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EUROPEAN SOCIAL CHARTER

6th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF MONTENEGRO

Articles 3, 11, 12, 13, 14 and 23

for the period 01/01/2012 - 31/12/2015

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CYCLE 2017



Montenegro
Ministry of Labour and Social Welfare

**6TH NATIONAL REPORT ON THE APPLICATION OF THE
REVISED SOCIAL CHARTER FOR 2016**

**Revised European Social Charter
(Conclusions of 2013)**

Report for Thematic Group II – Health, social security and social protection, Article 3, 11, 12, 13, 14 and 23

Article 3 – The right to safe and healthy working conditions

Paragraph 1 – Safety and health regulations

The Committee takes note of the information contained in the report submitted by Montenegro. This is the first time the Committee considers the policy framework for the occupational safety of Montenegro.

The Committee asks the next report to provide further information on the following issues:

General objective of policy

- **the content of operative laws, policies, strategies and programs, as well as the competences of relevant public institutions**

Answer:

The Parliament of Montenegro at its session held on 25 July 2014 adopted the Law on Safety and Health at Work (“Official Gazette of Montenegro”, No. 34/14). This Law supersedes the Law on Safety and Health at Work (“Official Gazette of the Republic of Montenegro”, No. 79/04 and “Official Gazette of Montenegro”, No. 26/10).

Legal framework:

- Law on Safety and Health at Work (“Official Gazette of Montenegro”, No. 34/14);
- Labour Law (“Official Gazette of Montenegro”, No. 49/08, 59/11, 66/12 and 31/14);
- Law on Health Care (“Official Gazette of Montenegro”, No. 3/16 and 39/16);
- Law on Health Insurance (“Official Gazette of Montenegro”, No. 6/16);
- Law on Pension and disability insurance (“Official Gazette of the Republic of Montenegro”, No. 54/03, 39/04, 61/04, 79/04, 81/04, 14/07 and 47/07 and “Official Gazette of Montenegro”, No. 79/08, 14/10, 78/10, 34/11, 66/12, 38/13, 61/13, 60/14, 10/15 and 44/15);
- Law on Labour Inspection (“Official Gazette of Montenegro”, No. 79/08);
- Law on the Armed Forces (“Official Gazette of Montenegro”, No. 88/09, 75/10 and 32/14);
- Decision on Montenegrin standards and related documents “Official Gazette of Montenegro”, No. 58/15);
- Law on Safety of Navigation (“Official Gazette of Montenegro”, No. 62/13, 6/14 and 47/15);
- Law on Ionizing Radiation Protection and Radiation Safety (“Official Gazette of Montenegro”, No. 56/09 and 58/09);
- Mining Law (“Official Gazette of Montenegro”, No. 65/08 and 74/10);
- Law on Social Council (“Official Gazette of Montenegro”, No. 16/07, 20/11 and 61/13).

Given that the Strategy for Improvement of Health of Employees and Safety at Work in Montenegro was adopted for the period 2010-2014, there is a need to continue the activities for the promotion of occupational safety and health (OSH) and creating healthy workplaces for all employees in Montenegro, and/or the adoption of the Strategy for Improvement of Safety and Health at Work of Employees for the period 2016-2020 accompanied by an Action Plan for its implementation.

Humanization of working conditions is not an abstract notion, and it is expressed as a need in all developed societies. More specifically, the level of development of health and safety at work can often be a parameter for assessing the level of social development and social components of society. Proportionally to this fact, the level of social development conditions, and usually determines, the level of efficiency of social protection in the field of OSH.

All stakeholders in the protection and health of employees will participate in the activities of implementation and full integration of regulations in the field of OSH, and their full acceptance and use in practice.

The overall objective of the Strategy is to improve and preserve the health of employees and/or improvement of working conditions to prevent occupational injuries, occupational diseases and diseases related to work and their reduction to the lowest possible level or elimination of occupational hazards.

In 2013, the Directorate of Labour, an organizational unit of the Ministry of Labour and Social Welfare of Montenegro, formed the Department for safety at work. This Department performs activities related to monitoring, studying and encouraging the development of OSH; preparing regulations in the field of OSH; monitoring and implementing ratified conventions and EU directives in the field of OSH; activities related to negotiations on the accession of Montenegro to the EU by chapters in the field of OSH; giving opinions regarding the implementation of regulations in the field of OSH; preparing professional basis for development of a national program of development of occupational safety and monitoring its implementation; monitoring and evaluation of safety at work and preparing positions for a unique arrangement of safety measures that are regulated by the regulations in the field of OSH; providing technical assistance in the field of OSH of employees; preparing methodology for performing inspections and tests in the field of OSH; collection and analysis of data on occupational injuries, occupational diseases and diseases related to work; organizing and taking professional examinations for acquiring professional title for the performance of safety at work; material processing and preparation of the operating license for authorized organizations for safety at work which carry out their activities with the approval of the Ministry; keeping registers of authorized organizations in the field of safety at work carrying out activities with the approval of the Ministry and supervise their work; keeping of registers of persons who have passed the professional exam for acquiring professional title in the organization of this Ministry; preparation of information, reports and analyses in the field of occupational safety, handling documentary material; conduct information and documentation activities in the field of protection of employees; encouraging education and developing a culture of work in the field of occupational safety, training of employees, employers, professionals dealing with safety at

work, inspectors and others; informing the public on the state of occupational safety and health; establishing cooperation with NGOs.

From 1st June 2012, the Department of Labour Inspection is organizationally shifted from the Ministry of Labour and Social Affairs into the Administration for Inspection Affairs. As part of the Department of Labour Inspection operates an OSH Group in charge of the supervision of the implementation of the Law on Safety and Health at Work, secondary legislation thereof and technical and other measures relating to the protection of health and safety carried out by the labour inspectors in the field of safety and health at work, unless the Law stipulates that oversight in the implementation of these regulations in certain activities is carried out by other authorities.

Institutions and organizations that undertake activities in the field of health and safety in Montenegro are:

- The Parliament of Montenegro;
- The Government of Montenegro;
- Line ministries, Administration for Inspection Affairs, Health Insurance Fund, Pension and Disability Insurance Fund of Montenegro, Institute for the Development and Research in Safety at Work, the Chamber of Commerce of Montenegro;
- The social partners - Montenegrin Employers Federation, Federation of Trade Unions of Montenegro, the Union of Free Trade Unions of Montenegro;
- Social Council composed of representatives of social partners;
- 34 authorized organizations for environmental protection and occupational health;
- NGO “Safety at work Association of Montenegro”;
- Insurance companies.

• whether the policy objective is encouraging and maintaining a culture of risk prevention at work

ANSWER:

The principle of safety at work is a constitutional principle under Article 64 paragraph 3 and 4 of the Constitution of Montenegro. Constitutional right is the right to work, to free choice of occupation and employment, to fair and human working conditions and to protection during unemployment. Every employee has the right to adequate salary and the right to limited working hours and paid vacation. Healthy, motivated and satisfied workforce is important for the social and economic well-being of each country. Safety and health at work contribute to greater employee satisfaction, higher productivity and greater interest in the achievement of organizational goals and interests. Low levels of health and safety at work affect: reduction of motivation, reduce performance, increase staff fluctuation, increasing the number of injuries at work, increasing the rate of sick leave and increase the rate of disability. Occupational accidents, occupational diseases and diseases related to work reduces gross domestic product and reduce the benefit of the state and other entities. Every injury at work and every occupationally acquired disease of employees is a major expense for employers. Tired,

discouraged and dissatisfied employees are not productive, effective and creative when working, resulting in greatest losses for the employer. The effectiveness of safety and health at work depends on the degree of involvement of all the factors both the employer, and all other levels. Risk assessment and taking appropriate measures to protect health and safety at work, employers can improve their productivity and thus increase their profits. An employer who is aware of the importance of health and safety at work, invest more than the required minimum, and thus provide an appropriate level of long-term care and health at work of its employees.

OSH is provided and carried out by using modern technical - technological, organizational, medical, social and other measures and means of protection in accordance with applicable law, other regulations, ratified and published international agreements. **The Law on Safety and Health at Work, as such, acts preventively at all levels of activity.**

• whether the policies, strategies and programs are regularly evaluated and reviewed with regard to changes in risk

Answer:

In terms of risk assessment in relation to the work, the employer is obliged to issue an Act on risk assessment for all workplaces, determine the manner and measures to eliminate risk and ensure their implementation. The employer will specify in the Act on the risk assessment the jobs with increased risk, the health requirements for certain work to be met by employees in the work process, or for the use of certain funds for work on the basis of expert assessment of the authorized institution for health care of employees. The Act of risk assessment determines the identification and/or detection of danger; which jobs are exposed to the identified risks; the likelihood of injury, occupational diseases, and/or diseases related to work; whether the risk is acceptable; the introduction of measures to reduce unacceptable risks. The employer is obliged to familiarize employees about the Act on risk assessment in a transparent manner.

The EC Screening Report of the *acquis* for Chapter 19 Social Policy and Employment, which was delivered to Montenegro on 14 March 2014, estimated that the Montenegrin legislation is partially aligned with the *acquis* in the field of social policy and employment. According to the EC, efforts should be stepped up in order to progress further in the legal harmonization in the areas covered by this chapter.

The European Commission has set an initial benchmark that entailed drafting the Action Plan for the gradual legislative alignment and building necessary capacity for implementation and enforcement of European *acquis* (AP19) as a condition for opening negotiation chapter 19. AP19 was adopted by the Government in March 2015, after which it began its implementation and drafting Negotiating Positions.

Given the high degree of implementation of planned activities in 2015, the European Commission has approved the adoption of the Negotiating Position by the Government of

Montenegro in March and the adoption of the Report on the fulfilment of the opening benchmark criteria. The opening of negotiations for Chapter 19 is expected in 2016.

In the process of accession of Montenegro to the European Union, it is necessary to continue the work on the alignment of the Law on the Protection and Health at Work and regulations with EU Directives. In addition to the transposition of EU Directives into national legislation, there shall be prepared also the guidelines for the consistent application. The alignment with ILO conventions will continue.

Organisation of risk prevention at work

• framework of rights, obligations and structures for the prevention of risks at work at national level

ANSWER:

In the second quarter of 2015, the Parliament of Montenegro adopted the Law on Ratification of the Convention of the International Labour Organisation on the Promotional Framework for Occupational Safety and Health at Work No. 187, whereby it accepted obligations imposed by the ratification of the said Convention. Therefore, Montenegro is committed to promoting the health and safety of the working environment by formulating a national policy; to promote and improve, at all relevant levels, the right of workers to a safe and healthy work environment, as well as in the formulation of national policies, in accordance with national conditions and practice, and in consultation with the representative organizations of employers and workers, Montenegro has an obligation to promote basic principles such as assessment of occupational risks and hazards at work; combating occupational risks or hazards at source; development of a national preventative safety and health culture at work that includes information, consultation and training.

• measures for the prevention of risks at work at the enterprise level: risk assessment in relation to the work, the adoption of preventive measures aimed at the nature of the risk, and information and training for workers

ANSWER:

Also, the employer has certain obligations aimed to creating measures for the risk prevention at work. The employer is obliged to ensure protective measures by preventing, removing and controlling the risk at work, informing and training employees, along with appropriate organization and the necessary resources. The employer is obliged to provide special OSH of women during pregnancy, persons under 18 years of age, and persons with disabilities, in accordance with this and other laws. Bearing in mind the changing work environment, the employer is obliged to implement safety measures and select such working and production methods that will ensure improved or higher level of OSH. Also, when planning and introducing new technologies, the employer is obliged to consult with employees or their OSH

representatives about issues regarding the work tools, working conditions, working environment and their consequences for the OSH. In assigning an employee to a position with special working conditions or with increased risk, the employer must take into account employee's abilities, which may affect the protection and health of the employee. The implementation of protection measures is reflected in the implementation of safety measures with respect to the following principles: avoiding risks; risk assessment; eliminating risks at source; adapting work and workplace to an employee, especially in terms of designing the workplace, the choice of work tools, the choice of working and production methods with particular emphasis on avoiding monotonous work and work at a more certain speed and reduce their effect on health; adapting to technical progress; substitution of dangerous with harmless or less harmful circumstances; development of a comprehensive policy to protect health and safety, which includes technology, work organization, working conditions, interpersonal relations and working environment factors; giving advantages to collective protective measures over individual protective measures; giving appropriate instructions and information.

In accordance with the Law on Safety and Health at Work, the employer is obliged to provide training for the safe operation to the employee when concluding employment, assigning him to another position, introducing new technology, introducing new or replacement of work equipment, changes in work processes and re-assigning him to work after absence that lasted for more than a year.

Also, one of the obligations of the employer is to inform an employ or employees' representative in writing about:

- Risks related to the safety and health at work,
- Protective measures and activities in relation to each type of workstation and/or job;
- The manner of organization and provision of first aid, fire-fighting, evacuation procedure for employees in cases of serious and immediate danger and the persons responsible for implementing these measures.

• whether the Labour Inspection has an obligation to share the knowledge gained during inspections and investigations on occupational risk management and risk prevention, as part of prevention activities (information, education, prevention);

Improving occupational safety

• whether the national authorities involved in the research (scientific and technical knowledge) of the Occupational Safety and Health, and the activities (analysis of sector risks, elaboration of standards, publishing guidelines, publications, seminars, training)

ANSWER:

The national authorities are involved in research activities and occupational safety through the strategic policy objectives among which is raising awareness about the importance of the gradual introduction of health and safety at work in the educational system of Montenegro. It is planned to raise awareness of the importance of OSH of pupils in primary and secondary education through the elective lessons in primary and secondary schools on the topic of occupational safety and health. Good education on OSH at school should enable pupils to adopt a positive attitude and behaviour, to acquire knowledge, develop skills and ability to identify hazards and risks, and find solutions. Having in mind that young employees often lack knowledge and experience of the risks associated with their tasks, information and training on health and safety at work during the program of professional training is key to reducing the rate of occupational diseases among them. As a result of greater knowledge of the key role of education in developing a preventive culture, many countries have begun to include basic education about risk prevention programs in primary, secondary schools and faculties.

For the purpose of research, study and design of appropriate methods in the field of occupational safety and health, achieving safe working conditions, preserving and improving the quality of working environment, the Institute for the Development and Research in Safety at Work has been established. The Institute is a public institution and has a capacity of a legal entity.

The activities of the Institute are:

1. designing research methods to solve practical problems related to the implementation of measures and procedures of occupational safety;
2. monitoring scientific developments in the field of occupational safety and health;
3. investigating the phenomenon in order to harmonize technical and technological processes with the needs of sustainable development in the Republic;
4. ensuring functional connection between scientific institutions and the economy;
5. researching aimed to launch new and activating the existing technical and technological potential;
6. development of methods and programs for protection of devastation as a result of industrial and infrastructure of technical and technological process;
7. initiating changes and innovation of technical norms and standards in accordance with the norms and standards of developed countries;
8. development of technical bases for the curricula and training plans and upgrading skills of personnel in the field of occupational safety and health;
9. monitoring and study of safe working conditions and a healthy working environment;
10. exploration risk in terms of preventing the occurrence of occupational injuries and illnesses;
11. preparing expert analysis in the field of occupational safety and health;
12. research and development of appropriate programs for the needs of the founders;

13. development of the methodology and program for identifying jobs with special working conditions and accelerated years of service.

• whether the national authorities involved in training (qualified professionals), in designing training modules, training (how to work, how to minimize the risks to themselves or others), and certification programs

ANSWER:

Building a culture of occupational safety and health is a dynamic process that requires the commitment of key stakeholders. The OSH culture leads to positive changes in the behaviour and attitudes of people towards their occupational health and safety. Children and young people are the future of every society, so that a basic knowledge of occupational health and safety should be integrated in educational – pedagogical Montenegrin educational system, to ensure the future labour force and the population that is sensitive and understands the importance of health and safety, while at school, at work and in their daily life. Good education on OSH at school should enable pupils to adopt a positive attitude and behaviour, to acquire knowledge, develop skills and ability to identify hazards and risks, and find solutions. Having in mind that young employees often lack the knowledge and experience of the risks associated with their tasks, information and training on health and safety at work during the program of professional training is key to reducing the rate of occupational diseases among them. As a result of greater knowledge of the key role of education in developing a preventive culture, many countries have begun to include basic education about risk prevention programs in primary, secondary schools and faculties.

The Ministry of Labour and Social Welfare implements the professional examination for persons engaged in the business of safety at work. Also, conditions, program and manner of taking the said examination has been determined by the competent ministry.

The Ministry of Labour and Social Welfare responsibility is to issue a decision to a legal entity or entrepreneur i.e. authorized organization that can carry out certain tasks of safety and health at work. The decision is issued for a period of three years and may be renewed under the same conditions.

As regards the involvement of state authorities in training, in addition to the above professional examination for persons who are engaged in the OSH and competences of the authorized organization to carry out professional activities in the field of occupational safety and health, within the Human Resources Management Authority, is carried out the training of civil servants in the field of occupational safety and health, in accordance with the aspirations and trends of approaching Montenegro to the European Union, primarily in the area of institution building system.

Consultations with the organizations of employers and workers

- **framework for consultations between public authorities and social partners (bodies, competencies, participants, frequency, issues) in the field of safety at work**

ANSWER:

The employer is obliged to inform employee or representatives of employees in writing regarding:

- The risks to safety and health at work, protection measures and activities in respect of each type of job and/or work;
- Way of organizing and providing first aid, fire protection, evacuation procedure for employees in the case of serious and immediate danger and the persons responsible for the implementation of these measures.

The employer is required to adequately inform an employer, whose employees is hired to work for him, on any basis, about these issues, as well as persons responsible for their implementation.

Also, he is obliged to inform a representative of employees about the rights and obligations relating to the occupational health and safety and thus allow him access to:

- Risk assessment and measures to protect health and safety, including those risks faced by the groups of employees exposed to particular risks;
- Decisions on measures to protect health and safety, which need to be taken, and if necessary, on the means and equipment for personal protection at work, which is used;
- Records and reports on occupational injuries that have resulted in the absence of the employee from work for more than three working days;
- Reports on injuries at work of its employees;
- The data arising from the measures and actions of inspection and other authorities responsible for the protection of health and safety.

Through a system of raising awareness about the importance of health and safety at work, as well as the public interest, inform employees and their participation in issues related to the protection of health and safety should be constantly improved through the use of the Internet and intranet, e-tools, social networks, etc.

Consultations between the government authorities and the social partners, as well as non-governmental organizations are at a high level, since they are involved in all phases of preparing and drafting of regulations relevant for the areal of OSH.

The success of any policy relating to the protection of health and safety largely depends on the effectiveness of communication channels and tools for maintaining contact with various stakeholders, from policy makers to the employees themselves.

The media like the Internet, Internet applications and social networks provide a range of possible tools which should be further explored, and can achieve greater success than the

conventional approach when you need to reach out to younger employees. The Ministry of Labour and Social Welfare will in the implementation of legislation on health and safety at work encourage broader involvement of all stakeholders in the applicable regulations in the field of health and safety, including the social partners, experts for environmental protection and occupational health and representatives of legal entities and entrepreneurs in all sectors and professional associations. EU-OSHA plays a key role in gathering and disseminating relevant information on OSH, enhancing the exchange of best practices and the development of awareness-raising campaigns, and thus contributes to a more successful implementation of policies to protect health and safety at EU level.

The database of good practice developed by EU-OSHA, will contribute to better implementation of policies to occupational safety and health with legal entities and entrepreneurs. EU-OSHA will continue with the implementation of the pan-European campaign to raise awareness of issues related to the occupational safety and health, and at the same time ensure greater interaction through social media.

• consultation mechanisms at the enterprise level (bodies, competencies, participants, frequency, issues) in the field of safety at work

ANSWER:

The employer, employee, representative of employees and trade union shall cooperate in determining their rights, obligations and responsibilities pertaining to the safety and health at work in accordance with this law, particularly in relation to:

- any measure that could significantly affect the safety and health at work;
- listing qualified person for the safety and health at work by assigning person responsible for the implementation of first aid, fire fighting and evacuation of employees and activities in relation to safety and health at work;
- data on the risk assessment and protective measures, including risks faced by a group of employees who are exposed to particular risks;
- decisions on protective measures to be taken, and if necessary, on the personal protective equipment to be used;
- records and reports on occupational injuries resulting in the absence of employee from work for more than three working days;
- reports on accidents at work of its employees;
- measures and actions of inspections and other authorities responsible for the safety and health at work;
- hiring legal entity or entrepreneur for professional jobs;
- planning and organizing training and verification of capacities for the safety and health at work.

The employer shall enable employees' representative and union send their remarks concerning the safety and health at work to the competent inspector in the exercise of the inspection control.

Article 3 – The right to safe and healthy working conditions

Paragraph 2 – Safety and health regulations

The Committee takes note of the information contained in the report submitted by Montenegro. This is the first time the Committee examines the scope of the risks that are specifically covered by the laws and regulations of Montenegro on safety at work.

The Committee asks for further information on the following issues in the next report:

The risks covered by regulations

- **whether laws and regulations on safety at work cover most of the risks listed in the General Introduction to Conclusions XIV-2 (pp. 36-43);**
- **whether such coverage is specific by being quoted in sufficient details in order to be properly and effectively applied;**

Levels of protection and protection

- **whether the exposure limits are aligned with those adopted in the international reference standards and, where possible, in the Community *acquis*;**
- **whether the risk assessment in the workplace required and whether there is a schedule for the elimination of the identified risks;**
- **in relation to asbestos, whether workers are protected to a level that is at least equivalent to what is prescribed by the Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work, as amended, and by Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003, and the ILO Convention no. 162 Asbestos (1986), and whether the use of asbestos is prohibited in the workplace in its most harmful forms (amphibole);**
- **with regard to ionizing radiation, whether workers are protected to a level that is at least equivalent to what is prescribed in the Recommendations (1990) by the International Commission on Radiological Protection (ICRP Publication no. 60) or, where applicable, Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation;**

ANSWER:

The employer is obliged to provide for measures of safety and health at work to all employees, by preventing, eliminating and controlling risks at work, informing and training employees, and with proper organisation and the necessary means. Also, in accordance with the Law on Safety and Health at Work, the employer is obliged to provide special safety and health at work to women during pregnancy, persons under 18 years of age, and persons with disabilities.

The employer shall implement the protective measures by respecting the following principles:

- Avoiding risk;
- Evaluating the risk;
- Eliminating the risk at source;
- Adapting the work and workplace to employee, especially in terms of design of the workplaces, the choice of work equipment, the choice of working and production methods with a particular emphasis on the alleviation of monotonous work and work at a predetermined work-rate and to reducing their effect on health;
- Adapting to technical progress;
- Replacing the dangerous by the non- dangerous or less dangerous;
- Developing a comprehensive policy for the safety and health at work, which includes technology, organization of work, working conditions, interpersonal relations, and working environment factors;
- Giving advantage to collective protective measures over individual protective measures;
- Giving appropriate instructions and information to employees.

As regards the protection against ionizing radiation, workers are protected in accordance with the regulations in the field of ionizing radiation, and/or about 80% of out-dated Directive 96/29 is transposed into national legislation.

Workers and sectors covered by regulations

• whether all workers (including temporary workers, agency workers and workers on indefinite period of time), all workplaces (including home, service and independent workers) and all sectors of activity (regardless of the intensity of risk and number of employees) are covered by safety at work regulations

ANSWER:

The provisions of the Law on Safety and Health at Work apply to all persons employed in the territory of Montenegro with legal entities and entrepreneurs in all sectors of activity, government bodies, bodies of state administration and local self-government units, employees who were sent to work abroad if the regulations of the receiving State provide less favourable measures of safety and health at work than those provided for in this Law, unless otherwise regulated by a special law.

The employee is a person who has been employed by, or has concluded an employment contract with the employer, a person who has underwent training work with the employer as well as a person who performs work for the employer under any legal basis. The provisions of this Law shall apply to all persons involved in the working process of the employer under any legal ground.

The provisions of the Law on Safety and Health at Work shall not apply to persons for whom the employer has organized work at home under the law, and/or with whom it contracted the housework employment.

Consultations with the organisations of employers and workers

- **framework for consultations between public authorities and social partners (bodies, competencies, participants, frequency, issues) in the field of safety at work**
- **consultation mechanisms at the enterprise level (bodies, competencies, participants, frequency, issues) in the field of safety at work**

ANSWER:

The answer is given in the response to a question under Article 3 paragraph 1 “Consultations with the organizations of employers and workers”.

Article 3 – The right to safe and healthy working conditions

Paragraph 3 - Enforcement of safety and health regulations

The Committee takes note of the information contained in the report submitted by Montenegro.

This is the first time the Committee examines the provisions of Montenegro related to enforcement on safety at work regulations.

The Committee asks for further information on the following issues in the next report:

Injuries at work and occupational diseases

- **statistics on the number of injuries at work; the average rate of incidence per 100 000 workers in respect of occupational injuries, the number of fatal accidents, the average incidence rate per 100 000 workers in connection with accidents resulting in death;**
- **statistics on the number of cases of occupational diseases; the average rate of incidence per 100 000 workers in cases of occupational diseases; the number of fatal cases of occupational diseases; the average rate of incidence per 100 000 workers in fatal cases of occupational diseases**

ANSWER:

In order to reduce injuries at work, occupational diseases and diseases related to work, the EU Council under Article 6 of Directive 89/391/EEC committed to all its members and gave a recommendation to other countries to improve the level of safety and health at work by risk assessment for all employees through identification of sources of danger and measures to protect OHS in all work activities. While respecting the framework Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L no. 183 of 29.6.1989. p.1), as amended by Regulation (EC) no. 1137/2008 of the European Parliament and of the Council of 22 October 2008 on adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny — Part One (OJ L no. 311 of

21.11.2008. p. 1), the Parliament of Montenegro adopted the Law on Safety and Health at Work "Official Gazette of Montenegro," No. 34/14).

According to the latest available data of MONSTAT, in Montenegro live 619.200 inhabitants, of which 306,000 are men and 313.200 women. According to available data of the Pension and Disability Insurance Fund of Montenegro for the period from 01 January 2011 to 01 January 2016, the number of insured persons who are entitled to a disability/partial disability pension, in relation to the cause of disability, is given in the following table:

Causes of disability	Disability pension	Partial disability pension
Injury at work	65	2
Professional disease	2	0
Illness	4863	14
Injury at work and professional disease	37	1
Injury at work and illness	0	0
Professional disease and illness	5	0

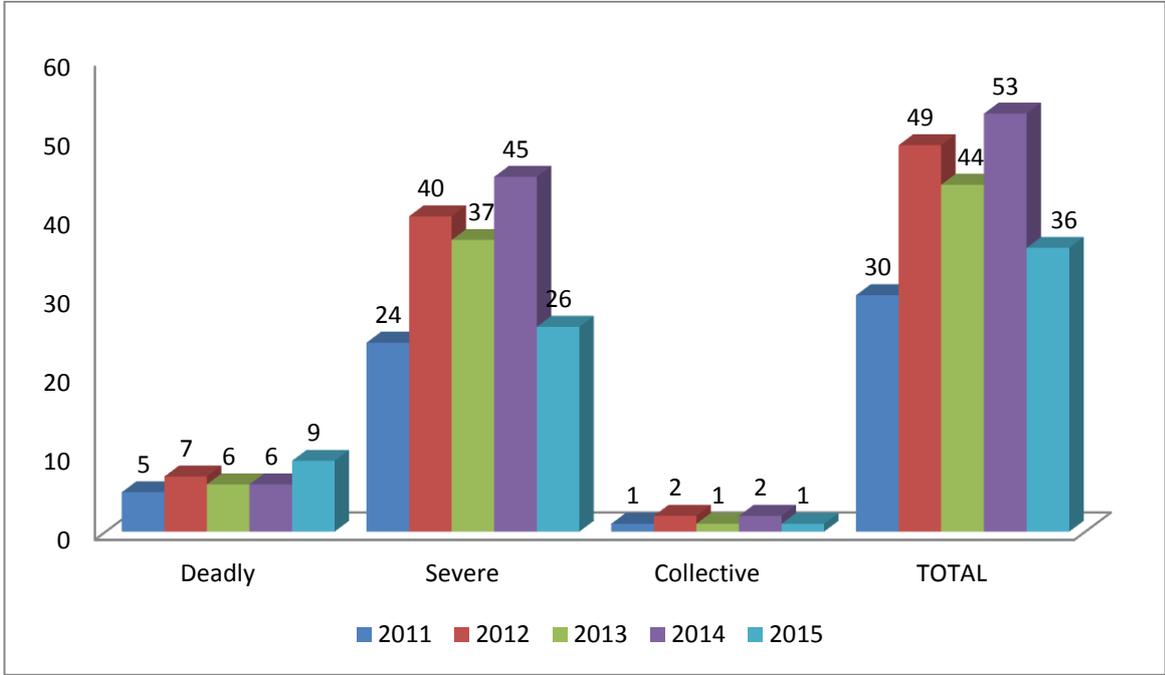
Keeping no records of data on injuries at work, occupational diseases, diseases related to work and disabled workers cannot be equated with their absence in specific morbidity of the population in the country. The situation is similar in other countries of the disintegration of the former Yugoslavia. Experts agree that the reason for a significant reduction in activity on diagnosing, identifying, recording and recognition of the disease in the Western Balkans, in connection with the changed conditions when it comes to legislation, undefined competence of health institutions for specific health care of employees, lack of contemporary guides, guidelines and the lack of doctrinal approach to these problems.

The expansion in construction activity in Montenegro, especially in Podgorica and on the coast, has increased the number of deaths in the workplace. According to data by the Administration for Inspection Affairs, the number of completed site investigations by labour inspectors in the field of safety and health at work as regards injuries at work is given in the table:

Injury Severity	2011	2012	2013	2014	2015
Deadly	5	7	6	6	9
Severe	24	40	37	45	26
Collective	1	2	1	2	1

TOTAL	30	49	44	53	36
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There is an evident decline in the total number of occupational injuries in 2015 compared to 2014 by 32.08%.



According to information possessed by the Health Insurance Fund, in workplaces in Montenegro in the period from 2011 to 2014, a total of 3,385 injuries occurred at work (766 in 2011, 907 in 2012, 815 in 2013 and 897 in 2014).

Considering the stated reasons for the current situation in Montenegro as regards safety and health at work, we believe that there is an urgent need for comprehensive provision and implementation of safety and health at work by applying modern technical and technological, organizational, medical, social and other measures and funding of health and safety in accordance with the Law on the Safety and Health at Work, other regulations, ratified and published international agreements, all in order to provide working conditions that do not cause injuries, occupational diseases and diseases related to work and creating conditions for the full physical and psychological protection of employees.

Activities of the Labour Inspection

- **framework and functioning of the Labour Inspection (competent bodies, competences, means of investigation, enforcement authority);**
- **Labour Inspection activities (number of labour inspectors, frequency of inspection visits, the percentage of workers covered by inspections in relation to the labour force);**

- **undertaken measures and sanctions adopted by the Labour Inspection (number of offenses, types of information and measures, the number and amount of fines, number of suspensions, the number of cases).**

ANSWER:

Supervision over the implementation of the Law, the application of regulations adopted based on the Law, and technical and other measures relating to the safety and health at work carry out the Labour Inspection through the labour inspector for safety and health at work, unless the law stipulates that the control of the implementation of these regulations in certain activities is carried out by other authorities. In carrying out inspection supervision, a labour inspector for safety and health at work, in addition to the duties and powers established by law, has the obligation and authority to carry out investigation of serious, collective and fatal injuries at work.

Labour Inspection

The number of systematized working posts for labour inspectors is 39 (27 in the field of labour relations, including the chief inspector, and 12 for safety and health at work). The total of 34 inspectors are employed, of which 25 in the field of labour relations, including the chief inspector, (all graduate Lawyers) and 9 for safety and health at work (B. Sc., Various technical and technological fields).

Competencies

The Labour Inspection supervises the application of the Labour Law, the Law on Foreigners (the Law on Employment and Work of Foreigners was applied by 1 April 2015), the Law on Strike, Law on Representativeness of Trade Unions, The Law on Professional Rehabilitation and Employment of Persons with Disabilities, the Law on Volunteering, the Law on Prohibition of Harassment at Work, the Law on Gender Equality, the Law on Prohibition of Discrimination, the Law on Prohibition of Discrimination against Persons with Disabilities, the Law on Professional Training of Persons with Acquired Higher Education, the Law on Protection of Montenegrin Citizens Working Abroad, the Law on Employment and Exercising Rights with respect to Unemployment Insurance and the Law on Health and Safety at Work. This Inspection also supervises the application of the General Collective Agreement, Branch Collective Agreements, collective agreements with the employer and other by-laws regulating the area of labour relations, employment and health and safety at work.

Inspection supervision

The priority task of the Labour Inspection in the reporting year was the suppression of the gray economy in the labour market (informal employment and unpaid work of formally employed) and providing a safe work place, in terms of health and safety at work, although it should be

noted that the insufficient number of inspectors and lack of information system (IS implementation began on 1 May 2015) contributed to better planning and more effective results, even in reporting. In this regard, increased supervision was carried out in certain sectors of work, especially during the summer tourist season.

Inspection reviews by activities

Activity	Number	%
Catering and tourism	3.502	32,41
Trade	3.241	29,99
Construction	1.377	12,74
Production and crafting	1.159	10,73
Education, culture and information	302	2,79
Health and social protection	251	2,32
Financial, technical and business services	211	1,95
Transport and communications	162	1,50
Waterpower engineering	100	0,93
Industry	62	0,57
Housing and communal activity, and settlement arrangement	and	0,47
Power utility	18	0,17
Agriculture, fishery and forestry	13	0,07
Other	357	3,30

In the reporting period, the Labour Inspection carried out a total of 10,806 inspections (in the field of labour and employment 8150 and in the field of health and safety 2656) and routine 6709, by the request 1,736 and 2,361 controls, in which it established a total of 6,695 irregularities.

Supervision results

Inspection reviews and measures	In the area of labour relations and employment	In the area of safety and health at work	TOTAL
Number of inspection reviews	8,150	2,656	10,806
- routine	5,169	1,540	6,709
- on initiative	1,680	56	1,736
- control	1,301	1,060	2,361
Number of established irregularities	4,073	2,622	6,695
Number of indications	1,895	975	2,870
Number of decisions	72	169	241
Number of conclusions	716	583	1,299
Number of misdemeanour	2.590	859	3,449

warrants			
The amount of fines imposed by misdemeanour warrants	942,660 €	265,870 €	1,208,530.00 €
Number of requests for initiating of misdemeanour procedure	16	4	20

Identified irregularities

The most frequent irregularities identified in the field of *labour relations and employment* (4073) are: hiring persons to perform certain tasks for the employer without prior conclusion of employment contract and failure to report to the mandatory social insurance (both for Montenegrin citizens and foreigners); employment of foreigners without a prior work and residence permit or residence permit and work of foreigners; delay in payment of salaries and payment of contributions for compulsory social insurance (and in cases where the paid salary, but not contributions, Tax Administration was informed); not delivery of payroll to employees (which the employer is obliged to deliver immediately after payment of due salaries, irrespective of whether the salary was paid); failure to adopt a written decision on the allocation of staff time, the schedule of employees per shift, as well as failure to determine the schedule of the weekly rest period (on the basis of which inspectors determined whether the employees were denied the right to use the weekly and annual leave). As part of its regular activities, the inspection during the reporting year has recorded 25 cases of work engagement of children in the informal work and, mainly, during the season on the coast, of which 11 males and 14 females, aged 15 to 18 years. In relation to these cases, inspectors have taken measures within their competencies and fined employers instituting measures to obtain the necessary documentation (medical certificate and parental consent), in order to meet the legal conditions for the work of these persons. It should be noted that children are not caught in difficult and dangerous jobs, but jobs seller or auxiliary workers in retail stores and other outlets for marketing fruit, toys and jewellery. Thus, the Labour Inspection did not recorded cases that could be treated as the worst forms of work engagement of children in any business activity.

The most frequent irregularities found in the area of *safety and health at work* (2622) are: the employer does not obtain and issue to employees work tools and equipment for personal safety at work required for their jobs with expert findings and assessment that they are provided with prescribed safety measures and/or non-use thereof by the employee, the work of employees without certificates of qualification for the safe operation and without medical certificates of good health for jobs with special working conditions and/or increased risk, as well as the lack of an Act on the risk assessment for all work places. In this area, inspectors conducted 36 on-site investigations on the occasion of injuries at work, of which nine fatal, one collective accident and 26 serious injuries at work, representing a decrease of 32.08% compared to 2014. It has been noted after control that the most common cause of injuries at work were as follows: non-application of measures to protect health and safety which caused the slipping, fall from a height or in depth, struck/squeeze by a timber, etc., hiring persons who are not trained for safe

work at jobs they do, and whom were not examined their medical fitness, deterioration of resources for the work, and the use thereof without prior inspection and testing, and without provision of expert findings of authorized organizations for environmental protection and occupational health. If it was determined an immediate danger to life or health is threatened to employees, the measure was imposed of prohibition of work or prohibition of the use of means for the work related to injury, and other measures and actions were undertaken within the competence of the labour inspectors, and reports on injuries at work have been submitted to the competent judicial authority or the prosecutor's office.

Undertaken measures

In order to eliminate identified irregularities (6,695), in the field of labour and employment and the safety and health at work, 241 decisions have been issued, of which 176 relates to the elimination of irregularities and 65 on temporary prohibition of work (37 because of imminent danger to life, 24 due to non-application of measures of safety and health at work, one because of overtime and 3 due to engagement of employees illegally (moonlighting).

Out of 1,299 conclusions, 52 of them are imposed fines in the procedure of administrative enforcement of a decision (33,000.00 €), and 1,221 are related to the stay of execution (when the entity subject to control proceeded upon the indication of inspector).

Misdemeanour liability

Due to established irregularities, 3,449 misdemeanour warrants is issued, whereby is imposed a total of €1,208,530.00 of fines. Out of these, 2,590 warrants (€942,660.00 fines) in the field of labour relations and employment are issued (mainly due to moonlighting in all its forms) and 859 in the field of safety and health (€265,870.00 fines) due failure to take measures to protect employees.

There were 20 requests for initiating of misdemeanour procedures (16 in the field of labour relations and employment, and 4 in the field of safety and health).

Enhanced surveillance

The inspection conducted enhanced surveillance during the tourist season in order to suppress work on moonlighting, which is then more present because of the increased number of employers with seasonal authorization to work and engaging individuals (especially from the region) to perform seasonal jobs. Also, it was carried out intensive supervision in the construction sector (the construction season), because work opportunities for a large number of persons (domestic and foreign), often with irregular employment status being the cause of the most common injuries at work occurred exactly on construction sites.

The control over the employment of foreigners was carried out in cooperation with the inspectors for aliens of the Police Administration (over 80 joint controls has been carried out). During the tourist season, there were 2,188 working persons with not concluded labour

contracts or registered for compulsory social insurance, which is 71% year-to-date total. Following measures taken by the inspectors, labour contracts were concluded with 1,486 persons and they are registered for insurance, being then their working-legal status regulated in accordance with the Labour Law, the Law on Employment and Work of Foreigners, and the Law on Foreigners, which is 77% year-to-date total.

In order to realize the conclusion of the Government of Montenegro from the meeting of 5 November 2015, which refers to the activities of the Labour Inspection and the Tax Administration in the area of taking measures at the employer', who hired foreign nationals with work permits obtained in 2015, which were not registered in the Central Registry of Taxpayers and Insurers, the cooperation between these authorities has been intensified. In November 2015, the Tax Administration submitted to the Labour Inspection the lists of employers (803) who hired foreign citizens with acquired working permits during 2015 (over 2,000 work permits) and who are not registered for compulsory social insurance. The Labour Inspection adopted a plan of implementation of inspection supervision in all subjects with the resulting list, by towns and local labour inspectors for labour relations, after which the control started on 23 November 2015 and will last and in the forthcoming period. The labour Inspection will, in carrying out this supervision, undertake penalty and other measures against employers who did not report an engaged foreigner for insurance and paid the corresponding contributions or did not return unused permits issued to foreigners to the Interior Ministry, within the legal time limit. This action aims at sanctioning "blanked out" employers and at the same time act preventively in order to prevent the same type of offense.

Since November 2015, on the recommendation of the State Audit Institution, the labour inspectors in the field of labour relations and employment intensified surveillance in the protection of persons with disability. Thus, the inspection controlled not only the employment of these persons, but also respecting of other labour-legal institutes of the Law on Professional Rehabilitation and Employment of Persons with Disabilities and the Labour Law (assignments, annual leave, severance pay based redundancy), especially after approaching of such persons, and/or their initiatives. The inspection, through its regular activities, pointed to employers on their legal obligation to employ a certain number of disabled persons in relation to the number of employees, or pay a special contribution to a certain percentage in a special account of the Fund for Professional Rehabilitation and Employment of Persons with Disabilities for each person that failed to employ and to execute that commitment on the monthly payment of wages and salaries of employees, pursuant to the provisions of the Law on Professional Rehabilitation and Employment of Persons with Disabilities.

Employers generally opted in the way for the payment of contributions, while the employment of persons with disabilities was sporadic.

The effects of surveillance

The effects of surveillance of the Labour Inspection in the part of *occupational safety and health* are reflected in the provision and improvement of working conditions that do not cause injuries, occupational diseases and diseases related to work and create the conditions for the full physical and psychological protection of employees.

Investigating initiatives

The overall activities of this inspection, in addition to the planned inspection supervision, the significant part was related to the handling of the initiatives, the amount of which, in the reporting year, was 1,814 (1,758 in the field of labour relations and 56 in the field of safety and health). The largest number of initiatives in the field of labour relations referred to: uncontracted contract, failure to report employees for compulsory social insurance, irregular payment of salaries and payment of contributions, denial of the right to rest (during working hours, weekly and yearly), while the part of the safety and health related to: lack of adequate resources and equipment for individual protection at work, the lack of an Act on risk assessment and inhumane working conditions.

Of the total number of initiatives, inspection reviews have been completed as per 1736 initiatives, while operations as per others (78) are in progress.

A representative of the Labour Inspection is a Focal Point Manager of the European Agency for Safety and Health at Work, Bilbao (Spain) and conducts all activities of this agency on the territory of Montenegro, which are carried out in the EU and candidate countries and potential candidates for EU membership.

Article 3 – The right to safe and healthy working conditions

Paragraph 4 – Occupational health services

The Committee takes note of the information contained in the report submitted by Montenegro.

This is the first time the Committee considers the framework of Montenegro on occupational health services.

The Committee asks for further information on the following issues in the next report:

- **framework on occupational health services (legislation, mission, organization, programs, strategies, action plans);**
- **whether, if all companies do not provide occupational health services, should establish a strategy, in consultation with the social partners, to provide access to occupational health services;**
- **if access to occupational health services is optional, are there any consequences whenever employers decide not to provide such access;**
- **the number of workers in the framework of health care who have access to occupational health services;**

- **percentage of companies that provide or participate in occupational health services with other companies.**

ANSWER:

The Law on Health Care ("Official Gazette of Montenegro", No. 3/16 and 39/16) in Article 19 thereof, inter alia stipulates that the employer shall, in planning and carrying out business activities, develop and use appropriate technologies that are health/environment friendly, introduce and implement measures for specific health care of employees. Article 20 of the said Law prescribes specific measures of health care of employees which, under the labour regulations, provides for the employer. In this sense, the Law on Safety and Health at Work ("Official Gazette of Montenegro", No. 34/14) prescribes that an employer shall promote the safety and health at work, and the provision of Article 11 prescribes an obligation to conduct previous and periodic medical checks of employees. The Rulebook on the Scope of Measures of Specific Health Care of the Employed ("Official Gazette of Montenegro "No. 44/06), stipulates the mandatory specific medical checks of employees, and the Rulebook on Detailed Conditions to be Met by a Legal Entity to Perform the Health Care of the Employed ("Official Gazette of Montenegro "No. 60/16) specifies conditions for legal entities to be eligible to conduct these checks.

In order to ensure protection of health and safety at work, immediate checks on primary health care level are ensured (PHI, health centres and private health facilities) as well as periodic or early reviews of staff in occupational medicine. The access to occupational health services in accordance with the Law is mandatory for all employees, but, if the employer does not provide the employee access to health care, the competent inspection services will take measures to sanction those individuals.

Occupational health services provide healthcare institutions - health centres established by the state and private health institutions (PHI- that are registered).

The principle of safety at work has been promoted by the Strategy for the Improvement of Occupational Medicine in Montenegro for the period 2015-2020 with the Action Plan. The strategic objective of this document is to provide accessible and comprehensive health care at work, starting from the premise that the health of the population is of general public interest and the most important resource for development, with the aim of improving health, because the protection of health and safety at work are the integral part of the life of an employee. This strategy promotes a new concept of providing services in occupational medicine for all employees regardless of sector, type of employment, the size and profile of the employer or geographical location, includes access to services that are relevant, accessible, acceptable, affordable and of good quality. In order to meet all the needs of the employee with regard to health in line with the reform process of the health system, the Study on the Establishment of the Institute of Occupational Medicine is in preparation as a single reference medical institution to promote working capacity and health of employees.

Article 11 – The right to protection of health

Paragraph 1 – Removing the causes of ill-health

The Committee takes note of the information contained in the report submitted by Montenegro.

The right to the highest attainable standard of health

The Committee wants to be informed about measures which are taken to combat these causes of mortality.

ANSWER:

The main strategic objectives, which are related to avoiding premature mortality, reducing the morbidity of the leading chronic diseases, improving the quality of life and avoiding the consequent disability are recognized by the new “Health Care System Development Master Plan for the period for the period 2015-2020”. In order to reduce the causes of mortality caused by chronic non-communicable diseases, the Government of Montenegro adopted a strategic document titled “The 2016-2017 action plan to implement the strategy for the prevention and control of chronic non-communicable diseases”. The guiding principles in the drafting of the action plan are, among others: equality in health, strengthening health systems, health in all policies, life course approach, integrated programs of health care, and the engagement of the whole society. Monitoring and evaluation of the implementation of the activities of the Action Plan will be done by the National Commission for the Prevention and Control of NCDs, which will form the Ministry of Health. Measures and activities which are directly or indirectly related to the control and prevention of chronic non-communicable diseases are contained in other national strategic documents and the accompanying action plans (Action Plan for Nutrition, Action Plan for the Promotion of Mental Health, Action Plan for Health Care of Persons with Diabetes, the Action Plan to Reduce the Harmful Use of Alcohol, etc.).

The right of access to health care

The Committee asks the next report to provide information about administrative structures responsible for duly enforcement of regulatory framework mentioned in the report.

ANSWER:

The Ministry of Health and health institutions at all levels of health care, in order to preserve and improve the health of the population, organization and functioning of the health system in accordance with the Health Care System Development Master Plan for the period for the period 2015-2020, implement the function of the health system through the selection of objectives and priorities for improving the health of the population, health activities, financing, health care quality and patient safety, pharmaceutical policy, integrated health information

system, cooperation with other sectors and society as a whole. Strengthening capacities in the development and implementation of strategic objectives in the field of quality is an integral part of the process of reform of the health system and it is in line with the strategic approaches of European countries and the principles of quality health care in the EU.

The Committee wishes to be informed of the latest reform or any other health care reforms being implemented.

ANSWER:

The strategic document “The Plan of Structural Reforms in the Healthcare System of Montenegro with 2015 Action Plan”, determined priority measures to reform the health system, which should be implemented from 2016 to 2017. In order to better functioning and coordination at all levels of health care protection, it is planned the continuing education of medical personnel, reduction the number of hospital beds and reducing unnecessary referral of patients to tertiary level of health care. The structural reform envisages a measure of redistribution of working hours, greater number and competences of doctors at primary health care level, which will result in the relief of the secondary and tertiary levels of care.

The Committee asks the next report to show how this strategy is being implemented in practice, or whether disadvantaged groups (the unemployed, people living below the poverty line, etc.) are eligible for medical assistance, and the scope of public health services that are provided.

ANSWER:

As regards the vulnerable groups (unemployed, persons living below the poverty line, etc.), the normative framework in the health care system is in line with the strategic objectives that all citizens, health service users enjoy the same rights without any form of diversity on any grounds. The provisions of Article 5 of the Law on Health Care ("Official Gazette of Montenegro", No. 16/03 and 39/16) provides that in the exercise of the right to health care, all citizens are equal, regardless of their nationality, race, sex, gender identity, sexual orientation, age, disability, language, religion, education, social origin, property or other personal characteristics, in accordance with the law.

The Committee asks the next report to provide information on the rules that apply to the management of waiting lists, as well as the statistics on the average waiting times in health care.

ANSWER:

As regards the waiting lists, the provisions of Article 50 of the Law on Health Insurance ("Official Gazette of Montenegro", No. 16/06) stipulates that medical institutions provide timely health care, depending on the type of health services and the urgency of the case. For certain services in the field of diagnosis and treatment, which are not urgent, a waiting list can be made. Providing health care is done in order of the waiting list. The insured person is put on a waiting list, only if a health service to be provided is the best way or the only way to treat the insured person, and/or diagnostics.

The Committee asked what measures are being taken in that regard, and whether real needs are estimated/monitored for medical personnel.

ANSWER:

In terms of coverage with personnel, the Plan of human resources in the health sector from 2013 to 2022, the health sector planned the uniform distribution of health personnel (with a share of 25% of staff in the northern and southern regions, and 50% in the central region). After 2017, the staffing requirements will be reviewed at primary health care level, given the growing health problems, orientation to the promotion, prevention and health improvement. Also, the HR Plan is based on the assumption to reach the number of 260 doctors per 100,000 inhabitants by 2022, which is for Montenegro demanding task, but also a realistic assessment. The Government of Montenegro, in June 2015, adopted the document of Structural Reforms in the Healthcare System of Montenegro with Action Plan for its implementation from 2015 to 2017.

In the last examination of Article 11, the Committee adopted a general question addressed to all states on the availability of rehabilitation facilities for drug addicts, as well as the extent of facilities and treatments.

The Committee requests that information about it also be included in the next report.

ANSWER:

The availability of rehabilitation facilities for drug addicts of drugs is prescribed by the Law on the Prevention of Drug Abuse ("Official Gazette of Montenegro", No. 28/11). Thus, the provisions of Article 12 of the said Law stipulates that the drugs addicts, who have already been treated, are to be provided rehabilitation and re-socialization in special institutions, in accordance with the law. Drug and other psychoactive substances users, for the purpose of rehabilitation and social reintegration, services are provided in a specialized hospital in Kotor, Department of Psychiatry, Clinical Centre of Montenegro and rehabilitation centre "Kakaricka Montenegro" - Podgorica.

Article 11 - The right to protection of health

Paragraph 2 – Advisory and educational facilities

The Committee takes note of the information contained in the report submitted by Montenegro.

Education and raising awareness

The Committee asks the next report to include information on a range of activities undertaken by the public health service, or other bodies in order to promote health and prevent diseases.

ANSWER:

The Institute for Public Health of Montenegro - Centre for Health Promotion monitors the socio-economic, cultural, environmental, political and other characteristics of the community, as well as attitudes, beliefs and behaviours that directly or indirectly affect the health of the population. The Centre is responsible for professional tasks in the preparation of national public health programs and strategies of promotion, prevention and protection of public health. The Centre provides professional and methodological guidance, coordination and preparation of respective programs, as well as monitoring their implementation, evaluation of performance, a proposal of modification of existing and new programs related to changes of behaviour. The Centre makes national programs to protect vulnerable groups and monitor their implementation. The Centre is studying the behaviour and application of health-promotional and educational programs in order to form and to modify risky behaviour. The activity of this Centre is done in two departments: Department of Community Health and Community Health Education and the Department for Vulnerable Groups. Activities of the Centre are focused primarily on educating citizens that in accordance with the provisions of Article 6 of the Law on Health Care have a right to information that is necessary to preserve the health and promote healthy habits, as well as information about the harmful factors of living and working environment, which can have negative health consequences.

The Committee asks the next report to indicate whether the provision of health education in schools is a legal obligation, as it is included in the school curriculum (as a separate subject or is an integral part of other subjects), and the content of health education.

ANSWER:

The education system in Montenegro has identified and implemented several approaches as regards the health education of pupils in primary and secondary schools. Goals relating to the topics referred to are implemented in cases such as: Biology, Healthy Lifestyles, Civic Education, Civic Pedagogy and the Individual within the Group.

For example, here we mention some of the areas included in the program Healthy Lifestyles: topic: mental and emotional health, improving interpersonal relationships and communication skills, topic: Anatomical - physiological bases of the human body, with some of the objectives, such as, topic: defence (immune) system, infectious diseases and HIV / AIDS, topic: reproductive health with sex education and prevention of sexually transmitted diseases (STDs), topic: Prevention of physical and psychological violence, topic: The Influence of psychoactive substances on human health.

Also, the cross-curricular program has been done. Education for sustainable development in primary school - health education is one of the modules. In vocational schools is taught as a cross-curricular program the psychology, sociology, physical education, biology and chemistry.

Through the revision of the programs are integrated and enhanced preventive topics, and produced additional working material for implementers of subjects (Biology, Psychology, and Sociology). The elementary schools to put into full application defined objectives and oriented towards active teaching methods, consultations for teachers have been carried out.

Besides, the concept of "cross-curriculum approach" that includes permeation of the entire school program with objectives of sexual education is a practice that brings sustainable benefits, but it also represents a very complex, multi-stage process.

In the area of prevention of harmful use of alcohol, tobacco (and other psychoactive substances) in the school system, it is of great importance the introduction of the subject "Healthy Lifestyles" in the curriculum of primary and secondary schools in Montenegro. Specifically, in the context of the reformed nine-year primary school, the curriculum included elective courses, one of which is "Healthy Lifestyles" for pupils of the eighth and ninth grades. For this subject, the textbook is prepared by the Institute for Textbooks and Teaching Aids of Montenegro titled "Healthy Lifestyles, a textbook for class VIII or IX". Prior that was prepared the Manual for Teachers and Associates (pedagogues and psychologists) who are intended to implement the curriculum. This subject and textbook deals with, among others, "The impact of psychoactive substances on human health", which includes the prevention of alcoholism.

The National Council for Education has approved the introduction of elective subjects in secondary schools "Healthy Lifestyles". Prior that was conducted, presented and published experimental research "Impact of elective subject *Healthy Lifestyles* on knowledge, values and life skills of pupils of elementary schools". Findings and recommendations of this study were used during the development of the subject "Healthy Lifestyles for High School Pupils." Also, the Institute for Textbooks and Teaching Aids produced a textbook for this subject.

Counselling and screening

The Committee recalls that according to Article 11, paragraph 2, States Parties should provide free and regular consultation and screening for pregnant women and children across the country. Moreover, free medical examinations for children must be implemented during the period of schooling.

The Committee asks the next report to include information on these issues, including the frequency of school medical examinations, their objectives, the percentage of pupils interested and staffing levels.

ANSWER:

As regards the medical examinations of children in schools, regular medical check-ups are carried out. This systematic review includes a complete health examination of children, based on which it is received an insight into the health status of each child examined. Checks are carried out in the second, fourth, sixth, eighth grade, and in the first and third year of high school. In the eighth grade, it is performed the physical examination and vaccination against polio, diphtheria and tetanus; in the fourth and final year of high school, it is carries out the medical check-ups and vaccination against diphtheria and tetanus.

In addition to these health examinations, in schools are carried out control medical check-ups.

The Committee asks information on the programs of mass screening that are available in the country, their frequency and accessibility.

ANSWER:

As regards the screening program, in 2011, Montenegro adopted a National Plan for Cancer Control, the National Programme for Early Detection of Breast Cancer, the National Programme for Early Detection of Cervical Cancer and the National Programme for Early Detection of Colon Cancer. Montenegro adopted the Strategy for the Prevention and Control of Chronic Noncommunicable Diseases (2008). The above documents are in line with Recommendation 2003/878/ EU on cancer screening. Realization of the program of screening for early detection of colon cancer is on-going. Keeping the Cancer Registry has been established. The secondary legislations that regulate the conduct of cancer registry was approved in 2012, while in 2013 was developed and implemented IT support for keeping the register.

For screening programs European Guidelines for Breast, Colorectal and Cervix Cancer Screening, the European Guidelines for Quality Assurance in Colorectal Cancer Screening and Diagnosis (First Edition, 2012), the European Guidelines for Quality Assurance in Breast Cancer Screening and Diagnosis (IV edition, 2006) and European Guidelines for Quality

Assurance in Cervical Cancer Screening (second edition, 2008) are used. Media campaigns have also been conducted.

Article 11 - The right to protection of health

Paragraph 3 – Prevention of diseases and accidents

The Committee takes note of the information contained in the report submitted by Montenegro.

Healthy Environment

The Committee asks the next report to provide information on laws, regulations and measures taken to reduce the risk of the environment, particularly in the area of air quality, water management, waste management, noise, ionizing radiation, asbestos and food safety, as well as the institutional structures for proper application of regulations on the environment. It also wants to obtain information about the levels of air pollution, contamination of drinking water and food poisoning during the reference period, or whether the trends in these levels are increasing or decreasing.

ANSWER:

The Veterinary Law (“Official Gazette of Montenegro” No. 30/12 and 48/15) regulated, inter alia, veterinary environmental protection.

The following definitions have been established by the:

- 1) **veterinary environmental protection** is worded as follows: “veterinary environmental protection is a veterinary activity performed under carried out in the framework of procedures and measures applied during the breeding, keeping and use of animals, handling of animal carcasses and by-products of animal origin, in order to prevent environmental pollution and to protect human and animal health;
- 2) **veterinary public health care** is a veterinary activity which includes affairs in the field of control of animals, products of animal origin, animal feed and related items, which are directly or indirectly meant to protect human health from zoonosis, food-borne zoonotic agents and other harmful substances, and the environment.
- 3) **biosecurity measures** are measures taken to prevent the occurrence, detection, control and eradication of contagious animal diseases and zoonosis, in order to protect animal and human health and environmental protection;
- 4) **contaminants** (harmful substances) are biological, chemical or physical substances harmful to human health that are not intentionally added to food, whose presence is a result of actions during the production, treatment, preparation, packaging, transportation and storage of food, or the consequences of environmental pollution (pesticides , heavy metals, industrial contaminants, the remains of veterinary drugs).

Further, Article 22(2) point 21 and Article 53(1) point 13 of the Veterinary Law defines the activities of public interest in the performance of which is provided at the epizootiological territory of Montenegro in which among others include **the safe disposal of by-products of animal origin** and **veterinary environmental protection** during the use of veterinary drugs and substances harmful to the environment, and/or in the performance of activities;

Further, measures of protection are defined in a separate chapter of the Law “Veterinary environment”, in article 98 and 9, as follows:

- Every person shall apply measures to protect the environment from the adverse effects associated with the breeding, keeping and trade in animals, the production and trade of products of animal origin, animal feed and by-products, as well as in preventing the occurrence, spread, suppression and eradication of contagious animal diseases,
- Every person shall deal with the by-products, animal excrement, waste and wastewater management in accordance with this Law and regulations on food safety and environmental protection;
- Persons conducting activities that produce by-products shall ensure their transfer to the nearest facility for the collection or the facility where they are processed or destroyed in a sound manner;
- It is forbidden to dispose of animal carcasses in rivers, lakes, sea or other waterways or drains or leave it on the roads, other public spaces, outdoors, in the woods or in another place;
- Animal holders shall report on the death of animals to Hygiene Service and comply with instructions issued in connection with the disposal of carcasses, as well as inform the Vet Ambulance or an official veterinarian thereof,
- Hygiene Service shall, where necessary, provide transportation of the animal carcass from the place of death to the establishment intended for post-mortem examination or collection, treatment or destruction, as well as to provide disinfection of the place of death, vehicles and equipment.

Food Safety Law “Official Gazette of Montenegro”, No. 57/15) regulates the obligations and responsibilities of food or feed business operators for the safety of food to protect the lives and health of people and the environment.

Montenegro has prepared a feasibility study containing data on the amount of animal waste generated in facilities for keeping and breeding animals and during the slaughter of animals and the processing and treatment of animal products. The proposed models are considered in order to find the most acceptable solution to manage this type of waste for which are laid down specific requirements as regards the collection, and processing and destruction. Regulation of this area requires considerable financial investment and, for the time being, the effort is put on securing potential interested investors.

Furthermore, it is planned to adopt an Animal By-Products Plan to manage by-products, which should include: assessment of the management of the by-products; objectives of by-products’ management; measures to manage the by-products with the dynamics of realization; tentative financial resources to execute the plan; the way of implementation and entities responsible for

the implementation and development of public awareness about the management of the by-products.

The Law on Plant Protection Products (“Official Gazette of Montenegro”, No. 51/08, 18/14 and 48/15) regulates the registration of plant protection product which contains, consists of or comes into existence from genetically modified organisms provided that introduction of these organisms into the living environment is allowed only based on living environment risk assessment, in accordance with regulations that govern genetically modified organisms. Plant protection products and active matters in their final form, found to be hazardous to human life and health as well as living environment, shall be classified, marked and packed in accordance with regulations that govern chemicals. Classification and identification of disposal, plant protection product disposal and package management shall be conducted in accordance with regulations governing disposal.

This Law prescribes that devices which guarantee safe use of plant protection products for humans, animals and environment supported by the producers’ certificate shall solely be used for plant protection products application. Further, administrative measures and actions undertaken by the phytosanitary inspector are prescribed in the case of determining the conduct contrary to prescribed, as follows: prohibit the trading of the plant protection product if it is not registered; prohibit the import of the plant protection products to an entity which is not entered into the Register; prohibit the import of the plant protection products if the trading of such product is prohibited; prohibit the trading of the plant protection product if it is not categorized and in accordance with the decision on registration (packaging, declarations labels, instructions for use, physical and chemical characteristic etc.); prohibit the trading of the plant protection product if it is established, during the post registration control, that the plant protection product is defective; prohibit to the user the incorrect use of the plant protection products; prohibit the use of the plant protection products in the quantity and for the purpose which are not in accordance with this Law.

Law on Plant Nutrition Products (“Official Gazette of the Republic of Montenegro”, No. 48/07, 76/08 and 73/10) regulates the conditions for production, trade, characteristics and application of plant nutrition products, as well as other matters that are significant for production and trade of the plant nutrition products. If plant nutrition products contain also pesticides, then regulations that regulate pesticides shall also be applied to trade and application of plant nutrition products. If plant nutrition products contain also dangerous substances, then regulations that regulate dangerous substances shall also be applied to trade and application of plant nutrition products. Plant nutrition products shall have certain least content of nutrients as well as relevant chemical, physical, physiological and other features. Plant nutrition products may be placed on the market, if they fulfil the conditions determined by the Law, if they are designated in regulated manner and if by their proper usage they do not put in danger health of humans, animals, plants and environment.

The Law on Genetically Modified Organism (“Official Gazette of Montenegro”, No. 22/08) regulates the requirements for use of genetically modified organisms (GMOs) and products that contain, are composed of, or are derived from the GMOs, their use in closed systems and intentional introduction in the environment, as well as placing on the market, handling, transportation, packing, transit through the territory of Montenegro, labelling, processing and measures for prevention and elimination of adverse effects.

The official control of the food and feed business operators and persons who import, distribute and use the plant protection products and plant nutrition products implement veterinary, sanitary and phytosanitary inspectors in accordance with the annual plan of official control. In the case of determining non-compliance with the prescribed requirements, measures and actions in accordance with the powers, duties and powers of inspectors provided in the laws are immediately undertaken.

Air Quality Assessment in Montenegro

1. The concentration of sulphur (IV) oxide emission (SO₂) in Bar, Niksic, Golubovci and Gradina as the one-hour intermediate and daily mean values was within the prescribed air quality standards.

At the measuring station in the urban part of Pljevlja, 23-hour average value of sulphur (IV) oxide (SO₂) during 2015 were above the prescribed limit values of 350 µg/m³ (not to be exceeded more than 24 times a year). Eighteen days of daily mean values were above 125 µg/m³ (not to be exceeded more than 3 times per year), which is the limit for the daily mean concentration. All exceedances were recorded during the winter season (October to March). These data indicate an increase concentration in the air in the urban part of Pljevlja with this pollutant and deterioration of air quality in relation to the previous period.

2. The concentration of nitrogen (IV) oxide (NO₂) is within the prescribed air quality standards at all measurement points.

3. It is recorded the increase of the number of exceedances of average daily concentration of PM₁₀ particles than the permitted number (maximum of 35 during the calendar year) at all measuring stations except in Bar (due to failure of samplers determining the PM₁₀ is not carried out in January and February),

The number of exceedances was from 39 in Bar to 189 in Pljevlja. In Podgorica were 82, in Niksic 113 exceedances of the permitted daily mean concentration of PM₁₀ particles in the air.

The largest number of exceedances, and also the largest concentration of PM₁₀ particles were measured during November and December. In addition to the emission of pollutants into the air, the meteorological conditions contributed to this condition (stable atmosphere, the

phenomenon of inversion and high atmospheric pressure) which dominated the whole region. During these months, almost daily exceedances of average daily concentration of PM₁₀ particles were recorded. This problem was the most pronounced in Pljevlja where high concentrations were recorded on a daily basis, in addition to a very high daily mean concentration of PM₁₀ particles in the air.

The concentrations of heavy metals in PM₁₀ particles were within the prescribed norms.

Depression of Pljevlja is characterized by very specific microclimatic conditions, which is characterized by the appearance of strong temperature inversion, formation of cold air lake and a high index of atmospheric stability. These micrometeorological conditions prevail in a particular part of the year and, with these effects, they may persist for much of the day or 24 hours per day.

This situation largely determines the state of the environment in the Depression of Pljevlja. The practice has shown that whenever such microclimatic situation with these effects are in force, there are high concentrations of polluting particles in the lower layer, i.e. the inversion layer (from ground level up to the level of temperature inversion). This is the case in other urban areas (worldwide) that are subject to such microclimatic effects.

4. The annual mean concentration of benzo(a)pyrene was above the prescribed target value amounting 1 µg/m³ at all measurement locations (Bar, Pljevlja, Niksic and Podgorica)

5. The concentration of PM_{2.5} particles in the air is monitored in Pljevlja, Niksic, Bar and Tivat. Average annual concentration in Bar and Tivat was below the limit value of 25 µg/m³. In Pljevlja and Niksic, the average annual concentration was above the threshold and amounted to 41.18 µg/m³ in Pljevlja and 27.55 µg/m³ in Niksic.

6. Unlike the primary pollutants that are emitted directly into the air, ground-level (tropospheric) ozone (O₃) is formed by a complex photochemical reactions, and it is affected by the emissions of the precursors such as nitrogen oxide (known as NO_x including NO and NO₂) and non-methane highly volatile organic compounds. Exceeding the target values for ground-level ozone is recorded at the background station Gradina. At this measuring station, maximum daily eight-hour mean ground-level ozone (O₃) has 51 times exceeded the prescribed target value. The target value, in terms of protection of human health of 120 µg/m³, must not to be exceeded more than 25 times in a calendar year.

Ten days maximum eight-hour average daily ozone values are exceeded the target value and in Niksic.

In Bar, due to a malfunction of the measuring instrument, measurements of this pollutant are not carried out in the summer months.

7. All maximum eight-hour average value of carbon (II) oxide (CO), at all measurement locations during 2015 were below the prescribed limit values.

In the South and North zones where, in accordance with the Regulation on the establishment of a network of measuring points for monitoring air quality, it is necessary to improve air quality, the greatest impact on poorer air quality have a powdery substance PM_{10} and $PM_{2.5}$, the content of benzo(a)pyrene in PM_{10} particles, the content of sulphur (IV) oxide (SO_2) in Pljevlja, as well as the concentration of ground-level ozone in the background station Gradina (Pljevlja Municipality).

These Zones covers: Berane, Bijelo Polje and Pljevlja (Northern Zone) and Bar, Cetinje, Niksic and Podgorica (South zone).

The Zone of the maintenance of air quality to which belong: Andrijevica, Budva, Danilovgrad, Herceg Novi, Kolasin, Kotor, Mojkovac, Plužine, Rožaje, Šavnik, Tivat, Ulcinj, and Zabljak, the air quality is monitored on the EMEP station in Zabljak with equipment for so-called semi-automatic monitoring and in Tivat, which is due to malfunction of measuring instruments measured only the concentration of $PM_{2.5}$ particles. Based on the measured concentrations of the monitored parameters, the air quality in this area is satisfactory.

Thus, the concentration of nitrogen (IV) oxide (NO_2) is at all measurement locations were below the prescribed limit values. Good air quality assessment refers to the concentration of carbon (II) oxide (CO). The concentrations of heavy metals in PM_{10} particles were also within the prescribed norms.

The air in Montenegro, assessed in terms of global indicators of sulphur (IV) oxide (SO_2) is of good quality, except in the urban part of Pljevlja, where they observed deviations from the prescribed air quality standards.

Background measurements in Pljevlja point out to ground-level ozone load (O_3), which is the result of photochemical reactions in the presence of ozone precursors.

Increased concentrations of PM_{10} and $PM_{2.5}$ dust particles in the air had the biggest impact on poorer air quality. This problem is most pronounced in Pljevlja, and Nikšić and Podgorica, where high concentrations were recorded and on a daily basis, as well as exceedances of the permitted annual mean concentration.

Increased concentrations of polycyclic aromatic hydrocarbons, markers benzo(a)pyrene and the benzo(a)pyrene, which annual mean concentration in Niksic, Pljevlja, Podgorica and Bar exceeds the prescribed target value, indicate a major impact of fuel combustion on air quality.

The emissions resulting from fuel combustion in large and small furnaces and in combustion engines, emissions from industry, as well as unfavourable weather conditions mostly affected the air quality. The meteorological conditions greatly affect air quality and concentrations of pollutants in the lower layer of the atmosphere. In particular, meteorological situations with high air pressure are significant in the colder part of the year when it comes to the formation of "cold air lake" filled with dense fog and a strong temperature inversion, where fog could be kept for several days with 24 hours duration.

During 2015, the exceedances of the concentration of PM particles in relation to the prescribed value predominantly affected the poorer air quality. The presence of these particles in concentrations above prescribed levels in terms of health protection is the largest in Pljevlja. The exceedances occur most frequently during the heating season.

Tobacco, alcohol and narcotics

The Committee asks the next report to provide updated information on state legislation to ban smoking in certain places, cigarette package health warnings, as well as advertising cigarettes, promotion and sponsorship.

ANSWER:

According to the Law on Limiting Use of Tobacco Products (“Official Gazette of the Republic of Montenegro”, No. 52/04 and “Official Gazette of Montenegro”, No. 32/11, 47/11, 28/12 and 3/16), it is prescribed that the Law, in the aim to protect life and health, regulates measures for reducing and limiting use of tobacco products, preventing harmful consequences due to use of tobacco products as well as preventing exposure to second-hand tobacco smoke and the marketing of cigarettes that does not have data on the amount of tar, ensuring the air without tobacco smoke. The provisions of Article 8 of the Law on limiting the use of tobacco products stipulates that it is prohibited to trade cigarettes that are not labelled with information regarding the amount of tar, nicotine and carbon monoxide contents. The information must be printed on the side of the packaging and cover at least 10% of the side it is printed on. Also, the provisions of Article 9 stipulates that it is prohibited to trade tobacco products, except for snuff and chewing tobacco, which on the package do not have imprinted combined warning which is consisted of colour photography or other illustrations and one of the following warnings, namely. Warning on the harmful effect must cover at least 40% of the best visible surface on one side and/or at least 30% of the other side of individual package of tobacco product. Warnings must be altered one after another, so that every warning appears on an equal quantity of manufactured, that is sold tobacco products during the year. Provisions of Article 17 stipulate that it is prohibited to sell tobacco products to persons under 18 years of age and these persons are prohibited to sell tobacco products. The persons under 18 years of age are not permitted to use tobacco products in public areas. Provisions of Article 17 stipulate a sign must be displayed in locations where the retail sale of tobacco products is carried out concerning prohibition of sale of tobacco products to persons less than 18 years of age. This sign must be displayed in a visible place. Also, this Law prescribed in Article 20 that it is not allowed to sell candies, toys and other products for children that are in the form of any type of tobacco products.

Pursuant to Article 21 of this Law, manufacturers, importers and sellers are prohibited to advertise tobacco product: via Internet; in media; via cinema slides, films, billboards, notice boards, stickers, and other forms of advertising in public areas, in facilities and public transport; via neon adds, through books, magazines, calendars, items of clothing and stickers,

posters and flyers, if these stickers, posters and flyers are separated from the original packaging of tobacco products.

Also, products, which according to this Law are not tobacco products, but with their appearance, name and intended use indirectly encourage the consumption of tobacco products, shall not be advertised. It is prohibited to give free tobacco products and any direct and indirect promoting. Manufacturers or importers of tobacco products, in terms of concealed or opened encouragement of usage of tobacco products shall not sponsored radio programs, events or activities, as well as events or activities of an international character. The provision of Article 23 stipulates the prohibition of smoking of tobacco products while appearing in the media and publishing in press photographs or illustrations of persons who smoke. Also, the provisions of Article 24 stipulates the prohibition of smoking in a public and working area, as well as exposure of other persons to secondary tobacco smoke, in accordance with this Law. In public, and/or workspace, smoking is permitted only in the room that the owner and/or user defines exclusively for smoking and where is a sign that smoking is permitted in that room. In public areas, it is permitted to smoke in rooms and apartments to accommodate guests allocated by employer and where, in a visible manner, is displayed the smoking sign that in those rooms and apartments smoking is permitted. The room in which smoking is permitted cannot be marked in the working area for performing duties of state bodies, state administration bodies, local self-government and other legal entities with public authority, the space, in which is provided health care, upbringing and educational activities, social security, cultural activities, sport and recreation, production and marketing of drugs, commercial services, manufacturing, transport and storage of food, recording and public broadcasting, and the area where the meetings are held and public meetings. Exceptionally, the medical institution, where are mentally ill persons placed and institutions for the accommodation of elderly people can determine the room for smoking. The room must be equipped with ventilation, ashtrays and prescribed fire prevention equipment. The room must be isolated in a way that is not possible the flow of smoke in the rest of the space, the surface of the room must not be less than 10 m² or hold more than 20% of public or working area and should not be intended for the passage into the other rooms.

The room which the employer marked as a room where smoking is allowed cannot be carried out operations of business of the employer, nor consume food and drink. Provisions of Article 28 provides that, in a public and working area where smoking is prohibited in accordance with this Law, owners, and/or users must on a visible manner display smoking is prohibited signs. The provisions of Article 30 stipulates that the institutions performing the educational activity are obliged to, through suitable educational programs, inform children and youth about the harmful effects of tobacco use on health. The Law stipulates that the sports organizations shall, within the framework of their activities, familiarize people who play sports on the harmful effects of tobacco and tobacco products.

The Law on fees on access to certain services of public interest and on consumption of tobacco products and acoustic and electro acoustic devices ("Official Gazette of Montenegro", No. 28/12) stipulates that the owners or users of restaurants who, pursuant to Article 14 of this

Law, register facilities in which tobacco products are not used, shall not be subjected to provisions of the Law on Limiting Use of Tobacco Products relating to the prohibition of smoking in public areas referred to in Article 4(2), point 3 of that Law, until 1 January 2017.

The Committee asks the next report to provide information on the policy regarding alcohol consumption (including the age at which the sale of alcoholic beverages is permitted) and consumption of drugs.

ANSWER:

According to World Health Organization estimates, the total alcohol consumption per capita in Montenegro amounted to 13.02 litres, with a share of unregistered or informally produced alcohol is 4.7 litres. As for the data on the proportion of abstainers from alcohol in the population, in Montenegro has not been conducted a national survey by households, i.e. in the general population. According to World Health Organization estimates, in Montenegro, 11.7% of men and 31.31% women had ever drunk alcohol in their lives.

The only data that exist in Montenegro about alcohol consumption in adults comes from the Survey on the measurement of living standards conducted in 2008 involving the population aging 20 years. According to the survey, one in four adult residents (25.1%) drank alcohol occasionally or daily in 2008. Of that number, more than one-tenth (2.9%) were drinking every day, which is on the rise with age, so that the largest share was recorded in the oldest group of the population (5.1%). This occurred most pronounced differences between the sexes - only 0.3% of women were categorized as regular drinkers, and 5.7% of men. 20.4% of respondents consumed alcohol at least 2 times in a period of one month prior to the survey in 2008. In most cases, the subjects drank beer (18.4%), spirits (11.4%) and wine (9.3%). The average number of alcoholic drinks in a week (per the consumer of alcohol) was 10. The weekly consumption of alcoholic beverages is three times higher among men (11.1%) than women (3.8%). The percentage of adults, who drink more than 50 g of ethanol each day, indicating heavy drinking, was 0.7% (0% in women and 1.3% in men).

Institute for Public Health

The Institute for Public Health has data on the use of alcohol among young people, from the 2015 ESPAD survey. According to available data: 78% of students drank alcohol once in life (up to 16-year), including 83% of boys and 72% girls. 40% of students were drinking alcohol in the previous 30 days, 50% of boys and 31% girls. 8% of students in the previous 30 days experienced drunkenness (12% of boys and 4% girls). The average frequency of alcohol consumption among those who used it is 7 times over the past 30 days (7.9 times the boys, girls 5.3).

The average quantity of alcohol in the last chance among 16 year-old in Montenegro amounted to 3.8 ounces of pure alcohol. 3% of respondents in the survey in 2015 consumed alcohol in combination with medication, while 26% consumed alcohol in combination with energy drinks. The Institute for Public Health has conducted ESPAD survey three times - 2008, 2011

and 2015, and on that basis we can speak of a trend of alcohol use among young people: alcohol use among young people has increased from 74% of those who have tried alcohol by sixteen in 2007, over 77% in 2011 to 78% in 2015. Bearing in mind that the impact of harmful use of alcohol reaches deep into the heart of the society, the government has adopted a National Strategy to Prevent Harmful Use of Alcohol and Alcohol related Disorders in Montenegro 2013-2020, which defines the objectives of the fight against alcoholism. The Action Plan for implementation of the Strategy for the period 2015-2016 set out the activities relating to the establishment and regular work of the National Coordinating Council for the alcohol that will include representatives of relevant government organizations. The goal of this strategic document is to strengthen the response and the role of the health system through the continuation of implementation of the training program for the teams of selected physicians for the purpose of early identification of people with risky and harmful patterns of alcohol consumption in primary health care and their proper and timely referral to treatment in appropriate services, strengthening activities in the community and in the workplace on identifying harmful use of alcohol.

Dispensing alcohol to minors is prohibited by the Law on Tourism "Official Gazette of Montenegro," No. 61/10), Article 104, which stipulates that "the company, legal person or entrepreneur in the restaurant cannot serve alcoholic beverages to persons under 18 years, and about that is required to display in a visible place a written notice".

The consumption of medicines is monitored in a way that is normatively regulated that drugs for substance abuse may be issued only by prescription in accordance with the Law on Medicines. On the website of the Agency for Medicines and Medical Devices of Montenegro is available a report on the consumption of drugs. ([Www.calims.me](http://www.calims.me)). Montenegro has adopted a strategic document on the rational use of drugs.

Immunisation and epidemiological monitoring

The Committee asks the next report to provide updated information on the vaccination coverage rates.

ANSWER:

The coverage of mandatory vaccination of children against infectious diseases in 2015, a cohort of children born in 2014 in Montenegro ranged from 64.0% (MMR1) to 88.4% (BCG), with revaccination performed with coverage of 70.6% (polio in the second year) to 95.6% (DT and polio before entering the first grade of primary school). Other systematic primary immunization coverage was with the following coverage: DTaP, Hib and Polio3: 89.2% and Hepatitis B: 81.6%. Slightly lower cover compared to the previous year is primarily the result of delays in primary immunization coverage usually because of undue delay vaccination by their parents due to fear of adverse reactions which are largely spread through social networks.

The incidence rate of tuberculosis in 2015 was 12.1 per 100 000 population. In Montenegro, in 2015 the incidence of newly diagnosed HIV/AIDS infections was 3.06/100 000 inhabitants.

Accidents

The Committee asks the next report to provide information on the measures or initiatives taken in order to prevent accidents, as well as development directions on this issue.

ANSWER:

In order to raise awareness and traffic culture, the Government of Montenegro adopted the Strategy to Improve Road Safety for the period 2010-2019. This strategic document defines measures and activities, in order to carry out actions and campaigns to a preventive effect on traffic safety, raising the level of traffic culture and reducing the number of traffic accidents.

The Strategy for Protection against Domestic Violence defines the activities to combat accidents at home, school, etc. Drafting of the Strategy on Prevention of Violence against Children in Montenegro for the period 2017-2021 is under way, which will define actions to protect children from violence.

Article 12 – The right to social security

Paragraph 1 – Existence of a social security system

The Committee takes note of the information contained in the report submitted by Montenegro.

Covered risks, financing of compensations and personal coverage

The Committee raises a question what the personal coverage of the system is, i.e. the percentage of people covered out of the total population. It also asks more information on the degree of protection provided by the system, as well as the costs that should be borne by the insured.

ANSWER:

Medical care, and/or health care, is achieved by regulations in the field of health and in accordance with the Law on Health Care and the Law on Health Insurance. The said regulations established categories of persons who are entitled to health protection. In accordance with these regulations, the Law on Social and Child Protection prescribes only the categories of users in the field of social and child care that can be beneficiaries of the said right, as follows: financial support, care and support allowance, placement into an institution and right to child allowance for women on the basis of giving birth to three or more children.

The social and child protection do not recognize a category of old age benefits, bearing in mind that the benefits are determined depending on the law, in respect of incapacity for work, material condition and income and assets.

The right to compensation for sick leave for maternity is prescribed by the Labour Law. The obligation to pay the compensation is the responsibility of the employer it is paid in the amount of the employee's salary as it is employed. In this regard, the Law on Social and Child Protection, do not regulate this compensation and therefore the statistics on the number of persons using sick leave for maternity is not kept. In accordance with the Law on Social and Child Protection, the employer may request a refund of funds paid on the basis of paid compensation to a person who uses it, except for users who are financed from the state budget, the municipality or the budget funds. The fact is that all employers are not requesting a refund of paid compensations, and there is no refund from the budget or budgetary funds, in the area of social and child protection there are no statistical data concerning the number of benefits for maternity and consequently the percentage of the insured persons in relation to the total population.

Unemployment benefits were established by regulations in the field of employment, where the statistics is kept.

In the area of social and child protection, unemployment itself is not a basis for claiming social and child protection, and only a number of such persons may be realise such right. Unemployed persons in the field of social and child protection can exercise the right to financial support, provided that they have minor children or adult children who continued the parental right under other prescribed conditions relating to revenues, earnings, assets and others. Bearing in mind that only a part of the unemployed are beneficiaries of social and child protection, data on benefits are not kept in this area for all unemployed persons and therefore there is no proportion of insured persons in relation to overall population.

Provisions of Article 6 of the Law on Health Insurance “Official Gazette of Montenegro”, No. 6/16) stipulates that the insured are:

- 1) employed individuals, in accordance with the Law;
- 2) elected or appointed individuals if they receive earnings for performed functions;
- 3) members of boards of directors in enterprises and other legal entities and members of boards of directors in public enterprises and institutions who receive wages for their work if they are not otherwise insured;
- 4) citizens of Serbia and Montenegro employed by foreign and international organizations and institutions, foreign consular and diplomat representative offices or by foreign legal and private entities, if it is not otherwise regulated by an international agreement;
- 5) individuals referred to work abroad, or individuals employed by an enterprise or other legal entity with its headquarters in Montenegro, which performs its activities abroad, if

- they are not compulsory insured as per regulations of the country they are referred to, or if it is not otherwise regulated by an international agreement;
- 6) foreigners working for national legal and/or private entities in Montenegro, on the basis on specific contracts and agreements on international technical assistance;
 - 7) foreigners employed by international organizations and institutions and other foreign legal and private entity on the territory of Montenegro if it is not otherwise regulated by an international agreement, and/or if they are not insured as per regulations of another country;
 - 8) foreigners employed by foreign consular and diplomatic representative offices on the territory of Montenegro if such insurance is envisaged by an international agreement;
 - 9) entrepreneurs and individuals independently performing professional activity as their principal occupation;
 - 10) individuals performing temporary and periodical jobs as well as activities according to specific job contracts, in accordance with the law;
 - 11) the unemployed included in the list of the unemployed;
 - 12) pension beneficiaries on the basis of regulations on pension and disability insurance;
 - 13) war veterans, military invalids, civil invalids of war, and persons receiving veteran allowance if they are not otherwise insured;
 - 14) beneficiaries of social protection rights, in line with specific regulations, if they are not otherwise insured;
 - 15) citizens of Montenegro and foreigners with permanent residence receiving their pension or other allowance exclusively from the foreign insurance company if it is not otherwise regulated by the international agreement;
 - 16) founders and/or owners of enterprises and entrepreneurs if they are not employed by those enterprises;
 - 17) individuals performing agricultural activity and individuals who own farming land;
 - 18) priests and church employees.

The individuals referred to in Article 6 paragraph 1 point 11 of the Law shall become insured upon their entry into the Registry of competent tax body

The insurer, in terms of this Law, cannot be a person with capacity of an insurer of another country if it is not otherwise regulated by an international agreement on social insurance.

The status of the insured person shall cease for a founder or owner-entrepreneur referred to in Article 6(1) during temporary cancellation of business registration if he/she does not effect payments (contribution) for compulsory health insurance.

This means that the person mentioned in the cited Article are holders of insurance on various grounds, and that the right to health insurance have family members on the basis of holders of insurance if they are not personally insured on any basis.

The health system provides obligatory health insurance and the insured participate in the costs of obtaining health care services in the amount of 20% and 80% is state-funded. Participation of the insured as a voluntary form of health insurance has been postponed until 01 January 2018, until the establishment of a unified information system in the health care system.

Prior to the application of provisions relating to supplementary health insurance, the insured shall bear the costs of participation in obtaining health services, which are minimal and relate entirely to purely administrative costs of the services provided.

Compensation in the case of sickness

The Committee wishes to be informed about further reforms of old-age pension system.

ANSWER:

The Law on Pension and Disability Insurance stipulates that the system of pension and disability insurance in Montenegro includes mandatory pension and disability insurance based on current financing (Pillar I), mandatory pension insurance based on individual capitalized savings (Pillar II) and voluntary pension insurance based on individual capitalized savings (Pillar III). The second pillar of the pension system has not been implemented yet because of the large transition costs of introducing the same, the deficit of the Pension and Disability Insurance Fund of Montenegro, as well as the bad experiences of the countries that have introduced the three-pillar pension systems.

To be able to assess the effective coverage, the Committee asks the next report to provide data for the reference period, for each branch of social security. For medical care, the report should provide information on the percentage of the insured of the total population. For age compensation, for subsequent sick leave compensation, maternity and unemployment benefits, information should be provided based on the percentage of persons insured of the active population total.

The Committee requests the next report to provide this information.

ANSWER:

The health system provides obligatory health insurance and the insured participate in the costs of obtaining health care services in the amount of 20% and 80% is state-funded. Participation of the insured as a voluntary form of health insurance has been postponed until 1st January 2018, to establish a unified information system in the health care system.

Prior to the application of provisions relating to supplementary health insurance, the insured shall bear the costs of participation in obtaining health services, which are minimal and relate entirely to purely administrative costs of the services provided.

According to official statistics for the month of July 2016, there were 185,659 active insurers in Montenegro in July, while in the same month, there were 124,487 users of pension and

disability insurance, which represents 67% in relation to the total number of active insured persons.

The review of the number of users of unemployment benefits in 2012, 2013, 2014 and 2015 (data of the Employment Agency of Montenegro)

No.	Month	Number of users			
		2012.	2013.	2014.	2015.
1	January	11,427	9,921	9,674	8,773
2	February	11,291	10,008	9,720	8,447
3	March	11,273	9,977	9,362	8,298
4	April	11,048	9,870	8,905	7,767
5	May	10,795	9,809	8,755	7,448
6	June	10,474	9,605	8,606	7,104
7	July	10,371	9,511	8,429	6,884
8	August	10,239	10,150	8,510	7,053
9	September	10,193	10,483	8,469	6,598
10	October	10,165	9,657	8,416	6,534
11	November	10,078	9,709	8,697	6,677
12	December	9,871	9,691	8,526	6,521

According to the Employment Agency of Montenegro, on 30 June 2016, there were registered as unemployed a total of 39,983 persons, of which 5,913 are users of unemployment benefit, which represents 14.79% of the total number of unemployed persons.

Adequacy of benefits

The Committee asked which the minimum level of sick leave compensation was.

ANSWER:

Provisions of Article 40 paragraph 1 of the Law on Health Insurance “Official Gazette of Montenegro”, No. 6/16) stipulate that the wage compensation during temporary incapability for work shall be established at a minimum amount of 70% of the compensation basis. The compensation amount referred to in paragraph 2 of the said article that is covered by the employer from own funds can be established by a collective contract, in accordance with this Law, in the higher amount than established in paragraph 1 of this Article.

The Committee concludes that the minimum level of pensions is apparently inadequate, thus, the situation is not in conformity with the Charter.

COMMENT:

According to the Law on Amendments to the Law on Pension and Disability Insurance, the harmonization of the minimum pensions by 20%, has been done, so that, starting from 1 July 2016, the minimum pension in Montenegro amounted to 121.92 euros.

The Committee notes that the level of benefits for unemployment is inadequate, and therefore, the situation is not in conformity with the Charter.

COMMENT:

The Law on Employment and Exercising Rights with respect to Unemployment Insurance ("Official Gazette of Montenegro", No. 14/10, 45/12, 61/13 and 20/15) provides that the financial compensation, as one of the rights that the unemployed persons in accordance with this Law shall be 40% of the minimum wage determined in accordance with the law.

The Labour Law ("Official Gazette of Montenegro", no. 49/08, 59/11, 66/12 and 31/14) provides that the minimum wage cannot be lower than 30% of the average wage in Montenegro in the previous six months, according to the official data that is determined by the administrative authority in charge of statistics.

The Government of Montenegro determines the amount of the minimum wage, at the proposal of the Social Council of Montenegro.

Decision on determining the minimum wage ("Official Gazette of Montenegro", No. 18/13) sets the amount of the minimum wage in Montenegro in the amount of 193.00 euros.

Given that the amount of financial compensation for the unemployed is determined in the amount of 40% of the minimum wage, which is determined in the amount of 193.00 euros, then the financial compensation for the unemployed amounted to 77.20 euros on a net basis, and/or 95.96 EUR in gross amount.

The exception to the above is the financial compensation realized by disabled workers of the II or III category, and who, from January 1, 2014, are entitled to financial compensation on the basis of unemployment in the amount of the lowest pension in Montenegro, established by the Law on Pension and Disability Insurance.

In line with the Decision regarding harmonisation of the nominal amount of the lowest pension from 1 July 2016 ("Official Gazette of Montenegro", No. 50/16), it is determined that the lowest pension is 121.92 EUR, for the period July - December 2016.

The Committee considers that three or four months are not sufficient and therefore the situation is not in conformity with the Charter.

COMMENT:

The Law on Employment and Exercising Rights with respect to Unemployment Insurance prescribes the duration of unemployment benefits depending on the attained pensionable service, ranging from 3 to 12 months, and/or until re-employment, and/or if any of the grounds for the termination of the right to compensation is satisfied under this Law, if an unemployed person has more than 35 years of insurance service or if an unemployed person has more than 25 years of service, and is a parent of a person who, according to the law, is entitled to personal invalidity benefit.

Notwithstanding the foregoing, disabled workers of the II or III category are entitled to financial compensation, who is not a user of temporary compensation according to the regulations on pension and disability insurance, as well as a person with disabilities, regardless of the realized years of service, while waiting for an employment, and/or until the occurrence of a grounds for termination of the right to compensation in accordance with this Law.

In addition, with regard to unemployment benefits, the Committee recalls that the adequacy of these benefits also be established, among other things, by taking into account whether there is an appropriate initial period during which an unemployed person may refuse a job offer or training if they do not coincide with his/her skills without losing his/her unemployment benefits.

The Committee asked whether the Law envisaged such appropriate term.

ANSWER:

The Law on Employment and Exercising Rights with respect to Unemployment Insurance prescribes reasons for the termination of rights to unemployment benefits to the users of benefits. Among other reasons, the financial compensation shall cease if an unemployed person refuses suitable employment in the place of his/her residence and if he/she unreasonably refuse involvement in active employment policy measures. Appropriate employment, in terms of this Law, is considered a job in the type and level of education, and/or the level of education and occupation.

Article 12 – The right to social security

Paragraph 2 - Maintaining the social security system at a satisfactory level at least equal to that required for ratification of the European Code of Social Security

The Committee takes note of the information contained in the report submitted by Montenegro.

The Committee notes that the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has set up several direct requests published in 2013 (102 session of the International Labour Conference) regarding the various branches of ILO Convention no. 102.

The Committee asks the next report to provide answers given to these requests.

ANSWER:

Attached is the Report of Montenegro on the implementation of CO 102 from 2016.

The Committee recalls that it is necessary to examine whether the social security system is standing on a level at least equal to that required for ratification of the Code, and it is necessary that the Committee provide basic information about the branches covered, the personal scope and level of benefits offered.

ANSWER:

From the aspect of health insurance, Montenegro stands on level at least equal to that required for ratification of the Code, which is clear from the reply to be delivered questions. In that sense, Montenegro has concluded bilateral social security agreements with several countries, which regulates relations of Contracting States in terms of health care, pension and disability insurance and social protection.

Article 12 – The right to social security

Paragraph 3 - Development of social security system

The Committee takes note of the information contained in the report submitted by Montenegro.

The Committee asked how the reform affected the number of insured persons and the level of minimum pensions.

ANSWER:

The lowest pensions in the period from 2012 to 30 June 2016 amounted to 100.40 EUR and the stated sum is not changed because of the negative factors of alignment. As of 01 July 2016, the amount of the minimum pension was increased to 121.92 EUR.

Year	Number of insurers	The lowest pension
2013	171,474	100.40
2014	173,595	100.40
2015	175,617	100.40
2016	176,543	121.92

The data presented in the table represent administrative data of Monstat (Monthly Statistical Review, no. 8/2016).

Data for 2016 is the average value for the period January-July.

The Committee asks the next report to provide information on reforms in the area of health care, unemployment, sick leave and maternity leave.

ANSWER:

Provisions of Article 6 paragraph 1 point 11 of the Law on Health Insurance “Official Gazette of Montenegro”, No. 6/16) stipulates that the insured, in terms of this Law, are the unemployed.

Article 37 of the said Law stipulates that the right to the wage compensation during their temporary incapability for work shall belong to insured referred to in Article 6 paragraph 1 item 1, 2, 4, 5, 6, 7, and 9 of that Law.

The wage compensation shall belong to the insured referred to in Par. 1 of that Article if they are:

- 1) temporarily incapable to work due to an illness or an injury;
- 2) placed under medical surveillance or they were put under quarantine;
- 3) isolated as germ-carriers or due to occurrence of contagion in their surroundings;
- 4) assigned to take care of a sick immediate family member;
- 5) incapable to work due to voluntary donating of blood, tissues and body organs;
- 6) assigned as escorts to a sick person referred to medical treatment or medical examination to the other place, or while staying as an escort in the hospital.

Temporary inability to work of up to 15 days determines the selected team or chosen doctor, and after 15 days, the competent medical commission, depending on the type and nature of the disease, in accordance with the act of the Fund.

The selected team or chosen medical doctor who establishes a temporary inability to work in contravention of paragraph 2 of this article makes a serious breach of work duties.

In accordance with a special law (in the area of labour) during maternity leave, new mothers have the right to the full range of health insurance. The provisions of Article 41, paragraph 2 of the Law on Health Insurance provide that the Health Insurance Fund of Montenegro shall refund the employer the compensation paid to the amount that cannot be higher than an average salary in Montenegro in the previous year, according to data of the administrative authority for statistics.

Article 12 – The right to social security

Paragraph 4 – Social security of persons moving inter-Contracting Parties

The Committee takes note of the information contained in the report submitted by Montenegro.

Equality of treatment and the right to retain accrued benefits (Article 12§4a)

The right to equal treatment

The Committee therefore asks the next report to indicate whether there is "a condition of the child stay", and if so, whether bilateral or multilateral agreements are concluded with states which apply a different principle of law.

ANSWER:

Bilateral agreements on social insurance, which the state of Montenegro applies, arranged, among other things, the area of child allowance. The stated agreements provided that the persons who are subject to the laws of either Contracting State, for children who reside in the territory of another Contracting State, have the right to child allowance provided under the legislation of the first Contracting State.

The right to retain accrued benefits

The Committee asked whether the right to retain benefits acquired in Montenegro by nationals of States Parties which have no bilateral agreement with Montenegro was secured and if so, in what way. It also asks the next report to explain why there are no agreements with certain Contracting States, and provide information on the planned agreements and when they can be signed.

ANSWER:

Montenegro applies bilateral social security agreements with 23 countries party to the European Social Charter. Negotiations are completed for the conclusion of agreements with Romania and Slovakia, and the initiative is launched for the conclusion of agreements with Albania, Greece and Ukraine. Montenegro will, in the forthcoming period, intensive activities with the aim of concluding new agreements on social security.

The right to maintenance of accruing rights (Article 12§4b)

The Committee raises the question of whether and how the right of accumulated insurance and periods of employment is provided to citizens of States Parties that do not have a bilateral agreement with Montenegro. It also asks the next report to explain why there are no agreements with certain States Parties, and to provide information on planned agreements and when they can be signed.

ANSWER:

The right to the accrued insurance and periods of employment is ensured by the application of bilateral agreements on social security. Montenegro applies bilateral social security agreements with 23 countries party to the European Social Charter. Negotiations are completed for the conclusion of agreements with Romania and Slovakia, and the initiative is launched for the conclusion of agreements with Albania, Greece and Ukraine. Montenegro will, in the forthcoming period, intensive activities with the aim of concluding new agreements on social security.

Article 13 – The right to social and medical assistance

Paragraph 1- Adequate assistance for any person in need

The Committee takes note of the information contained in the report submitted by Montenegro, as well as additional information contained in the Appendix to the Report.

Types of benefits and eligibility criteria

The Committee takes note of this information and asks the next report to clarify whether the above-mentioned categories of people are entitled to social assistance covering all possible users, and/or whether it is any help available to individuals without resources that do not fit into these categories. It also asks the next report to explain how the requirement for non-refusal a job offer or training is applied in practice, and/or what exceptions are accepted and whether unjustified job and training refusal can lead to a situation in which the person is completely deprived of his/her livelihood.

ANSWER:

The provisions of the Law on Social and Child Protection prescribes the categories of persons and conditions for the realization of social and child protection. Persons who are not in the category of persons who are prescribed by law cannot exercise rights, otherwise the sense of prescribing conditions would have been lost. The Law covers all categories of persons in need of assistance whether it is children, disabled persons and the elderly, whether it is the assistance in financial support or some other service.

Institutions in the field of employment lead an active employment policy in accordance with their activities, which includes not only employment, but also the preparation for employment, such as a variety of training, retraining and additional training. The user of financial support, if employed, ceases to be entitled to family allowance, keeping in mind that the right can be exercised only by persons who are registered as unemployed. The user who attend training, retraining and additional training continues to be entitled to benefits because those activities do not have the employment status.

Unjustified refusal of employment or training has an impact on the termination of rights. Specifically, it is primarily about users who perform unregistered activity (moonlighting) and who suited to realise income based on financial support and simultaneously to earn income from unregistered activities.

The new Law on Social and Child Protection, which is in force since July 2013, specified provisions relating to the above, so that the right to financial support is limited to nine months in a year if the parents are able to work and do not have a child who is a user of care and support allowance. The right can be again exercised after expiry of the three month period from the day of termination of the right to financial support. The right is not limited if one of the parents attends education, training or any type of social engagement in accordance with the activation plan.

Also, in accordance with the provision of the new Law, the family, which has lost the right to financial support because of employment of a family member, will not lose the right to allowance no longer than nine months after the termination of the right to financial support.

The Committee asks the next report to provide updated information on measures that directly deal with situations of people without income - through specific measures taken to address the problem of child poverty - and their impact, if any.

ANSWER:

In order to obtain an objective picture of activities being undertaken in the field of social and child protection, referenced period when the answers to the questions are provided must include indicators beyond the reference period as well, because the conclusion cannot be made out of the context of question itself.

The strategic directions of development of social and child protection are set by the Strategy for Development of Social and Child Protection 2008-2012, as well as the Development Strategy of social and child protection 2013-2017.godine.

In accordance with mentioned strategic documents, it is envisaged that the system of social and child protection in Montenegro is developed through the following strategic directions:

- 1) Defining the development policy of social and child protection associated with other systems and sectors in society and harmonized with international regulations and standards, aimed at preventing social problems;
- 2) Decentralization of social and child protection;
- 3) The participation of citizens and users in decision-making on ways and means to meet the

needs;

4) A more efficient financial support in social and child protection;

5) The provision of quality services in social and child protection.

The implementation of the project "Social Welfare and Child Care Reform - Enhancing Social Inclusion", implemented with the financial assistance of the European Union (the IPA 2010), amounted of 3 million EUR. Project partners are the Ministry of Labour and Social Welfare, the Ministry of Education and the Offices of UNDP and UNICEF in Montenegro. The project officially started with the implementation in January 2011, and it is planned to last until June 2014.

The project consists of three components: The first component of the project includes activities related to the inclusion of Roma children and children with special needs in the education system and the Ministry of Education and Sports is in charge for its implementation. The implementation of the second and third components of the project is coordinated by the Ministry of Labour and Social Welfare, with the full technical and administrative support by UNICEF and UNDP.

Under Project component 2 conducted by the Ministry of Labour and Social Welfare, in partnership with UNDP, activities are envisaged to build and strengthen institutional mechanisms and capacities at the state and local level, which will enable the development of new and the improvement of existing social services provided at the community level.

In order to continue implementation of the said project, signed the Cost-Sharing Agreement between the United Nations Development Programme and the Government of Montenegro that enables the realisation of the Project "Continuation of the Social Welfare System Reform". The total financial value of the agreement is EUR 350,000. The project was implemented in the period July 2014 - December 2015. The Project was extended until the end of 2016. This project will produce long-term and sustainable solutions for the social welfare system.

As part of the mentioned project, a new **Law on Social and Child Protection** was adopted in June 2013. The Law has improved the area of material support, as well as the area of social and child protection. The Law establishes the procedure for obtaining a license for organizations and professional workers in the field of social and child protection, as well as the procedure of accreditation of training programs. The Law on Social and Child Protection gave the basis that will affect the employment of beneficiaries of social and child protection and to this end we have established cooperation with the Employment Agency. The Law stipulates the limitation of the use of financial support to nine months for families where the parents are able to work, unless they have a child who is a user of care and support allowance. The right can be again exercised after expiry of the three month period from the day of termination of the right if the conditions are met prescribed by the Law. It is given the possibility that a child, of a

beneficiary of financial benefit who established employment relationship based on an agreement on active overcoming of an unfavourable social situation, continues to use the allowance for children for up to nine months, i.e. it is a gradual abolition of the benefits of social protection in order to motivate users to formalize their work activity.

Also, it is given the possibility that a child, of a beneficiary of financial benefit who established employment relationship based on an agreement on active overcoming of an unfavourable social situation, continues to use the allowance for children for up to nine months, i.e. it is a gradual abolition of the benefits of social protection in order to motivate users to formalize their work activity.

In order to work more efficiently and have better accessibility to rights of social and child protection, it has been done the reorganization of certain centres for social work in view of the establishment of new municipalities in Montenegro, as well as the establishment of new centres for social work.

The Law gave the basis for the decentralization of social and child protection, and in this sense, significant results have been achieved. Ten day care centres for children with disabilities and special needs have been established by local self-governments and these activities will go on. The Municipality of Bijelo Polje has established a day centre for children with disabilities and special needs without parental care. Daily centres for the elderly have been established in several municipalities. The plans for transformation of the Public Institution "Komanski most" and the Public Institution Child's Home "Mladost" are done.

Decentralization implies inclusion of other stakeholders, in addition to the state and municipalities in the provision of services: non-governmental organizations, the private sector, as well as citizens.

The process of decentralization of social and child protection does not mean that all functions and rights should be decentralized. Delegation of certain functions at the local level can be carried out only in the field of social services in the community. The rights to financial support must be provided to all citizens, regardless of the local community they live, at the state level.

A significant contribution to the reform is a realization of the project "Phase I: **Social card – Social Welfare Information System (SWIS)**" in Montenegro. The information system was put into test operation on 8th July, 2014 and from January 1, 2015 the information system is in operational work in all centres for social work, their regional offices (22 locations) and the relevant Ministry. The project has achieved set objectives and significantly improved the institutional and organizational, technical and information and human resources capacities of centres for social work. The calculation of financial support is carried out through SWIS. In addition to the financial support, the information system processes the case management (social services).

Upon successful implementation of Phase I: *Social card – Social Welfare Information System*, the decision was made to launch the development of **Phase II: Integrated Information Social Welfare System 2015-2017**.

SWIS enables interoperability (automatic data exchange) with nine information systems of external institutions: 1. MIST - Central Population Register, 2. MI - Registry of Motor Vehicles, 3. Ministry of Education, 4. Real Estate Authority, 5. Tax Administration, 6. Veterinary Administration, 7. Pension and Disability Insurance Fund, 8. Health Insurance Fund and 9. Employment Agency. Data import on elderly benefits from the Ministry of Agriculture has been enabled as well as from the Electric Power Company of Montenegro (subsidies for electricity). Territorial Registry of MONSTAT and Postal address of Montenegro Post are integrated into system. This system also integrates draft solutions for all benefits and services which resulted in uniformity of how the Centres act and work of employees has been facilitated.

Following the successfully implemented Project, the Government of Montenegro considered and adopted the project document: “Social Welfare Integrated Information System (ISWIS) - Phase II from 2015 to 2017, which continues to build an information system. The Social Welfare Integrated Information System (ISWIS) includes the following components: 1. Monitoring and further development of Phase I; 2. Social welfare institutions – development of information system; 3. Interoperability; 4. Capacity building (institutional, technical, human capacities development). The development of information systems of institutes of social and child protection will be implemented within the Phase II, which will be linked to the information system of centres for social work. Furthermore, the exchange of data with the resource centres and secretariats for social welfare of local self-governments will be implemented. The deadline for implementation of Phase II is September 2017, and the total value of the project is EUR 1.2 million.

In the past, very important activities led to the prevention of abuse in the exercise and use of certain financial benefits in the area of social and child protection, first of all rights relating to the reimbursement of funds for payment of salary compensation to an employee for maternal or parental leave and right to material support. Conducted activity resulted in the reduction of budgetary funds allocated for this purpose, so that, as regards the reimbursement of salary compensation, budgetary funds for this purpose are decreased, but regarding the financial support, there was a reduction in the number of beneficiary families (data given in the text) and funds allocated on these grounds are significantly reduced.

It should be noted that the termination of the right to financial support, means termination of other rights that are obtained on the basis of financial support such as: child allowance of the beneficiary of financial support, leisure and recreation of children, subsidies for stay in pre-school institution, medical care, funeral expenses, and subsidies for electricity. Based on the termination of those rights, there were also significant savings in the budget.

All this shows that the reform of social and child protection, which is still on-going, have produced positive results both in terms of allocation of resources to individuals or families in need of assistance and for the reduction of budget funds.

Also, we point out that the reform gave even greater results especially regarding the provision of material benefit as a basic material support in the area of social protection if the policies in other areas would be more efficient. In fact, there are perceived problems related to the slowness of the competent authorities about the implementation of probate procedures, legalization of buildings and reducing the informal economy.

Conditions are being created for the access to the system of social and child protection in particular as regards children, disabled persons and the elderly. Conditions are being created for greater inclusion of beneficiaries of financial support capable of work, which will increase the employment rate and reduce informal work and contribute to increasing the competitiveness of the economy and economic growth.

The data indicate that the continued positive downtrend of the number of beneficiaries of financial support, so that, in September 2016 the said right used 8077 families for which purpose has been allocated 751,915.62 EUR, which is, if compared to 14,737 families and allocated 1.338.798.01 EUR in July 2013 when the Law on Social and Child Protection entered into force, less for 45.19% families and 43.84% less monthly allocated funds.

In 2015, the following activities have been implemented:

- the mapping and analysis of social services in all the country's municipalities and created the base of local social welfare services, local plans for social inclusion have been adopted in 16 Montenegrin municipalities.
- the support of 23 social protection services: day centres for the elderly, personal assistance services and day centres for persons with disabilities, SOS telephones, a shelter for victims of domestic violence, family counselling services, rehabilitation services and re-socialization of users of psychoactive substances, home and mobile teams for elderly with an emphasis on rural areas. Services are supported in the municipalities of Bar, Nikiski, Bibelot Pole, Sank, Plugin, Mojkovac, Ulcinj, Podgorica and Cetinje.

The following by-laws were adopted: Rulebook on detailed conditions for the provision and use of services, norms and the minimum standards of support for community living; Rulebook on detailed conditions for the provision and use, norms and the minimum standards of advisory-therapeutic and socio-educational services; Rulebook on detailed conditions for the issuance, renewal and revocation of licenses for professionals in the field of social and child protection; Rulebook on detailed conditions for the issuance, renewal and revocation of licenses for the performance of activities in the field of social and child protection; Rulebook on conditions, programme and assessment for professional examinations in the field of social and child protection; Rulebook on Amendments to the Rulebook on Organization, norms, standards and method of work of Centres for Social Work; Rulebook on standards for accreditation of training programmes and assessment procedures for accreditation, and content and forms of certificates;

Rulebook on the level of funds for development and/or financing of social and child protection services and criteria for their allocation; Rulebook on detailed conditions for qualifying for

basic financial assistance from social and child protection; Rulebook on criteria and standards for determining the price of day care services, home assistance and personal assistance to be provided by the state; Rulebook on criteria and standards for participation of beneficiaries, parents and/or relatives in covering the costs to support living in community, advisory-therapeutic and socio-educational services and accommodation services; Day Care Centre for Children with Disabilities in Podgorica has been established through the joint initiative of the Capital Podgorica, Ministry of Labour and Social Welfare, EU Delegation, UNICEF and UNDP. The Day Centre was opened in 2016 and the capacity is 25 to 30 children; The plan for transformation of Child's Home "Mladost" Bijela has been done; Bureau of Social and Child Protection has organised 17 training which is attended by a total of 617 experts from CSR, Children's Home "Mladost" and Youth Centre "Ljubovic" from February to December 2015. The training was attended by representatives of other sectors (police, health, judiciary, prosecution, education, NGOs), especially regarding training relating to the work with victims of domestic violence and human trafficking.

- II Meeting of the Steering Committee of the project "Continuation of the Social Welfare System Reform - Enhancing Social Inclusion" was held on 10 June 2015. The meeting was attended by representatives of the EU Delegation, UNDP, UNICEF, the relevant ministries, the Bureau of Social and Child Protection, the Capital City and the Union of Municipalities. The meeting pointed out the activities that take place through the project "Capacity Development for the Provision of Social and Child Protection".

As regards protecting children from poverty, which is implemented in accordance with the Law on Social and Child Protection, in addition to the above mentioned Law, the National Plan of Action for Children 2013-2017 (NPAC) is adopted as a strategic document of the Government of Montenegro, which defines the general policy of the children for a period of 2013 to 2017. This document identifies the main problems in achieving, protecting and promoting the rights of children in our country, as well as the main directions for their resolution. This NPAC is a continuation of a strategic approach to issues of importance to children in Montenegro, which had begun through the development and implementation of the National Plan of Action for Children in Montenegro 2004-2010. By creating NPAC 2013-2017, the Government of Montenegro seeks to find a systematic approach to address issues of social status of children, and fulfil its international obligations arising from the ratification of the UN Convention on the Rights of the Child, two Optional Protocols, signed Third Optional Protocol, as well as other signed and ratified international documents. NPAC fully respects the four basic principles of the UN Convention on the Rights of the Child: the right to life, survival and development, non-discrimination, participation, the best interests of the child. Also, the Ministry of Labour and Social Welfare formed the Council for the Rights of the Child which deals with all issues related to the position of children in the state.

The level of compensation

The Committee asks that the next report to determine the extent of additional benefits available to people without income.

ANSWER:

The rights in the area of social and child protection are exercised in accordance with the terms prescribed by the law in relation to the status of persons, revenue, earnings and others. Beneficiaries can exercise additional benefits based on their status at the state level, local self-governments, companies, non-governmental sector, religious organizations and others.

At the state level, beneficiaries of financial support, users of care and support allowance and personal disability allowance are entitled to a monthly subsidy on bills for electricity, which is financed from the state budget. In accordance with the law, children of users are entitled to free holidays and winter vacations. Also, according to the Law on Travel Benefits, all users of the allowance for care and assistance and their companions are entitled to reimbursement of the costs of transport in long-distance transport for 12 trips annually. Also, textbooks and school supplies for children, costs of transportation to school, school nutrition and similar are provided for children who are users of rights at the state level and individual local governments. Users of right to financial support and indigent persons are entitled to free legal aid in accordance with the law.

At the local government level, depending on the rights defined in specific regulations and material potentials of beneficiaries of financial support, they are entitled to housing, one-time financial assistance and similar.

Some companies provide subsidies to cover expenses for TV subscription, mobile phones, utilities and similar. Non-governmental organizations involved in aid related primarily to the purchase of food, clothing, wood for heating, household appliances and similar.

The Committee considers, in the light of above data, that the levels of social assistance which is paid to a person without resources are obviously inadequate.

COMMENT:

The fact is that the compensation for financial support for individual is insufficient to meet his/her basic needs. However, the amount of compensation for an individual as well as for families with more members is not determined in relation to their needs but in relation to the possibilities of the state budget. The increase of compensation for an individual would affect the increase of the compensation to families with more members. Considering the amount of minimum pensions and wages of people with low incomes, the increase of compensation based on the financial support, and thus the basis for the exercise of the above rights would have a

result that part of pensioners and people with low incomes qualify for family allowance. Also, it should be noted that salaries both in the public or private sector are not paid in accordance with the needs of the individual but in accordance with the income of the employer.

Furthermore, it should be noted that the right to a financial support can be exercised only by an incapable of work person and without relatives who have the obligation to maintain or has a relative who is not able to provide support. The amount of compensation should not be regarded in itself given that an individual may, in accordance with the law and other regulations achieve other rights and aid which applies to users of financial support (one-time financial help, care and assistance due to health status, privileges in traffic, subsidies for electricity, housing and other benefits as stated in the previous review, and refers to the material security). Bearing in mind the above, beneficiaries of financial support are often in a better off than employees with low incomes.

Right of appeal and legal aid

The Committee asks the next report to confirm that the legal aid available for people without funds challenging the decisions concerning their right to social and medical assistance.

ANSWER:

In the system of social and child protection, fees are not charged for lodging an appeal in the second instance procedure. Advisory service within the competence of social welfare centres is for free to persons without funds, in terms of exercising their rights. Also, the Law on Free Legal Aid enables users of financial support and to low-income ones legal aid by the court. Also, many non-governmental organizations in the framework of their activities provide free legal aid.

Personal framework

The Committee asks the next report to clarify what forms of social and medical services are applied, and to what extent, to foreign nationals, especially as regards nationals of the State Parties, with the status of residence in Montenegro.

ANSWER:

The provisions of the Law on Social and Child Protection prescribes the target groups that are especially protected under the conditions prescribed by the Law, also, the Law stipulates that a foreigner with regulated permanent or temporary residence in Montenegro shall have the same rights as the citizens of Montenegro. As regards the categories of persons who are lawfully on the territory of Montenegro and do not have a regulated stay (e.g. tourists and those in transit),

even though the law explicitly does not recognize that category of persons in the exercise of the right to social protection, the centres for social work can provide them an advice as well as one-time financial assistance if they consider the adequacy of the situation as such. Also, assistance can be provided in relation to the protection of minors, the disabled or the elderly if they find themselves in a position not to provide protection in any other way. In some cases, when it is a minor or an adult who for health reasons is not able to take care of their interests, a guardian can be appointed or accommodation in an institution or foster family can be provided until the caring for the beneficiary take over the country of origin.

The right to health care is governed by the regulations in the area of health, and the Law on Social and Child Protection specified those categories of beneficiaries from social and child protection that can use that right according to the regulations in the field of health.

- In particular, as regards medical assistance, the Committee asks the next report to indicate whether the long term resident of the State Party have access to medical assistance, except emergency aid, on an equal basis with the citizens of Montenegro.

ANSWER:

The Law on Health Insurance (“Official Gazette of Montenegro”, No. 6/16) in Article 6(1), point 6, 7 and 8 stipulates that insurers, in terms of this Law, are foreigners working for national legal or private entities in Montenegro on the basis on specific contracts and agreements on international technical assistance, foreigners employed by international organizations and institutions and other foreign legal and private entity on the territory of Montenegro if it is not otherwise regulated by an international agreement, or if they are not insured as per regulations of another country and foreigners employed by foreign consular and diplomatic representative offices on the territory of Montenegro if such insurance is envisaged by an international agreement. Also, health care is provided to foreigners residing in Montenegro if originate from the country with which Montenegro concluded the bilateral agreement on social insurance.

Article 13 – The right to social and medical assistance

Paragraph 2 – Non-discrimination in realizing social and political rights

The Committee takes note of the information contained in the report submitted by Montenegro.

The Committee asks the next report to confirm that the users of social and medical assistance do not suffer because of that, in practice, any resulting reduction in their political or social rights.

ANSWER:

In the context of social policy in Montenegro, both the social security right and health services, all citizens exercise their rights under equal conditions regardless of any kind of diversity (gender identity, political affiliation, nation, race, colour, disability or any other basis), which means that there is not any form of discrimination on any grounds in the exercise of the corresponding rights.

So, the new Law on Social and Child Protection in Article 7 paragraph 2 stipulates the principles of social and child protection:

2) Ban of discrimination of beneficiaries on the basis of race, gender, age, national belonging, social origin, sexual orientation, religion, political, trade union or other belonging, property owned, culture, language, disability, nature of social exclusion, belonging to particular social group or other personal characteristics.

Protection of non-discrimination in the context of social rights has been provided under the provisions of article 162 to 166 of the new Law on Social and Child Protection concerning the supervision of implementation of the Law and stipulates that supervision of professional work of service providers is conducted by the Ministry of Labour and Social Welfare (the control over the application of the prescribed technical procedures i.e. assessment, planning, review of the effects of implemented activities, etc.). It also stipulates that inspection control is carried out by the inspection for social and child protection which is organized within the Administration for Inspection Affairs.

Article 13 – The right to social and medical assistance

Paragraph 3 – Prevention, removal or alleviation of a need

The Committee takes note of the information contained in the report submitted by Montenegro, as well as additional information contained in the Appendix to the Report, which yet does not provide any elements relevant for Article 13§3 of the Charter.

The Committee asks the next report to provide comprehensive information on the services that offer advice and personal assistance to people with no income, in order to prevent, eliminate or reduce personal or family scarcities. The Committee further asks the next report to indicate whether these services are available only to nationals or foreign nationals of States Parties who are legally staying in Montenegro as well.

ANSWER:

Advisory service within the competence of centres for social work gives the possibility of free counselling people who were deprived of funds in terms of achieving their rights. Also, the Law on Free Legal Aid enables users of financial support and to low-income the legal aid by the court. Also, many non-governmental organizations in the framework of their activities provide free legal aid. Advisory services can be provided to foreign nationals if it is determined that it is a person without income.

Fees to lodge an appeal in the second instant procedure are not charged in the system of social and child protection.

The rights in accordance with this Law can be exercised by a Montenegrin citizen with the permanent place of residence at the territory of the State.

The rights in the area of social and child protection established by this law and international contract can be exercised also by a person who has the status of a foreigner with granted temporary stay or permanent stay in the state, in accordance with a special law.

Article 5 of the new Law on Social and Child Protection stipulates that right in accordance with this Law can be exercised by a Montenegrin citizen with the permanent place of residence at the territory of the State. It is prescribed that the right can be exercised also by a person who has the status of a foreigner with granted temporary stay or permanent stay in the state, in accordance with a special law i.e. the Law on Foreigners.

Article 13 – The right to social and medical assistance

Paragraph 4 – Specific urgent assistance for non-residents

The Committee takes note of the information contained in the report submitted by Montenegro.

The Committee therefore asks the next report to provide all relevant information in this regard, including the urgent social and medical assistance available, if any, for persons in an irregular situation.

ANSWER:

Article 5 of the new Law on Social and Child Protection stipulates that right in accordance with this Law can be exercised by a Montenegrin citizen with the permanent place of residence at the territory of the State. It is prescribed that the right can be exercised also by a person who has the status of a foreigner with granted temporary stay or permanent stay in the state, in accordance with a special law i.e. the Law on Foreigners. As regards the categories of persons who are in the territory of Montenegro and have no residence permit, although the Law does not explicitly recognise that category of persons in the exercise of the right to social protection, the competent centres for social work can provide them with advisory services and financial assistance, if assess the adequacy of the situation as such. Also, an assistance can be provided in relation to the protection of minors, the disabled or the elderly if they find themselves in a position not to provide protection in any other way (to appoint a guardian, temporary accommodation in an institution or foster family). Food aid, clothes and shoes can provide the Red Cross of Montenegro, as well as other non-governmental organizations. In order to adequately help, the centre can address to other competent authorities e.g. in the field of health, police and others.

Article 4 of the Law on Social and Child Protection stipulates defines that the aim of social and child protection is the improvement of life quality and strengthening of an individual and the family for independent and productive life and it is prescribed the categories of persons that will be protected in particular:

1) A child:

- without parental care;
- whose parent is not able to take care of the child;
- with disabilities;
- in conflict with the law;
- that uses alcohol, drugs or other narcotic substances;
- that is a victim of abuse, neglect, domestic violence or exploitation, or is at risk of becoming a victim;
- that is a victim of trafficking in human beings;
- whose parents do not agree on the manner of exercising the parental right;
- who finds itself out of the place of residence without the supervision of a parent, adoptive parent or guardian;
- who is pregnant and without family support and adequate living conditions;
- who is single parent with a child and without family support and adequate living conditions;
- who needs an adequate form of social protection due to special circumstances and social risk.

2) An adult and old person:

- with disability;
- who uses alcohol, drugs or other narcotic substances;
- who is a victim of neglect, abuse, exploitation and violence in the family or who is at risk of becoming a victim;
- victim of trafficking in human beings;
- who is homeless;
- who is pregnant and without family support and adequate living conditions;
- who is a single parent with a child and without parental support and adequate living conditions;
- who needs an adequate form of social protection due to special circumstances and social risk.

The Law on Health Care (“Official Gazette of Montenegro”, No. 3/16 and 39/16) in Article 12 stipulates that a foreigner has the right to health care in accordance with this Law and international agreement. Health institutions and health workers are obliged to provide a foreigner urgent medical assistance. An alien shall bear the costs provided for emergency medical assistance or other types of health care, according to the price list of a medical institution.

The Committee asks the next report to provide details on the type and scope of assistance, based on relevant specific rules and conditions that apply to qualify for such assistance. It also asks the next report to indicate which forms of emergency social assistance (such as

emergency accommodation, food, clothes) are available, if any, to non-resident foreigners - whether legally resident or not - including those from the above mentioned categories.

ANSWER:

Article 5 of the new Law on Social and Child Protection stipulates that right in accordance with this Law can be exercised by a Montenegrin citizen with the permanent place of residence at the territory of the State. It is prescribed that the right can be exercised also by a person who has the status of a foreigner with granted temporary stay or permanent stay in the state, in accordance with a special law i.e. the Law on Foreigners.

As regards the categories of persons who are in the territory of Montenegro and have not regulated their stay, although this law does not explicitly recognize this category of persons in the exercise of the right to social protection, the centres for social work can provide them with advisory services and financial assistance if assess the adequacy of the situation as such. Also, an assistance can be provided in relation to the protection of minors, the disabled or the elderly if they find themselves in a situation when they are unable to provide protection in any other way (to appoint a guardian, temporary placement in an appropriate institution or another family). Food aid, clothes and visit can provide the Red Cross and other non-governmental organizations recommended by the centre for social work.

In order to provide assistance to these persons, the centres for social work established communication with other competent authorities in the field of health, interior affairs - Police and, if necessary, and other bodies. Also, the Ministry of Labour and Social Welfare, in accordance with the established facts through the Ministry of Foreign Affairs can establish communication with the country of origin of the person who has no residence permit in order to determine ways to further treatment, which is in the jurisdiction of the Ministry of Internal Affairs with regard to persons who have no residence permit. In accordance with the nationality of those persons, the same persons can address to the embassies or consular representatives of their country in Montenegro.

Article 14 – The right to benefit from social welfare services

Paragraph 1 – Promotion or provision of services

The Committee takes note of the information contained in the report submitted by Montenegro.

Effective and equal access

The Committee asks the next report to indicate whether nationals of other States Parties legally residing or working regularly in Montenegro have the same rights in terms of access to social services as the citizens of Montenegro and, if not, which restrictions apply.

ANSWER:

Article 5 of the Law stipulates that right, in accordance with this Law, can be exercised by a Montenegrin citizen with the permanent place of residence at the territory of the State. The rights to social and child protection determined in accordance with this Law and international agreement can be exercised by a person who has the status of a foreigner with granted temporary stay or permanent stay in the state, in accordance with a special law i.e. the Law on Foreigners. In order to exercise the rights to social and child protection, mentioned persons with the status of foreigner must fulfil the same requirements as the citizens of Montenegro (personal status, earnings, income, etc.) and in this regard no limitations are set.

Advisory services provided by the centre for social work are free of charge and relates to any person requesting such a service from the centre. The price of service is not determined because those are regular activities of professional workers of the centre for social work and in relation to that no financial item exists for offering the said services.

Quality of services

The Committee recalls that social services need to have the means to coordinate their responsibilities and the changing needs of users. This implies that:

- **personnel should be qualified and in sufficient numbers;**
- **decision-making must be as close as possible to users;**
- **there must be mechanisms for supervising the adequacy of services, both public and private.**

Since the report does not contain information about the quality of services, the Committee asks the next report to provide data and figures on the three above-mentioned elements.

ANSWER:

The new Law on Social and Child Protection, articles 122 to 123 prescribes that professional tasks with service provider shall be carried out by professional workers and professional associates. Professional worker is a social worker, psychologist, pedagogue, adult-education specialist, special pedagogue, lawyer, sociologist, special education teacher, special educator, rehabilitator and doctor of medicine, and professional associates are persons of other professions with higher education. Professional workers and professional shall pass a vocational ability exam, and a professional worker must also have an operating licence. Also, a service provider shall have an operating licence

The centres for social work have rulebook on the organisation and job classification which are adopted in line with appropriate secondary legislation.

The access to rights in the area of social and child protection is provided on the whole territory of the country. In all municipalities, the Government of Montenegro organized centres for social work either as an independent organizational unit or regional units. For persons who are not able to independently protect the rights and interests, care is provided ex officio by the centres for social work.

Provisions of article 162 to 166 of the new Law on Social and Child Protection relates to the supervision of implementation of the Law. It is stipulated that supervision over the professional work of service providers is conducted by the Ministry of Labour and Social Welfare (the control over the application of the prescribed technical procedures i.e. assessment, planning, review of the effects of implemented activities, etc.). It also stipulates that inspection control is carried out by the inspection for social and child protection which is organized within the Administration for Inspection Affairs.

Article 14 – The right to benefit from social welfare services

Paragraph 2 – Participation of public in the establishment and maintenance of social services

The Committee takes note of the information contained in the report submitted by Montenegro.

The Committee asks the next report to provide statistics on subsidies paid by the government and local authorities to voluntary organizations that provide social services. It also asks the next report to describe all other types of support that may exist for voluntary organizations, such as, for example, tax reliefs.

ANSWER:

Non-governmental organizations have been established in accordance with the Law on NGOs. The regulations did not foresee the financing of their activities by the state.

Funding for their projects and programs from the state is through the public tender, in accordance with the Law of the Games of Chances.

The tenders are announced once a year and the funds are distributed according to the areas for which they were called, among other things, for social and child protection. This is significant state support to the NGO sector, which is, as regards the social and child protection, primarily engaged in the implementation of services, particularly relating to children, the disabled, the elderly, victims of violence and others.

If non-governmental organizations provide funds for the realisation of projects on the basis of international agreements, in accordance with the provisions of these contracts, they are exempt from taxes and customs duties for products or services that are the subject of the contract.

Also, funds for the realisation of projects by NGOs through a call are also distributed at the level of local government and from the municipal budget.

The public tender in 2016 in the field of "Meeting the needs of persons with disabilities" received a total of 249 programs and projects in particular 42 in the B category and 207 in the A category, with a total of EUR 3,700,000,00 claims and 1,214,237.18 euros for distribution. It is 126 plans and programs supported in the area of "Meeting the needs of persons with disabilities" of the totally available €1,214,237.18; the entire amount is distributed. Out of 249 submitted plans and programs, 123 of them are supported.

In the absence of information regarding the discrimination, the Committee wishes to know whether and how the Government ensures that the services of the private sector are efficiently and equally available to all, without discrimination, at least on the basis of race, ethnic origin, religion, disability, age, sexual orientation and political opinions.

ANSWER:

Provisions of article 162 to 166 of the new Law on Social and Child Protection relates to the supervision of implementation of the Law. It is stipulated that supervision over the professional work of service providers is conducted by the Ministry of Labour and Social Welfare (the control over the application of the prescribed technical procedures i.e. assessment, planning, review of the effects of implemented activities, etc.). It also stipulates that inspection control is carried out by the inspection for social and child protection which is organized within the Administration for Inspection Affairs.

Social inspections carries out in certain cases, inspection-control over the work of institutions that have been organized by the state, local government or if it is the private sector in question.

Appropriate secondary legislation is brought in accordance with the new Law on Social and Child Protection in relation to the licensing and accreditation of training programs for service providers. The procedures of obtaining licenses will commence during 2017 so that we can state that there have not been registered service provider yet, and in this respect, there is no legal basis for determining compliance with the prescribed procedures in the provision of services, as well as performing by persons with adequate qualifications.

Private service providers can register their activities under other regulations or without permission to work - license. However, despite the interest shown, the license will be provided, as stated, during 2017. Given that in this part there is no responsibility of the private sector, and the high needs of the citizens to use the services especially the elderly and persons with disabilities, they were given the opportunity to carry out activities until the creation of conditions when they will be able to provide a license.

The Committee stresses that the control mechanisms must be put in place to monitor the quality of services provided by individuals and voluntary or other organizations while preserving the rights of users and ensure respect for human dignity and fundamental freedoms, and requires the following statement to clarify the situation in this regard.

ANSWER:

The control mechanism has been established in accordance with the Law on Social and Child Protection, as provided in previous answers, stating that this issue is dealt by the Protector of Human Rights and Freedoms of Montenegro.

This type of supervision is not intended to be done by individuals and voluntary organizations. Supervision implies a certain level of professional education and knowledge in this area, and that there is a legal basis for its exercise. Regulations on the basis of which are established NGOs do not provide options of carrying out supervision. Also, individuals and voluntary and other organizations are not legally allowed to carry out the inspection of documentation of service providers and user files in view of the special rules relating to the protection of personal data.

In any case, individuals, voluntary and other organizations are given the opportunity, as regards the institutions established by the state, to get acquainted with the manner of work, to make suggestions and proposals for improving the work, raise any objections in all cases where they consider that there has been a violation of the procedures for the provision of services or violation of the rights of users and similar. Service providers are required to review all of the above and accordingly provide feedback.

Article 23 – The right of elderly persons to social protection

The Committee takes note of the information contained in the report submitted by Montenegro.

Legal framework

The Committee notes that the age is not listed as a prohibited ground of discrimination and asks the next report to explain whether there are anti-discrimination laws (or equivalent legal framework) to protect elderly persons outside the field of employment, or whether the authorities plan to make laws in this area.

ANSWER:

In the area of social and child protection in accordance with the Law on Social and Child Protection persons older than 67 years are considered incapable of work and are eligible for financial support under the conditions prescribed by law, relating to income, earnings and property of that person and members family with whom they live. Also, in the exercise of the mentioned rights, it shall be determined whether a person has relatives who can provide maintenance under the provisions of the Family Law. Persons older than 67 years as per their health condition and prescribed medical indications can realize the right to care and support allowance and the right to personal disability allowance regardless of revenues. They are entitled to placement in an appropriate institution of social protection or the right to family accommodation or other social services. If they use the right to care and support allowance, they can realise the benefits in domestic passenger traffic. If they use the right to financial support, they are entitled to a subsidy for electricity bills, and at the level of local government, they have a possibility of solving the housing issue. Also, the use of the said law is the basis for the realization of the right on free legal aid, as well as certain subsidies in companies related to utilities and others.

Also, we note that Montenegro adopted the Strategy for Development of Social Protection of the Elderly for the period 2013-2016.

The Strategy for Development of Social Protection of the Elderly in Montenegro predicts that the municipality will, in the context of their action plans, develop activities for the protection of the elderly, such as the construction of facilities for the elderly.

The Committee would like to receive more details on the implementation of this strategy.

ANSWER:

As shown in the previous response, the elderly, in accordance with the Law on Social and Child Care, can achieve material support and services of social and child protection.

When it comes to social services in addition to existing institutions with accommodation of elderly people in Risan, Bijelo Polje and Podgorica (for persons with mental disabilities), in the Municipality of Pljevlja and Podgorica are carried out activities on the establishment of two more home for the elderly. In order to provide additional protection of the elderly, to remain in their home environment, four day care centres are opened for the elderly in the municipalities of Niksic and Danilovgrad. Also, the Ministry of Labour and Social Welfare is implementing the project of home assistance covering 1,100 elderly people in the area of northern and central regions of Montenegro.

The above mentioned strategy is a comprehensive document which set the directions of development of the protection for the elderly in terms of material support in this area, with special emphasis on the development of services in cooperation with the local administration, which defines the protection of the elderly in their territory in accordance with the needs and in cooperation with the state. In this regard, apart from the state, they also cooperate with NGOs through the allocation of funds for projects implemented for individual services in its territory.

The strategy is being implemented in accordance with the established action plans. The texts of the Strategy, as well as all regulations in this area are published on the website of the Ministry of Labour and Social Welfare.

In the municipalities of Pljevlja and Podgorica are carried out construction work for two day homes for the elderly, in addition, four day care centres for the stay of elderly are opened in the municipalities of Niksic and Danilovgrad.

The Committee also requested information on the legal framework pertaining to the decision-making aid for the elderly, and in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision-making by the elderly.

ANSWER:

All adults regardless of age can independently decide on their rights and obligations and such their right cannot be denied or restricted.

Another person may decide on behalf of the elderly only under the powers of the old person in the procedure through the authorisation issued by the competent body carrying out the verification of health condition by an expert. The centre for social work is obliged to inform the old person in details on his/her rights in this area.

Also, if an elderly person due to health conditions is not able to express his/her interests, it may be limited his/her business capacity fully or partially in a non-litigation procedure. In that case, for the purposes of court proceedings, the assessment of the old person reasoning performs an expert of appropriate medical profession. After the decision is made, the court orders the centre for social work to appoint him/her a guardian, who is, as a rule, a relative, who will take care of his or her rights and interests. In accordance with the provisions of the Family Law, the guardian has an obligation to inform the Centre for Social Work of his/her activities. The

guardian is also limited in terms of making decisions on the disposal of property, i.e. he/she cannot sell the assets of the old person or perform any action or activity (e.g. placement in an institution) without the consent of the centre for social work and is responsible for his/her work.

Appropriate resources

The Committee asks the next report to provide updated information on the terms of eligibility for old age pension.

ANSWER:

The conditions for entitlement to old-age pension during the transition period

Calendar year	Eligibility for acquiring old-age pension		Length of service for acquiring old-age pension
	Male	Females	
2011	64 years	59 years	16 months
2012	64 years and six months	59 years and six months	15 years and six months
2013	65 years	60 months	15 months
2014	65 years and two months	60 years and three months	15 months
2015	65 years and four months	60 years and six months	15 months
2016	65 years and six months	60 years and nine months	15 months

The insurer acquires the right to old-age pension upon reaching: the age of 67 years (men and women) and at least 15 years of pensionable service; regardless of age (men and women) with achieved 40 years of pensionable service; 30 years of insurance, of which at least 20 years effectively spent on workplaces, in the mines shall be calculated at an accelerated rate.

In order to assess the situation in the future, the Committee asks the next report to explain whether the minimum contributory and non-contributory pensions, together with available cash benefits and amendments, provide the level of income that is above the poverty line in the country. The Committee also asks for information about the rate of exposure to the risk of poverty for persons aged 65 and over.

ANSWER:

According to the payment of pensions for the month of July 2016, according to data from the Pension and Disability Insurance Fund of Montenegro, there were 124,487 users of retirement and disability insurance in Montenegro, of which 8,006 of minimum pension of 121.92 EUR, which is 6.5% of the total number of users.

The number of old-age and disability pensioners aged 60-65 years of age, there were 17,884, while the number of pensioners over 65 years is 56,614.

The number of pensioners aged 60-65 years, who receive the minimum pension in the amount of 121.92 EUR is 2,068, while there were 1,520 pensioners over 65 years of age, who receive the minimum pension in the specified amount.

The number of beneficiaries of family pension receiving the lowest pension is 2,866, but for the number of people aged over 60 years, we were not able to provide accurate information.

Preventing elder abuse

The Committee wants to know what national authorities are working on an assessment of the scope of the problem in Montenegro, to raise awareness of the need to eradicate elder abuse and neglect, and any legislative or other measures have been taken or planned in this area.

ANSWER:

In the area of social and child protection, the Law on Social and Child Protection, in Article 8 stipulates that an institution, or another service provider, an employee shall be prohibited from every form of violence towards a child, an adult or old person, physical, emotional and sexual abuse, taking advantage of the beneficiaries, abuse of trust or authorisations enjoyed in relation to the beneficiary, neglect of the beneficiary and other actions that disturb the health, dignity and development of the beneficiary. In case of violation of the above provisions on the procedure for the establishment of the aforementioned circumstances, depending on the committed act, it may fall under the responsibility of the inspection of social and child welfare, police, prosecutors and the court having jurisdiction.

If the elderly are exposed to abuse and neglect in the family, proceedings are conducted in accordance with the Law on Domestic Violence Protection and other regulations in the field of justice.

Services and facilities

The Committee stresses from the report that the Ministry of Labour and Social Welfare is implementing the project "Home Care Services" in cooperation with the Employment Agency of Montenegro and local self-governments to improve the quality of life in old age. Under the project, 16 municipalities employed 170 gerontological assistants who care for about 1,200 elderly people. The pilot project related to day care of the elderly is implemented in cooperation with the Centre for Social Work and the United Nations Development Programme (UNDP) in the municipality of Niksic.

The Committee would like to receive more details about the implementation of these projects.

ANSWER:

The new Law on Social and Child Welfare regulated in a more precise manner the service area in terms of types of services, service providers and financing services.

As regards the social services for the elderly, in addition to existing institutions with accommodation of elderly people in Risan, Bijelo Polje and Podgorica (for persons with mental disabilities), in the municipalities of Pljevlja and Podgorica are carried out activities on the establishment of two more home for the elderly. In order to provide additional protection of the elderly, in their home environment, five day care centres for the elderly are opened in the municipalities of Niksic and Danilovgrad.

The Committee asked whether the general provision of home help services for the elderly matched the demand for them, how their quality was monitored, and if there was a possibility of appeal to their services. In addition, the Committee wishes to know whether the level of their provisions differs from one municipality to another, and if there is an appeal on any of these services. The Committee also asks for information on any service or facility (such as short-term care) for families caring for elderly people, especially highly dependent people, as well as on some specific services for those suffering from dementia or Alzheimer's disease. Finally, it also examines the cultural and educational institutions available to the elderly.

ANSWER:

The Project "Continuation of the Social Welfare System Reform" implemented by the Ministry of Labour and Social Welfare with the technical assistance of UNDP realised a tender to support service "Home assistance for the elderly". The project "Home assistance for the elderly" started on 11 April 2016 and it is implemented in 16 municipalities (the northern and central region). Service providers are centres for social work and the project is realised for a period of nine months (April-December 2016), with total number of around 1,000 beneficiaries. After the public announcement, 109 geronto-housewives were engaged who

provide services for about 1,100 users. The project will be continued in the forthcoming period. At the moment, it is carried out the evaluation of the aforementioned project, which will demonstrate the justification of this service as well as whether there is a need for further expansion of the service. This service covered a total of 16 municipalities in Montenegro, northern and central regions. This service provides consistent quality services in all municipalities because geronto-housewives are properly trained in the Bureau of Social and Child Protection of the Department of Social and Child Protection.

During 2016, the public work “Home assistance for the elderly“ is carried out by the Employment Agency of Montenegro which engaged 53 geronto-housewives that provide home-help services for 520 users.

Home assistance services for the elderly, in addition to the program that is being implemented at the national level, is provided by the Red Cross of Montenegro, as well as many non-governmental organizations in accordance with their program activities. The local organizations of the Red Cross in four Montenegrin municipalities received funds to implement activities related to home help for the elderly through distribution of revenue from games of chances. Also, in three municipalities, from the same fund, non-governmental organizations have received funds for the implementation of the aforementioned activities. Despite all efforts, it is not possible to meet all requirements for the time being. A particular problem is pronounced in rural areas where there are a large number of elderly people who either do not have relatives or relatives are not living with them. In these cases, the competent centres for social work perform periodic visits in order to provide appropriate assistance.

The types of services are defined by the Law on Social and Child Protection, and norms and standards for their provision are regulated by appropriate secondary regulations. Also, the procedure for the licensing of professional workers and service providers is laid down, as well as accredited training programs. In 2017, it is expected the implementation of these activities.

Article 164 of the Law, prescribes the inspection control over the service provider's work which is within the competencies of the inspector for social and child protection, as an independent body that works within the Administration for Inspection Affairs and it is not under the jurisdiction of the Ministry of Labour and Social Welfare. In this regard, every beneficiary can address the said inspection, either directly or through the centre for social work or Ministry, in order to examine the allegations from the appeal and/or complaint. The right to complain on the service provider is provided by Article 10 of the Law on Social and Child Protection, which means that it is the same procedure for the entire territory of the country.

The legal possibility is envisaged for family placement of old highly dependent persons based on their health status. However, considering the high demanding care of these few individuals, not many are placed in another family, but they are mostly placed in an appropriate institution of social protection as a home for the elderly who have organizational units that deal specifically with the elderly that require high care. Also, in Podgorica was organized institution

that specifically deals with accommodation for adults with mental disabilities where they are located and elderly people with these health problems.

Numerous activities have been undertaken to improve the material position of pensioners, since the beginning of the reform of the pension system, relating to subsidizing the purchases of food, an one-time assistance to the most vulnerable retirees, stay in resorts in the mountains and the sea (Zabljak, Ulcinj and Igalo), as well as co-financing housing construction for the needs of pensioners and the adaptation and equipping of facilities of local associations of pensioners.

Accommodation

The Committee wishes to be informed of all public policies that provide financial assistance for the renovation of apartments.

ANSWER:

Solving the housing problems of the elderly, primarily pensioners who have not solved their housing problems during the years of employment, falls under the competence of the associations of pensioners which are organized as non-governmental organizations. The association of pensioners provides funds for housing construction, as well as infrastructure for construction in cooperation with local self-governments. Apartments are provided at a price that is much lower than the market price with favourable conditions for payment in multiple instalments to the pensioners who exercise their right to housing.

The local self-government is primarily in charge if an elderly person who is a beneficiary of social and child care assistance is solving housing problems or improving housing conditions in accordance with the Law on Local Self-Government.

The Law on Social Housing regulated the competencies of local self-governments to adopt specific annual plans relating to activities in the housing needs of persons who are not able to provide it themselves (the elderly, persons with disabilities, beneficiaries of social assistance, refugees and displaced persons, etc.).

Health care

The Committee recalls the importance of establishing health care programs and services (especially primary healthcare), specifically targeted to the elderly, as well as guidelines on health care for the elderly. In particular, there should be mental health programs for any psychological problems in relation to the old, adequate palliative care services and special

training for individuals who care for the elderly. The report does not provide any information on these issues.

The Committee therefore asks for information on these issues in the next report. They should also be provided information on all measures taken to improve the availability and quality of geriatric and long-term care, or on the coordination of social and health care in relation to the elderly.

ANSWER:

The provisions of Article 17 of the Law on Health Care provides that in the area of health care, from the budget of Montenegro shall be provided funds for the implementation of promotional programs for the improvement of health of specific most vulnerable population groups by age groups and types of diseases. Article 19 of the Law stipulates that health care is provided in the full amount of the mandatory health insurance for insured persons older than 65 years of age. Persons in nursing homes as a collective accommodation are fully provided health care at all levels. In line with the strategic objectives of Montenegro, the Strategy to improve the situation of the elderly has been adopted, and the health sector is represented in this document with the aim of providing the most appropriate form of health care to older persons.

Institutional protection

According to the report, there are two Care Homes for adults with disabilities and the elderly in Montenegro, in Risan (270 clients) and Bijelo Polje (120 clients). The Institution of social protection, public institution "Komanski most" in Podgorica (120 users) provide accommodation for elderly people who have mental retardation. Nursing home provides institutional care for the elderly, disabled adults, chronically mentally ill and elderly people who find themselves in a state of acute social need.

The Committee asked how these facilities were licensed and inspected, and whether there were procedures for complaints to the standard of care and services, or about possible abuse. It also asked whether the sites available for institutional care matched the demand and which body was responsible for inspecting houses and residences (public and private). It recalls the importance of ensuring that any inspection system regarding the standards of care and services in institutions and residential buildings will be fully independent of the bodies managing the building.

ANSWER:

Mentioned institutions fulfilled the requirements envisaged by the law and secondary legislation in terms of equipment, personnel and space during the period of establishment. The founder of these institutions is the Government of Montenegro. The Ministry of Labour and Social Welfare approved the rulebooks on the organization and job classification. At the time of their founding under regulations in the field of social and child protection, there was no

institute of licensing, but only norms and standards for the performance of activities that were respected then.

The new Law on Social and Child Protection established licensing procedure for professional workers and service providers, the process of accreditation of training programs, standards in providing services and others. All implementing legislation that regulates this field has been passed. The start of the application of the licensing process will commence during 2017.

As stated, social inspection has been established is organized as part of the Administration for Inspection Affairs and its work is independent of the body that manages the service provider as well as the ministry responsible for social welfare.

As regards the institutional housing of the elderly, the interest is greater than the available capacity. For these reasons, the work to open two more institutions for accommodation is under way and there is also expressed interest in this type of accommodation by several local self-governments, as well as for the development of services of an elderly day care centre.

In terms of protection of the elderly, four day care centres are organized and service of geronto-housewives for about 1,100 elderly people which is conducted through the competent centres for social work.