



**Gender-mainstreaming analysis for the Action  
"Accountability and Professionalism of the Judicial System in Montenegro"**

**Summary of key findings and recommendations**

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## Introduction

As part of the European Union and Council of Europe cooperation framework “Horizontal Facility for the Western Balkans and Turkey”, the Council of Europe implements the Action “Accountability and Professionalism of the Judicial System in Montenegro” (HF6) in close partnership with the Judicial and Prosecutorial Councils, Supreme Court, Office of the Supreme State Prosecutor, Centre for Training in Judiciary and State Prosecution Service, Ministry of Justice, Bar Association, Chamber of Public Bailiffs, Chamber of Notaries, Association of Court Experts, Association of Court Interpreters and Centre for Mediation of Montenegro.

The Action aims at further enhancing professionalism, accountability and the overall quality of service of the judicial system of Montenegro, building upon the results achieved and, on the issues highlighted by the Action “Accountability of the Judicial System” (HF14), implemented in the period November 2016 – May 2019.

In line with mid-term evaluation recommendations (Results Orientated Monitoring ROM of HF Phase 1) and Council of Europe’s policies and organizational efforts in this area, including 2018 Gender Strategy and Toolkit, the Action aims at mainstreaming gender and strengthening meaningful inclusion of European standards on anti-discrimination and gender equality in the Action’s implementation.

The Gender-mainstreaming analysis has been undertaken in June 2020<sup>1</sup> in order to give more substantial insight into the national gender equality context that surrounds the gender dimension of the judicial profession and to analyze the current judicial policies/practices from the point of view of gender sensitivity. Wherever it was possible, the examples of good practice from countries of the Council of Europe were presented in order to illustrate models for ensuring a higher level of gender equality and sensitivity within judicial professions. Based on that, recommendations for gender mainstreaming of the Action have been developed.

Given the fact, that the Action already implies the basic principles of gender equality, the main focus of this document will be to complement existing gender considerations and to focus on those segments of the Action, where introduction of a more sensitive gender approach can lead to a better compliance with CoE and EU standards. In a sense of that, it is important to mention that the analysis is limited only on the two professions - judges and prosecutors and their professional associations. The other beneficiaries of the Action - lawyers, public bailiffs, notaries, court experts, court interpreters and mediators are not the subject of this document, because such analysis would require more time and resources. However, wherever it was possible, those professions were mentioned for the purpose of getting a more complete picture about the main subject of the analysis. Also, some specific recommendations concerning these professions were given in order to ensure more effective implementation of gender dimension of the Action, as well as for the purpose of some follow-up activities that may follow, based on such recommendations.

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<sup>1</sup> By the national gender expert Sanja Elezovic

## Executive Summary

***Introducing of the gender balance principle into judicial profession and raising the level of gender sensitivity within the profession invigorates protection of human rights and the rule of law. Implementation of this principle in Montenegro is still the challenge. Feminization of the profession at the lower level in judiciary and domination of men in the decision-making level (presidents of courts and head prosecutors) can in the long run contribute to deepening of gender gap and diminish the role of the judiciary as safeguards of human rights and the rule of law.***

Within the Action "Accountability and Professionalism of the Judicial System in Montenegro", the gender mainstreaming analysis has been done to identify the main challenges in mainstreaming gender equality in judiciary, and to propose the gender-responsive measures, outcomes and indicators to be incorporated in the implementation phase of the Action.

The following ***main challenges for establishment of a gender responsive judiciary*** are identified by the Analysis:

- In Montenegro, ***women make majority among judges and prosecutors, while men dominate in the higher levels of the hierarchy***. Only in the Judicial Council and the Prosecutorial Council, the ratio between women and men is close to the balance, due to the existing legal obligation stipulating for a gender balance in the two bodies.
- ***The trend of feminization of the judicial profession and the existence of "glass ceiling" is not recognized by the judiciary as an issue to be strategically dealt with***. Consequently, the Strategy for Reform of Judiciary with Action Plan 2019-2022 remained "gender blind".
- This can lead to the conclusion that ***understanding of the interdependence between gender balance and gender sensitivity of the judiciary from one, and strengthening of rule of law and human rights protection from the other side, still remains the challenge***.
- ***Montenegro does not have an institution with special responsibility for gender issues in the judicial system***.
- ***Judicial budget is not gender responsive***.
- There is ***an absence of policy for prevention and procession of cases of sexual harassment at the workplace in judiciary***. No cases have been processed so far.
- Mobbing is regulated by the labor legislation and in majority of courts, contact persons for reporting of mobbing are nominated. However, ***no cases of mobbing have been processed so far due to the absent of internal procedures for reporting, processing and for protection of people who report mobbing***.
- Gender equality standards are present as a subject of initial and continuous education for judges and prosecutors, with focus on women and men in judicial procedures.
- There is an ***absence of gender trainings aimed at better position of women in the profession***, like gender balance, decision-making and protection from discrimination.
- Specialized trainings for managerial and leadership skills that could raise self-awareness and encourage women to apply for managerial positions are not available within the program of the Centre for Training in Judiciary and the State Prosecutor's Office.
- ***Professional associations of judges and prosecutors do not have gender equality in focus***;
- Specialized ***professional associations of women in judiciary do not exist***.

## Recommendations

The following **recommendations for introduction of gender responsive measures** within the Action have been proposed by the Analysis:

- General recommendations which are related to **strategic approach to gender equality in judiciary, institutional arrangements for insuring a gender parity and anti-discrimination**, as well as to **sex-disaggregated statistics** that will enable better monitoring of gender policies in judiciary.
- Specific recommendations for **gender-responsive outputs and gender indicators within each of 5 outcomes** within the Action.
- **All intermediate and immediate outcomes and the respective outputs are upgraded to reflect gender responsiveness of the Action.** The only exception is Output 1.2.2 which has been already defined as a gender responsive one ("New gender approach in the process of appointment of court presidents and heads of prosecution offices is developed").
- Strengthened monitoring framework is enabled through **introduction of 28 new gender indicators.**
- Also, **6 existing indicators are upgraded to reflect gender responsiveness.**
- Specific recommendations for activities: **19 gender responsive recommendations for 19 activities were developed** in order to integrate the gender aspect and maximize the effectiveness of those activities among women and men beneficiaries of the Action.

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