otherwise. These exceptions mean that employers with the above mentioned categories of foreigners may conclude an employment contract for a definite period of time for the internship without obtaining a permit for temporary residence and work in order to be employed, but with an obligation that in business premises, i.e. foreigner's place of work they have a copy of a temporary residence permit of a foreigner for family reunification with a Montenegrin citizen or a foreigner who has a permanent residence permit, i.e. evidence on recognized refugee status or subsidiary protection.

A foreigner with the permanent residence has the right to work as a Montenegrin citizen, which means that with this category of foreigners employers can conclude an employment



contract for a definite period of time for the internship under the same conditions as the citizens of Montenegro

Article 10 - The right to vocational training

Paragraph 3 - Vocational training and retraining of adult workers



Committee takes into account the information contained in the report submitted by Montenegro.

Committee takes into account the regulations governing the vocational training and retraining of adult workers. The report states that during the reference period a number of programs and projects for vocational training and retraining of adult workers have been implemented. Committee notes these programs and projects, especially the program of the Employment Office related to the acquisition of occupations and skills. It notes that in 2010 there were 3.930 participants who attended these programs.

Committee recalls that the right to continuous vocational development must be guaranteed to the employed and unemployed persons, including the young unemployed persons. This provision also covers self-employed persons. Article 10, paragraph 3 takes into account only those activation measures for the unemployed persons that are strictly related to training, whereas Article 1 paragraph 1 deals with general measures for activating the unemployed persons. Special measures for the long-term unemployed persons are defined by Article 10, paragraph 4. The concept of continuous vocational training includes adult education.

The main indicators of compliance with this provision, both employed and unemployed persons, are a kind of continuous vocational training and education available in the labor market, training measures for specific groups, such as women, the overall participation rate of persons in training and gender balance, the percentage of employees participating in continuous professional development, and total expenditures.

With regard to employed persons, it was also taken into account the existence of preventive measures against despecialization of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development.

With regard to unemployed persons, the activation rate is used for assessing the impact of the policy of the States Parties— i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures.

In addition, the following aspects were taken into account:

- the existence of legislation on individual leave for training and its features, particularly the length, compensation, and initiatives to be taken up;



- sharing the burden of the costs of vocational training among state authority bodies (state or other collective bodies), systems for unemployment insurance, enterprises, and households, in terms of continuing training.

Equal treatment in terms of access to continuing vocational training must be guaranteed to persons who are not citizens on the basis of the conditions set out in Article 10 paragraph 1.

In order to be able to assess the situation regarding compliance with Article 10, paragraph 3 of the Charter in Montenegro, Committee requests that the next report provides information on the abovementioned issues. Committee asks whether there are conditions for foreigners legally residing in Montenegro, to be granted an access to vocational training and retraining.

ANSWER:

Adult education and training is one of the active employment policy measures, stipulated by Law on Employment and Exercising Rights with respect to Unemployed Insurance.

This measure covers activities by which is given the unemployed person the opportunity, through programs of education and training, to acquire the qualification for the first employment, innovate knowledge within the same occupation and level of education, retrain and acquire key skills.

A foreigner who is registered as unemployed with the Employment Office of Montenegro has the right to participate in this measure of active employment policy. These are foreigners with permanent residence permits, recognized refugee status or subsidiary protection.

Also, in accordance with Article 38 of the Labour Law, the employer is obliged to provide employee with education, vocational training and specialization when it is required by the needs of the work, introducing new ways of work organization, especially when it comes to adopting and implementing new methods in organization and technology of work. An employee is obliged to undergo vocational training and work specialization in accordance with his/her abilities and needs of the working process. Costs of education, vocational training and specialization shall be provided from the employer's assets and other sources, in accordance with Law and collective agreements.

Adult education in Montenegro is an important part of the education system and normatively is regulated by the General Law on Education ("Official Gazette of the Republic of Montenegro", no. 64/02, 31/05 and 49/07 and "Official Gazette of the



Republic of Montenegro", no. 45/10, 45/11, 36/13 and 39/13) and Law on Adult Education ("Official Gazette of the Republic of Montenegro", no. 20/11). In the reporting period, the Ministry of Education conducted activities of drafting and adoption of the planned legislation, implementation of the adopted documents, monitoring and support the development of adult education in Montenegro. At the proposal of the Ministry of Education, the Government adopted the Adult Education Strategy for the period 2015-2025 and the Adult Education Plan for the period 2015- 2019. Also, the Ministry in cooperation with the Center for Vocational Education, adopted: the Methodology for ensuring and improving the quality of institutional work in the institutions of primary, secondary and higher vocational education and adult education. In order to promote and popularize the adult education, the Ministry in cooperation with the Center for Vocational Education, organized the event "XIII Days of adult education". Aim of the event is to show the importance of lifelong learning for improving the quality of individual's life and social development. In addition, the attention was drawn to the importance of developing social partnership at local and national level for the development of adult education. In the process of institutions' licensing in 2014, the Ministry issued 7 licenses for work of the new organizers of adult education and 2 amendments to the licenses for the implementation of adult education programs. The total number of licensed adult education institutions in Montenegro was 88. Also, in the area of work of driving schools the Ministry issued one new license for work. National Education Council adopted three education programs for acquiring vocational qualifications and one education program for key skills. The total number of adopted education programs is 95 education programs for acquiring vocational qualification and 72 education programs for the acquisition of key skills. (Source: Report on the work of MP 2014)



Article 10 - The right to vocational training

Paragraph 4 – Long-term unemployed persons

Committee notes the general information on the vocational training of adult workers contained in the report submitted by Montenegro, but observes that it did not receive information on concrete measures for the long-term unemployed persons.

Committee recalls that, in accordance with Article 10, paragraph 4, states must fight against long-term unemployment through retraining and reintegration measures. A person who is out of work for 12 months or more is a long-term unemployed person.

The main indicators of compliance with this provision are the types of training and measures for retraining available in the labor market, the number of people involved in this type of training, special attention paid to the long-term unemployed young persons, and the impact of measures on reducing long-term unemployment.

Equal treatment with regard to access to internship and other training arrangements must be guaranteed to persons who are not citizens on the basis of the conditions set out in Article 10, paragraph 1. **Committee asks whether there are conditions for foreigners legally residing in Montenegro to gain access to vocational training when they are long-term unemployed.**

In order to be able to assess the situation regarding compliance with Article 10, paragraph 4, of the Charter in Montenegro, Committee requests that the next report provides information on the abovementioned issues.

ANSWER:

The long-term unemployment, i.e. unemployment for more than 12 months is one of the challenges which characterize the labor market in Montenegro. It should be noted that until the global economic crisis, long-term unemployment was largely a result of structural unemployment, and after that the crisis caused a high rate of unemployment of young people, which ultimately leads to an increase in overall long-term unemployment.



Measures which are implemented for the long-term unemployed persons are the Regulation on subsidies for the employment of certain categories of unemployed persons, which provides subsidies to employers if they employ precisely individuals who belong to category of harder-to-employ persons - long-term unemployed persons, seasonal employment, public works, training and retraining.

When it comes to measures for young people, the program of vocational training of persons who acquired higher education has been conducted for the third year in a row. The main objective of the program: to facilitate the transition from the education system to the labor market and to enable university graduates to independently perform activities (acquiring knowledge, skills and competences). Employment Office of Montenegro started a program "Young people are our potential, give them a chance," in February 2015. The aim of the program is to support young people in solving the problem of unemployment by raising the entrepreneurial capacity; human resource development in order to improve operational technologies and the creation of conditions for the development of youth centers; encouraging the development of a partnership approach in solving problems in the field of employment, by establishing of local teams for employment.

The Labour Law ("Official Gazette of the Republic of Montenegro", no. 49/08, 59/11, 66/12 and 31/14) stipulates that the person who is engaged in employment for the first time in a certain degree of education, i.e. education level qualification or vocational qualification, the employer may conclude an employment contract for a definite period as a trainee, in accordance with Law and collective agreements.

Law on Foreigners ("Official Gazette of the Republic of Montenegro", no. 56/14 and 28/15), which entered into force on April, 1st 2015, stipulates that a foreigner in Montenegro may work on the basis of the permit for temporary residence and work or work registration certificate, unless this law stipulates otherwise.

Permit for temporary residence and work of foreigners and the work registration certificate shall be issued by the Ministry of the Interior.

If the employer wants to employ a foreigner due to the internship, it is necessary that the foreigner, i.e. the employer receives permit for temporary residence and work in order to be employed, by the Ministry of the Interior, which is issued with a validity of up to one year in order to conclude an employment contract based on the concerned with a foreigner for a definite period.

Without the permit for temporary residence and work or work registration certificate, the foreigner may work in Montenegro, if he/she has:

- temporary residence permit for family reunification with a Montenegrin citizen or a foreigner who has a permanent residence permit;



- *been recognized refugee status or subsidiary protection, in accordance with Law governing asylum;*

-temporary residence permit on humanitarian grounds.

In the abovementioned cases, the foreigner has free access to the labor market, unless a special regulation provides otherwise. These exceptions mean that employers with the above mentioned categories of foreigners may conclude an employment contract for a definite period of time for the internship without obtaining a permit for temporary residence and work in order to be employed, but with an obligation that in business premises, i.e. foreigner's place of work they have a copy of a temporary residence permit of a foreigner for family reunification with a Montenegrin citizen or a foreigner who has a permanent residence permit, i.e. evidence on recognized refugee status or subsidiary protection.

A foreigner with the permanent residence has the right to work as a Montenegrin citizen, which means that with this category of foreigners employers can conclude an employment contract for a definite period of time for the internship under the same conditions as the citizens of Montenegro

Article 15 - The right of persons with disabilities to independence, social integration and participation in community life

Paragraph 1 - Vocational training for persons with disabilities

Committee takes into account the information contained in the report submitted by Montenegro.

On November, 2nd 2009, Montenegro ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

In order to evaluate the effective access to education and vocational training for persons with disabilities, **Committee wishes that the next report shall provide the following figures:**



- the total number of persons with disabilities;
- number of persons with disabilities 0-18 years of age;
- number of persons with disabilities in a regular and remedial (special) education and vocational training, including higher education.

ANSWER:

Census of Population, Households and Dwellings from 2011 was conducted by the Statistical Office of Montenegro – MONSTAT-data on the existence of obstacles in performing everyday activities were being collected for the first time. Persons who have difficulties in performing everyday activities are persons who have practical limitations in performing or participating in various activities. This group includes persons who experience limitations in basic functional activities, such as walking, hearing, vision, etc. even if the limitation was enhanced by the use of assistive devices or with the support of the environment. The response was being collected on the basis of statements of persons, regardless of the existence of medical documentation as a proof of disability. According to the set definition out of the total population of Montenegro, 11% have difficulties in performing everyday activities ... Out of the total number of these persons, 54% are women and 46% men.

Table: Population with difficulties in performing everyday activities, Census 2011

<i>the total number of persons with difficulties in performing everyday activities</i>	68064
<i>number of persons with difficulties in performing everyday activities 0-18 years of age</i>	1 650
<i>number of persons with difficulties in performing everyday activities in regular and remedial (special) education and vocational training, including higher education</i>	1 202
<i>number of persons with difficulties in performing everyday activities of working</i>	66861



<i>age 15 years and over</i>	
<i>number of persons with difficulties in performing everyday activities of working age 15 to 64 years</i>	34 333

In regular schools are included a large number of children with special educational needs (records in MEIS - at this point 2675, the number of children with the decision on orientation for 2014 - 1515).

Definition of Disability

The report does not give a definition of disability. Committee requests that the next report confirm whether such a definition exists.

ANSWER:

Law on Professional Rehabilitation and Employment of Persons with Disabilities shall give the definition of persons with disabilities which reads as follows: A person with a disability, according to this law, is a person with permanent consequences due to physical, sensory, mental or emotional damage or disease, which cannot be eliminated by treatment or medical rehabilitation, and who is faced with social and other restrictions that affect the person's ability to work and employment opportunities, to maintain employment and advance within it, and which has no possibility or has a reduced ability to, under equal conditions, be included in the labour market

Anti-Discrimination Legislation

Committee recalls that under Article 15, paragraph 1, Committee considers necessary the existence of anti-discrimination legislation as an important means of promoting inclusion of



children with disabilities into general or regular educational schemes. Such legislation should, at a minimum, require convincing justification for special or separated educational systems and provide an effective legal remedy for those who are found to have been unlawfully excluded or segregated or otherwise deprived of effective right to education. Legislation may be consisted of general anti-discrimination legislation, specific legislation concerning education, or a combination of these two (Conclusions of the 2007, Declaration on the interpretation of Article 15, paragraph 1).

The report briefly mentions Law on Prohibition of Discrimination, which was adopted in 2011. This law prohibits discrimination, especially in education. Committee requests that the next report shall provide further details related to Law with regard to education.

ANSWER:

In order to efficiently and successfully apply the new anti-discrimination legislation, a series of activities are being continuously conducted related to the education of employees in the state authority bodies, judicial authority bodies, prosecution office and other independent organizations and institutions on the legal regime of prohibition of discrimination, then on special forms of discrimination, i.e. those forms that are commonly encountered in practice and which would be bound for the tasks performed by employees in state administration and administration of local communities, holders of judicial functions, employees of other independent bodies for human rights, and employees in other authority bodies and institutions who come into contact with cases of discrimination.

The fifth cycle of complex training programs is currently being implemented within which is a very important segment “The prohibition of discrimination against persons with disabilities - anti-discrimination legislative framework with the mechanisms of protection that includes:

- 1. The Convention on the Rights of Persons with Disabilities and the national legislation in the field of prohibition of discrimination of persons with disabilities;*
- 2. The position of persons with disabilities in Montenegro;*
- 3. Protection against discrimination of persons with disabilities- case law of the European Court of Justice and the experience and lessons learned from the countries of the region;*
- 4. Partnership movement of persons with disabilities to fully participate in society;*



5. *Improving the position of persons with disabilities, the development of services at the state and local level;*
6. *Human rights of persons with disabilities with a focus on engaging in political and public life of Montenegrin society.*

In addition to general Law on Prohibition of Discrimination (which prohibits discrimination in the field of education under Article 15 and discrimination on grounds of disability under Article 18), a new Law on Prohibition of Discrimination against Persons with Disabilities was adopted in 2015 (Official Gazette of the Republic of Montenegro "no.35/15"). In this Law, the field of education has been specially treated under Article 21, which reads as follows: Discrimination in the field of and education and vocational training

By discrimination on the grounds of a developmental handicap, i.e. disability at all levels of education, in terms of regulations in the field of education, is considered:

1) prevention, restriction or impediment to a person with disabilities of the choice of educational programs and enrollment and access and stay in the educational institution, according to his/her abilities;

2) prevention, restriction or impediment to a person with disabilities from attending classes and knowledge assessment, as well as participation in other educational or training activities, including the participation in extracurricular activities and competitions;

3) failure to implement and undertake specific measures under Article 5 of this Law for establishing and providing individualized support for uninterrupted class attendance and knowledge assessment, as well as participation in other educational or training activities, including participation in extracurricular activities and competitions, in accordance with the regulations in the field of education; and

4) exclusion of persons with disabilities from educational institutions, when in the same or similar situation, his/her peers are not subjected to that.

This Law contains a penal provision for committed discrimination in the field of education, in accordance with the abovementioned Article, and the fines range from € 10, 000 to € 20, 000



Education

As far as the regulatory framework is concerned, the report refers to Law on Education of Children with Special Needs, adopted in 2004, which aims to include children with special needs in regular schools. It is also indicated that the amendments to this law shall consider full integration into the regular system as the first option and, therefore, contain provisions on appropriate educational technologies and technical support to children with special educational needs.

Moreover, it refers to Inclusive Education Strategy adopted in 2008, which was guided by the principles of quality and accessible education for children and young people with special educational needs. In the same spirit, the government adopted a Strategy of early and preschool education (2010-2015) in September 2010.

As far as the practical measures are concerned, the report provides the following information:

- there have been changes to the Rulebook on the criteria for determining the type and level of disability, with the aim of improving the targeting of children with special educational needs; a number of seminars are organized for teachers, professional services and directors of pre-schools and primary schools in relation to the inclusion of children with disabilities into the regular education system;
- the so-called first instance commissions were formed in 2008 in the 18 municipalities guiding children with special educational needs through programs and additional professional assistance. The training of the commission members was conducted in cooperation with UNICEF;
- any educational institution shall determine an individual program in accordance with the recommendations of the abovementioned Commissions;
- Bureau for Education Services organized mobile services which provide assistance in education of children with special educational needs;
- all new schools are built according to standards, taking into account the special educational needs of children.

In relation to special schools, the report refers to the project of the Ministry of Education and Sports, entitled "Reform of the system of social protection and care for children: the promotion of social inclusion." One of the goals of this project is to transform special institutions into resource centers which would guide its educational function towards the children with severe disabilities, for whom the institutions are the only and best solution. These centers will become the support to the regular system and their experts will train teachers and staff in regular schools. **Committee wishes to be informed of the outcome of this initiative in the next report.**



ANSWER:

During the nineties of the 20th century, Montenegro recognized the need that a system in the field of education should be modernized and introduces inclusive orientation for children with disabilities.

Law on Education of Children with Special Educational Needs was adopted ("Official Gazette of the Republic of Montenegro", no. 45/10), amending Law of 2004 ("Official Gazette of the Republic of Montenegro", no. 80/04). Rulebook on the manner, conditions and procedure for orientation of children with special educational needs ("Official Gazette of the Republic of Montenegro", no. 57/11), which exceeds the medical and labeling approach. Education of children with special educational needs is part of a unified education system and activity of public interest.

Inclusive Education Strategy (2008-2013) relies on international best practice and in domestic intense and rich experience with a view of quality and affordable education for children with special educational needs in accordance with their interests, abilities and needs. Based on the analysis of implementation of this Strategy measures, Inclusive Education Strategy (2014 - 2018) was adopted with a focus on early development, access and continuity of education, support at all levels, training and professional development of human resources, monitoring and evaluation of educational and developmental achievements of children.

Parents are partners, and child's emotional, social characteristics and preserved abilities are basis for the development of individual development and educational plan (IDEP). Based on experience and feedback from the schools, IDEP was improved - emphasis on goals (not only academically but also development), but much more on activities, methods, techniques, forms of work by which they are achieved. Conducted trainings for personnel, document adopted in National Council and mandatory for use in kindergartens and schools.

Local community Commissions are formed (18) for guiding children with special educational needs into the education system. Members of commissions¹ have completed trainings on the application and work upon social model and a series of thematic training: a model of the formation of special educational needs; instruments of assessment and interventions; the application of the Manual for work; training for the identification and

¹A pediatrician, psychologist, pedagogue, social worker, defectologist



assessment of autism, dyslexia, dysgraphia, combined disabilities, ADHD. They gained professional advisory support.

Bureau for Education Services organizes the mobile services for assistance in regular education of children with special educational needs. Catalogue of accredited teacher training programs offers a variety of programs related to inclusion.

Children with moderate and serious disabilities are included in special classes of the seven regular schools² and mutual teaching of certain subjects is carried out for them with their peers in regular classes.

Special institutions are transformed into resource centers: PI "Resource Center for Hearing and Speech", Kotor, 2) PI Resource Center for children and persons with intellectual disabilities and autism "1st June", Podgorica; 3) PI Resource Center for Children and Young People "Podgorica" (for physical and visual disorders). Professionals of the Resource Centre are engaged as the support of regular education of children with disabilities. Going into regular kindergartens and schools they apply: assistance in development of IDEP; individual work with children; instructions for the work of teachers; recommendations for the work of professional services; guidelines to parents for work with the child etc. Resource experts are implementing trainings of the personnel of the regular system through accredited programs which are coordinated by the Bureau for Education Services. In the Resource Centre "Podgorica", textbooks in Braille are prepared for primary school. In cooperation with UNICEF and the Institute for Textbooks and Teaching Aids, the textbooks are transferred to the audio tracks - CD. Trainings for the use of Braille are being conducted. At the Resource Centre for hearing and speech, a theoretical basis has been done, one-handed and two-handed signs for two new letters of Montenegrin language, Glossary basis of sign language, Plan and training program for sign language.

In accordance with Decision on orientation and IDEP, a school can provide teaching assistant who performs technical assistance to a pupil with special educational needs. Through public works programs, schools independently apply for at the Bureau for Education Services. The Ministry has conducted a research of the current situation in the field of teaching assistance and consequently a description of the scope of assistant's work is presented, obligations of employees are defined (management, professional services, the teaching staff), consulting for schools is conducted and Instructions for engagement of assistants is done.

In Montenegro, external knowledge assessment has been adapted for children with disabilities. Instructions are done for adapting external examinations and specialized equipment needed upon taking external examinations is provided (primary and secondary schools).

²Primary schools: "Olga Golović", Nikšić; "Jugoslavija", Bar; "Njegoš", Kotor; "IlijaKišić", Herceg Novi; "VukKaradžić", Berane; "DušanKorać", BijeloPolje; "BoškoBuha", Pljevlja



According to current legislation, schools have an obligation to comply with the accessibility standard. The entrance of 89 educational institutions is modified, the toilets have been adapted in 57, there is an elevator in 9³, and in one the platform. For persons with sight impairments facilities are adapted to a lesser extent.

Institute for textbooks and teaching aids edited a series of thematic manuals: Access to inclusive practice in education; Inclusive education in primary school; Individual development and education program, Handbook for educators, teachers and other professionals; Difficulties in reading and writing, Handbook for work with children in the process of writing; Mastering math concepts easily, Handbook for I cycle, Handbook for work with children with autism.

Master studies of inclusive education in Montenegro are established through TEMPUS project, at the Faculty of Philosophy.

Vocational education

The report states that special attention is being paid to vocational education in order to prepare children with disabilities to live independently. In these schools, classes have fewer students, the individual approach is higher, and practical knowledge, skills and competences are provided. In addition, the report refers to the Center for Vocational Education, which coordinated the creation of special educational programs with adjusted performance and additional professional assistance for children with speech, hearing and learning disabilities. Four such programs are established in order to allow children to acquire valid vocational qualifications so that they can actively and equally participate in the labor market. In order to better evaluate the efficiency of access to vocational training, including higher education, **Committee requests that the next report contains additional information.**

ANSWER:

The individualization is accomplished through modularized curricula: child's characteristics should be connected to the subject curriculum, prescribed standards of knowledge, national vocational qualifications. For students with disabilities (based on the needs and occupational standards) it is recommended whether to perform the whole of an occupation or specific groups of tasks. There is job training over IDEP: the adjustment is operationalized, reduction of practical training, standards and assessment. The pupil

³ Mostly new buildings, noting that a significant number of schools, especially smaller ones, are of ground floor-character



acquires a certificate of completion of the program (issued by the school), i.e. vocational qualification certificate (issued by the Ministry of Labour and Social Welfare).

Center for Vocational Education in order to support the education of persons with hearing and speech impairments carried out the adjustment to five educational programs:

- 1. Mechanic*
- 2. Cook*
- 3. Hairdresser*
- 4. Vendor*
- 5. Operator in the preparation of the press*

All programs are implemented in the Resource Centre in Kotor. For the application of the educational programs, the training of teaching staff has been performed in order to plan for educational work and the application of appropriate methods in teaching.

It is planned that in the coming period, the adjustment for several education programs is being carried out in cooperation with the Resource Centre. The choice of the program will depend on the needs of the labor market and the abilities of pupils.

Article 15 - The right of persons with disabilities to independence, social integration and participation in community life

Paragraph 2 - Employment of persons with disabilities

Committee takes into account the information contained in the report submitted by Montenegro.

Employment of persons with disabilities

Committee recalls that Article 15, paragraph 2 requires of the States to promote the access to employment in the open labor market for persons with disabilities. This also refers to people with physical and intellectual disabilities (Conclusions I, Statement on interpretation of Article 15, paragraph 2).



In order to better assess the employment of persons with disabilities in the open labor market **Committee requests that the next report contains the following figures:**

- **number of persons with disabilities of working age;**
- **number of persons with disabilities in regular employment;**
- **number of persons with disabilities in sheltered employment;**
- **number of unemployed persons with disabilities.**

ANSWER:

Bearing in mind the fact that the enactment of Law on Professional Rehabilitation and Employment of Persons with Disabilities in a completely new manner regulates the issue of employing of persons with disabilities, in order of that the number of persons with disabilities can be expressed in the sense of the present Law. Thus, the period of application of the abovementioned Law, i.e. from May 2009, 121 persons with disabilities were employed (47 women and 74 men), of which 38 persons are employed on an indefinite period of time, 83 persons for a definite period of time. Also, adapting the workplace for 12 persons with disabilities was carried out in accordance with Law. However, this information applies only in the context of implementation of Law on Professional Rehabilitation and Employment of Persons with Disabilities and it is not comprehensive in terms of the number of employed persons with disabilities.

At the Employment Office records of Montenegro, on the day of 30/06/2015, there were 1.670 persons with disabilities (554 women or 33.175), of whom 1.107 disabled workers II and III category (333 women or 30.08%) and 563 persons categorized as young people (221 women or 39.25%). All persons are older than 18 years of age.

Anti-Discrimination Law

Committee recalls that under Article 15, paragraph 2 "legislation must prohibit discrimination based on disability in employment" (Conclusions 2003, Slovenia), as well as the dismissal on the grounds of disability. In addition, "there must be an obligation of the employer to take steps in accordance with the requirements of reasonable accommodation in order to ensure effective access to employment and to keep in employment persons with disabilities, in particular persons who have become disabled in the workplace as a result of an accident at work or due to occupational diseases"(Conclusions of 2007, Statement on the interpretation of Article 15, paragraph 2).

In addition to the reference to the Constitution, which guarantees the equality of all citizens



regardless of their special characteristics and personal traits, the Report briefly mentions Law on Prohibition of Discrimination, which was adopted in 2011. This law stipulates the prohibition of discrimination, especially in employment. **Committee requests that the next report shall provide further details on these laws regarding employment of persons with disabilities.**

ANSWER:

When it comes to dismissal on the grounds of disability and protection of these persons against discrimination, the Labour Law stipulates that an employer is obliged to reassign that person to jobs which correspond to his/her remaining work capacity in the level of professional qualifications, in accordance with the systematization act. If the employed person with a disability cannot be reassigned, the employer is obliged to provide him/her with other rights, in accordance with Law governing job training of persons with disabilities and collective agreement. If the employed person with a disability neither can be reassigned nor he can be provided with previously mentioned rights, the employer may declare him as a person whose services are no longer needed.

The employed person with a disability who has been declared redundant, the employer is obliged to pay the severance pay, amounted at least to 24 average wages, if the disability is caused by an injury outside work or illness, i.e. at least in the amount of 36 average wages, if the disability was caused by injury at work or occupational disease.

The amount of severance pay for the employed person with a disability is determined on the basis of the average earnings of the employer, if this is more favorable for him.

The question related to employment of persons with disabilities is stipulated by Law on Professional Rehabilitation and Employment of Persons with Disabilities. (submitted to the Annex)

Moreover, the report provides no information on the obligation of reasonable accommodation. In this regard, **Committee asks questions concerning the implementation of the obligation of reasonable accommodation, namely:**



- **How is the obligation of reasonable accommodation implemented in practice?**
- **Is the obligation of reasonable accommodation given rise to the adoption of cases before the courts?**
- **Has the obligation of reasonable accommodation led to an increase in employment of persons with disabilities in the open labor market?**

Measures to encourage employment of persons with disabilities

The report mentions two strategies:

- National Strategy for Employment and Human Resources Development 2007-2011, which includes measures for the establishment and operation of the system of professional rehabilitation and employment of persons with disabilities;
- Strategy for Integration of Persons with Disabilities 2008-2016, which aims to establish a legal framework for the employment of persons with disabilities in order to create conditions for their adaptation to the labor market through education and training.

Committee requests that the next report shall provide information on the outcomes of these strategies.

ANSWER:

Therefore, as abovementioned, the National Strategy for Employment and Human Resources Development 2011-2015, as a special priority has Promoting Social Inclusion within which is set the goal of integration into employment of persons with disabilities. In the framework of the annual action plans, individual measures and activities are defined towards achieving this goal. Through the annual reports on the implementation of measures and activities from the action plans is being reported by the results achieved under this goal.

Please note that National strategy of employment and development of human resources for the period 2016-2020 is under preparation, within which is envisaged the priority of promoting social inclusion and poverty reduction where one of the goals is the Integration in education and employment of persons with disabilities.



Strategy for Integration of Persons with Disabilities 2008-2016, as abovementioned, is aimed at establishing and improving the framework for improving the employment of persons with disabilities. In this respect, also through annual action plans of planned measures and activities, while the annual reports on implementation of the action plans follows the fulfillment of these measures and activities.

The Government of Montenegro shall adopt annual action plans, as well as reports on their implementation adopted.

Appendix: The National Strategy for Employment and Human Resources Development 2011-2015; Strategy for Integration of Persons with Disabilities 2008-2016, Information on the implementation of the Action Plan of the Strategy for Integration of Persons with Disabilities 2104

The report further indicates that the Bureau for Education Services has conducted three studies in accordance with EU recommendations:

- Study related to the labor market and employment represents the main document on the participation of vocational training in solving the problem of unemployment and the provision of services to the unemployed, employed and employers;
- Doctrine and technology of work is a study consisting of proposals for future legislation by which EU rules should be implemented, especially in the areas of services for hard-to-employ persons, employment and social protection;
- Social economy Study emphasizes the role of the social economy and social entrepreneurship within the market economy of developed countries. This study concludes that the establishment of social cooperatives represents an effective instrument against social isolation and that it is necessary to enable the development of social enterprises.

The report refers to Law on Professional Rehabilitation and Employment of Persons with Disabilities adopted in July 2008, which aims to create conditions for successful professional rehabilitation, increasing the number of employed persons with disabilities and enabling their equal participation in the labor market. In addition, special Law on Employment and Exercising Rights with respect to Unemployment Insurance enter into force in March 2010, along with subordinate regulations for its implementation. In practice, the application of Law gives rise for the pilot project on professional rehabilitation for the period 2009-2010. The



report indicates that in this project 110 people were involved, during which a multidisciplinary team of experts worked with rehabilitating people with the aim of their integration into the open labor market.

The legal framework also envisages a quota system to encourage the integration of persons with disabilities in the open labor market, according to which: employers with 20 to 50 employees are obliged to employ at least one person with disabilities, and employers with over 50 employees must employ at least 5% of persons with disabilities of the total number of employees. In this regard, the employer who employs a person with disabilities and the self-employed person with disabilities are entitled to a variety of subsidies. On the other hand, an employer who does not meet the quota is obliged to pay a special contribution for each person that he or she did not employ. The contribution will be transferred to a special account of the State budget, i.e. the Fund for professional rehabilitation within the Employment Office. Assets of the Fund are used for programs for professional rehabilitation, employment of persons with disabilities and co-financing of special organizations that employ people who cannot find employment in the open labor market. Council of the Fund is responsible for monitoring the Fund's assets.

Finally, the report states that organized three projects of public works for persons with disabilities in 2010 were organized:

- "Sunny Workshop" that produces souvenirs and decorations and temporarily employs 69 disabled persons;
- "Our ID Card" temporarily employs 7 people in the printing industry for 12 months;
- "Personal Assistant" employs 114 people who provide additional support to children with disabilities at home, outside the home as well as in regular schools.

Article 15 - The right of persons with disabilities to independence, social integration and participation in community life

Paragraph 3 - Integration and participation of persons with disabilities in community life

Committee takes into account the information contained in the report submitted by Montenegro.

Anti-discrimination legislation and integrated approach



Committee recalls that Article 15, paragraph 3 requires the existence of comprehensive Laws on Prohibition of Discrimination covering both public and private sphere in areas such as housing, transport, telecommunications and cultural and leisure activities and effective measures for those who have been unlawfully treated (Conclusions 2007, Slovenia).

The report mentions Law against Discrimination of Persons with Disabilities, which was adopted in 2011, which stipulates the prohibition of discrimination in various areas such as education, employment or public transport. However, the **report does not indicate whether Law covers areas such as housing, telecommunications, cultural and leisure activities and effective legal remedies available to persons alleging discriminatory treatment in all these areas. Committee requests that the next report indicates whether all of the abovementioned areas, including transportation, and effective legal remedies relating to them are covered by Laws against discrimination.** Committee emphasizes that if the next report does not include the requested information, nothing will indicate that the situation is in accordance with Article 15, paragraph 3

ANSWER:

Discrimination on the grounds of disability in the field of access to buildings and areas in public use, as well as the access to information and communications, is done by the new Law on Prohibition of Discrimination against Persons with Disabilities which implies: seeking, receiving and disseminating of information intended for the public, access to information on the Internet and other media in accessible form; as well as the provision of signage in Braille and in easy to understand formats in facilities for public use and areas and premises of public use.

High legal standards are set in the field of protection against discrimination in public transport, Article 13 which reads as follows: Discrimination in access to public transportation

Discrimination on the basis of disability in access to public transport is considered:

1) prevention, restriction or impediment to use and enter the public transport, as well as inaction and failure to implement the prescribed measures for ensuring the accessibility of public transport to a person or a group of persons with disabilities, in accordance with Laws governing contractual relations and the basis of property relations in air transport, road transport, maritime navigation security and contractual relations in railway transport and traffic safety;



2) *refusal to transport a person or a group of persons with disabilities, the provision of transport services to a person or group of persons with disabilities under different and less favorable conditions than the conditions under which the transport services are provided to other beneficiaries in accordance with Laws governing contractual relations and basically ownership-legal relations in air transport, road transport, maritime navigation security and contractual relations in railway transport; and*

3) *unavailability of information on bus and train stations and bus stops, airports, ports and harbors of maritime and inland waterways to a person or a group of persons with disabilities in accordance with Laws governing contractual relations and the basis of property relations in air transport, road transport, maritime navigation safety and contractual relations in railway transport.*

Discrimination in the provision of public and private goods and services is also included; then in access to quality and modern aids by which the highest possible degree of personal mobility of persons with disabilities should be achieved.

Afterwards, in the field of education and vocational training at all levels of education as well as in the field of professional rehabilitation, work and employment.

Discrimination was established on grounds of disability in the field of independent living and community living, which implies limiting the choice of dwelling of persons with disabilities; Failure to carry out and take measures to establish and provide support for life in the community of persons with disabilities.

Discrimination in the field of health care is also included, i.e. in the provision of health care and early detection of diseases that can cause disability, rehabilitation, health and life insurance, denial of information on health condition and other possible forms of discrimination in this area...

Areas that are also included: social and child protection, political and public life, culture, sports, recreation and leisure activities, and finally this Law stipulates sanctions for committed discrimination as a form of infringement liability for which they are prescribed very high fines that range from €10,000 to €20,000



Consultations

Committee recalls that under Article 15, paragraph 3, persons with disabilities should have a say in the design, implementation and review of a coherent policy in the context of persons with disabilities (Conclusions 2003, Italy).

Committee wishes to be informed about how people with disabilities are represented and consulted in governmental bodies at national and local level.

ANSWER:

It is envisaged by the activities of the Ministry for Human and Minority Rights, in the plan of participation in political and public life of persons with disabilities, from the exchange of experiences, practices and policies of other countries, to the compliance of the national legal framework for the right to vote of these groups of voters. In this regard, amendments to the electoral legislation were made (notably, amendments to the rules on electoral procedures, polling stations, election standards etc.), and all with the aim to enable the right of independent and secret ballot of persons with disabilities. Amendments to Law on Election of Councilors and Representatives ("Official Gazette of the Republic of Montenegro", no. 4/98 of 18/02/1998, 05/98 of 25/02/1998, 17/98 of 20/05/1998, 14/00 of 17/03/2000, 18/00 of 31/03/2000, 09/01 of 22/02/2001 (FRY) 09/01 of 02/03/2001, 41/02 of 02/08/2002, 46/02 of 10/09/2002, 45/04 of 02/07/2004, 48/06 of 28/07/2006, 56/06 of 07/09/2006, 46/11 of 16/09/2011, 14/14 of 22/03/2014, 47/14 of 07/11/2014), preceded to the pilot project (conducted in cooperation with two non-governmental organizations) on the last Presidential elections in Montenegro, when voting of blind persons was successfully implemented by 'voting pattern'. Thereafter, this procedure has become an integral part of the said Law, which enabled that local elections which were held a year later, provide fully independent and secret ballot to blind persons, at all polling stations. Rulebook on detailed conditions on the manner of adjusting facilities for access and movement of persons with reduced mobility and persons with disabilities ("Official Gazette



of Montenegro", no. 48/13 of 14/10/2013, 44/15 of 07/08/201 5) for the first time in Europe is initiated in graphical representation voting booth for people with disabilities, depending on the type of disability.)

In addition to the abovementioned, obligation of cooperation with non-governmental organizations, including non-governmental organizations of persons with disabilities which binds us by the provision of Article 80 of Law on State Administration, pursuant to which the Ministries and administrative authorities are obliged to ensure cooperation with non-governmental organizations, which can be realized in particular: 1) consultation of the NGO sector during the development of strategies and analysis of the situation in a specific area, the drafting and proposing laws and other regulations and the adoption of by-laws governing the exercise of the rights and freedoms of citizens; 2) enabling participation in the work of working groups for the consideration of issues of common interest or normative regulation of specific issues; 3) organizing joint public debates, round tables, seminars and other forms of joint activities and in other appropriate forms; 4) information on the content of work programs and reports on the work of the state administration.

The manner and procedure of establishing cooperation, as well as the criteria and procedure for the election of NGO representatives in working groups and other working bodies established by the Government and state administration bodies are stipulated by the Regulation on the procedure for cooperation between state authority bodies and non-governmental organizations (Official Gazette of Montenegro " no. 07/12 of 30/01/2012). These regulations are applied always, when it comes to amendments or adoption of regulations, forming working bodies in which representatives are, inter alia, persons with disabilities.

At the level of local self-governments, the issue of cooperation between their bodies and non-governmental organizations is regulated by municipal decisions, in principle they applied the provisions of the regulations which regulate this issue at the national level.

The Ministry of Labour and Social Welfare on 24/12/2013 by the Ministry's decision formed the Council for care of persons with disabilities in whose work have become involved representatives of key institutions dealing with persons with disabilities and five organizations of persons with disabilities. Task of the Council is the promotion and improvement of the rights of persons with disabilities in the field of social and health care protection, education, job training and employment, accessibility and anti-discrimination; initiating the adoption of regulations for the development and improvement of the rights of



persons with disabilities, proposing measures for improvement of the quality of life of these persons, inform the public about rights, possibilities and needs of persons with disabilities in order to eliminate the prejudices and barriers in relation to third parties, as well as exercising of other rights of importance for the status of persons with disabilities. Also, according to the Regulation on the procedure for cooperation between the state authority bodies and non-governmental organizations (Official Gazette of the Republic of Montenegro 07/12), organizations dealing with persons with disabilities are involved in development of all the strategic documents dealing with this issue.

Forms of financial assistance in order to increase the autonomy of persons with disabilities

The Committee requests that the next report provides information on all benefits and other forms of financial assistance available to persons with disabilities.

ANSWER:

By the Decision on allocation of the part of the revenue from games of chance was conducted the allocation of the part of revenue from games of chance for co-financing plans and programs for 2012 in the area of meeting the needs of persons with disabilities. 177 requests were considered and 68 plans and programs were supported. Out of the total available amount of € 973.300,80 it was allocated € 973.296,86.

In 2013 from the Tender for allocation of the part of the revenue from games of chance in meeting the needs of persons with disabilities were supported 72 plans and programs. Out of the total available amount of € 717.472,02 it was allocated € 717.469,29.

By the Decision on allocation of the part of the revenue from games of chance was conducted the allocation of revenue from games of chance for co-financing plans and programs for 2014, in the area of Meeting the needs of persons with disabilities of the total available amount of € 675.120,00 it was allocated € 670.870,00. In this area of total 168



plans and programs with which the organizations applied for the funds that are allocated in this area 85 plans and programs were supported.

Also, the Law on Social and Child Protection ("Official Gazette of Montenegro" no. 28/13) defines the rights exercised by persons with disabilities, i.e. the persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may impede their full and effective participation in society on equal basis with the others. In this regard, these persons are entitled to basic financial benefits in social protection such as personal disability allowances, material benefit, allowance for care and assistance, one-time financial assistance, benefits for funeral expenses, medical care. The amount of personal disability allowance is 108.80 euro per month and the allowance for care and assistance 63 euro per month.

Moreover, the basic financial benefits of child protection for persons with disabilities are the right to assistance for the education of children and young persons with special educational needs; the right to child allowance. The right to assistance for the education of children and young persons with special educational needs have the children and young persons who exercised the right to education, in accordance with the special law. The right to this assistance includes accommodation costs in the institution and transportation costs.

Conditions for the exercise of rights under the Law on Social and Child Protection are prescribed by the Regulations on the medical indications for the realization of the right to material support, allowance for care and assistance, personal disability allowance and salary compensation with half of working hours.

Measures to overcome obstacles

Technical aids

The Committee recalls that under Article 15, paragraph 3 technical aids have to be available either for free or as the contribution to their cost (Conclusions 2007, Finland).

Taking into account that this issue is not elaborated in the report, the Commission requests that the next report provides information on technical aids.

ANSWER:



Law on Health Care ("Official Gazette of Montenegro no. 39/2004 and" Official Gazette of Montenegro "no. 14/2010), provision of Article 4 provides that, in exercising their right to health care, all citizens are equal regardless of their nationality , race, gender, age, language, religion, education, social background, financial status and other personal characteristics. The provision of Article 10 item 11 stipulates that the priority measure of health care is health care of physically and mentally disabled persons (handicapped persons). In addition Article 13, item 5 stipulates that in the area of health care the state, from the budget shall provide funds for the implementation of promotional programs for improving the health of specific most vulnerable population groups, categories of population.

Law on Health Insurance ("Official Gazette of Montenegro", no. 39/2004 and "Official Gazette of Montenegro", no. 14/2010), provision of Article 16 item 8 provides that the right to health also includes the right to medical and technical aids (prostheses, orthopedic and other aids, dental-prosthetic assistance and dental materials and compensations) at the expense of the Health Insurance Fund. Exercising the right to medical and technical aids in more details shall be regulated by the Regulation on exercising the right to medical and technical aids ("Official Gazette of Montenegro" no. 24/2013 and 26/2014).

The provisions of this Regulation stipulate that the insured persons are provided technical aids designed to improve impaired functions, to alleviate physical damage or lack of organs, or which substitute anatomic or physiological functions of organs, due to illness or injury.

The right to medical and technical aids the insured person shall exercise on the basis of medical indications, age and within the deadlines established by the List of the medical and technical aids and parts of the aids in accordance with these regulations.

Housing

The Committee recalls that under Article 15, paragraph 3 the needs of persons with disabilities in housing policy have to be taken into account, including the construction of adequate supply of suitable, public, social or private forms of housing. Furthermore, it should provide financial assistance for renovation of existing residential buildings (Conclusions 2003, Italy).

The report does not contain information on housing, therefore **the Committee requests that the next report provides information on grants available for individual persons with**



disabilities for home renovation, installation of elevators and removing barriers for mobility, the number of beneficiaries of such grants and the general progress in improving access to housing.

ANSWER:

The Law on Spatial Planning and Construction ("Official Gazette of Montenegro" no. 51/08, 40/10, 34/11, 35/13, 33/14) treated the problem of accessibility to public buildings and residential buildings throughout the following provisions of law:

Article 73 - "Conditions for access and movement of persons with reduced mobility and persons with disabilities", stipulates that during the drafting of project documentation for the construction of facilities for public use, the designer shall be obliged to provide unobstructed access, movement, stay and work for persons with reduced mobility. The same Article stipulates that the construction of residential and residential-business buildings shall be performed in the way that these persons are provided with unobstructed access and movement in the common areas. Further, it stipulates that residential and residential-business buildings with 10 or more apartments have to be built in a way that enables easy adjustment of the object, at least one housing unit for every 10 apartments for unobstructed access, movement, stay and work of persons with reduced mobility.

Article 62 - "Website for urban-technical conditions", provides that urban-technical conditions, based on which the technical documentation is created, shall include conditions for unobstructed access, movement, stay and work of persons with reduced mobility and persons with disabilities.

Article 76 - "Term and conditions of drafting of technical documentation ", obligates the business organization, legal entity or entrepreneur or foreign entity, which prepares technical documentation, that it has to be prepared on the basis of urban-technical conditions.

Article 86 - "Review of the project design and the main project ", the expert evaluates whether technical documentation complies with the law and other regulations, and, inter alia, Article 73 of the Law on Spatial Planning and the Rulebook on detailed conditions and mode of adjusting the facilities for access and movement of persons with reduced mobility.



Article 90 - "Report on the review and verification of the technical documentation", the expert - reviewer, in the report on review of the technical documentation has to state the correct and true statements of compliance with the conditions and the law.

Article 110 – "Obligations of contractor", the contractor is obliged to provide the works based on the building permit and the main project, which passed the previous procedure.

Article 114 - "Professional supervision", obligates the person who supervises the construction, to control whether the contractor provides the works based on the technical documentation.

Article 122 - "Technical Inspection", stipulates that technical inspection shall include the control of adjustment of performed works with the revised main project, as well as with the regulations and standards, among other things, the regulations and standards that regulate this area.

In fact, in the entire process of construction of facilities, beginning with issuing UTC (urban-technical conditions), preparation of project documentation, review, as well as during the construction of facilities, supervision, technical inspection and issuance of the occupancy permit, it is necessary that all participants in the construction pay special attention to the conditions for access and movement of persons with disabilities and persons with reduced mobility. For disrespecting the prescribed norms, the penalties in the amount of € 2000 - 40.000 shall be set up.

In addition to the legal regulation, the Ministry of Sustainable Development and Tourism, also adopted the Rulebook on detailed conditions and mode of adjusting facilities for access and movement of persons with reduced mobility ("Official Gazette of Montenegro" no.10 /09, 48/ 13, 44/15), which prescribes conditions and mode of providing unobstructed access, movement, stay and work of persons with reduced mobility to facilities in public use, residential and residential-commercial buildings, as well as the conditions and mode of simple adjustment of accessibility to residential and residential-commercial buildings.

Also, in order to simplify the procedure for obtaining authorization to set up facilities - access ramps, elevators, etc., which are necessary for making the current facility accessible, amendments to the Law in 2013, defined it as ancillary facilities (Article 117). This Article provides that the detailed conditions for the installation, construction and removal of the facilities shall be regulated by local authorities. In order that the application of the regulatory framework could be unique, in October 2013, in cooperation with the Ministry of Sustainable Development and Tourism and the Union of Municipalities of Montenegro it is drafted the model of Decision on the installation i.e. construction of



access ramps and elevators and other facilities for access and movement of persons with disabilities. Based on this model, 21 municipalities adopted these decisions and thus significantly simplified and accelerated administrative procedures for setting up and building ramps and elevators for persons with disabilities to access to any existing facility.

For these activities, i.e. arranging of the regulatory framework, the Ministry of Sustainable Development was responsible by the Strategy for Integration of Persons with Disabilities 2008-2016, i.e. it is responsible for providing the conditions for the permanent removal of architectural and other barriers in public spaces, transport communications, public facilities, as well as residential buildings. In addition to this, the Ministry, in cooperation with representatives of NGOs dealing with issues of persons with reduced mobility and persons with disabilities, created the Action Plan for adjusting public buildings for access, movement and use for persons with reduced mobility for 2014. On that occasion, following 13 priority facilities are defined in:

- Podgorica 7 - Center for Social Work, Republic Fund for Health Insurance, Parliament of Montenegro, Tax Administration, Ministry of Finance, Basic Court and Faculty of Economics,*
- Nikšić 3 –Primary Health Care Center, PHI General Hospital, Hospital for Pulmonary Diseases Brezovik*
- Berane 2 – Primary Health Care Center "Dr Niko Labović" main building and facility with service with chosen physician for women, and the General Hospital in Berane, and*
- Pljevlja 1 - Primary Health Care Center - building of laboratory and X-ray.*

From the capital budget of Montenegro for 2014 were allocated funds in the amount of €400.000 for the implementation of the Action Plan, of which 131.000 for technical documentation and 269.000 for the construction of accessibility elements. During 2014 the project documentation was drafted and reviewed for all 13 facilities. Capital budget for 2015 provided funds in the amount of €450.000 for the continuation of realization of the activities. After conducted procedure of public tenders the most favorable bidders for works were selected on the following facilities: Tax Administration in Podgorica, Center for Social Work in Podgorica, Parliament of Montenegro in Podgorica, Primary Health Care Centre - Service laboratory and x-ray in Pljevlja and Primary Health Care Center "Dr Niko Labović" - service with chosen physician for women in Berane. The total value of the contract is € 434.565,26. There are ongoing activities on the works at the construction facilities.

In order to eliminate architectonic barriers on beaches, in the framework of budget for investments in 2014, the funds in the amount of € 40.000 were allocated. Coastal Zone Management Office of Montenegro is responsible for their realization.



The value of contracted works is €46.733,68 incl. VAT. The contracted works include procurement, construction, installation and at the end of the season there moving or dismantling the ramps for the descent into the water and terraces for sunbathing.

For the measure "Establish mechanisms for inter-Office cooperation and cooperation between state, local and non-governmental sectors, to provide access without barriers - Ongoing implementation of training programs of civil servants at national and local level in terms of access without barriers to facilitate communication with persons with disability, the Ministry organized series of workshops and round tables in cooperation with NGOs dealing with the issues of persons with disabilities, while for the measure " Ensure permanent removal of architectural and other barriers in public spaces, transport communications, public facilities and residential buildings - Making of the analysis of accessibility to public buildings and establishing priorities for removing architectural barriers to access to public buildings" was done the action plan and in cooperation with the Union of Municipalities of Montenegro were held the workshops at the local level.

Furthermore, in order to regulate the field of social housing, i.e. measures and procedures that have to be taken into account in order to ensure the right to housing in accordance with the European Social Charter, in July 2013 was adopted the Law on Social Housing (Official Gazette of Montenegro, no. 35/13), which determined the legal framework for ensuring adequate standard of living for all households that due to social, economic and other reasons have difficulty in gaining access to decent housing on market, and that such actors find accommodation in the relevant social and urban environment. Article 4 of the Law in more details defines priority groups in exercising their right to social housing in which are classified, among other vulnerable groups, the persons with disabilities.

Also, the Government of Montenegro applied for low-interest loan of 10 million euro in the Council of Europe Development Bank (CEB), in order to realize the Project of solving the housing needs of citizens under favorable conditions of total value of 20 million euro, which will be implemented by the Ministry of Sustainable Development and Tourism during 2016. Preparations for the project have already begun, and the bylaw - Decision on detailed criteria for the selection of beneficiaries of solving the housing needs of citizens under favorable conditions, is in the process of harmonization, in accordance with Article 40 of the Rules of Procedure of the Government.

The project is complied with the current conditions, possibilities and needs, taking into account the interests and possibilities of all participants.



The advantage in exercising their right to purchase housing units through Project, in particular have: single parents or legal guardians, persons with disabilities, family households whose member is a person with disabilities, family households with children with special needs, young persons who were children without parental care and victims of domestic violence, thus realizing concrete steps for inclusion of persons with disabilities in housing policy.

Culture and Leisure

Committee recalls that under Article 15 paragraph 3 persons with disabilities are entitled to social integration, which implies that barriers in communication and mobility shall be removed in order to allow access to cultural activities and leisure (social and sporting activities) (Conclusions 2005, Norway).

In relation to sport, the report indicates that the Government is currently working on the Regulations on sports competitions of persons with disabilities, which is under the supervision of the Paralympic Committee. Some funds were also allocated for sports projects: €1.500 for the Sports and recreational association of the deaf persons and € 3.200 for the Basketball club of persons with disabilities "Paramont".

With regard to cultural activities, the report has no data. **Therefore, the Committee requests that the next report provides information on the access of persons with disabilities to cultural activities.**

ANSWER:

Ministry of Culture the issues relating to the participation of persons with disabilities in cultural trends observes from the aspect of normative framework regulating the sphere of culture, which generally without discrimination on equal footing is created the possibility of participation of persons with disabilities in programs and projects that promote their creative potential.

The provisions pertaining to this area have been recognized as the segment of the public interest.



Law in culture ("Official Gazette of Montenegro" no. 49/08, 16/11, 40/11, 38/12) Article 3, paragraph 1 defines that culture shall be realized and developed on the principles of freedom of creativity and respect for cultural rights. This Law also, in Article 5, paragraph 1, item 12 states inter alia that the public interest in culture represents the development of cultural and artistic creativity of persons with disabilities, while the part that relates to Incentive and support the development of culture in Article 73, paragraph 1, item 8 stipulates that one of the criteria for the evaluation of projects takes into account the contribution to the promotion of creativity of persons with disabilities.

In the Law on Publishing Activity ("Official Gazette of Montenegro" no. 30/12), in Article 5, it is noted that the publishing activity shall be realized through incentives for exercising the right to cultural peculiarity of persons with disabilities.

In the Law on Cinematography ("Official Gazette of Montenegro" no. 42/15) in Article 4, paragraph 1, item 6 it is stated that the public interest in cinematography shall be achieved through increasing the availability of cinematographic works for persons with disabilities.

In the Law on Protection of Cultural Property ("Official Gazette of Montenegro" no. 49/10, 40/11) it is noted in the part referring to the presentation and popularization of cultural property that the access to cultural property shall be provided for persons with disabilities according to their needs in accordance with possibilities.

Law on Museum Activity ("Official Gazette of Montenegro" no. 49/10, 40/11) Article 23 stipulates that the museum is obliged to adequately provide access to users with special needs and their inclusion in the performance of museum activities in accordance with their abilities.

Law on Archives ("Official Gazette of Montenegro" no. 49/10, 40/11), in Article 20 regarding the use of archival material stipulates that the public archive material shall be available for use in the archives for any natural or legal person under the same conditions, in a way prescribed by this Law and other regulations.

Law on Library Activity ("Official Gazette of Montenegro" no. 49/10,40/11) Article 12 stipulates that the Special library is also the library that performs library activity by means of specially adapted techniques and special materials for persons with visual impairment, while Article 32 of the same law stipulates that persons with visual impairment have the right to use library materials on special carriers of information. The users who cannot visit the library because of physical disability, old age and disease, as well as persons deprived of their liberty have the right to use the library materials of public libraries, through specially organized library services.

Media Law ("Official Gazette of Montenegro" no. 51/2, 62/2 and Official Gazette of Montenegro no. 46/10, 73/10, 40/11), Article 3 stipulates that Montenegro shall provide partial funding for the realization of the constitutionally and legally guaranteed rights of citizens to information, without discrimination on the basis of programs that are important



for informing the persons with hearing and visual impairment. Law on Electronic Media ("Official Gazette of Montenegro" no. 46/10, 53/11 and 6/13) in Article 3 of the Law states, inter alia, that the regulation of relations in the field of audiovisual media services shall be based on the principles of non-discrimination, while Article 48 of the same law notes that AVN service shall not encourage or spread hatred or discrimination on the basis of disability, Article 47 states that public broadcasters shall be obliged to produce and broadcast radio and/or television programs which ensure the realization of rights and interests of citizens and other entities, in particular taking into account persons with disabilities. Furthermore, Article 76 of the same law states that the Budget of Montenegro, respectively, the budget of the local self-government unit provides part of financial resources for the exercise of the constitutionally and legally guaranteed rights of citizens to information without discrimination and on that basis also the informing of persons with impaired hearing and vision. Article 85 provides that through audiovisual commercial communication is prohibited endangering of human dignity and the promotion of discrimination based on disability. Article 136 stipulates that to encourage media pluralism, production of commercial broadcasters and preserving diversity of electronic media in Montenegro, from the part of the revenues from the games of chances shall be provided the funds in the amount and manner determined by the law which regulates the activity of games of chance. These funds shall be used to encourage the production of program content of the commercial broadcasters of public interest and are particularly important for the promotion of social integration of persons with disabilities.

Law on Public Broadcasting Services of Montenegro ("Official Gazette of Montenegro" no. 79/08, 45/12) provides in Article 9 that the public broadcasting service is designed by implementing high standards of professional ethics and quality, without discrimination, its program content meets and protects the public interest at the national and local level through information, cultural, educational, sports and entertainment programs, paying particular attention to persons with disabilities. Article 17 provides that the budget of Montenegro provides the part of the funds for production and broadcasting of special program content significant for informing persons with impaired hearing and vision.

Also, in addition to legal provisions National program of cultural development, as a strategic document, pays special attention to the equal inclusion of persons with disabilities in cultural activities and in order to determine the priorities of this document and the Action Plan for its implementation, Ministry of Culture in 2011, 2012, 2013, 2014, 2015 continuously followed the activities of national and local institutions and other relevant stakeholders who implement programs intended for persons with disabilities.

Law on Culture defines the obligation of support and encouragement of the development of culture on the basis of public competition. At the competition the right to participate shall have the persons with disabilities and projects are evaluated according to legal



criteria which among others include the contribution to the promotion of creativity of persons with disabilities.

Activities of the Ministry of Culture on the rights of persons with disabilities in the area of competence of this department can be classified into several stages:

-Accessibility of cultural objects and cultural property

-Encouragement and support for creativity of persons with disabilities and

-Cultural and media production in formats accessible to persons with disabilities

Accessibility

The Ministry of Culture ensured conditions for access to interesting cultural events (exhibitions and music concerts) organized in the building of the Ministry.

The Ministry of Culture performed the analysis of the availability of national and local cultural institutions for persons with disabilities, which stated that accessibility is only partial, but is continuously working on improvement of these conditions, according to established standards, which is one of the priorities proclaimed by National program of cultural development,

For the persons with disabilities in general are also available in addition to the Ministry of Culture, the Administration for the Protection of Cultural Property and the Maritime Museum of Montenegro, Center for Conservation and Archaeology.

Partial accessibility exists in the municipal cultural institutions.

Adjusting the use of cultural property to persons with disabilities is only possible if interventions (making tracks for wheelchair, elevators, etc.) do not impair their authenticity.

Encouragement and support for creativity of persons with disabilities

Programs and projects

In accordance with the Law on Culture it is defined the obligation of support and encouragement of the development of culture on the basis of public competition. The right



to participate at the competition has the persons with disabilities and projects are evaluated according to legal criteria which among others include the contribution to the promotion of creativity of persons with disabilities. Past practice has shown that competition represents effective indicator of cultural production of the persons with disabilities.

Ministry in 2011 as part of the annual competition of the co-financing of programs and projects in the field of cultural and artistic creativity introduced a new area dedicated to the creativity of persons with disabilities. By the Decision from 2010 were selected by the expert commission the projects in the field of cultural and artistic creativity, and out of 203 projects 10 were co-financed, whose contents are intended for persons with disabilities in the amount of 31.100 euros. These are the following projects:

<i>NGO Association of the Blind of Montenegro, Podgorica - In search of light</i>	<i>4.500</i>
<i>NGO Inter Mont, Podgorica – Theatre Play Categorical request</i>	<i>9.000</i>
<i>NGO International Art forum Performa Ars International, Podgorica - No Borders - inclusion, culture and art</i>	<i>5.000</i>
<i>NGO Ensemble of folk dances and songs “Djurdjevdansko kolo”, Podgorica - Tolerance for living in a society where everyone accepts differences</i>	<i>2.000</i>
<i>NGO "Adria" Bar - Fifth concert of NGO on the occasion of the International Day OSI.....</i>	<i>1.500</i>
<i>Nataša Borović, Bar –Inhale the diversity - Exhale the tolerance.....</i>	<i>1.400</i>
<i>NGO “Prostor I”, Nikšić Agua - Bug- Agua</i>	<i>2.000</i>
<i>NGO Need, Bijelo Polje- Workshop in nature OSI 2011</i>	<i>1.400</i>
<i>NGO Association of Paraplegics Pljevlja- Creativity of persons with disabilities</i>	<i>1.800</i>



*NGO Association of the Blind for Berane, Rožaje and Plav, Berane - lyrical
kaleidoscope of Miličko
Miketić.....2.500*

Ministry of Culture until 2012 had the opportunity to financially support the implementation of projects organized by the NGO sector. With the entry into force of the Law on NGO the system of support non-governmental sector is centralized and financial assistance for program activities of NGO can only provide the special commission within the Ministry of Finance, thus the Ministry of Culture was obliged to make amendments to the Law on Culture and comply them with the Law on NGOs. Ministry of Culture because of the current changes could not financially support the projects whose executors are registered as NGOs, nor the projects related to persons with disabilities because their executors mostly had that status.

At the competition in 2013 in the field of Development of culture in the north was supported the project of Centre for Culture Kolašin, Big Heart of Theatre (theatre play for children who are persons with disabilities).

At the competition in 2014 and 2015 in the field of Development of culture in the north, were supported the projects - the exhibitions, of the artist who is person with disabilities.

One of the interesting supported projects in 2015 is a project Draw me- meet me, of academic artist Sonja Đuranović and psychologist Tamara Milić, who through a kind of informal program attempted to activate the creative potential of younger people using the arts as a catalyst for acceptance of differences, feeling of inclusion and unity.

Cultural and media production in formats accessible to persons with disabilities

Library for the Blind is a public institution founded in 2004, which promotes the creativity of persons with visual impairment. The objective of the establishment of the library is the availability of the book in electronic form that users receive in audio medium. Founding of the library created the conditions for persons with visual impairment to borrow literature using it for the educational, informational and professional purposes.

Maritime Museum of Montenegro is the only in the region that has a department intended for persons with disabilities, refined with traditional exhibits, model of ships from the oldest period to the present day and navigational instruments. Persons with disabilities, via video screen and audio guides in six languages can follow maritime history and heritage of Montenegro.



Television of Montenegro has longer period of time the newsroom for persons with disabilities, which produces weekly the show of 30 minutes on the first channel, where also is broadcasted the rerun. The show "Paths of life" in content is designed to follow the life stories of persons with disabilities and sometimes deals with more topics. It also deals with persons with disabilities in its news programs, following daily current events related to their position and status in society. Until recently, the show "Paths of Life" and weekly tv news were translated into sign language.

Produced by the NGO "Inter - mont", with the support of Ministry of Culture and co-produced by KIC, as well as financial support from the Employment Office of Montenegro, the Ministry of Education and the Ministry of Agriculture in 2011 was set the first theatre play in sign language, which had educational influence on the population with hearing impairment.

Ministry of Culture financed in July 2012 audio visual video that aims media presentation and popularization of radio Homer, the first specialized radio for the persons with visual impairment.

In 2013 were undertaken activities related to the audiovisual recording of the video in sign letter whose theme was anthem of Montenegro. This way we tried to provide persons with disabilities the right to recognition of their cultural and linguistic identity, including sign language and deaf culture, in accessible formats for them.

In order to ensure access to cultural materials available to the Cultural Centre of Bar on June, 8th 2013 was put into operation sound library for the blind and persons with visual impairment. Today in the library there are 160 titles recorded in MP3 format and are thus available to all persons with visual impairment.

Under the Program of protection and preservation of cultural property in 2014, with financial support from the Ministry of Culture the project of publishing the journal "Glas" is supported, intended for persons with visual impairment. The journal is published once a month in the MP3 and DAISY format.

The Ministry of Culture implemented activities of making audiovisual video, which aims to inform citizens on the transition from analogue to digital broadcasting system (in sign language).

Co-financing of the book "Children with special needs in daily newspapers in Montenegro - DAN, Pobjeda, Vijesti", written by Zoran Bošković. It is a project that aims to meet the rights and obligations of journalists in reporting on children with disabilities, with emphasis on the importance of informing parents, schools, media organizations as well as mistakes in reporting on these categories of persons.

Realized activities related to persons with disabilities from 2011 to 2015



Activities in 2011

National Museum of Montenegro came into contact with the Association of parents, children and youth with special needs "Razvitak" from Cetinje. The first joint project was realized through their participation in the exhibition 1 + 1 / Life & Love organized by the National Museum in collaboration with the Swedish NGO SHWB- March / April 2011. The project leader is Art Museum of Montenegro, which conceived the exhibition as a presentation of exhibits from its funds for the participation of children from preschool age to 18 years from Cetinje. In the adapted premises of Biljarda, they paint, sculpt and write articles on the topic of Life and love.

Activities in 2012

Montenegro National Theatre provided logistical support for recording the video "Dream together," of Andrijana Božović as part of the project "Humanity connects the worlds", organized by the International Women's Club for children with special needs.

Within the project for the development of local communities Skadar Lake, implemented by the Ministry of Culture in cooperation with the Ministry of Sustainable Development and Tourism, the Ministry for Human and Minority Rights, the Ministry of Transport and Maritime Affairs and the municipalities (Podgorica, Bar, Cetinje) supported UNICEF campaign It's about ability dealing with the integration of children with special needs.

National Library of Montenegro "Đurđe Crnojević" from 2012 until today continuously successfully implements program Public work in cooperation with the Employment Office of Montenegro, where through the program engages persons with hearing and speech impairment to the position of the main depot.

The library also every year refers certain number of titles from its surplus to the gift to urban /public libraries in Montenegro whose funds could be used outside the library.

Ministry of Culture in September 2012 in cooperation with the Museum of Pino Paskali from Bari in Italy, realized the exhibition Montenegrin young artists in the aforementioned museum. One of the five exhibitors was young artist Djordje Rašović, painter who recently graduated from the Faculty of Fine Arts, who is person with hearing and speech impairment.

During 2012 financial assistance was provided in organizing solo exhibition of paintings in Danilovgrad, of artist Majda Mučić who is person with hearing impairment.



In 2012, in the hall of the Culture Centre of Tivat, organized by Tourism organization Tivat, was held solo exhibition of photographs by Michael Đuričić who is person with disabilities. In the gallery of the summer house Buća on November, 8th 2011, was opened an exhibition of photographs by Srećko Krasan "Our world", who photographed persons with disabilities and the processes of their inclusion in society.

In the municipality of Kotor in contact with the Cultural Centre "Nikola Djurković" was emphasized the good cooperation with the Center for Rehabilitation of Persons with Hearing and Speech Impairment (Institute for the Deaf-Mute Children in Kotor). During the exhibitions, book presentations, theatre plays and film screenings the protégés of the institute are constantly present with their teaching staff.

Library in Bijelo Polje in 2012 realized the cooperation with the Library for the blind and visually impaired persons from Podgorica, from where they obtained 20 titles or 32 books in formats adapted to the needs of persons with disabilities.

Activities in 2013

Center for Culture and Sport based in Andrijevica is dedicated in its scope of work to the needs of persons with disabilities. In this municipality is registered Non-governmental association "Za budućnost naše djece". Center for Culture and Sport and Municipality of Andrijevica as a founder of Public institution, in accordance with their financial possibilities support the work of the association. Thus, in 2013 was organized by the Public institution humanitarian concert where the income from ticket sales is intended for child population. The municipality of Andrijevica to this association donated its premises, where children with disabilities gather together. Municipal competition for the NGO, to the association "Za budućnost naše djece" allocated certain funds.

In recently reconstructed Cultural Centre "Nenad Rakočević" Mojkovac, for the persons with disabilities is provided unobstructed entry and movement in this institution. Children with special needs were involved in the play "The Birth of Jesus", NGO "Srce". In cooperation with the Centre was organized an exhibition of souvenirs "Sunny workshops" whose members are persons with disabilities.



On the occasion of October 15th, the International Day of the white cane, in the great hall of the House of Culture in Bar, on October, 18th 2013, there was music festival of persons with visual impairment which was the entertaining show, but also competitive. The plan is that this event takes the traditional character.

Cultural Center "Nikola Djurković" from Kotor was in 2013 providing services to persons from Resource Center for education and rehabilitation of persons with hearing and speech impairment "Dr Peruta Ivanović". The Cultural Center organized series of theatre plays for children which were regularly visited by the protégés of this institution, as well as children's exhibitions and promotion of the books "Poems of Vela Tešović" and the promotion of the collection of poems "The candle in a low voice."

Herceg Fest Herceg Novi in 2013 realized cooperation with NGO "Zrak sunca" in organizing the events Singing the stars intended for persons with disabilities. Also, the theatre from Herceg Novi organizes free performances for children.

Activities in 2014

Centre for the Culture in Berane on October, 23rd 2014 in cooperation with the Association of the Blind of Montenegro and the Municipality of Berane organized a concert dedicated to the blind and visually impaired persons.

Centre for Culture in Kolašin in November 2014 had a lecture and meeting with child population. In cooperation with the amateur theatre from Kolašin three children were involved in the theatre work starring in "Kraljević Marko and Musa Kesedžija" and "Donkeys' Years".

In Centre for Culture in Bar was held on December, 3rd 2014, on the occasion of the International Day of persons with disabilities, the program in cooperation with NGO "Adria". On the occasion of World Mental Health Day in co-operation with "Caritas Barske Nadbiskupije" on October, 9th 2014 in the Castle of King Nikola, Italian production movie was shown "Anything is possible". In the Castle of King Nikola on April, 12th 2014 in cooperation with NGO "Povjerenje" was held the lecture on "Care for the Elderly", also persons with disabilities.

In the framework of the international program "Ana Lind" implemented by the Ministry of Culture were held three-day workshops for young people, which as part of the thematic focus had the promotion of inclusive education in Montenegro. Cooperating with public institution "Ratkovićeve večeri poezije" in the House of Risto Ratković in Bijelo Polje was organized the workshop "Dialogue, Identity and Inclusion" for pupils from secondary and primary schools in Bijelo Polje (September, 2014). The workshop with the same name was organized in cooperation with the Municipality of Kotor, in the Palace of the Byzantines,



for students of Mixed Secondary School "Mladost" Tivat and Grammar School in Kotor (October, 2014).

Activities within Kotor Art which has the status of event of importance for the culture of Montenegro

Representatives of the Ministry of Culture during 2011 participated in Kotor, within the organization of Kotor art, in the roundtable which follows the theme of children and young persons with disabilities, and who are actively involved in play "As if life has a beginning and an end," project Per-Art, of Saša Arsenić.

In 2013 was realized cooperation with the Cultural Center Homer in Podgorica which operates in the Library for persons with visual impairment and is focused on action in the field of culture intended for persons with visual impairment. It was launched the drama workshop that was active for three months, and then was realized theatre play. It is intended that these activities become permanent and lead to the establishment of Theatre of persons with visual impairment that could become viable. The play "Night Sun" had very successful debut at the Festival BIT in Zagreb. It is the most important international theatre festival dedicated to people with visual impairment.

In 2014 as part of the Kotor Festival of Children's Theatre were realized the activities related to guest theatre play Alisa - inclusive musical for children performed by the Association for the affirmation of children creativity Svitac (Belgrade, Serbia). The play is the result of therapeutic - artistic work for many years with children and young persons with special needs. The play was performed in Kotor on July, 7th in the Cultural Center in front of 200 people and had great performance and aesthetic level and an excellent reception from the audience.

As part of the educational programs of Kotor Festival of Children's Theatre it was continued with the inclusion of children and young people especially in drama workshops which are held throughout the year two times a week.

Program of Kotor Art Theatre in 2015, also presented rich child theatre production through the entertaining and literary, art, music, educational and theoretical, inclusive programs. Children from early childhood to teenagers were able to see various genres from classical theatre, puppetry, dance, theatre of shadows to street performances.





Article 20 - Right to equal opportunities and equal treatment in employment and occupation without sex discrimination

Committee takes into account the information contained in the report submitted by Montenegro. However, the Committee notes that the necessary information is not provided. It points out that if this information is not provided in the next report there will be nothing which demonstrate that the situation is in conformity with the Charter.

Equal rights

Committee from other sources (the first report of Montenegro under the Convention on the Elimination of Discrimination against Women, 2011) notes that the Parliament adopted the Law on Gender Equality on July, 24th 2007 (Official Gazette no. 46/07). The law defines gender equality for the first time in the legal system of Montenegro (Article 2). The law also defines discrimination based on sex as every legal or factual, direct or indirect distinction, privileges, exclusion or restriction based on sex which is why the recognition, enjoyment or exercise of human rights and freedoms in the political, educational, economic, social, cultural, sports and in other spheres of public life, or difficult or impossible for a person (Article 4).

The law allows the general and special measures, adopted or undertaken for elimination or prevention of unequal treatment of women and men and to promote gender equality.

It is also noted from the same source that the Labour Law prohibits any direct or indirect discrimination against persons who seek employment and employed persons, inter alia, on the basis of sex. The law specifies the concepts of direct and indirect discrimination.

Discrimination, in terms of this law, is prohibited in relation to:

- (a) conditions of employment and selection of candidates for specific job;
- (b) working conditions and all rights arising from employment;
- (c) education, training and development;
- (g) promotion at work;
- (e) termination of employment contract.

The Labour Law also prohibits any harassment and sexual harassment in the workplace or in connection with work.



COMMENT:

Law on Amendments to the Law on Gender Equality was adopted on June, 26th 2015 in the Parliament of Montenegro. This Law is a step forward because it complies with the EU Directives on equal opportunities. The text of the law is harmonized with the European Commission, before sending it for the determination to the Government of Montenegro. It is important to note that this Law expanded the scope of the sanctions concerning gender discrimination and violations of the principle of equal treatment between men and women in certain areas of life, including discrimination against women due to pregnancy. As for maternity and parental leave, adoption of standards and transposing of directives: Council Directive 92/85/EC of 19 October 1992 on the introduction of measures to encourage improvement of safety and health at work of pregnant women, childbearing women and breast-feeding women (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EC and Directive 2010/18/EU of 8 March 2010 on the implementation of the Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing of the Directive 96/34/EC, it will be done through the creation of the new Labour Law, whose preparation is started. The representative of the Ministry for Human and Minority Rights - Department for Gender Equality is the member of the working group for drafting the law.

Law on Amendments to the Law on Gender Equality is in compliance with the Law on Prohibition of Discrimination, as well as with the EU acquis. This primarily concerns the harmonization of definition of discrimination based on sex to the definitions of direct and indirect discrimination in line with EU standards.

Law on Amendments to the Law on Gender Equality is in compliance with the ratified international treaties and other documents adopted under the auspices of the UN, the EU and the Council of Europe and with the EU Directives relating to gender equality and equal treatment of women and men: the Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in the field of social protection; Council Directive 2000/78/EC on establishing the framework for equal treatment in employment and occupation; Council Directive 2004/113/EC on implementing the principle of equality between men and women in the possibility of obtaining and procurement of goods and provision of services; Directive 2006/54/EC of the European Parliament and the Council on the implementation of the principle of equal opportunities and equal treatment of men and women on issues of employment and occupation; Directive 2010/41/EU of the European Parliament and the Council on implementing the principle of equal treatment between men and women engaged in the activity in the framework of self-employment and repealing of Council Directive 86/613/EEC.

By this law, the elimination of discrimination based on sex and achievement of gender equality is set as an imperative, since the introduction of penal provisions prescribed very clear obligation of legal entities, responsible persons in the legal person, male and female



entrepreneurs that they have to respect the anti-discrimination norms and standards that provide the full realization of gender equality. It is expected that the prescribed sanctions contribute to better implementation of the law which is the most important mechanism for the elimination of discrimination based on sex in all areas and structures of society.

Also, the principles underlying the Law are aimed at implementing the principles of non-discrimination under the Charter of Fundamental Rights of the EU and the European Charter on Gender Equality at the local level, as well as the practice of European Court of Justice.

This law defined, inter alia, that gender equality, in addition to men and women, includes the persons of different gender identity. The obligation of the implementation of gender equality based on law is also extended to business organizations, other legal entities and entrepreneurs. This law defines that the issues of direct and indirect discrimination based on sex (in addition to all forms of discrimination), shall be within the jurisdiction of Protector of Human Rights and Freedoms, in accordance with that the proceedings involving petitions in cases of discrimination based on sex moved from the competence of the Ministry for Human and Minority Rights to the competence of this institution as the national institutional mechanism for the protection of human rights and freedoms. The Law introduces more violations than it has been so far the case.

According to the Law on Gender Equality, Ministry for Human and Minority Rights was given the authority to deal with complaints of persons who believe they were victims of discrimination based on sex (Art. 25 - 31). According to the Labour Law, the employee and the person who seeks the employment may initiate proceedings before the competent court in cases of discrimination (Article 11).

Mechanisms for the protection of rights of women are Committee for Gender Equality of the Parliament of Montenegro, founded in 2001 and the Department for Gender Equality in the Ministry for Human and Minority Rights (formerly the Office for Gender Equality).

COMMENT:

In Montenegro there are three institutional mechanisms for achieving gender equality, namely: the Committee for Gender Equality of the Parliament of Montenegro, the Department for Gender Equality affairs in the Ministry for Human and Minority Rights and the Protector of Human Rights and Freedoms.



Committee for Gender Equality of the Parliament of Montenegro was founded on July, 11th 2001.

The Government of Montenegro established the Office for Gender Equality at the meeting held on March, 27th 2003. Law on Gender Equality determined Ministry for Human and Minority Rights as responsible for the achievement of gender equality. In April 2009 the Department for Gender Equality affairs (renamed the Office) became an integral part of the Ministry for Human and Minority Rights.

Protector of Human Rights and Freedoms is the central institutional mechanism for protection against discrimination.

The most important segment is that Protector can act upon complaints of citizens relating to discrimination based on sex, and it is defined in the new amendments to the Law on Gender Equality.

The coordinators for gender equality also deal with the issue of gender equality, who were appointed in state institutions (currently there are 105 appointed) and at local level (currently there are 20 appointed in 20 municipalities and they form the network whose aim is to establish cooperation between local self-governments regarding the implementation of gender equality and strengthening the mechanisms for achieving equal opportunities at local level.

The Committee asks whether there are occupations prohibited to women and/or whether there are limitations in terms of work that can be performed by women, or any regulation which prevents them from working at night.

ANSWER:

Labour Law provides special protection for women, and so in Article 104 prohibits a female employee to work at the workplace where hard physical work prevails, work



underground or under water, as well as jobs that could have detrimental consequences and increased risk to her health and life.

Also, employed woman working in industry and construction cannot be transferred to night work. This prohibition applies to the employed woman who works in a management position or performs duties of health, social and other protection. Exceptionally, the employed woman may be assigned to work at night, when it is necessary to continue the work interrupted by natural disasters or to prevent damage to raw materials or other materials.

Furthermore, employed women during pregnancy and woman who has a child under the age of three cannot work longer than full time hours or overnight.

The exception to this rule is employed woman with a child older than two years that can work at night only if accepts by written consent such work.

One of the parents of a child with severe disabilities, as well as single parent who has a child under the age of seven can work longer than full time hours or at night only by written consent.

The Committee also asks for confirmation that the law provides the transfer of burden of proof in cases of discrimination, also seeks information on sanctions and remedies in cases of discrimination (including restrictions on the amount of compensation that can be awarded).

ANSWER:

In the Law on Prohibition of Discrimination (Official Gazette of Montenegro, no. 46/10 and 18/14), Article 29 says: Burden of proof- If the plaintiff proves as probable that the defendant committed an act of discrimination, the burden of proof that as a result of this act has not been the violation of equality in rights and before the law passes to the defendant.

This law contains sanctions for committed discrimination that range from 10.000 to 20.000 euro.



It asks that the next report specifies whether the equal pay is specifically provided by law and whether there are methods for comparing jobs and salaries outside of the company or companies concerned. The Committee refers to its statement in the General introduction in this regard.

ANSWER:

In accordance with Article 77 of the Labour Law, the employee is entitled to the appropriate salary, which is determined in accordance with the law, collective agreement and employment contract. Employed man or woman shall be guaranteed equal pay for equal work or work of equal value performed within the employer. The work of equal value means work which requires the same level of qualifications, i.e. education level qualification, or professional qualification, responsibility, skills, working conditions and results of work. In case of violation of the right the employee is entitled to compensation in the amount of the unpaid part of the salary. The decision of the employer or agreement with the employee which does not comply with the Article shall be automatically void.

It also wishes to receive information on the number and the grounds for the cases of sex discrimination cases before the courts and before the Ministry for Human and Minority Rights.

ANSWER:

In the Law on Prohibition of Discrimination it is determined the jurisdiction of the Protector of Human Rights and Freedoms of Montenegro, judicial competence and the competence of inspection bodies, police and prosecutors in dealing with cases of discrimination. The Ministry for Human and Minority Rights does not have mechanisms for protection against discrimination, but it engages in developing policies for protection against discrimination, promotion of anti-discriminatory behavior and practices and training of all those who come into contact with cases of discrimination and are obliged to provide immediate and effective protection.



During 2011 to 2015 21 complaints about discrimination on grounds of sex were submitted to the institution of Protector.⁴

In 2011, two complaints were submitted. In one case, the Protector did not determine the violation of rights, while the second complaint was passed in 2012, when the Protector found the violation of the rights and issued an opinion with the recommendation. The recommendation was made and complied with in 2012.

In 2012 the Protector had 12 complaints of discrimination based on sex. In one complaint, the Protector found violations of the right and the authority to which the complaint refers indicated that the organization needs to take appropriate measures to respect gender equality in accordance with national legislation and international law. In three cases the Protector found no violation of rights indicated in the complaints. In three cases Protector suspended the proceedings because of initiating court proceedings after the submission of the complaint. In four cases Protector suspended the proceedings because the complainant did not amend complaint within the prescribed deadline, nor after the deadline. In one case the applicant is directed to the use of other legal remedies.

In 2013 two complaints of discrimination based on sex were submitted to the Protector and one complaint was formed on its own initiative, and in total in this year there were three complaints. In one case the Protector eliminated the violation of rights to which the complainant pointed out. In another case, the Protector found no violation of rights, while in the third complaint formed on its own initiative was eliminated violation of rights during the proceedings.

During 2014 3 complaints of discrimination based on sex were submitted to the Institution of the Protector. In one case Protector found no violation of rights, and in another case the complainants directed to other remedies. In the third complaint, the complainant after the submission of complaint to the Protector initiated legal proceedings and the procedure relating this complaint is suspended.

During 2015 one complaint about discrimination based on sex was submitted to the Protector was filed, according to which the proceedings are pending.

Reported discrimination was mostly related to labor and employment issues, domestic violence, education, and the most common form of violation of the principle of discrimination was observed as mobbing.

⁴Data from the institution of Protector of Human Rights and Freedoms, as institutional mechanism for the protection against discrimination, presented in Second Report on implementation of CEDAW Convention



It should be noted that the legislation amended in 2014 deleted the mobbing as particular form of discrimination, while the procedure for protection from mobbing is prescribed by special Law on prohibition of abuse at work.

The Committee further asks whether the equal treatment of men and women is guaranteed with respect to social security.

ANSWER:

Law on pension and disability insurance equated women and men in terms of conditions for entitlement to old-age pension. Namely, Article 17 of the law prescribes that insured person acquires the right to old-age pension upon reaching 67 years and at least 15 years of service or when he/she turns 40 years of insurance regardless of age.

Special protection measures

The Labour Law provides special protection during pregnancy, maternity leave and of women with young children. These measures are considered under Article 8 and 27 of the Charter.

The position of women in employment and training - measures to improve equal opportunities

The Committee notes from the available information that the employment rate of women increased. In 2010 the employment rate for women is 41% (MONSTAT survey 2010) and the unemployment rate was 20.6%. **The Committee asks for information about the gap in earnings between men and women.**

ANSWER:



Beginning in 2006, the gap in earnings between the sexes (gender pay gap) is based on the methodology of Research on the structure of earnings (Structure of earnings survey (SES)) according to Regulation 530/1999. The survey is conducted according to regulation in the four-year periodicity. Statistical Office by annual research plan for 2015 envisaged implementation of the research for the first time in the current year. Also, the Statistical Office in the publication "Women and Men in Montenegro" published data on average earnings by sex and activity sectors, as of March, 31st2013 from the survey on earnings, which is for national purposes, it is based on national methodology and is not comparable with the Gender pay gap. The activity rate of the population by gender in 2013 is 43.6, and the employment rate 35.4 and the unemployment rate 18.8 for women, while men's activity rate 56.8, the employment rate 45.4 and the unemployment rate 20.1.

Tabular overview of average earnings by sex and activity sectors (as of March, 31st 2013) and the total population by activity and sex in 2014 is attached.

In mid-2008, the Government of Montenegro adopted the National Strategy for Employment and Human Resources Development. One of the measures for the implementation of the strategy is to achieve gender equality in the labor market and preventing discrimination. **The Committee requires the latest information on the status of women in employment and training, as well as all special measures, action plans, etc. taken to eliminate gender discrimination.**

ANSWER:

Increasing the efficiency of measures of active employment policy with special emphasis, among other things, on women is one of the objectives within the priorities so "Increasing employment and reducing unemployment rate" from Strategy.

In this sense are defined the measures and actions that are implemented through annual action plans.

In the Centers for information and professional counseling (CIPS) the users, regardless of sex, have access to information about announced workplaces, the possibilities offered by the Employment Office (counseling, employment programs, training, employers, occupations, schools and other educational organizations, scholarships, etc.).



In the framework of professional orientation are realized the measures of professional information, professional consulting, professional selection, as well as workshops and other activities.

Program Encouraging career development directly employable persons is intended for persons who first registered in the Office, and it supports the professional development of candidates for employment.

In all these programs, women are covered by a percentage greater than 60%.

Programs of adult education and training in the first 6 months of 2014 and training programs for work on concrete workplace to ensure employment of program participants indefinitely are implemented for 1.066 unemployed persons, 55.49% of all participants were women. In the second half of the year programs were implemented for 1.730 unemployed persons, of which women are 55.2% of all participants.

In the program of education and training for the profession "hairstylist for women" were also included 12 members of RE population, while in the program of education and training for the occupation "chambermaid" was included one member of RE population.

The program "Stimulating the first employment of persons with acquired secondary education" in 2014 made possible that in the workplace 672 persons registered within the Office, with III and IV level of education, without years of service or with years of service in the lower level of education, gain knowledge and skills necessary for performing specific occupations. Women took part in this program with 28.6%

In 2014 were implemented public works programs. In these programs were included 681 women or 61.7%.

"Virtual Enterprises" is a program designed for those who wish to be trained to work in companies, as well as to unemployed persons who intend to establish their own enterprises. "Virtual Enterprises" by faithful simulation of the business environment is a model of business life and the entrepreneurial world, enabling fast and efficient acquisition of practical knowledge and skills necessary for business. In 2014 57 persons completed work on this project, of which 40 were women (70%).



One of the programs that the Employment Office of Montenegro conducts within the framework of measures of active employment policy is "Innovated program for continuous stimulation of employment and entrepreneurship in Montenegro" (Innovated self-employment program) which started in September 2008 as the continuation of the "Program for continuous stimulation of employment and entrepreneurship" in 1999. The conditions under which the credits are approved are as follows: amount of approved credit per new employee is up to € 5.000, the maximum credit amount is €15.000 - for 3 new workplaces, a grace period is one year, the credit is repaid in semi-annual annuities, repayment period is three years for the unemployed persons and two years for small businesses and entrepreneurs, the interest rate on annual level is 3% for projects run by unemployed women and projects implemented in less developed municipalities and 4% for the projects implemented in more developed municipalities.

During 2014 35 credits were approved to the unemployed persons, of which 17 credits for females (48.6%).

Bearing in mind the importance of women's entrepreneurship and economic empowerment of women, the Investment and Development Fund of Montenegro (IDF) during 2014 continued with the realization of the "Program of financial support to women in business." This is a special credit line established and implemented with a view to encourage the establishment and development of micro, small and medium enterprises and entrepreneurs in which women are carriers of the business, where the facilities are reflected in more favorable credit terms in the part of the interest rates and the credit limits.

Article 24 - The right to protection in case of dismissal

The Committee takes into account the information contained in the report submitted by Montenegro.

Article 24 of the Charter obliges the states to establish regulations with respect to termination of employment (at the initiative of the employer) for all workers who signed the employment contract. To assess whether the regulations applied in cases of termination of employment are in accordance with Article 24, the Committee will base its examination on:



- validity of the grounds for dismissal under the general rules on termination of the employment and increased protection against dismissal on the basis of certain reasons (Article 24.a and annex of Article 24);
- penalties and compensations in cases of unfair dismissal and the status of the body authorized to decide on such cases (Article 24.b).

Scope

The Committee recalls that under Article 24 of the Charter all workers who signed an employment contract have the right to protection in cases of termination of employment. According to the Charter Annex, certain categories of workers can be excluded, including the workers who go through a probationary period. However, the exclusion of employees from the protection against dismissal for six months or 26 weeks in terms of the probationary period is not reasonable if applied unselectively, regardless of the qualifications of the employee (Conclusions from 2005, Cyprus).

The Committee asks whether certain categories of workers may be excluded from the protection against dismissal.

ANSWER:

The Labour Law provides in Article 19 that the probationary period, as special condition for work, can be determined by the systematization act, unless is regulated differently by special law. Probationary work cannot be longer than six months, except for the crew of merchant fleet, which may last longer, i.e. until the return of the ship to the home port. The duration of probationary period, the manner of implementing and evaluating the results of the probationary period shall be determined by collective agreement or employment contract.

During probationary period the employee have all rights and obligations arising from employment, in accordance with the tasks of workplace. If the employee during the probationary period does not meet the working position, the employment shall be terminated upon the expiry of period determined by employment contract. As an exception to this rule, for the duration of the probationary period, each party may unilaterally terminate the employment contract before the expiry of the period for which the contract was concluded with a written explanation, in accordance with the collective agreement and employment contract.



Obligation to provide a valid reason for termination of employment

The Committee recalls that under Article 24, as valid reason for termination of employment contracts considers the following:

- reasons related to the capacity or conduct of the employee;
- specific economic reasons.

The Committee notes from the report that Article 143 of the Labour Law provides that the employer may terminate the employment if there is a valid reason, such as refusal to perform the assigned work as defined in the employment contract, if the employee does not respect work discipline, if he/she was unjustifiably absent from work for five consecutive working days within three months, does not show adequate results during probationary period or if the employee became redundant. The employer is obliged to inform the employee in writing about the reasons for termination of employment and to provide at least five working days from the date of notification that the employee forwarded the answer. Statement containing a decision to terminate the employment shall contain the grounds for termination of contract, explanation and legal remedy.

As for economic reasons, under Articles 92-96 of the Labour Law employment may be terminated if, due to technological, economic and restructuring changes no longer exists the need for the employee's position. However, the employer is obliged to adopt the program of measures for solving the issue of redundant workers, which should contain the reasons and criteria for job cuts.

The Committee wishes to be informed about the interpretation of the law by national courts and their main decision and judgment with respect to termination of employment because of economic reasons. It also asks whether the courts have jurisdiction to examine the facts that form the basis for the termination of employment, which is based on economic reasons.

ANSWER:

All disputes arising from employment, including those relating to termination of employment, may be subject to judicial review.



In accordance with the Law on Civil Procedure, which establishes rules of procedure by which the court considers and decides on disputes in civil relations, including labor relations, it is provided in Article 9, that the court by conscientious and careful assessment of the evidence, both individually and in their correlation and based on the results of the whole process, makes the final decision.

It is also attached to this report information about the number of cases due to the termination of employment for the period 2011-2014 year, separately according to age and courts, as well as copies of the judgment. We hereby inform you that the courts do not have statistics on the number of cases due to the termination of employment for economic reasons, but the statistics are kept only for labor disputes in general.

The Committee recalls that under the Charter Annex in terms of Article 24, the term "termination of employment" means the termination of employment at the initiative of the employer. Therefore, situations in which mandatory retirement age is defined by the statute, as a result of which employment is terminated automatically by operation of law, do not fall within the scope of this provision.

The Committee further recalls that Article 24 in detailed manner determines valid grounds on which the employer may terminate the employment. As valid are considered two types of grounds, namely on the one hand, those connected with the capacity or the behavior of the employee, on the other hand those based on the operational requirements of enterprises (economic reasons).

The Committee considers that under Article 24, the termination of the employment with the employee at the initiative of the employer, on the grounds that the employee reached the normal retirement age (age when an individual becomes entitled to the pension), is not in accordance with the Charter, unless the termination of employment is not properly justified by one of the valid grounds expressly set out in this provision of the Charter.

The Committee asks about the manner in which the legislation is aligned with this approach.

ANSWER:



In accordance with Article 143 of the Labour Law, the employer may terminate the employment contract if there is a valid reason, such as:

- 1) due to failure to achieve the results determined in the collective agreement, by the act of the employer or employment contract, in the period which cannot be less than 30 days, if the employee was previously given the instructions for the work;*
- 2) due to disregard of obligations provided by law, collective agreement and employment contract, which has to be in accordance with law and collective agreements;*
- 3) if his behavior is such that it cannot continue to work for the employer in cases regulated by law and by collective agreement or by the act of the employer, who has to comply with the law and collective agreements;*
- 4) if he refuses to conclude the annex to the employment contract under Article 40 paragraph 1 items 1 and 2 of this law;*
- 5) if he refuses to conclude the annex to the employment contract under Article 40, paragraph 1, item 3 of this Law;*
- 6) if he misuses the right to leave because of temporary inability to work;*
- 7) due to economic problems in business;*
- 8) in the case of technical, technological or restructural changes as a result of which no longer exists the need for his work. The employer may terminate the employment contract without the obligation to respect the notice period referred to in Article 144 of this law, in the case of paragraphs 2 and 3 of this article.*

Employee from paragraph 1 items 5, 7 and 8 of this Article shall be entitled to severance pay which is not considered a justified reason for termination of employment.

Valid reasons for termination of employment, in terms of Article 143 of this law shall not be considered:

- 1) temporary inability to work due to illness, accident or occupational disease;*
- 2) the use of maternity or parental leave, absence from work for child care and special care for the child;*
- 3) membership in political organization; trade union; diversity to the personal capacity of the employee (sex, language, ethnicity, social background, religious denomination, political or other opinion or any other personal characteristic of the employee);*
- 4) acting as representatives of the employees in accordance with the law;*



5) *addressing of employee to the trade union or authorities responsible for the protection of labor rights in accordance with the law and the employment contract;*

6) *addressing of the employee to the relevant state authorities because of reasonable suspicion of corruption or reporting in good faith this suspicion;*

7) *addressing or drawing the attention of the employer or the relevant state authorities to endangering the environment related to the business of the employer.*

Decision on termination of employment due to failure to achieve working results in the period which may not be less than 30 days, if the employee was previously given the instructions for the work, due to disregard the obligations provided by law, collective agreement or employment contract and if his behavior is such that cannot continue to work for the employer in the cases regulated by law and the collective agreement or by the act of the employer, the employer can take after he previously warns the employee about the reasons for dismissal.

The warning is given in writing and shall state the reasons for dismissal, evidence which determines that the conditions for dismissal are fulfilled and the deadline for replying to the warning which cannot be less than five working days.

The employer is obliged to submit the warning to the trade union of the employee in order to give the opinion, which is required within five working days from receipt of the warning to give a statement in writing.

Decision on termination of employment shall be issued by the competent body of the employer, or the employer in the form of a decision and submitted to the employee.

The decision has to include grounds for dismissal, explanation and the instruction of legal remedy and the decision is final.

The employee who is not satisfied with the decision has the right to initiate legal proceedings before the competent court for protection of his rights, within 15 days of receipt of the decision and can start the procedure before the Office for Peaceful Settlement of Labor Disputes.

In the case of dispute regarding the termination of employment, the burden of proof the validity and legality of the reasons for the dismissal falls on employer. If the process determines that there were no legal or valid reasons for termination of employment, whether the employer prescribed it by its act or envisaged it by the employment contract, the employee is entitled to return to work and has the right to compensation for pecuniary and non-pecuniary damages, in the legal procedure. If the process determines that the employee was unlawfully or unjustifiably terminated the employment contract, is entitled to



compensation for material damages in the amount of lost salary and other benefits that would have received if he had been employed, in accordance with the law, collective agreement or employment work and payment of contributions for compulsory social insurance.

Indemnification shall be reduced by the amount of salary that the employee achieved on the basis of the employment contract upon termination of employment.

If the process determines that the dismissal resulted in a violation of personal rights, honor, reputation and dignity, the employee is entitled to compensation for non-pecuniary damage, in the legal procedure.

Employee has the right and duty to remain at work for at least 30 days from receipt of the termination of employment contract or the decision on termination of employment (notice period), in cases determined by the collective agreement and employment contract. Employee may, if it is reached an agreement with the competent authority of the employer to cease to work before the expiry of the period for which he is obliged to remain at work, with the provision of salary compensation for this period in the amount determined by the collective agreement and employment contract. If the employee, at the request of the employer ceases to work before the expiry of the notice period shall be entitled to salary compensation and other rights arising from labor and based on labor, as if he worked until the expiry of the notice period.

During the notice period the employee has the right to be absent from work for at least four hours a week in order to seek new employment. If the employee became temporarily unable to work during the time that is required to remain at work, at his request, the flow time of the stops and continues to run after the termination of the temporary incapacity for work.

Prohibited termination of employment

The Committee recalls that following provisions of the Charter require increased protection against termination of employment on certain grounds:

- Article 1, Paragraph 2, Article 4, paragraph 3 and 20: discrimination;
- Article 5: trade union activity;
- Article 6 paragraph 4: participation in the strike;
- Article 8, paragraph 2: maternity;
- Article 15: disability;
- Article 27: family responsibilities;
- Article 28: representation of workers.

Most of these reasons are also listed in the Annex to Article 24 as invalid reasons for



termination of employment. However, the Committee will continue to examine the conformity of national situations with the Charter in respect of the reason for termination of employment regarding the relevant provisions. The examination of the increased protection against termination of employment for reasons stipulated in the Annex Article 24 will thus be confined to ones not covered elsewhere in the Charter, namely "filing of a complaint or participation in proceedings against the employer in relation to the alleged violation of law or regulations or addressing to competent administrative authorities "and" temporary absence from work due to illness or injury".

As to the first ground, the Committee considers (Conclusions 2003, statement on interpretation of Article 24) that national legislation should contain explicit measures of protection against termination of employment on this basis. Protection against reprisal of persons who resort to the courts or other competent authorities to enforce their rights is essential in every situation in which the worker alleges the infringement of the law. In the absence of any explicit legal prohibition, states have to be able to show that national legislation is in accordance with the requirements of the Charter. **The Committee asks which rules apply for the protection of employees against termination of employment in case of appeal or participation in proceedings against the employer.**

ANSWER:

In accordance with Article 143a of the Labor Law, addressing of employee to the trade union, or authorities responsible for the protection of labor rights in accordance with the law and the employment contract, are not considered a justified reason for termination of employment

As regards the dismissal due to illness, the Committee recalls that under Article 24 the deadline may be placed on protection from dismissal in such cases. Absence from work may represent valid reason for dismissal if severely impedes the unobstructed operation of the company, and has to be provided permanent replacement for the absent employee. It has to be offered additional protection when it is necessary for victims of occupational injury or occupational disease. **The Committee asks about the rules applied in the case of absence from work in cases of temporary inability or illness and whether it is put the deadline on protection against dismissal in such cases.**



ANSWER:

The Labour Law prescribes under Article 75 the right of employee to be absent from work for health reasons in cases of temporary inability to work due to illness, injury at work or in other cases in accordance with the regulations on health insurance. Also the employee is entitled to be absent from work due to voluntary donation of blood, tissues and organs, in accordance with the law and collective agreement. During the temporary incapacity during inability to work according to the regulations on health insurance, the employee is entitled to salary compensation in the amount determined by the collective agreement and employment contract.

In the case of absence from work due to illness, the employee is obliged no later than three days to notice the employer and the report on temporary inability to work to submit to the employer within five days of the date of this report.

In accordance with Article 143a of the Labour Law, temporary inability to work due to illness, accident at work or occupational disease cannot be the valid reason for termination of employment.

Furthermore, the Law on Health Insurance stipulates that the right to salary compensation during temporary inability to work have the insured-employees if they are:

- 1) due to illness or injury temporarily unable to work;*
- 2) unable to work because of medical examination;*
- 3) isolated as virus carriers or because of the presence of disease in their surroundings;*
- 4) determined to care for ill member of close family, in accordance with the general act of the Health Insurance Fund;*
- 5) unable to work due to voluntary donation of blood, tissues and organs;*
- 6) determined as companion of ill person sent to treatment or medical examination in the other place, or while stay as the companion in hospital, in accordance with the general act of the Health Insurance Fund.*

Temporary inability to work is determined by selected team or selected doctor, or by the competent medical board, depending on the type and nature of the illness, according to the act of the Fund.



Salary compensation during temporary inability to work up to 60 days is calculated and paid by the employer and after expiry of 60 days the compensation is calculated and paid by the employer and the Health Insurance Fund reimburses to the employer.

Compensation that is reimbursed by the Health Insurance Fund to the employer is 70% of the base for compensation, except for cases under Article 28, paragraph 3 of this law, for which the compensation is 100% of the base for compensation.

The compensation referred to in paragraph 2 of this Article shall not be reimbursed to the beneficiaries of sector of public spending (the budget of Montenegro and budget funds).

Article 27 stipulates that the base for the calculation of salary compensation during temporary inability to work is the average of basic salary increased on the basis of time spent at work for each initiated year of years of service by the employee in the past 12 months preceding the month in which started temporary inability to work. If it is not possible to determine the base for the compensation, in that case the base for the compensation shall be the amount of salary within the meaning of paragraph 1 of this Article which the employee would have achieved if he had worked. Salary compensation cannot be higher than the average salary of employees in Montenegro in the previous year, according to data of the administrative authority responsible for the statistics, except for temporary inability to work prescribed by Article 28, paragraph 3 of this law.

Salary compensation during temporary inability to work is determined at least in the amount of 70% of the compensation base. The amount of compensation, provided by the employer from its own funds, is determined by collective agreement, in accordance with this law. Salary compensation during temporary inability to work caused by the occupational injury and occupational disease, isolation due to a state of germ-carrying, voluntary donation of blood, tissues and organs, during the maintaining of pregnancy, as well as for people with malignant illness, persons with disabilities and persons with mental illness, shall be determined in the amount of 100% of the base for compensation.

Salary compensation on the basis of temporary inability to work during the maintaining of pregnancy shall be determined from the first day of the temporary inability to work from the funds of Health Insurance Fund, intended for compulsory health insurance.

Salary compensation, in accordance with this law, belong to from the first day of the temporary inability to work and for the duration of the inability, but only for the period for which the insured would have worked and achieved the salary if it had not started temporary inability to work.

In the case of longer duration of temporary inability to work caused by illness or injury, at the latest after the expiry of 10 months of continuous inability to work, or after 12 months during which there were total of 10 months of inability to work intermittently, the Health Insurance Fund is obliged to send the employee with the necessary medical documentation



to the competent authority for the assessment of work capacity or disability according to regulations on pension and disability insurance. Health Insurance Fund is obliged to carry out the assessment of work capacity or disability within 60 days from the date of submission of request for the assessment of work capacity and for that time the salary compensation shall be provided by Health Insurance Fund, and at the expiration of this period, salary compensation shall be provided by Pension and Disability Insurance Fund.

The right to salary compensation ceases when the decision on determined disability according to regulations on disability insurance becomes final. Sending of the employee for assessment of work capacity, payment of salary compensation, types of diseases which may exceptionally provide assessment and opinion that the treatment is not completed and other issues of importance for exercising this right shall be defined by the agreement between the Health Insurance Fund and the Pension and Disability Insurance Fund.

The law also stipulates the situations when the beneficiary is not entitled to salary compensation, and that is if:

- 1) intentionally caused inability to work;*
- 2) inability to work is caused by the influence of alcohol or psychoactive substances;*
- 3) during temporary inability to work engages in economic or other activity in which it acquires revenue;*
- 4) intentionally prevented the healing;*
- 5) without reasonable excuse fails to undergo treatment, unless for the treatment is required consent prescribed by specific regulations;*
- 6) without reasonable excuse fails to report the selected doctor or selected team, or the Commission for assessing the capacity or fails to respond to medical or commission examination at the scheduled time.*

Insured person is not entitled to salary compensation from the date the aforementioned circumstances are determined for as long as those circumstances or their consequences last. If the aforementioned facts are determined after exercise of the right to compensation, the payment of compensation to the insured shall be suspended.

Also, salary compensation does not belong to persons serving prison sentences and persons against whom security measure of compulsory psychiatric treatment is implemented and custody in the medical institution, as well as persons who have been imposed the measure of compulsory treatment and keeping in recovery of alcoholics and drug addicts.



Measures and sanctions

The Committee recalls that Article 24 of the Charter requires that courts or other competent authorities can order adequate compensation, returning to work or other appropriate assistance. To be considered appropriate, the compensation should include reimbursement of financial losses incurred between the date of dismissal and the decision of the appellate body on the legality of the dismissal, the possibility of re-employment and/or compensation sufficient to deter the employer and proportional to the damage suffered by the victim.

According to the report, if the employee is not satisfied with the termination of employment he/she is entitled to initiate proceedings before the competent court to protect their rights. According to Article 146 of the Labor Law, the employer in the event of termination of employment shall be obliged to pay the employee unpaid salary and other salary that the employee achieved until the date of termination of employment. **The Committee asks about the rules applied in the case of illegal termination of employment and the amount of compensation for damage.**

ANSWER:

The employee who is not satisfied with the decision on dismissal shall be entitled to initiate proceedings before the competent court to protect his rights within fifteen days of receipt of the decision and can start the procedure before the Office for the Peaceful Settlement of Labor Disputes. In the event of dispute regarding termination of employment, the burden of proof the validity and legality of the reasons for the dismissal falls on the employer. If the dispute determined that there were no legal or valid reasons for termination of employment, i.e. that it was unlawful termination of employment, the employee is entitled to return to work and has the right to compensation for pecuniary and non-pecuniary damage within the legal procedure. If the process determines that the employee was unlawfully or unjustifiably terminated the employment contract he shall be entitled to compensation for material damages in the amount of lost salary and other benefits that would have received if he had been employed in accordance with the law, collective agreement and employment contract and payment of contribution for compulsory social insurance. If the process determines that the termination resulted in the violation of personal rights, honor, reputation and dignity, the employee is entitled to compensation for non-pecuniary damage within the legal procedure.



Unlawful termination of employment, as well as legal grounds to conduct peaceful settlement of labor disputes before the Office for Peaceful Settlement of Labor Disputes, is listed in the 540 proposals.

Of the total number of submitted proposals, 63.40% were resolved with consent of the parties, in 8.20% of cases was withdrawn the proposal for peaceful settlement of labor disputes before the opening of the main hearing, while in 28.40% of cases the proceedings were canceled because other party in the dispute did not accept the conduct of the procedure of peaceful settlement of the labor dispute, or parties in the dispute did not reach agreement on its resolving.

The subject of the dispute:

- *Termination of employment due to non-acceptance of the annex of employment contract, for reasons contrary to Article 40 of the Labour Law;*
- *Termination of employment for a specified period due to maternity leave;*
- *Termination of employment by force of law, and before the age of 67;*
- *Termination of employment after the statute of limitations on the procedure for determining violations of the obligation of the employee;*
- *Termination of employment due to the declaration of the employee redundant - without carrying out the legal procedures;*
- *Termination of employment due to the declaration of the employee redundant - without severance pay.*