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EUROPEAN SOCIAL CHARTER

9th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF MONTENEGRO

Articles 1, 9, 10, 15, 18, 20, 24 and 25

for the period 01/01/2015 - 31/12/2018

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9th NATIONAL REPORT ON THE IMPLEMENTATION OF
THE EUROPEAN SOCIAL CHARTER FOR 2019

CONCLUSIONS 2016

MONTENEGRO

December 2019

Article 1 - Right to work

Paragraph 1 - Policy of full employment

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

Employment situation

The Committee notes from the Statistical Office of Montenegro that the GDP growth rate in Montenegro fell from 5.2% in December 2013 to 3.2% in December 2014.

The unemployment rate fell from 19.5% in December 2013 to 16.4% in December 2014. Youth unemployment reached 48.4% in December 2013. The employment rate stood in December 2014 at 44.0% falling from 47.6% in 2010.

The Committee notes the continued low employment rate and the particularly high youth unemployment rate.

Employment policy

The legal framework for employment policy remains the Law on Employment and Exercising Rights with respect to Unemployment Insurance which entered into force in March 2010. The Committee takes note that meanwhile the law was amended three times, namely in 2012, 2013 and 2015. The main objective of these amendments was the alignment and harmonisation with EU legislation.

The Committee takes note on the information provided on various active labour market programmes in place and the activation rate, i.e. the average number of participants in active measures as a percentage of total unemployed. According to data of the Employment Office of Montenegro, the share of unemployed persons involved in active employment policy measures in the first half of 2015, compared to the overall number of unemployed persons in the first half of 2015 was 20%.

If the average number of unemployed persons entitled to financial compensation on the basis of unemployment and the persons involved in active employment policy measures are added, the percentage amounts to 36.7%.

As for the spending on active measures as a percentage of GDP, the percentage reached 0.4% in 2013 thus approaching the EU average.

To reduce the rate of youth unemployment, Montenegro introduced a number of specific programs aiming the private sector to hire in particular young people. One of the programs is called 'Young people are our potential, give them a chance'. Its aim is to help young people in solving the problem of unemployment by raising entrepreneurial competencies and specific job-related skills.

According to the report, the Law on Employment and Exercising Rights with respect to Unemployment Insurance stipulates that monitoring and assessment of the impact of the active employment measures are carried out by the Ministry of Labour. On the basis of these assessments future measures and activities are adjusted accordingly.

The Committee notes that several activation measures had been taken, which however turned out not to be effective. Therefore, the situation is not in conformity with Article 1§1 of the Charter.

Comment:

According to the Statistical Office - Monstat, Montenegro achieved economic growth of 4.7% in 2017, 4.9% in 2018, with an estimated 3.1% growth in 2019. Simultaneously, positive trends have been recorded in the labour market.

The activity rate (15+) increased from 54.5% in 2016 to 56% in 2018, while it rose from 63.4% to 64.7% for the 15-64 age group.

The employment rate of 15+ group rose from 44.9% in 2016 to 47.5% in 2018. In the same period, the employment rate for the population ages 15-64 increased from 52.0% to 54.7%.

The unemployment rate of 15+ is trending downwards, down from 17.7% in 2016 to 15.2% in 2018.

When it comes to young people, the data indicate that the activity rate for the target group 15-24 in 2018 remained at approximately the same level as in 2016, or 32.9%. The employment rate is up from 21.0% in 2016 to 23.2% in 2018, while the unemployment rate dropped from 35.9% in 2016 to 29.4% in 2018.

Article 1 - Right to work

Paragraph 2 - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

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

1. Prohibition of discrimination in employment

The report indicates that through the amendments brought to the Law on the Protector of Human Rights and Freedoms in 2011 and to the Law on Prohibition of Discrimination in 2014, the Protector of Human Rights and Freedoms (the Ombudsman) represents now the institutional mechanism for protection against discrimination. The Ombudsman is competent to receive complaints from persons who have been discriminated against in employment. The report indicates that special records of discrimination cases are kept in the form of an electronic database that enables direct access to the data of the Protector of Human Rights and Freedoms. However, the report mentions that there is no such electronic database to record the discrimination claims/proceedings submitted before the courts and their outcomes.

The Committee notes from the EU Commission Progress Report 2014 on Montenegro that the capacity of the Ombudsman's office remains limited, in terms of both human and financial resources. Despite the overall rather high number of staff, the number of posts in the departments dealing with substantive human rights and anti-discrimination issues is rather limited, and various

positions remain vacant, including two out of four deputy posts. This raises concerns about the institution's capacity to fulfil its broad remit and efficiently handle complaints. Little follow-up is given to concrete cases of discrimination. **The Committee asks updated information in the next report on the activities and capacity of the Ombudsman of dealing with complaints alleging discrimination in employment.**

ANSWER:

During the 2015-2018 reference period, the human resources capacity of the Ombudsman was further enhanced. This period was marked by increased training of officials; further training through participation in international meetings; by strengthening international cooperation and joining European networks dealing with the protection of human rights and freedoms, equality and non-discrimination.

The Ombudsman's Office has classified jobs for 33 civil servants and employees. On 31 December 2018, three (3) out of four (4) deputies exercised their function, as follows: Deputy for the National Preventive Mechanism, Protection Against Torture and the Right to a Trial within a Reasonable Time; Deputy for Protection against Discrimination, Minority Rights and Gender Equality; and Deputy for Children's Rights, Youth Rights and Social Welfare. On the same day, 28 civil servants and employees were employed.

In 2018, the Ombudsman office filled 4 vacancies requiring higher education - university degree (VSS - VII1): Ombudsman Advisor - in the field of protection of the rights of the child, Ombudsman Advisor - in the field of NPM, Independent Advisor I - in the field of Protection against Discrimination, Independent Advisor II - in the field of general protection. The Action Plan for Chapter 23 - Judiciary and Fundamental Rights, under Measure 3.1.6, planned the hiring of 4 (four) officers in 2018. In order to further strengthen the capacity of the Office in 2019, 3 (three) new officers should be recruited in accordance with the Action Plan for Chapter 23 - Judiciary and Fundamental Rights and the Ombudsman's Staffing Plan.

Advisors in the Anti-Discrimination Sector have acquired a specialty in dealing with certain types and forms of discrimination, especially when it comes to certain vulnerable social groups such as persons with disabilities, LGBTIQ people, women, Roma and socially excluded people. One advisor is specifically in charge of gender equality, i.e. monitoring the implementation of the Gender Action Plan (PAPR), handling complaints and reporting on the situation in this field.

With the 2017 Annual Work Report, the Ombudsman began the practice of detailed tabulation by areas of discrimination, personal traits and manner of dealing with individual cases, including the area of labour and employment. Out of 135 anti-discrimination cases in 2017, as many as 50 related to the field of labour and employment, while in 2018, out of 155 cases in the field of labour and employment, 52 cases were on different grounds of discrimination. The tabular view contains the manner of the resolution of the case, and where a violation of rights has been identified and the recommendations made, it contains a separate section on the status of the recommendation with regard to the monitoring of its implementation.

With regard to available remedies, the report indicates that persons who consider that they are victims of discrimination in employment may complain to the Ombudsman or to the courts in accordance with the Law on Prohibition of Discrimination. Moreover, the Labour Law stipulates that persons seeking employment and employed persons can initiate proceedings before the competent court in cases of discrimination. The Labour Law envisages the possibility for the

employee and the employer to address disputes that arise from labour to the Office for peaceful settlement of labour disputes. The report indicates that from a total number of 11 proposals submitted to the Office, in 6 cases the parties did not reach any agreement and in 5 cases the proceedings were not conducted as the other party in the dispute did not accept a peaceful settlement of the concerned dispute.

The Committee recalls that remedies available to victims of discrimination must be adequate, proportionate and dissuasive. Therefore, compensation for all acts of discrimination including discriminatory dismissal must be both proportionate to the loss suffered by the victim and sufficiently dissuasive for employers. Any ceiling on compensation that may preclude damages from making good the loss suffered and from being sufficiently dissuasive is proscribed (Conclusions 2012, Andorra). The Committee reiterates its request for precise information on remedies – reinstatement or damages that may be awarded to a victim of discrimination in case of illegal dismissal. **It asks whether there is a pre-defined limit/ceiling to the amount of damages that may be awarded.** It points out that if the information requested is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

ANSWER:

Law on Prohibition of Discrimination (“Official Gazette of Montenegro”, Nos. 046/10, 040/11, 018/14, 042/17) under Article 15 proscribes discrimination in preschool education, education, and vocational education on all grounds of discrimination referred to under Article 2 paragraph 2 of this Law, while Article 16 proscribes discrimination in employment, on all grounds of discrimination under Article 2 paragraph 2 of this law.

Also, the Labour Law stipulates that where proceedings (an employee who has received a termination notice may bring a dispute before the competent court to protect his rights, within 15 days from the day of receiving the notice, and may also address the dispute to the Agency for the Peaceful Settlement of Labour Disputes) determine that an employee has unlawfully or unjustifiably been terminated, he is entitled to tangible damages in the amount of lost earnings and other income he would generate if he had been employed, in accordance with the law, collective agreement and employment contract, and is also entitled to the payment of compulsory social security contributions. Also, where the proceedings established that the dismissal resulted in violation of personal rights, honour, reputation and dignity, the employee is entitled to compensation for non-pecuniary damage.

With respect to damages, the Law on Obligations sets no limits on the amount of pecuniary or non-pecuniary damages that can be awarded to a victim of discrimination; the damages are awarded in accordance with free judicial conviction and case law in analogous - factual legal situations. To this end, the court, taking into account all the circumstances arising from the damages caused, awards damages in the amount necessary to bring the injured party’s financial situation to the state he would have been into had there been no harmful act or omission; or damages proportional to the severity of the mental pain suffered by the violation of reputation, honour and dignity of the person. In case of compensation for ordinary damage and compensation for loss of potential profit, the amount of compensation for damages shall be determined according to the prices at the time of the court decision, unless otherwise provided by law. In assessing the amount of loss of potential profit, account shall be taken of the profit that could have reasonably been expected from the ordinary course of affairs or special circumstances, the

occurrence of which was prevented by the wrongdoer's act or omission.

The report indicates that some regulations restrict the employment of foreigners in certain sectors, such as the Law on Civil Servants and State Employees, General Law on Education. According to the General Law on Education a foreigner with permanent residence in Montenegro may enter into employment as a teacher under conditions provided by special law. However, this right does not have a foreigner with temporary residence in Montenegro. The Committee asks which are the other categories of jobs and sectors prohibited to non-nationals.

The Committee notes that foreigners with temporary residence in Montenegro cannot work as teachers. It points out that this occupation is not linked to the protection of law and order or national security and do not involve the exercise of public authority. The Committee considers this restriction to be excessive and therefore to constitute discrimination on the ground of nationality. Thus, **it concludes that the situation is not in conformity with the Charter on the ground that foreigners with temporary permit may not be employed as teachers, which constitutes discrimination on grounds of nationality.**

ANSWER:

Under Article 100a of the General Law on Education, a teacher may establish an employment relationship where, in addition to the general conditions prescribed by the Labour Law, he/she possesses 1) an appropriate level of education and field (profile) of education determined by a special regulation; 2) Montenegrin citizenship and has passed professional exam for work in educational institutions, i.e. a work permit. This article stipulates that a foreigner with permanent residence in Montenegro may establish a working relationship as a teacher under the conditions laid down by a special law governing the residence of foreigners.

Therefore, the General Law stipulates that a foreigner with permanent residence may be employed by a school, in accordance with a special law. However, a temporary resident cannot be employed as a teacher.

The Committee previously noted that that Roma, Ashkali and Balkan Egyptians suffer from discrimination and have a very low level of employment and asked to be informed on the progress in the fight against discrimination in access to employment for this group of persons (Conclusions 2012). The report provides statistics indicating that most of the persons belonging to Roma and Balkan Egyptian population are unemployed and they have no professional qualifications (approximate 95% with almost 45% women).

The Committee notes from the EU Commission Report 2015 on Montenegro that according to the latest census, there are approximately 8,300 Roma and Balkan Egyptians living in Montenegro. Roma continue to be underrepresented in the political sphere and have difficult access to the labour market. Informal employment prevails and Roma children are particularly exposed to child labour.

The report indicates that in March 2012 the Government adopted a Strategy for improving the situation of Roma and Balkan Egyptians in Montenegro 2012 – 2016. Annual action plans will specify the priority measures and activities to be implemented each year. The Committee asks information in the next report on any impacts of this Strategy on the

employment situation of Roma and Balkan Egyptians. The Committee asks that the next report provide information on positive measures/actions for combating all forms of discrimination in employment.

ANSWER:

The 2016 – 2020 Strategy for Social Inclusion of Roma and Egyptians in Montenegro, which the Government of Montenegro - Ministry of Human and Minority Rights, adopted as necessary for an integrative approach in combating social exclusion, segregation and poverty, identifies seven key areas where the position of Roma and Egyptians needs to be improved, including the area of employment.

The Strategy envisages the achievement of the following objectives, by applying adequate measures:

- Increased participation of Roma and Egyptians in active employment policy measures*
- Increasing the level of professional competence of Roma and Egyptians*
- Implementation of direct measures aimed at employment of Roma and Egyptians*
- Capacity building of system institutions*

1. The goal of increasing the participation of Roma and Egyptians in active employment policy measures is planned to be achieved through the implementation of measures:

- Motivation of Roma and Egyptians to actively seek employment and engage in active employment policy programs*
- Introduction of the occupation “Associate in social inclusion of Roma and Egyptians in the field of employment”*

2. Increasing the level of professional competence of Roma and Egyptians will be realised through the measure Vocational education and training of adults, within which activities are aimed at raising the level of qualification of Roma and Egyptians for the labour market (acquiring qualification for first occupation; improving knowledge for the same occupation and education level; retraining and acquisition of key skills that employers consider to be very important when Roma and Egyptians seek employment).

3. Implementation of direct measures aimed at employment of Roma and Egyptians

This objective is achieved through the following measures:

- Involvement of Roma and Egyptians in public works programs*
- Stimulating employment in seasonal jobs by subsidizing earnings or providing tax incentives (already available)*
- Training program to work for an employer*
- Self-employment programs (adoption of appropriate legal framework and creation of special credit lines).*

4. Capacity building of system institutions

In order to more effectively involve Roma and Egyptians in the programs of the institutions of the system, the staff of the institutions needs to be further sensitised and acquire additional skills to work with Roma and Egyptians. Thereby the process of social inclusion of Roma and Egyptians would be enhanced and increased the overall capacity of the institutions.

The Strategy envisages one key instrument/measure for achieving this objective, namely training

for workers of the Employment Office and Centres for Social Work.

In this regard, within the framework of the implementation of the 2012-2013 Operational Programme for Human Resources Development, funded by EU funds (IPA), in 2016 and 2017, measure 3.1 “Supporting greater access to labour market for persons with disabilities and RAE population” and the Service Agreement: “Cooperation between the Employment Office of Montenegro and the Centres for Social Work”, have been implemented, designed to increase employment and improve access to the labour market for Roma and Egyptians through the implementation of numerous activities, from capacity building of institutions to enhancing the capacity of the program applicants for the implementation of grant schemes.

Activities of the Employment Office of Montenegro

According to the records of the Employment Office, there were about 1,000 unemployed persons on average in the period 2015-2018, who declare themselves Roma and Egyptians (female participation about 50%).

Comparative statistics on unemployed Roma and Egyptians in the observed period show no significant change.

The share of the population in the total registered unemployment over the last two years of the period under review was 1.83%, while 95% of the total registered unemployed Roma and Egyptians are persons without occupation and education.

Roma and Egyptians who are on the Office’s register, based on their educational level, lack of marketable knowledge, abilities and skills, social context in which they live, and discrimination, fall into the category of hard-to-employ persons for the most part.

In its annual work programs, the Office plans activities and resources aimed at improving the employability and employment of Roma and Egyptians, while respecting the provisions of the National Employment and Human Resources Strategy and the Strategy for Social Inclusion of Roma and Egyptians in Montenegro and accompanying action plans.

In order to qualitatively improve the situation of the Roma and Egyptians and ensure equal opportunities in the labour market, the Employment Office informs the unemployed Roma and Egyptians of their rights and obligations while on the register, motivates them to participate in active employment policy programs and mediates in employment, according to the principles of affirmative action.

The Employment Office has organisational - regional units in all municipalities, which are linked to the headquarters. Unemployed persons are registered in regional units by place of residence. In all regional units, the prescribed technology of work with unemployed persons is applied in a unique way; they are registered and entered in the register of unemployed persons.

One of the measures of active employment policy is the “informing on employment opportunities and conditions” that the Office implements for all unemployed persons, including Roma and Egyptians, through informative talks, interviews and informative and motivational seminars (workshops), for which they are trained, because these are shorter programs, lasting two or three days.

Informative talks aim at informing the unemployed person about the rights and obligations laid

down by the law and other acts.

The purpose of the interview - individual counselling is to identify the needs and limitations of the unemployed person and to collect all the information needed to determine the employability of the person.

For each newly registered unemployed person, employment placement counsellors work out an individual employment plan, which defines activities in seeking employment and inclusion in active employment policy programs. The individual employment plan obliges the unemployed person to get involved in the agreed employment measures and programs within the set timeframes. The employment placement counsellors monitor the activities determined by the employment plan, change the plan and adjust it to new skills and circumstances, and record the implementation of the agreed activities.

Through the informative and motivational seminars (workshops), unemployed persons are motivated for a more active approach to employment, mastering job search skills, etc.

One of the measures to increase the participation of Roma and Egyptians in active employment policy programs in line with the provisions of the Strategy for Social Inclusion of Roma and Egyptians is the introduction of an associate in social inclusion of Roma and Egyptians in the field of employment (placement mediator) into the system. In March 2017, an education program for the acquisition of the professional qualification "Associate in social inclusion of Roma and Egyptians" was adopted by the National Council for Education. Thus the occupation has become part of the non-formal education system.

The involvement of placement mediators in the field should enable the Roma and Egyptians to be better informed about the right to work, about the role of the Office, the importance and the way unemployed persons are registered. The tasks of the Roma mediator, in accordance with the adopted standard of occupation for the professional qualification, also include providing direct assistance to beneficiaries when registering with the Office, when participating in active employment policy programs and other programs, encouraging promptness and regularity of applications, providing direct assistance in job search, in the preparation of documentation to apply for an advertised vacancy, etc. Associates in social inclusion of Roma and Egyptians in the field of employment, hired through the NGO Help, visit the Employment Office twice a week in Podgorica, or once a week in Niksic, and with the support and assistance of mentors from the institution get acquainted with technology of work with unemployed people.

When it comes to active employment policy measures, activities related to the inclusion of Roma and Egyptians in adult education and training programs, public works (local and national) and seasonal employment are continuously implemented.

In the period 2015 - 2018, 239 members of the Roma and Egyptian population were included in active employment policy programs (public work, adult education and training programs, support program for hard-to-employ). Of the total, 86 were women (35.98%).

Overview of implemented programs:

Local and public works programs include 119 people (21 women).

107 persons (56 women) were enrolled in education and training programs, in vocational training programs for the professions: hairdresser for women, maid, cook, machine operator, gardener,

face and body care professional; and education programs to acquire key skills: English language teaching, German language teaching, training for a C category driver.

During 2018, 13 persons (nine women) from Niksic, Podgorica, Herceg Novi and Tivat were included in the pilot program to support hard-to-employ people in the preparation and activation on the labour market "Empower Me and I Will Succeed".

In the reporting period, 215 Roma and Egyptians (108 women) were hired for seasonal jobs.

2. Prohibition of forced labour

Domestic work

In its previous conclusion, the Committee asked for a reply to its question on the existence of forced labour in the domestic environment. As the report fails to provide the information requested on the legislation adopted to combat this type of forced labour and the measures taken to implement this legislation and supervise its implementation, the Committee repeats its request for relevant information on this point to be included in the next report. The Committee points out that if the information is not provided in the next report, there will be nothing to establish that the situation is in conformity with Article 1§2 of the Charter regarding prohibition of forced labour in respect of domestic workers and within family businesses.

ANSWER:

Montenegrin legislation recognises also as a form of employment contract the employment contract for domestic work (Labour Law, Article 35). As stated in the previous report, the Constitution of Montenegro in the chapter "Economic, social and cultural rights and freedoms" guarantees everyone the right to work and free choice of occupation and employment, fair and humane working conditions and protection during unemployment, while also, the Constitution proscribes forced labour.

The labour inspection carries out inspections in the field of labour relations and employment, and in occupational health and safety field. Priority for the inspection is "undeclared work", as a manifestation of grey economy in the labour market, as cases of potential trafficking in human beings for the purpose of labour exploitation or forced labour may be identified thereby. Labour inspection also monitors the work of children, with particular reference to the worst forms of work engagement of children.

Particularly significant is the work of labour inspection in enhanced inspection during the summer tourist season, when the inflow of labour from the environment increases, and there is a risk that they may become victims of forced labour.

As there is no specific regulation to combat forced domestic work, the labour inspection, through regular and enhanced activities, focuses only on controlling the implementation of the provisions of the Labour Law, which recognise employment contracts for domestic work as a special type of

employment contract, under which the method of payment of earnings is prescribed (payment of earnings in kind may be arranged).

The labour inspection did not encounter any such contracts, so it seems that this type of employment contract is not used in practice, or that domestic work is hidden and invisible for the inspection.

Therefore, the labour inspection failed to identify cases of violation of the right to domestic work, in terms of discrimination or forced labour. It should be noted also that there were no initiatives by any employees with any employer that would indicate the existence of such labour.

3. Other aspects of the right to earn one's living in an occupation freely entered upon

Requirement to accept the offer of a job or training

According to the report, under the Law of 2010 (amended in 2012 and 2013) on Employment and the Exercise of Rights with respect to Unemployment Insurance, unemployed persons are entitled to draw up an individual employment plan and participate in active employment programmes and measures (Article 23). They are required to take part in active employment policy measures in accordance with the law and their individual employment plan (Article 24), which is based on an agreement between a working person and an unemployed person (Article 34). Individual employment plans form the basis for assessing any job offer or participation in active employment policy measures and hence the implementation of the provisions relating to termination of the right to unemployment benefit if a job offer is refused.

The Committee takes note of the information provided and asks for the next report to provide updated information on the requirements for entitlement to unemployment benefit. It points out that whenever the relevant authorities decide on the permanent withdrawal or temporary suspension of unemployment benefit because the recipient has rejected a job offer, this decision must be open to review by the courts in accordance with the rules and procedures established under the legislation of the State which took the decision (Statement of Interpretation on Article 1§2, Conclusions 2012).

ANSWER:

The Parliament of Montenegro adopted the new Law on Mediation in Job Placement and Rights arising from Unemployment (Official Gazette of Montenegro No. 24/2019), which entered into force in late May 2019.

The law stipulates that an unemployed person is a person from 15-67 years of age, who is a Montenegrin citizen, is on the records of the Employment Office, is capable or partially capable of work, who has not established an employment relationship, is actively seeking employment and is available for work.

An unemployed person is also deemed to be a foreigner, who, in accordance with a special law, has:

- *permanent residence permit;*
- *temporary residence permit for a stateless person;*
- *temporary residence permit for the purpose of family reunification with a Montenegrin citizen or with a foreign national who has a permanent residence permit;*
- *temporary residence permit for humanitarian reasons;*

- recognised refugee status or approved additional protection;
- been granted asylum, subsidiary protection or is seeking international protection, following the expiration of a period of nine months from the date of submitting application for international protection.

An unemployed person shall not be deemed to be a person who is:

- registered as an entrepreneur, or who carries out a professional or other activity as a core occupation;
- sole owner or the owner of more than 51% in a business organisation, pursuant to a special law;
- farmer – insured person, pursuant to a special law;
- pension beneficiary;
- full-time student;
- student of undergraduate studies, pursuant to a special law.

The rights of unemployed persons are laid down by Article 9 of the said Law.

“An unemployed person shall be entitled to:

- 1) *monetary compensation during unemployment in accordance with this Law;*
- 2) *financial assistance and reimbursement of transportation costs during education and training and inclusion in other measures aimed at increasing employment, or decreasing unemployment, in accordance with this Law and the act of the government authority in charge of labour affairs;*
- 3) *nonrecurring financial aid and reimbursement of travel and removal expenses, where he enters employment for an indefinite period of time outside the place of residence, in accordance with the act of the Ministry.”*

The obligations of the unemployed person are laid down by Article 10 of the said Law

“An unemployed person shall:

- 1) *actively seek employment;*
- 2) *make himself work available;*
- 3) *conclude an individual employment plan with the Employment Office and fulfil the obligations determined by the individual employment plan;*
- 4) *participate in active employment policy programmes, in accordance with the law and individual employment plan;*
- 5) *accept offered employment, in accordance with this Law;*
- 6) *notify the Office of any change affecting the acquisition or loss of rights or obligations under this Law, at the latest within eight days from the date of the change occurrence.”*

Article 46 of the said Law stipulates that unemployment insurance is part of the compulsory social security system, which, based on the principles of reciprocity and solidarity, provides all insured persons with rights in accordance with this Law.

Article 47- Unemployment insurance referred to in Article 46 of this Law provides the unemployed person with the right to financial compensation.

During the exercise of the right to financial compensation, the unemployed person is provided with pension and disability insurance and health insurance.

Conditions for exercising the right to financial compensation are laid down by Article 48.

The right to financial compensation is acquired by the insured person, who, in terms of a special

law, was terminated without his consent or fault, and who at the moment of termination of employment has an insurance period of at least nine months continuously or with interruptions for the last 18 months.

The insured person who had part-time employment shall be entitled to the monetary compensation if, after the reallocation to full-time working hours, he meets the conditions prescribed by paragraph 1 of this Article.

Monetary compensation shall also be granted to the insured person who, pursuant to a special law, has ceased to perform entrepreneurial, professional or other activity as a core occupation without his guilt, and who at the time of termination of the activity, has an insurance period of at least nine months uninterrupted or with interruptions in the last 18 months.

The application deadline is laid down by Article 49.

The unemployed person shall be entitled to monetary compensation from the first day of employment termination, or the termination of conducting the entrepreneurial, professional or other activity as a core occupation (hereinafter referred to as the: insurance termination), if he registers with the Office within 30 days from the day of insurance termination and submits the application for monetary compensation within this deadline.

The unemployed person who misses the application deadline referred to in paragraph 1 of this Article due to a justified reason may apply to the Office and file the request for a monetary compensation within eight days from the day of termination of the reason that caused the missing of the deadline, and at the latest within 60 days from missing the deadline referred to in paragraph 1 of this Article.

The unemployed person who registers with the Office and submits the request for the monetary compensation referred to in paragraph 2 of this Article, shall be entitled to monetary compensation from the first day of insurance termination.

The justified reason in terms of paragraph 2 of this Article is deemed to be: illness, death in the family and, a natural disaster, for which the unemployed person is required to submit evidence.

Cases where the insured person is not entitled to claim the right to financial compensation are prescribed by Article 50.

The right to a monetary compensation may not be exercised by the insured person whose employment has ceased due to:

- 1) consensual termination of employment;*
- 2) dismissal by the employee;*
- 3) dismissal by the employer, in cases determined by a special law, except in the event of the termination of the employment relationship by the expiration of fixed-term employment contract, or termination of employment due to redundancy caused by economic, technological and restructuring changes with the employer, when the severance pay is paid to the employee;*
- 4) fulfilment of the conditions for termination of employment by force of law, except in case of termination of employment due to the bankruptcy or winding up, or in all other cases of dissolution of employer's business in accordance with a special law .*

Exceptions are provided for in Article 51.

The unemployed person who has terminated the employment contract shall have the right to the monetary compensation, if the employment was terminated due to:

- 1) relocation of spouse to another place of permanent residence, in accordance with special regulations;*
- 2) changes in the place of permanent residence for the establishment of a matrimonial community after the conclusion of marriage;*
- 3) health reasons of the unemployed person or his immediate family member requiring the moving to another place on the basis of the medical findings of the competent authority of the appropriate health institution.*

The duration of the right to financial compensation is prescribed by Article 52.

The unemployed person, who, prior to the insurance termination, fulfilled the conditions referred to in Article 48, shall be entitled to the monetary compensation, as follows:

- 1) three months if he has the insurance period of nine months to five years;*
- 2) six months if he has the insurance period of five years to 15 years;*
- 3) nine months if he has the insurance period from 15 years to 25 years;*
- 4) 12 months if he has the insurance period from 25 years to 35 years;*
- 5) until re-employed, or until the fulfilment of the condition in terms of years of age of insurance period for exercising the right to an old-age pension in accordance with a special law, if he has more than 35 years of insurance period.*

The suspension of the right to financial compensation is prescribed by Article 53.

The beneficiary's right to the monetary compensation shall be suspended during the time:

- 1) of his residence abroad as a spouse of an employee seconded to work abroad;*
- 2) of detention period.*

The unemployed person who, in the cases referred to in paragraph 1 of this Article, registers with the Employment Office and submits a request for continuation of the use of the monetary compensation, within 30 days from the day of termination of the reason for the suspension of the right to monetary compensation, shall have the right to continue with the exercise of the right to monetary compensation for the remaining time.

The termination of the right to financial compensation is prescribed by Article 54.

Right to monetary compensation of the unemployed person shall be terminated in the following situations:

- 1) upon expiration of the period of entitlement;*
- 2) if he enters employment relationship pursuant to the law;*
- 3) if he registers as an entrepreneur, or commences performing professional or other activity as a core occupation;*
- 4) becomes the sole owner or owner of more than 51% in a business organisation, in accordance with a special law;*
- 5) becomes a farmer – insured person, in accordance with a special law;*
- 6) becomes a priest, a religious servant, a monk or a nun - insured, in accordance with a special law;*
- 7) upon the fulfilment of the condition in terms of years of age or insurance period for exercising the right to an old - age pension, or upon obtaining the right to disability pension or family pension, in accordance with a special law;*
- 8) becomes fully incapable of working, in accordance with a special law;*
- 9) reaches 67 years of age;*

- 10) commences serving the imprisonment sentence;
- 11) fails to actively seek employment, in accordance with the regulation of the Ministry;
- 12) is not available for work, in accordance with the regulation of the Ministry;
- 13) refuses to participate in an active employment policy programme or interrupts or terminates it without justified grounds;
- 14) rejects the offered employment, in accordance with this Law;
- 15) if he is found working contrary to labour legislation, based on a decision of the competent labour inspectorate;
- 16) files a request for termination of the right to a monetary compensation;
- 17) ceases to be kept in the unemployment register, in accordance with this Law.

Reinstatement of the right to financial compensation is provided for in Article 55.

The unemployed person whose right to monetary compensation has ceased under Article 54 herein, with the exception of fulfilling the condition in terms of years of age or insurance period for exercising the right to old – age pension or exercising the right to disability pension, or upon reaching 67 years of age, may reacquire the right to the monetary compensation if he fulfils the conditions referred to in Article 48 herein, and if he registers with the EAM and submits the request for the monetary compensation within the time limit referred to in Article 49 of this Law.

The insurance period exercised after the last use of the monetary compensation shall be recognised to the unemployed person referred to in paragraph 1 of this Article, when reacquiring the right to monetary compensation.

Notwithstanding paragraph 2 of this Article, the unemployed person entitled to the monetary compensation in accordance with Article 52 paragraph 1 item 5 herein, upon reacquiring the right to monetary compensation, shall be recognised the total duration of the insurance period and the time of use of the monetary compensation.

Remaining monetary compensation is prescribed by Article 56.

The unemployed person whose right to the monetary compensation has ceased due to the establishment of employment relationship or starting off an entrepreneurial, professional or other activity as a core occupation, prior to the expiration of the period of use of such right, if he becomes an unemployed person again without his fault or consent, shall continue to use the right to the monetary compensation for the remaining time in the fixed amount, if it is more favourable for him.

The amount of the monetary compensation is prescribed by Article 57.

The monetary compensation shall amount to 120% of the minimum wage determined pursuant to the Law and other regulation.

Article 59 of the Law on Mediation in Job Placement provides for the initiation and conduct of proceedings for the exercise of rights

“The procedure for exercising the rights established by this Law shall be initiated at the request of the unemployed person, which shall be filed according to the place of registration in the unemployment register.

The Office shall be competent for deciding in the first instance procedure and the Ministry shall be competent for deciding in the second instance procedure for exercising the rights referred to in paragraph 1 of this Article.

The appeal shall not withhold the execution of the first instance decision. Requests, decisions, appeals and other submissions and acts in the process of exercising the rights of unemployed persons shall be exempted from the payment of fees.

*The initiation of an administrative dispute is provided for in Article 60:
An administrative dispute may be instituted against the second-instance decision rendered on appeal.*

Privacy at work

The report states that the Constitution of Montenegro protects and guarantees fundamental rights and freedoms, particularly the right to respect for private and family life. The Labour Code prohibits any repetitive conduct by an employer towards an employee or a group of employees which is intended to undermine, or actually undermines, the dignity, reputation or personal or professional integrity of the person or persons concerned (Article 8a). Furthermore, employers have a duty under the Code to respect their employees' personality rights, and protect their privacy and any personal data they hold concerning them (Article 14).

The Committee takes note of the information above and reiterates that the right to undertake work freely includes the right to be protected against interferences with the right to privacy. As this report does not provide any information in this respect, **the Committee asks for information in the next report on measures taken by the state to ensure that employers give due consideration to workers' private lives in the organisation of work and that all interferences are prohibited and where necessary sanctioned (Statement of Interpretation on Article 1§2, Conclusions 2012).**

ANSWER:

As stated in the previous report, the legislation of Montenegro guarantees and protects fundamental rights and freedoms, and in particular the right to respect for private and family life. The applicable Labour Law prescribes an obligation on the employer to respect the personalities of their employees and protect their privacy, as well as any personal information they possess about them.

We wish to inform you that a new Labour Law is being drafted currently, which will improve the protection of employees, including the protection of privacy at work. In this connection, the new law stipulates that working time is the period of time during which an employee performs the tasks and duties of the workplace for which he has established the employment relationship, as well as the time during which the employee is available to the employer, whether he is at his workplace or another place designated by the employer (on duty). Working time shall not be deemed to be the time during which the employee is on standby, ready to respond to the call of the employer to perform the job if such a need arises, whereby he is not at the place where his job is performed or at another place specified by the employer. The duration of the standby and the amount of increase in earnings on this basis are determined by a collective agreement. The time spent on standby by an employee at the request of the employer is considered to be the time spent at work, including the time it takes to travel from the place of residence to the place of work.

The Law also prescribes working hours in such a way that the decision is made by the employer on the scheduling of work hours, the beginning and end of work, the rescheduling of working

hours, part-time work and the introduction of work longer than full-time work. The employer makes this decision taking into account the needs of the employee, depending on the type of work he performs; and provides working conditions that do not lead to injuries at work, occupational diseases and work-related illnesses, which create prerequisites for full physical and mental protection of employees. The employer is obliged to make a written decision on the work hours of the employees and their schedule by shifts, where the employer organises work in shifts. He is also obliged to notify the employee of the decision appropriately (via bulletin board or electronically) at least seven days in advance, except in cases of urgent and immediate need for work. The decision of the competent public body or local self-government body defines the schedule, the beginning and end of working hours in certain activities and in certain jobs.

The new law also regulates the issue of rescheduling of working time and provides:

- (1) The rescheduling of working hours may be carried out whenever required by the nature of the activity, the organisation of work, the better use of the means of work, the more rational distribution of working hours and the execution of certain jobs within the set deadlines.
- (2) Work rescheduling, in cases referred to in paragraph 1 of this Article, shall be carried out in such a way that the working hours shall be longer in one period, whereas in the second period they shall be shorter than agreed working time, provided that, on average, the working time during rescheduling cannot exceed the working time the employee agreed to under employment contract.
- (3) The rescheduling referred to in paragraph 2 of this Article may not be shorter than one month, nor longer than six months during the calendar year.
- (4) By way of derogation from paragraph 3 of this Article, the rescheduling of working time may be carried out within one year, if so provided by the collective agreement and with the provision of measures of occupational health and safety, in accordance with the law.
- (5) In the event of rescheduling of working time, working time of more than full or part-time work, including overtime, shall not exceed 48 hours per week.
- (6) By way of derogation from paragraph 5 of this Article, working time during a period lasting longer than full time may last up to 54 hours per week, or up to 60 hours per week in seasonal jobs, if stipulated by a collective agreement, provided there is written employee consent.
- (7) An employee refusing to provide the written consent referred to in paragraph 6 of this Article may not suffer adverse consequences.
- (8) The employer shall, at labour inspector's request, submit to the labour inspector a list of employees who have given the written consent referred to in paragraph 6 of this Article.
- (9) The rescheduled working hours referred to in paragraph 6 of this Article for a period longer than the contracted working time may not exceed four months, unless otherwise stipulated by a collective agreement, in which case it may not exceed six months.
- (10) If the rescheduling of working time is not foreseen by a collective agreement, the employer shall establish a plan of rescheduled working hours, with an indication of the jobs and employees involved in the rescheduled working time and the period during which the work will last longer or shorter, in accordance with paragraph 2 of this Article, and submit such plan to the labour inspector in advance.
- (11) Rescheduled working hours shall not be considered as overtime.
- (12) In the cases referred to in paragraph 1 of this Article, the employer shall provide the employee with the right to rest, in accordance with this law.
- (13) The period of annual leave and temporary disability for work shall not be counted towards the period referred to in paras. 3, 4 and 9 of this Article.

The law also addresses the issue of re-calculating hours of work and provides that

- (1) for work performed in rescheduled working time, in the event of a fixed-term employment contract, the average working time of the employee must correspond to the full-time or part-time contract.*
- (2) An employee whose work is terminated before the expiry of the period for which the working time is rescheduled shall have the right to have his working time longer than full-time converted into full-time hours in the total annual fund of hours, and recognised for exercising his right to a pension, and the rest of the hours are counted as overtime.*

For a violation of the provisions relating to the rescheduling of working time and the conversion of working hours, a fine for a legal entity of EUR 1,000 up to EUR 10,000 is prescribed.

Article 1 - Right to work

Paragraph 3 - Free placement services

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

In particular, it notes the information provided in reply to the questions contained in its previous conclusion (Conclusions 2012).

The report indicates that employment services are provided by the Employment Office and agencies on the basis of the Law on Employment and Exercising Right with respect to Unemployment Insurance. One of the basic principles of the abovementioned law is that services are provided free of charge.

With regard to quantitative indicators used to assess the effectiveness in practice of free employment services, the report indicates that the placement rate was equal to 38,7% in 2013 (37,869 vacancies – 14,646 placements); 33,12% in 2014 (43,227 vacancies – 14,318 placements). The Committee takes note of this information and asks that the next report provides information for each year of the reference period.

ANSWER:

2015

As of December 31, 2015, 39 991 unemployed persons (20 749 women or 51.88%) were on the register of the Employment Office.

In 2015, 42 953 persons applied for the Employment Office records, of which 23 214 were women, or 54.04%. Of the above, 10 712 people, or 24.94%, were registered for the first time, while 32 241 or 75.06% were already registered with the Office.

In 2015, employers applied with 35 574 job vacancies to the Employment Office through 18,367 applications for job openings. Of the total vacancies reported, 3 042 or 8.55% were open-ended contracts, 19 611 or 55.13% were part-time, 447 or 1.26% were for internships, 12 328 or 34.65% for seasonal jobs, and 146 or 0.41% for other types of employment (intern-volunteer, additional work, temporary and occasional jobs, temporary employment, employment of persons with

disabilities).

According to the feedback received from employers, employees and the Tax Administration of Montenegro, 13 824 people were employed in 2015. People with completed secondary education with a fourth degree of education account for the most part of the employed people – 4 308 or 31.16%, followed by persons with university degree – 3 278 or 23.71%, unskilled workers – 2 222 or 16.07, and persons with completed secondary education – third degree of education – 2 204 or 15.94%.

2016

As of December 31, 2016, there were 49 487 unemployed people (25 842 or 52.21%) on the register of the Employment Office.

In 2016, 47 039 people applied for the Employment Office records, of which 26 022 were women, or 55.31%. Of the above, 10 837 people or 23.03% were registered for the first time, while 36 202 people or 76.96% were already registered with the Office.

In 2016, employers applied with 31 880 job vacancies to the Employment Office, through 16 933 job openings. Of the total vacancies reported, 2 879 or 9.03% were open-ended contracts, 19,456 or 61.02% were part-time, 379 or 1.18% vacancies were for internships, 8 983 or 28.17% for seasonal jobs and 183 or 0.57% for other types of employment (intern-volunteer, additional work, temporary and occasional jobs, temporary employment, employment of disabled persons).

According to the feedback received from employers, employees and the Tax Administration of Montenegro, 14 008 people from the records of the Employment Office were employed in 2016. Compared to 2015, when 13 824 persons were employed, there was an increase in employment by 184 persons, or 1.33%. Persons with completed secondary education with a fourth degree of education account for the most part of the employed people – 4 645 or 33.16%, followed by 3 597 university degree holders, or 25.68%, while there were 2 354 or 16.80% people with completed secondary education, third degree of education.

2017

As of December 31, 2017, there were 51 262 unemployed persons (30 035 or 58.59%) on the register of the Employment Office. In 2017, 44 957 persons applied for registration in the Employment Office records, of which 27 007 were women, or 60.07%. Of the aforementioned number, 7 530 persons or 16.75% were registered for the first time, while 37 427 persons or 83.23% were already registered with the Office.

In 2017, employers applied with 31 315 job vacancies to the Employment Office through 16 581 job openings. Of the total vacancies reported, 2 633 or 8.41% were opened-ended contracts, 21,480 or 68.59% were part-time, 437 or 1.39% were for internships, 6 579 or 21.01% were for seasonal jobs and 186 or 0.59% for other types of employment (intern-volunteer, supplementary work, temporary and occasional jobs, temporary employment, employment of persons with disabilities).

According to the feedback received from employers, employees and the Tax Administration of Montenegro, 13 499 persons from the records of the Employment Office were employed in 2017. Persons with completed secondary education with a fourth degree of education account for the most part of the employed people – 4 382 or 32.46%, followed by 3 342 university degree holders,

or 24.75%, while there were 2 317 or 17.16% persons with completed secondary education, third degree of education.

2018

As of December 31, 2018, there were 41 378 unemployed persons on the register of the Employment Office (of which women account for 23 944 or 57.87%).

In 2018, 34 034 persons applied for registration in the Employment Office records. Of the above, the number of first-time applicants is 5 786 or 17%, while 28 248 or 83% have already been registered with the Office.

In 2018, 29 366 job vacancies were advertised through 15 806 job openings. Of the total vacancies advertised, 2 148 or 7.31% were open-ended, 20 384 or 69.41% were part-time, 228 or 0.78% were for internships, 6 498 or 22.13% were for seasonal jobs and 108 or 0.37% were for other types of employment (intern-volunteer, supplementary work, temporary and occasional jobs, temporary employment, employment of disabled persons).

According to the feedback received from the Tax Administration of Montenegro, 15 360 persons registered as unemployed found employment in 2018. Persons with completed secondary education with a fourth degree of education account for the most part of the employed people – 5 369 or 34.95%, followed by 4 900 university degree holders, or 31.9%, while there were 2 442 or 15.9% persons with completed secondary education, third degree of education who found employment.

The report further indicates that in 2015 there were 78 counsellors mediating in employment for 34,162 registered jobseekers and the ratio of jobseekers to the employment counsellors was 422 jobseekers per counsellor. The Committee takes note of this information and asks that the next report provide information with regard to the reference period.

ANSWER:

At the end of 2015, there were 68 employment counsellors working at the Employment Office with 39 991 registered job seekers (as of December 31, 2015), so on average, one counsellor mediates in employment of 588 job seekers. In 2016, one counsellor averaged 697 job seekers (49 487 unemployed: 71 counsellors) in employment, in 2017 - 732 (51 262:70) and in 2018, 567 (41 378:73).

The Committee also asks the next report to provide information concerning the average length of time in filling vacancies by the Employment Office.

ANSWER:

Pursuant to the Law on Employment and Exercise of the Rights Arising from the Unemployment Insurance, which was in force until April 2019, the employer was obliged to report vacancies to the Employment Office, in order to monitor supply and demand in the labour market. The Employment Office was obliged to advertise the vacancy of the employer on the notice board and the website of the Employment Office and in the media, within two working days from the day of reporting.

The said Law did not specify the duration of the advertisement or vacancy; the deadline for applying to the advertisement or vacancy, as well as the conditions of employment, were determined by the employer in the application for the vacancy, in accordance with the regulations that apply to the employer. Furthermore, the employer was obliged to inform the Employment Office of the employment of an unemployed person within five days from the date of employment.

Please note that the time that elapses between application for a vacancy advertisement (E1) and notification by the employer that the vacancy was filled (E3) depends on whether the employer is from the real sector or from the government, local government etc.

Real-sector employers do not have a limitation on the length of the advertisement, which therefore entails different lengths of time to fill a vacancy. Public sector employers subject to the Law on Civil Servants and State Employees have precise deadlines for the duration of the advertisement (8-15 days), followed by a procedure of testing, selection of candidates, appeals, etc., which certainly requires some time for the finalisation of the advertisement.

In 2015, the average length of time to fill vacancies was 19 days, in 2016 - 21 days, in 2017 - 22 days and in 2018 - 24 days.

With regard to private agencies, the report indicates that the conditions under which private agencies can operate are provided by the Rulebook on the conditions for performing employment tasks in agencies for employment. Licenses are issued and revoked by the Ministry of Labour on the basis of conditions related to premises, staff and equipment. According to the report, an agency staff shall consist of two persons with completed higher education and two years of work experience, and one person with secondary education and a minimum of six months of work experience. Cooperation of agencies with the Employment Office is also defined by law and employment agencies are obliged to inform the Employment Office on a regular basis on their activities. **The Committee asks the next report to provide information on the co-ordination between the work of private agencies and that of the public employment service. In this respect, the Committee asks the next report to include data on the respective market shares of public and private services (the market share is measured as the number of placements effected as a proportion of total hiring in the labour market).**

ANSWER:

The answer cannot be provided at this time.

With regard to the participation of Social Partners, the report indicates that in accordance with the Montenegrin legislation representatives of trade unions and employers' associations participate

as members of the Board of Directors of the Employment Office which ensures their participation in the decision making and implementation of measures taken.

The Committee notes from the European Commission report on Montenegro for 2015 (http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_montenegro.pdf), that the labour market situation improved in 2014, but high unemployment is still a concern. The number of workers increased by 7.1% compared with the previous year, and registrations with the employment agency also grew (by 4.7%). This was in part due to efforts to reduce undeclared work. However, employment and activity rates have remained low, at 55.6% and 67.6% respectively, and are markedly lower for women. After having been stagnant at above 19% for five consecutive years, the average unemployment rate fell to 18.0% in 2014 and to 17.7% in the second quarter of 2015. However, regional differences are huge. The average unemployment rate in the coastal region was 6.7%, in sharp contrast with the figure of 13.4% in the central region and 39% in the north. Youth unemployment (15-24 years old) remained high at 35.8%. Two-thirds of the unemployed were without a job for more than two years. **The Committee asks that the next report comments on these observations.**

COMMENT:

The situation in the labour market in the previous years has been characterised by positive developments, as reflected by trends in the rates of activity, employment and unemployment.

According to data from the Labour Force Survey (MONSTAT), the activity rate for the population aged 15-64 in 2014 was 61.6%, 63.4% in 2016, while in 2018 it stood at 64.7%. In the same period, the employment rate also continued to grow, rising from 50.4% in 2014 to 52.0% in 2016 to reach 54.7% in 2018. In parallel, the unemployment rate is down 2.5 percentage points in the reference period (from 18.0% in 2014 to 15.5% in 2018). Although there has been progress in the activity and employment of women compared to previous years, there is still a significant gap in labour market performance compared to men. On the other hand, unemployment rates for men and women were at an approximate level in 2018 (15.6%:15.3%).

Youth unemployment registers a downward trend in 2014-2018, so the unemployment rate for the population aged 15-24 fell from 35.8% in 2014 to 29.4% in 2018. Despite this, youth unemployment remains one of the most important challenges in the labour market.

Regional differences are still present in the labour market, so in 2018 the unemployment rate in the Coastal Region was 3.4%, in the Central 7.9%, while in the North it was 41.7%.

According to the latest administrative data available, the number of employees increased from 177 027 in September 2015 to 205 650 in September 2019, or approximately by 28 000 jobs.

Article 1 - Right to work

Paragraph 4 - Vocational guidance, training and rehabilitation

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

As Montenegro has accepted Article 9, 10§3 and 15§1 of the Charter, measures relating to vocational guidance, to vocational training and retraining of workers, and to vocational guidance and training for persons with disabilities are examined under these provisions.

The Committee considered that the situation was not in conformity with the Charter on the following grounds

- **it had not been established that the right to vocational guidance within the education system and the labour market is guaranteed (article 9);**

ANSWER:

Answer given as part of reporting on Article 9.

- **it had not been established that vocational training and retraining is guaranteed for adult workers (article 10§3);**

ANSWER:

Answer given as part of reporting on Article 10§3.

- **it had not been established that the right of persons with disabilities to mainstream education and training is effectively guaranteed (article 15§1).**

ANSWER:

Answer given as part of reporting on Article 15§1.

Article 9 - Right to vocational guidance

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

As regards measures concerning vocational guidance of people with disabilities, both within the education system and the labour market, the Committee refers to its assessment under Article 15 of the Charter.

In response to the Committee's question concerning foreigners' access to vocational guidance (Conclusions 2012), the report indicates that, pursuant to the Law on Employment and Exercising Rights with respect to Unemployment Insurance of 2010, as amended, are entitled to vocational guidance services all foreigners with a permanent residence permit, refugees and persons entitled to subsidiary protection, who are registered as unemployed with the Employment Office as well as foreigners not registered as unemployed, who have legal residence in Montenegro (employees, pupils, students etc.). The Committee asks the next report to clarify whether this means that holders of temporary residence titles have equal access as Montenegro nationals to vocational guidance services within the education system and in the labour market.

ANSWER:

The Law on Mediation in Job Placement and Rights arising from Unemployment (“Official Gazette of Montenegro”, no. 24/19) stipulates that:

Unemployed person is a person from 15 to 67 years of age, who is a Montenegrin national, registered with the Employment Office of Montenegro, capable or partially capable of working, who has not established an employment relationship, is actively seeking employment and is available for work.

Unemployed person within the meaning of paragraph 1 of this Article shall also be deemed to be a foreigner who, in accordance with a special law, has:

- *permanent residence permit;*
- *temporary residence permit for a stateless person;*
- *temporary residence permit for up to three years, pursuant to Article 220 of the Law on Foreigners (“Official Gazette of MNE”, No. 12/18) ;*
- *temporary residence permit for the purpose of family reunification with a Montenegrin citizen or with a foreign national who has a permanent residence permit;*
- *temporary residence permit for humanitarian reasons;*
- *recognized refugee status or approved additional protection;*
- *granted asylum, subsidiary protection or seeking international protection, following the expiration of a period of nine months from the date of submitting application for international protection.*

Therefore, all of these categories of unemployed persons have equal access to vocational guidance services in the labour market.

Vocational guidance within the education system

The Committee previously noted (Conclusions 2012) that vocational guidance in the education system was mostly provided, free of charge, through the work of school counsellors, in schools with more than 400 pupils, and psychologists, in schools with more than 800 pupils. In reply to the Committee’s question, the report states that, pursuant to the Rulebook on internal organisation and systematisation of the Employment Office of Montenegro, in order to qualify as school counsellors a person needs to have achieved 240 credits MCTS, VII-1 level of professional qualification, in the faculty of social sciences – psychology and 5 years work experience.

In addition to the services provided by school counsellors and psychologists, further vocational guidance services in the education system are provided by the Centre for informing and professional counselling (CIPS), within the Employment Office, whose main role is to establish a connection between employment and education, then to prepare and provide information that could be useful when planning a career. Professional orientation is based on assisting young people and adults when making decision on further education, occupation, employment and other career-related issues.

The report refers in particular to the programme “Career orientation and labour market in primary and secondary schools”, conducted by the CPIS as well as in educational institutions. This programme was launched in 2011 by the Employment Office and the Ministry of Education and Sport with the aim of encouraging career development, proper choice of profession, employment or entrepreneurship, etc. It concerns young people in the education system who are entering into the labour market (pupils of vocational schools) as well as pupils of primary and secondary

schools who are continuing their education but will thus have the opportunity to get information useful for the choice of a profession and their future career development.

According to the report, 3183 pupils have been informed by vocational guidance counsellors in the framework of this programme, namely 2575 primary school pupils in 30 schools and 608 secondary school pupils in 12 schools. Guidance on the choice of occupation was provided to 646 pupils in primary school, to 50 pupils of gymnasium continuing their studies, to 14 pupils of vocational schools continuing their studies and 115 pupils of vocational schools entering the labour market.

While taking note of these data, the Committee does not find in the report any information on the number of beneficiaries of vocational guidance provided by school counsellors and psychologists. Furthermore, the report does not provide the information previously requested concerning the budget and staffing of vocational guidance services at school. The Committee accordingly reiterates its request for this information, both as regards the vocational guidance services provided by school counsellors and psychologists and those provided by CPIS. In the meantime, in the absence of the information requested, it does not find it established that the right to vocational guidance within the educational system is guaranteed.

ANSWER:

In order to facilitate the adjustment of children with special educational needs, a program of transition from kindergarten to primary school has been developed. Also, the Individual Transition Plan - 1 (ITP-1) form was developed for the transition of students from primary to secondary school. The aim is to look at the abilities and skills of a child with special educational needs. This form prescribes the roles and responsibilities of the team formed to develop and implement the individual transition plan; to propose activities that are desirable to undertake to assess students' aptitude and interest in future occupations; to provide collaboration between schools to familiarise students with VET programs, and select appropriate educational program. In order to facilitate the transition to the labour market for students with special educational needs, the Individual Transition Plan - 2 (ITP-2) was developed and adopted, linking education and employment. In this section, the school collaborates with various job placement assessment providers, vocational rehabilitation contractors, resource centres, employment services, employers, etc. Regular trainings are conducted, last year six two-day ITP-1 training seminars for 208 participants were completed, six one-day ITP-2 training seminars for 96 high school students.

Six one-day trainings were conducted in cooperation between the Ministry of Education, the Centre for Vocational Education and KulturKontakt - Austria, for 96 trainees for the multisectoral and team development and implementation of ITP-2, which, in addition to the representatives of secondary schools, included the CIPS advisors. NGO Staze, in cooperation with the Ministry of Education, MLSW, CIPS, Centre for Vocational Education and KulturKontakt, conducted research and prepared a Guide and Training for Career Guidance and Counselling for Children with Special Educational Needs, KulturKontakt. Through the implementation of the ITP (Individual Transition Plan), Inclusive Education Strategy emphasises the strengthening of cooperation with providers in the field of competency assessment, vocational rehabilitation contractors, resource centres, the Employment Office, employers, etc. In the coming period, it is necessary to develop mentoring guidance for ITP-2 in order to improve the professional orientation of these children, as well as the role of case manager in centres for social work. Employment should be promoted as an advantage over current reliance and preference for social benefits.

Vocational guidance in the labour market

The report indicates that, under the Law on Employment and Exercising Rights with respect to Unemployed Insurance, vocational guidance is meant to provide assistance to unemployed people, employees, pupils, students and any other person to objectively think about, plan for and succeed in their career and to harmonise the individual needs and capabilities of the unemployed people with the needs and requirements of the labour market.

Vocational guidance is notably provided to any person registered with the Employment Office (4883 people in 2014) by professionally trained employment counsellors. Any unemployed person can benefit from vocational guidance and get assistance with elaborating an individual employment plan based on a structured interview with a counsellor. Special workshops are conducted for persons who intend to become entrepreneurs. For the first six months of 2014, 15 414 interviews, 29 814 employment plans and 50 551 implementations of employment plans were made, while 174 unemployed persons attended informational seminars and 2685 had informational conversations. **The Committee asks the next report to clarify what vocational guidance activities are provided to people who are not registered as unemployed and the number of such beneficiaries.**

ANSWER:

In 2015, 595 unemployed people benefited from the group professional informational services, 1616 from individual professional informational services, 526 from psychological processing, while 368 unemployed benefited from the individual professional counselling. 56 unemployed persons were covered by group professional counselling. 317 people underwent selection process.

In 2016, 2685 unemployed people benefited from the individual professional informational service, while 870 people benefited from the group professional information services. Psychological processing covered 372 users, while individual professional counselling covered 711 unemployed persons. Group professional counselling included 122 people. 384 unemployed people underwent selection process.

In 2017, 1560 unemployed people benefited from the group professional informational service, while 2067 unemployed people benefited from the individual professional informational service. Psychological processing covered 1,845 users, while individual professional counselling covered 1,705 unemployed persons. Group professional counselling included 725 people. 784 unemployed people underwent selection process.

In 2018, 1730 unemployed persons benefited from group professional informational service. 2032 people unemployed people benefited from the individual professional informational service. Psychological processing covered 1676 users, while individual professional counselling covered 2 442 unemployed. Group professional counselling included 840 unemployed persons, while 774 unemployed people underwent selection process.

In addition to the unemployed, vocational orientation programs were intended for employees, pupils, students, as well as other persons.

Data on vocational guidance programs and persons covered for the period 2015 - 2018 are given in the following tables:

| Programs | Persons who benefited from vocational guidance services during 2015 not on the register of unemployed | | | | |
|--------------------------------|--|--------|---------|----------|------------------------------|
| | Employers | Pupils | Parents | Students | People seeking career change |
| Prof. informational-group | / | 3927 | / | 72 | / |
| Prof. Informationa;-individual | 558 | 847 | 192 | 304 | / |
| Prof. counselling - group | / | 1138 | / | 31 | / |
| Prof. counselling-individual | / | 449 | 66 | | 32 |

| Programs | Persons who benefited from vocational guidance services during 2016 not on the register of unemployed | | | | |
|--------------------------------|--|--------|---------|----------|------------------------------|
| | Employers | Pupils | Parents | Students | People seeking career change |
| Prof. informational-group | / | 2171 | / | 95 | 50 |
| Prof. informational-individual | 12 | 758 | 69 | 257 | 15 |
| Prof. counselling - group | | 827 | | 157 | 40 |
| Prof. counselling-individual | / | 473 | 43 | 42 | 30 |

| Persons benefiting from vocational guidance services during 2017 not on the register of unemployed persons | | | | | |
|---|--|--|--|--|--|
| | | | | | |

| <i>Programs</i> | Employers | Pupils | Parents | Students | People seeking career change |
|--------------------------------|-----------|--------|---------|----------|------------------------------|
| Prof. informational-group | 100 | 2781 | 83 | 214 | 33 |
| Prof. informational-individual | 487 | 859 | 202 | 247 | 32 |
| Prof. counselling - group | 34 | 1.268 | / | 99 | 43 |
| Prof. counselling-individual | 125 | 533 | 110 | 132 | 12 |

| <i>Programs</i> | <i>Persons who benefited from vocational guidance services during 2018 not on the register of unemployed</i> | | | | |
|--------------------------------|--|--------|---------|----------|------------------------------|
| | Employers | Pupils | Parents | Students | People seeking career change |
| Prof. informational-group | 10 | 3.677 | / | 334 | 5 |
| Prof. Informational-individual | 176 | 716 | 198 | 262 | 25 |
| Prof. counselling - group | / | 1.656 | / | 25 | / |
| Prof. counselling-individual | 157 | 540 | 257 | 44 | 25 |

The report does not provide the information requested concerning the budget allocated to vocational guidance in the labour market. The Committee recalls that, in order to comply with Article 9 of the Charter, vocational guidance must be provided:

- free of charge;
- by trained staff in sufficient numbers;
- to a significant number of people, attempting to reach the widest possible audience and;
- with a sufficient budget.

Committee asks for up-to-date information on these items to be systematically provided in all future reports, especially figures on the resources, staff and number of beneficiaries of

vocational guidance in the labour market. It also asks for the next report to state what information tools (media, brochures, events, etc.) are implemented in the area of vocational guidance in the labour market. In the meantime it does not find it established that that the right to vocational guidance within the labour market is guaranteed.

ANSWER:

Career guidance services are free of charge and available to unemployed persons, employees who wish to change career, as well as pupils, their parents and students. Career guidance services are provided by specially trained career guidance counsellors, who are psychologists by vocation. Each of the seven regional units of the Employment Office employ at least one vocational guidance counsellor.

At the end of each school year, a brochure "Where to after elementary school" was printed, intended for pupils of the final grade of elementary school. The circulation of this publication in 2015 was 8000 copies, 7000 in both 2016 and 2017, while 8000 copies were printed in 2018. The annual budget for the publication is € 10000.

Article 10 - Right to vocational training

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

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

Secondary and higher education

The Committee takes note of the legislative framework governing education (Eurydice, Overview, Montenegro, 2015).

The Committee notes from the report that there are about 21, 000 pupils in vocational schools, representing 68% of the total number of pupils in secondary schools. Teaching is conducted by about 2,000 teachers. Enrolment of pupils in vocational schools is carried out through an open competition published by the Ministry of Education on a proposal from school.

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

The Committee notes from another source (European Training Foundation, Mapping of VET educational policies and practices for social inclusion and social cohesion, country study, Montenegro) that as regards transition from school to work the system of tracing students after they leave school is still underdeveloped. The main issue related to the transition from school to work is the level of knowledge and skills gained during the vocational education. Employers argue that students lack appropriate practical skills due to which they cannot be immediately involved in

work and that there is a discrepancy between what they learn in school and what they are expected to perform at the workplace. According to the teachers, employers have very high and sometimes unrealistic expectation and it would be realistic to expect their higher involvement and initiative in practical lessons and apprenticeship programmes. **The Committee wishes to be informed of the employment rate of students who have finished vocational education in different vocational schools.**

ANSWER:

In order to reduce the mismatch between what students learn in vocational schools and the demands of the labour market, employers and their associations are actively involved in the preparation of occupational standards on which educational programs are based. Since 2016, all vocational education programs prescribe a minimum fund of practical training hours with the employer, regardless of the equipment available in school workshops, to improve the students' competences. Amendments to the Law on Vocational Education of 2017 have improved the provisions relating to the practical education of students at the employer (dual education). Among other things, earnings for first and second grade students in dual education are provided from the Budget. Costs of earnings of third-grade students are borne by the employer.

In addition, the Ministry of Education provides scholarships for deficit professions to students who are educated under such programs. In the 2017/2018 school year, 118 scholarships were awarded. In the 2018/2019 school year, 300 scholarships were awarded, of which the Chamber of Commerce awarded 30 scholarships. For the 2019/2020 school year, 275 scholarships were awarded to students, of which Chamber of Commerce awarded 30 scholarships.

In order to monitor the careers of vocational school students after graduation, the Ministry has prepared a questionnaire and appropriate answer processing software. However, despite several attempts at submitting questionnaires to the e-mail addresses of students who have completed vocational school programs, the required number of answers has not been obtained to reach appropriate conclusions. The response was under 10%. At present, students graduating from high school are monitored by analysing data of the Employment Office on how many people with no work experience apply to the Office's records by quarters. Software analysis of the databases of the Employment Office and other partners is underway, with the support of the ILO, implemented by the Ministry of Labour and Social Welfare. The data will enable, among other things, more accurate tracking of the destination of vocational school students.

The Committee observes that insufficient measures were taken to match the skills acquired through vocational training with the labour market requirements and thus to bridge the gap between education and work. Therefore, the Committee concludes that the right to vocational training is not effectively guaranteed in practice as measures taken to make vocational education qualifications relevant from the perspective of professional integration in the job market have been insufficient.

The Committee also takes note of the Strategy for Adult Education of Montenegro 2015-2025 which provides guidelines to which Montenegro will aspire in the coming decade in the area of adult education. Priority goals determined by the Strategy include social inclusion through

lifelong learning, improvement of knowledge and skills in favour of labour market mobility, improvement of competences of the employed, establishing the system of quality assurance and providing a flexible and sustainable system of adult education. **The Committee wishes to be informed about the implementation of the Strategy.**

ANSWER:

2019-2022 Adult Education Plan presents priority areas, defined by the 2015-2025 Adult Education Strategy. The five priority objectives, defined by the 2015-2025 Adult Education Strategy, which form the basis for planning activities under the 2019-2022 Adult Education Plan are:

- 1. Lifelong education and learning programs and activities;*
- 2. Improvement of knowledge, skills and competences of unemployed persons;*
- 3. Improvement of employee competencies;*
- 4. Quality assurance in adult education;*
- 5. Ensuring a flexible and sustainable adult education system.*

2015-2019 Adult Education Plan has been almost entirely implemented in more than 90% of the planned work activities, while the Centre for Vocational Education in cooperation with institutions and organisations that carry out the activities is monitoring the implementation of the current Adult Education Plan or the Annual Plan. The Centre for Vocational Education prepares a Report on activities implemented, and the number of participants annually and submits it to the Ministry of Education.

Key points. During 2018, 28 996 participants were involved in various forms of educational activities. Within the EPAL project, implemented through the ERASMUS + program, with the financial support of the European Commission, the Centre for Vocational Education and the Ministry of Education expanded the MEIS database on the adult education system: programs, teaching staff, trainees, certificates issued, training implementation plan. Andragogical didactic-methodological support was also provided to teachers implementing the elementary school program for adults, through the preparation of 21 andragogical teachers' manuals. Also, the importance of Andragogical theory and practice was emphasised through a regional conference on the topic. The results of research into the educational needs of teachers for vocational training were published, while training was provided on the basis of results obtained. Based on information provided by the Vocational Education Centre to the licensed organisers of adult education, various programs for the acquisition and development of key competences were attended by 346 participants who obtained a public certificate - certificate of completion of the program, while education programs for the acquisition of vocational qualifications were attended by 507 participants who have obtained a public certificate in accordance with the Law - Certificate of completion of the program. In 2018, 1539 candidates between 25 and 64 of age (including those years) attended adult education programs, of which 23.32% were employed after completion, while by September 1, 2019, there were 1060 candidates.

Article 10 - Right to vocational training

Paragraph 2 - Apprenticeship

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

The Committee notes from the another source (European Training Foundation, Mapping of VET educational policies and practices for social inclusion and social cohesion, Country Study, Montenegro) that according to the Law on vocational education, practical teaching is organised in school (classrooms, laboratories, school cooperatives) and in facilities outside schools (institutions, enterprises and entrepreneurs).

The Committee further notes that there are no formal strict regulations on the establishment of in-company training, and therefore it is based on the efforts and communication of schools and employers. According to the same source, teachers reported that mentors in the companies do not have a high level of pedagogical skills. Also, a lack of motivation of both sides, students in gaining new knowledge and employers, is one of the reasons for inefficient company-based training. Besides, the lack of quality assurance in company-based training was also pointed out, as well as the low level of communication between schools and companies which is mainly limited to formal, officially required, communication.

In its previous conclusion (Conclusions 2012) the Committee wished to be informed about the existence of the system of apprenticeship, its length of the apprenticeship and division of time between practical and theoretical learning, as well as the number of people involved, the total spending both public and private and types of training and the availability of places for all those seeking them.

ANSWER:

In order to monitor the realisation and improvement of the quality of practical teaching for employers, a Coordination Body was set up, consisting of representatives of the Chamber of Commerce, the Union of Employers of Montenegro, the Centre for Vocational Education and the Ministry of Education.

The Centre for Vocational Education establishes the conditions with the employer for the realisation of dual education. School representatives are also involved in the process. All students have individual contracts for practical teaching.

Trainings have been organised for the organisers of practical teaching; appropriate instructions have been prepared for schools and instructors of practical teaching with the employer.

The instructor training program has been accredited and 88 instructors have been trained.

For each classification period, we collect information from schools, and, on the basis of them, prepare analyses and recommendations, as a feedback to schools.

The data are as follows:

- *In the first year, school year 2017/2018, 277 students and about 100 employers were involved in dual education.*
- *In the 2018/2019 school year, 570 students and about 200 employers were involved in dual education. In the third grade, when the compensation was provided by the employer, there were 53 students.*
- *In the current school year dual education involves over 800 students and about 270*

employers.

According to available data, about 50% of third-grade students who completed dual-education in June have continued to work with their employer (of 53 students in the third grade, 28 were employed.)

Article 10 - Right to vocational training

Paragraph 3 - Vocational training and retraining of adult workers

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

According to the report, adult education in Montenegro is an important part of the education system and is regulated by the General Law on Education. Adult education and training are one of the active employment policy measures. They covers activities by which the unemployed person is given an opportunity to acquire the qualification for the first employment, innovate knowledge within the same occupation.

At the proposal of the Ministry of Education, the Government adopted the **Adult Education Strategy for the period 2015-2025** and the Adult Education Plan for the period 2015- 2019. Also, the Ministry in cooperation with the Centre for Vocational Education adopted the Methodology for ensuring and improving the quality of institutional work in the institutions of primary, secondary and higher vocational education and adult education. **The Committee asks the next report to provide information about the implementation of the Strategy.**

ANSWER:

Answer given through the question referred to in Article 10, paragraph 1

Employed persons

The Committee recalls that under Article 10§3 of the Charter the States Parties should take preventive measures against deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development.

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

The Committee asks the next report to provide information regarding the types of continuing vocational training and education available, overall participation rate of persons in training, percentage of employees participating in vocational training and the

total expenditure.

ANSWER:

One of the basic activities of the Human Resources Administration is the professional development and training of state and local civil servants and state employees. A civil servant, or state employee, is entitled and obliged to be professionally trained and developed in order to improve knowledge and skills, that is, abilities to perform workplace duties. Vocational training and development is provided on the basis of vocational training and development programs.

Vocational training and development programs are:

A general vocational training and development program intended for the acquisition or improvement of basic knowledge and skills.

Specific vocational training and development programs designed to gain or enhance knowledge and skills for the performance of workplace jobs.

In addition to providing training in various vocational training programs, the HR Administration also implements two accredited education programs, namely: the Human Resources Management Skills Education Program and the Civil Servants Training Program for Strategic Planning.

Regarding the costs of vocational training among bodies, funds for the preparation and implementation of general and specific vocational training and development programs are allocated in the budget of Montenegro.

Also, funds for the implementation of accredited educational programs are foreseen from the Sector Budget Support.

Therefore, training and development of civil servants and state employees is their right and obligation, as regulated by the Law on Civil Servants and State Employees, and enables employees in the public administration to acquire and improve certain knowledge and skills necessary for improving the work process through various training and development programs, to introduce new ways of work organisation, especially when it comes to adopting or applying new ways of work or acquiring key skills in doing the job.

As already mentioned, vocational training and development as well as personnel development are a key link in the field of human resources management and a systemic function of the human resources management body.

Continuous vocational training of employees ensures the application of what has been learned in the work environment and enables, through training and education on a permanent basis, the exercise of unemployment insurance rights as well as the possibility of continuous advancement in further professional work.

Montenegrin Employers Federation (UPCG), which is a representative organisation of employers at the national level, has informed that as employers have increasing needs and demands for practical knowledge and skills, it is necessary to provide for the continuous training and development of the working population. Due to the global expansion of digitalisation and innovation, the future of business also requires the creation of new jobs in various forms, which

imposes need for greater attention on professional development and training in support of economic growth and development.

However, according to official Monstat data, the participation of the population in the concept of lifelong learning is still low in our country, below the EU average (the latest known data is 3.1% from 2013).

The UPCG does not monitor, or dispose of, the data on the implementation of vocational training on a case-by-case basis, implemented by individual companies. However, UPCG, on a continuous basis, has been providing training for its membership-businessmen, i.e. their employees, for many years.

The following is a brief overview of the trainings conducted in 2018/2019 and the number of employees undergoing training, which is at the same time included in the Report on completed activities for the Annual Adult Education Plan for 2018 in which UPCG participates, and also in the Report on completed activities under the Employment and Human Resources Development Strategy.

29/03/2018 “Tax Caravan” in Bijelo Polje and Berane

The Tax Administration, in cooperation with the Chamber of Commerce and the Montenegrin Employers Federation, held the first two in a series of planned panels in Berane and Bijelo Polje within the framework of the Tax Caravan project, which is being organised for the third year in preparation for monitoring the tourist season.

Businessmen from the Berane territory participated in the panel and during the presentation and interactive discussion were informed about the plans of the Tax Administration to monitor the upcoming tourist season, which is focused not only on the coastal region but also on tourist centres in the northern region.

Businessmen had the opportunity to ask specific questions regarding the concerns they have in interpreting tax regulations or how tax officials act in practice, with the stressing of the strategic commitment of the Tax Administration and the Government Commission to suppress the informal economy and indiscriminate sanctioning of illegal businesses.

Number of participants: 100

30/03/2018 Final Conference of UPCG Project on Women’s Leadership and Management in Montenegro

UPCG and International Labour Organisation, in cooperation with the Ministry of Labour and Social Welfare, the Ministry of Economy, the Ministry of Human and Minority Rights and the Association of Businesswomen of Montenegro organised the final conference of the project “Women in Management in Montenegro - Support for Leadership and Professional Development of Women in Montenegro”, held in Podgorica.

The first public presentation of the ILO ACT/EMP report on “Women in Business and Management: Gaining Momentum in Eastern Europe” and Central Asia took place, which put Montenegro and the event at the centre of regional events.

Number of participants: 70

April-May 2018 “Tax Caravan” in Budva

During the panel, the results of monitoring the last year summer season were presented, and taxpayers were warned, based on a risk analysis and the behaviour of taxpayers so far, that the focus of inspection activities will be on taxpayers who have previously showed a low degree of tax discipline, that is, those payers who have been found guilty of multiple offenses or who have been subject to a temporary ban on operation.

The taxpayers, in direct communication with tax officials, had the opportunity to get acquainted with the novelties in the tax legislation, as well as to ask questions regarding the interpretation of certain provisions of the regulations.

Following events in Berane, Bijelo Polje, Pljevlja and Budva, taxpayer tribunals were held on April 19 in Ulcinj and on April 26 in Bar, and then in Tivat, Kotor, Herceg Novi, Niksic and Podgorica in May.

Number of participants: 500

24/04/2018 Counselling on the start of implementation of the new Law on Foreigners

UPCG, in cooperation with the Ministry of the Interior of Montenegro, organised a one-day consultation on April 24 concerning the beginning of the implementation of the new Law on Foreigners, which entered into force on March 3, 2018.

After the representatives of the Ministry of the Interior presented the new Law on Foreigners with a special focus on the novelties compared to the previous one, businessmen had the opportunity to, in direct communication with them, point to the problems, get answers and resolve dilemmas that appeared in practice, concerning the application of the regulation.

Number of participants: 50

01/06/2018 “Tax Caravan” - final panel in Podgorica

The panel held in Podgorica represented the eleventh caravan event, which is being implemented in cooperation with the Employers Federation, and the Chamber of Commerce has been involved in its realisation.

The Tax Caravan project is part of the Tax Administration’s Action Plan for monitoring the summer tourist season, and for the third time it has been organised as part of a proactive approach by the Tax Administration aimed at enhancing taxpayer service delivery and two-way communication to encourage voluntary compliance by taxpayers and enhance the degree of tax discipline in the long run.

Number of participants: 100

01/06/2018 Roundtable: Dual Education in Montenegro

The roundtable held at the Montenegrin Employers Federation was another opportunity for the

Ministry of Education to meet with the Montenegrin economy as part of the “Being professional is crucial! Get a Job, Earn Money, and Build Yourself Up- Dual Education” program, and to hear the opinions of businessmen about the previous year of application of this system, as well as plans for the future.

Number of participants: 20

18/06/2018 Workshop “Informal Economy in Montenegro”

UPCG and the International Labour Organisation, in cooperation with representatives of the Union of Free Trade Unions and the Union of Trade Unions of Montenegro, held a workshop entitled “Informal Economy in Montenegro” within the project “Promotion of Transition from the Formal to the Informal Economy” funded by the International Labour Organisation. The aim of the event was the presentation of position papers produced by social partners related to the suppression of the informal economy, as well as the presentation of a promotional campaign that will be implemented as part of the said project.

Number of participants: 20

16/11/2018 Working meeting regarding the Law on Fiscalisation in the Trade of Products and Services

UPCG, in cooperation with the Ministry of Finance and the Tax Administration, organised a meeting dedicated to the analysis of the provisions of the Draft Law on Fiscalisation in the Trade of Products and Services, as well as the planned model of electronic fiscalisation for cash and non-cash transactions.

A present member of the UPCG commented on the existing text of the law and the planned project of electronic fiscalisation, both from the legislative and technical point of view, raising doubts as to whether the new solution would result in solving problems existing in the current model of recording trade and increasing the degree of tax discipline, as well as the coverage of businesses operating outside the legal channels. By presenting specific objections to the proposed technical solution for electronic fiscalisation, they have offered alternative solutions that relate to upgrading and improving the existing system, with less cost and better effects.

Number of participants: 110

14/12/2018 Conference “Strong Economy - Successful Montenegro”

At the conference “Strong Economy - Successful Montenegro”, organised by the Montenegrin Employers Federation and the International Labour Organisation within the project “Reduction of parafiscal burden in three municipalities in Montenegro”, funded by ILO, a new strategic document of UPCG “Analysis of parafiscalities” was presented at the local level: the municipalities of Budva, Bijelo Polje and Danilovgrad.

Number of participants: 120

The Union of Trade Unions of Montenegro (SSCG), which is one of the two representative

organisations of employees at the national level, does not possess precise data regarding the training of employees by employers in order to reduce the risk of job loss due to technological and/or economic development. They believe that centralised data collection on the organisation of such activities, their monitoring and analysis of benchmarks, with the defined involvement of social partners and other stakeholders, would be of great benefit to both employees and employers.

Considering that there is currently no central database dealing with this topic and that a systematic approach is needed to address such issues, the Union of Trade Unions of Montenegro is of the opinion that this issue could and should be considered at the sessions of the Social Council of Montenegro.

*Another representative union organisation at the national level, **the Union of Free Trade Unions of Montenegro (USSCG)**, believes that employers provide very little space for this type of training, despite the fact that the Labour Law stipulates that an employee is entitled to vocational training, that is, the employer is obliged to provide the employee with education, professional training and further training when required by the work process, the introduction of new work organisation, and especially when it comes to the adoption and application of new methods in work organisation and technology. This is especially because such training entails costs for employers. Only those organisations, primarily the private sector, which have quality collective agreements, have trainings provided for their employees. It is important to emphasise that trade unions generally opted in these collective agreements for this type of training to be carried out, as a rule, during working hours, not after full-time or on weekends, as is generally the case in Montenegro. The fact is, however, that there are a negligible number of collective agreements governing this statutory right in more detail.*

Unfortunately, the USSCG does not possess accurate data on the total rate of participation of persons in training, the percentage of employees participating in vocational training, the total costs and types of continuing vocational education and training.

Unemployed persons

In its previous conclusion the Committee wished to receive information about the types of continuing vocational training and education available on the labour market for unemployed persons, the overall participation rate of persons in training and the total expenditure. It also asked what was the activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures.

In addition, the Committee wished to be informed of the sharing of the burden of the cost of vocational training among public bodies, unemployment insurance systems, enterprises and households as regards continuing training.

The Committee recalls that the indicators of particular interest when it comes to vocational training for the unemployed are the number of participants, the development in national expenditure and the results of the effort, i.e. the employment effect (Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§3).

ANSWER:

Adult education and training programs

This measure of active employment policy is implemented through education programs for the acquisition of professional qualifications and for the acquisition of key skills in order to increase the employability, that is employment of successful program participants. The program providers are the adult education providers, that is, legal entities holding a license issued by the Ministry of Education, to carry out publicly certified adult education and training programs.

Adult education and training programs in 2015 were implemented for 892 unemployed persons, of which 717 persons underwent programs for the acquisition of professional qualifications, while 175 persons underwent programs for the acquisition of key skills, who were deemed to have a need to acquire additional knowledge, skills and competences required in the labour market. In addition, training program was implemented for work at concrete job position for 86 persons. Women's share in these programs accounted for 56%, youth's 38%, and long-term unemployed recorded a share of 48%. The share of persons involved in these programs in the total number of participants in active employment policy measures in 2015 amounted to 27.4%, while the share of funds for the implementation of these programs in the total available funds for active employment policy measures in 2015 was 15.7%.

In 2016, the Employment Office implemented education and training programs for 454 unemployed persons, in cooperation with 27 adult education providers. Professional qualification programs were implemented for 353, and knowledge and skills programs for 101 unemployed persons. Share of women in the mentioned programs was 59%, young people 66%, and long-term unemployed 57%. The share of adult education and training program users in the total number of active employment policy program beneficiaries in 2016 was 22.6%. The share of funds spent for the implementation of adult education and training programs in the total funds spent for the implementation of active employment policy programs in the reporting period was 10.3%.

Adult education and training programs were implemented in 2017 for 553 unemployed persons, in cooperation with 20 licensed adult education providers. 338 persons were enrolled in vocational qualification programs and 215 unemployed persons in the programs for acquiring knowledge and skills. The share of women in these programs stood at 51.45%, young people 19.3%, and long-term unemployed persons at 61.28%. The share of funds spent on the implementation of adult education and training programs in the total funds spent on the implementation of active employment policy programs in the reporting period was 12%. The share of persons who participated in adult education and training programs in the total number of participants in active employment policy programs in 2017 was 24.63%.

Adult education and training programs were implemented in 2018 for 1,295 unemployed persons, in cooperation with 47 licensed adult education providers. 554 persons were included in vocational qualification programs, and 741 unemployed persons were included in the programs for acquiring knowledge and skills. The share of women in these programs stood at 52.8%, young people at 38.6% and long-term unemployed at 39.5%. The share of persons enrolled in adult education and training programs in the total number of participants in active employment policy programs in 2018 was 34.6%. The share of funds spent for the implementation of adult education and training programs in the total funds spent for the implementation of active employment policy programs in the reporting period amounts to 16.2%.

Article 10 - Right to vocational training

Paragraph 4 - Long term unemployed persons

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

The report states that the long-term unemployment, increased by a high rate of unemployment of young people, remains one of the challenges of the labour market in Montenegro. In this connection, the Committee notes from another source, the European Commission Report 2015 (http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_montenegro.pdf) that in 2014, in Montenegro, unemployment rate was 18%; long-term unemployment rate was 14% and youth unemployment rate was 35,8%. The Committee takes note of the high unemployment rate, in particular relating to young people. The above-mentioned report states that the critical labour market situation remains a key issue and further efforts are necessary to reduce the structurally high unemployment.

In order to be able to assess the situation as to compliance of Montenegro with Article 10§4 of the Charter, **in its previous conclusion (Conclusion 2012) the Committee asked that the next report contains information on specific indicators of compliance with this provision, as well as whether there were any requirements for nationals of other States Parties lawfully residing in Montenegro in order to have access to vocational training when long-term unemployed. Pending receipt of the information requested, the Committee deferred its conclusion and considered that the absence of the information required amounted to a breach of the reporting obligation entered into by Montenegro under the Charter.**

In reply to the Committee's request the report indicates that vocational training program has been provided to young people for the 3rd consecutive year. The Committee observes that the report does not provide information on the types of vocational training provided for this specific category and for other long-term unemployed persons.

The Committee asks again the next report for information on: the types of training and retraining measures available on the labour market; the number of persons in these types of training; the special attention given to young long-term unemployed; and the impact of the measures on reducing long-term unemployment.

ANSWER:

Training to work with the employer - as a measure of active employment policy

Drawing on program tasks determined on the basis of labour market requirements and insufficient ability of the unemployed to respond to them, the Employment Office implemented a program of training for work with the employer

The measure was implemented in 2015 by 147 private sector employers, who, for one to four months, trained unemployed persons, thus securing the missing workforce for service, tourism and hospitality sectors, wood processing and other activities. Through this form of cooperation with employers, all participants in the measure got employment with employers implementing job training programs, in jobs for which they have been trained. The employment of 537 long-term unemployed persons for a fixed term, for a period of three to 12 months, has achieved the

expected results of the implementation of this program to encourage the employment of hard-to-employ persons.

The measure covers 537 long-term unemployed persons who have not been employed in the last six months because their acquired knowledge and skills were not sufficient for employment. The measure primarily covers long-term unemployed persons with secondary education (84.4%), young people (61.8%), while women's share in participation was 31%. Participation of persons from northern and less developed municipalities was 77.6%.

The share of persons involved in these programs in the total number of participants in active employment policy measures in 2015 was 15%, while the share of funds for the implementation of these programs in the total available funds for active employment policy measures in 2015 was 16.5%.

The programme was in 2016 implemented in collaboration with private sector employers, who achieved a net increase in the number of employees, compared to the average number of employees in the last 12 months and expressed their willingness to provide the missing workforce by implementing training programs. With the implementation of the training program, 250 unemployed persons who have not been employed in the last 12 months have been employed by employers who have implemented the program. In the structure of employees, young people had a share of 37%, women of 46%, while persons from northern and less developed municipalities a share of 77%. By implementing training programs lasting one to three months, 99 employers from the private sector provided the missing workforce for service, tourism and hospitality sectors, wood processing and other activities. Under this form of cooperation with employers, unemployed persons were trained and employed by employers who have implemented training programs for a period of three to eight months. By employing 250 persons from the records of the Employment Office, of which 18.4% in the duration of three months, 6.8% in the duration of four months, 7.2% in the duration of five months, 23.6% in the duration of six months, 4.8% in the duration of seven months and 39.2% for eight months, the expected program results were achieved. Employee share in the implementation of the Training to work with the employer program in the total number of participants in the active employment policy program in 2016 was 12.4%. The share of funds spent for the implementation of the Training to work with the employer program in the total funds spent for the implementation of the active employment policy program, in the reporting period, was 18.1%.

In 2017, the program was implemented in collaboration with private sector employers, who achieved a net increase in the number of employees compared to the average number of employees in the last 12 months and expressed their willingness to secure the missing workforce, within a minimum of one month, through the implementation of their training programs. With the implementation of the said program, 100 unemployed persons who have not been employed for the last six months have been employed by employers who have implemented the program. In the structure of employees, young people had a share of 42%, women a share of 45%, while persons with acquired secondary education had a share of 69%. Share of persons from northern and less developed municipalities was 75%.

By implementing a one-month training program, 56 private sector employers provided the missing workforce to work in the service, tourism and hospitality industry and other sectors. With this form of cooperation with employers, unemployed persons were trained and employed by employers who have implemented training programs for three months.

The share of persons employed through the implementation of the Training to work with the

employer program in the total number of participants in the active employment policy program in 2017 was 4.45%. The share of funds spent for the implementation of the Training to work with the employer program in the total funds spent for the implementation of the active employment policy program in the reporting period was 5.89%.

Self-employment training - as a measure of active employment policy

In accordance with the program tasks in preventing the consequences of long-term unemployment, a self-employment training program was implemented.

In 2015, the Office cooperated with 87 employers from the private sector in the municipalities of northern regions and Ulcinj and Cetinje as less developed municipalities. Employers implemented programs tailored to the professional and personal characteristics of the beneficiaries and, with mentoring provided, trained them to perform their jobs independently, within their education level. The program was implemented for 123 unemployed persons who had no work experience at the education level, of which 109 persons were provided with the first employment for six months and 14 persons for nine months.

Female share in these programs was 47.2%, while the share of young people was 71.5%. The share of persons involved in these programs compared to the total number of participants in active employment policy measures in 2015 amounted to 3.4%, while the share of funds for the implementation of these programs compared to the total funds available for measures

In 2016, the self-employment training program was implemented for 71 unemployed persons with no experience in the level of education acquired less than two years ago. In terms of program implementation, the Office has cooperated with 51 private sector employers who have achieved a net increase in the number of employees compared to the average number of employees in the last 12 months and provided the space, technical and personnel conditions for successful implementation of the program. The program provided in-service training for unemployed persons with acquired III and IV education levels, for a period of six months. In terms of age and gender structure, the share of employed persons up to 25 years of age was 88%, and that of women was 42%. Share of persons from northern and less developed municipalities was 66%. Employers implemented programs tailored to the professional and personal characteristics of the beneficiaries and, with the provision of mentoring, trained them to perform their jobs independently at their education level. The share of employees in the self-employed training program compared to the total number of participants in the active employment policy program in 2016 was 3.5%. The share of funds spent for the implementation of self-employment training programs in the total funds spent for the implementation of active employment policy programs in the reporting period was 5%.

In 2017, the self-employment training program was implemented for 50 persons with no experience with the degree of their education acquired less than two years ago. In terms of program implementation, the Office has cooperated with 33 private sector employers who have achieved a net increase in the number of employees compared to the average number of employees in the last 12 months and provided the space, technical and personnel conditions for the successful implementation of the program. The program provided training for self-employment of unemployed persons with acquired III and IV level of education, for a period of six months. In terms of age and gender structure, the share of employed persons up to 24 years of age was 100%, and of female persons 46%. The share of persons from northern and less developed municipalities was 72%. Employers, with monitoring provided, trained participants to work independently in their education level. The share of persons employed by the realisation of the

self-employment training program in the total number of participants in the active employment policy program in 2017 was 2.22%. The share of funds spent for the implementation of self-employment training programs in the total funds spent for the implementation of active employment policy programs in the reporting period amounts to 4.42%.

As to the requirements for nationals of other States Parties lawfully residing in Montenegro in order to have access to vocational training when long-term unemployed, the report indicates that according to the Montenegrin legislation, a foreigner with a permanent or a temporary residence permit has the right to work and have access to internships under the same conditions as the citizens of Montenegro. The Committee notes from the 2015 European Commission report that the new law on foreigners imposes additional limitations on the employment of foreigners in Montenegro and needs to be brought in line with the acquis. **In this connection, the Committee asks clarification on which categories of foreigners and in what cases long-term unemployed foreigners do not benefit of equal treatment with Montenegrin nationals in matters of access to vocational training.**

ANSWER:

According to current Article 93 of the Law on Foreigners (Official Gazette of Montenegro Nos. 12/12 and 3/19, as well as under previous regulations), foreigners who have permanent or long-term residence in Montenegro are entitled to work and employment, job placement and unemployment rights, education and training, recognition of diplomas and certificates, access to the goods and services market, as well as other rights in accordance with the laws governing the exercise of those rights.

Therefore, the Law on Foreigners does not restrict the rights of foreigners who have been granted permanent residence in Montenegro when it comes to exercising their right to work, employment, vocational education and other rights, while foreigners exercise all their further rights in accordance with special laws governing specific area.

When it comes to temporary residence for the purpose of working in Montenegro, the foreigners may obtain a temporary residence permit for employment, seasonal employment, provision of contracted services and movement of persons within a foreign company.

The annual number of permits for temporary residence and work of a foreigner (annual quota) is determined by the Government in accordance with migration policy, situation and trends in the labour market, and the annual quota determines the activities in which foreigners can be employed. In certain cases, foreigners may be issued a residence and work permit beyond the annual quota.

On the basis of a temporary residence and work permit, a foreigner may work in Montenegro only in jobs for which he has been issued a temporary residence and work permit and only with the employer who employs him, which means he cannot be transferred to another employer, or be assigned to other jobs.

Therefore, as stated concerning the new Law on Mediation in Job Placement and Rights arising from Unemployment, an unemployed person is a person from 15 to 67 years of age, who is a Montenegrin national, registered with the Employment Office of Montenegro, capable or partially

capable of working, who has not established an employment relationship, is actively seeking employment and is available for work.

Unemployed person within the meaning of paragraph 1 of this Article shall also be deemed to be a foreigner who, in accordance with a special law, has:

- *permanent residence permit;*
- *temporary residence permit for a stateless person;*
- *temporary residence permit for up to three years, pursuant to Article 220 of the Law on Foreigners ("Official Gazette of MNE", No. 12/18 and 3/19) ;*
- *temporary residence permit for the purpose of family reunification with a Montenegrin citizen or with a foreign national who has a permanent residence permit;*
- *temporary residence permit for humanitarian reasons;*
- *recognised refugee status or approved additional protection;*
- *granted asylum, subsidiary protection or seeking international protection, following the expiration of a period of nine months from the date of submitting application for international protection.*

Therefore, all the above categories of unemployed persons on the unemployment register have equal access to active employment policy measures.

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

Paragraph 1 - Vocational training for persons with disabilities

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

Definition of disability

In its previous conclusion (Conclusions 2012), the Committee requested that the next report confirm whether a definition of disability exists. According to the report, the Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of Montenegro, no. 49/08, 73/10 and 39/11) defines a person with disabilities as "a person with permanent consequences due to physical, sensory, mental or emotional damage or disease, which cannot be eliminated by treatment or medical rehabilitation, and who is faced with social and other restrictions that affect the person's ability to work and employment opportunities, to maintain employment and advance within it, and which has no possibility or has a reduced ability to, under equal conditions, be included in the labour market".

The Committee asks whether this definition applies to all legislation that may affect people with disabilities. The Law on the Prohibition of Discrimination against Disabled Persons was amended in 2015. This amendment entered into force outside the reference period, the Committee asks whether the definition of disability has changed.

ANSWER:

The definition of “persons with disabilities” is given in Article 2 paragraph 2 of the Law on Prohibition of Discrimination against Persons with Disabilities, and reads:

“A person with a disability is a person having long-lasting physical, mental, intellectual or sensory impairments, which in interaction with various barriers may hinder full and effective participation of this person in society on an equal basis with others.”

It should be borne in mind that the legal system of Montenegro provides for the obligation of horizontal harmonisation of regulations and, through Article 1 of the Law on Prohibition of Discrimination against Persons with Disabilities, leaves room for the definition of the term “persons with disabilities” through other regulations in accordance with the subjects of those laws.

Anti-discrimination legislation

In its previous conclusion (Conclusions 2012), the Committee requested that the next report specify in detail the body of anti-discrimination legislation that deals with education. In reply to the Committee’s question, the report states that the **Law on the Prohibition of Discrimination against Disabled Persons of 2011 was amended on 26 June 2015** (outside the reference period). Article 21 of the new Law prohibits discrimination in education and vocational training. The report also underlines that a number of activities have been implemented in order to apply the new anti-discrimination legislation effectively. The Committee will examine these amendments in its next report. It **requests that the next report contain information as to whether this Law offers effective remedies to those who believe that they have been excluded or isolated, or deprived in any other way of the effective right to education. In this connection, the Committee also wishes to be informed of any relevant case law concerning discrimination based on disability in education and training.**

ANSWER:

The Law on Prohibition of Discrimination against Persons with Disabilities is a lex specialis which regulates the issue of non-discrimination of this vulnerable group. This Law, as you stated, in Article 21 prohibits discrimination in the field of education and vocational training, and through the penal provisions in Article 29 of this Law, paragraph 1, items 6,7,8, 9 prescribes very high penalties for offenders, as follows: in the range of EUR 10,000 to EUR 20,000, for an offense committed by a legal person; in the range from EUR 1,500 to EUR 2,000, for a misdemeanour committed by a person in a legal entity, a responsible person in a public authority, a public administration body and a local self-government body; from € 5,000 to € 6,000 for an offense committed by an entrepreneur.

Therefore, the Law on Prohibition of Discrimination against Persons with Disabilities stipulates penalties for perpetrators of discrimination.

In addition, the General Law on Prohibition of Discrimination recognises all known grounds of discrimination, among other things, discrimination on the basis of disability, while also regulating the procedure for protection against discrimination.

In addition to the right to file a complaint with the Protector of Human Rights and Freedoms (Article 22 of the Law on Prohibition of Discrimination), the Law on Prohibition of Discrimination prescribes the right of a discriminated person to judicial protection (Article 24 of the Law on Prohibition of Discrimination).

Article 26 of this Law specifically stipulates that under a lawsuit referred to in Article 24 paragraph 2 of this Law one may also claim:

- 1) establishment of the fact that the respondent has acted discriminatory against the plaintiff;
- 2) prohibition of exercising the act that bears potential treat of discrimination, i.e. prohibition of repetition of discrimination act;
- 2a) compensation of damages, in accordance with the law;
- 4) publication in the media, at the expenses of respondent, of the judgement establishing discrimination.

In the cases referred to in paragraph 1, items 1 and 2 and 2a of this Article, the lawsuit shall be exert together with the claim for protection of the right which is decided in a civil proceeding, if those claims are correlated and based on the same factual and legal ground.

Bearing in mind that our legal system and the legal and technical rules do not allow duplication of standards, therefore compensation for damages is regulated in accordance with Articles 192-212, while Article 192 regulates reparation (in the form of "restitutio in integrum") and compensation for pecuniary damage.

The Law on Obligations clearly recognises ordinary damage (as impairment of one's property), lost profit (preventing the increase of property), etc. In addition, the Law specifically recognises damage that is important in the context of the fight against discrimination, that is, NON-PECUNIARY DAMAGES due to an infringement of a person's rights.

Below we quote the provisions of the Law on Obligations relating to compensation of damages (Articles 192-212 of the Law on Obligations - ("Official Gazette of Montenegro" 47/08, 04/11 and 22/17).

I. INDEMNITY FOR DAMAGE TO PROPERTY

Restitution to Previous Condition and Pecuniary Damages

Article 192

- (1) A responsible person shall be liable to restoration to the condition existing prior to the occurrence of damage.
- (2) Should restoration to the previous condition fail to remove the damage entirely, the responsible person shall be liable to pay a pecuniary damage to cover for the rest of the damage.
- (3) Should restoration to the previous condition be impossible, or should the court find it unnecessary for the responsible person to do so, the court shall order such person to pay to the aggrieved party an adequate amount of money as compensation for loss.
- (4) On the claim of the aggrieved party, the court shall award compensation in money to him, unless the circumstances of the specific case justify the restitution to previous condition.

When Duty of Compensation is due

Article 193

Compensation for damage shall be due from the moment of the damage taking place.

Indemnity in Case of Loss of Object Being Unlawfully Taken Away

Article 194

After an object (thing) of which the owner was unlawfully deprived, is lost due to Force Majeure person responsible shall be liable to provide compensation in money.

Indemnity in the Form of an Annuity

Article 195

(1) In case of death, bodily injury or damage to health, indemnity shall, as a rule, be determined in the form of an annuity, either for the life of the injured person or for a definite period.

(2) An awarded annuity as a form of damages shall be paid in advance in monthly instalments, unless the court provides otherwise.

(3) The judgment-creditor shall be entitled to demand necessary guarantees for payment of annuities, unless according to circumstances of the case, this would be not justified.

(4) Should the judgment-debtor fail to supply guarantee ordered by the court, the judgment-creditor shall be entitled to demand payment of a lump sum instead of annuities, of an amount established according to the amount of annuities and probable duration of the judgment-creditor's life, after deducting corresponding interest.

(5) The judgment-creditor may also, in other justified cases, demand – immediately or subsequently – to be paid a lump sum instead of annuities.

II. SCOPE OF INDEMNITY FOR DAMAGE TO PROPERTY

Common Damage and Profit Lost

Article 196

(1) A person sustaining damage shall be entitled both to indemnity of common damage and compensation of profit lost.

(2) The amount of damages shall be determined according to prices at the time of rendering a court's decision, unless otherwise provided by law.

(3) In assessing the amount of the profit lost, the profit which could have been reasonably expected according to the regular course of events or particular circumstances, and whose realisation has been prevented by an act or omission of the tort-feasor shall be taken into account.

(4) Where an object is lost or damaged by a criminal offence committed intentionally, the court may determine the amount of indemnity according to the value the object had for the person sustaining damage.

Complete Recovery

Article 197

While also taking into account the circumstances after the occurrence of damage, the court shall determine damages in the amount necessary to restore the material state of the person sustaining damage into the state it would have been without the damaging act or omission.

Reducing Indemnity

Article 198

(1) The court may, while taking into account the economic standing of the person sustaining loss, order the person liable to pay an indemnity which is lower than the amount of damages if it was not caused either intentionally or in gross negligence, and if the liable person is in poor economic situation, so that payment of full indemnity would take him into poverty.

(2) If the person causing damage has inflicted damage while doing something to the benefit of the person sustaining loss, the court may order a lower indemnity, while taking into account the degree of care the person causing damage was otherwise applying in his own affairs.

Joint and Several Liability

Article 199

(1) A person sustaining loss who has contributed to the occurrence of loss or to its becoming larger than it would otherwise be, shall only be entitled to a proportionally reduced indemnity.

(2) Should it be impossible to establish which part of damage comes from an act of the person sustaining it, the court shall award the indemnity while taking into account the circumstances of the case.

III. PARTICULAR PROVISIONS ON REDRESSING PROPERTY DAMAGE IN CASE OF DEATH, BODILY INJURY AND HARM TO HEALTH

Lost Salary and Expenses of Medical Treatment and Funeral

Article 200

(1) Whoever causes another person's death shall be liable to reimburse the usual expenses of that person's funeral.

(2) He shall be also liable to reimburse expenses of that person's medical treatment for injuries inflicted, as well as other expenses relating to medical treatment, including the salary lost due to disability for work.

Right of a Dependent of the Deceased

Article 201

(1) A person who was supported or regularly assisted by the deceased, as well as the one entitled by law to request maintenance from the deceased, shall be entitled to damages for loss sustained by the loss of support, or assistance.

(2) Such loss shall be redressed by paying in annuities the amount which shall be established by taking in consideration all the circumstances of the case, but which shall not be higher than the amount which would have been received by the person sustaining damage from the deceased if

he were alive.

Redressing Damage in Case of Bodily Injury or Damage to Health

Article 202

- (1) One who inflicts to another bodily injury or impairs his health, shall be liable to reimburse his medical expenses, as well as other related necessary expenses, including recovery of the salary lost due to inability to work during medical treatment.*
- (2) Should the injured person due to total or partial disability lose his salary, or should his needs become permanently increased, or should possibilities of his further development and advancement be destroyed or reduced, the person liable shall pay to the injured party specific annuities as damages for such loss.*

Altering the Indemnity Awarded

Article 203

At the request by the person sustaining loss the court may raise the amount of annuities for the future, and it may, at the request by the tort-feasor, reduce or cancel it, should the circumstances be considerably changed which had otherwise been considered by the court in rendering the previous decision.

Non-Transferability of Right

Article 204

- (1) The right to indemnity in the form of annuities, due to death of a close relative or due to bodily injury or harm to health, may not be transferred to another person.*
- (2) The amounts of damages due may be transferred to another person should the amount of indemnity be determined by written agreement between the parties, or by final court decision.*

IV. REDRESSING MATERIAL DAMAGE IN CASE OF INSULT TO ONE'S HONOR AND SPREADING FALSE ALLEGATIONS

Article 205

- (1) Whoever insults another person's honour, or whoever utters or conveys false statements concerning another person's past, knowledge and ability, or concerning anything else of the kind, although person spreading allegations is aware, or should have been aware, that these are untrue, thus causing material damage to such person, shall be liable for damages.*
- (2) However, one shall not be liable for the loss caused who makes the false statement concerning another without knowing that it is not true, should he or the one acknowledging the statement have a serious interest in the matter.*

V. REDRESSING NON-PECUNIARY DAMAGE DUE TO VIOLATION OF PERSONAL RIGHTS

The right to protection

Article 206

- (1) A natural person enjoys full protection of his personality.*
- (2) A legal person shall enjoy the protection of personality rights which do not arise from the natural characteristics of a person as an individual.*
- (3) The protection of the rights of a person prescribed by this Law (minimum protection) may not be limited by a special law.*

Personal rights

Article 207

The rights of the person shall be: the right to life, the right to physical (bodily) integrity, the right to psychological (mental) integrity, the right to liberty, the right to honour, the right to respect, the right to the protection of privacy, the right to dignity, the right to one's self image, the right to vote, the right to correspondence and personal records, the right to personal identity, the moral component of copyright, as well as other personality rights prescribed by the Constitution, ratified and published international treaties and generally accepted rules of international law and special laws.

Inalienability of personality rights

Article 208

No one may waive the rights of the person, nor restrict these rights contrary to law, public policy or morals.

Protection against unlawful conduct

Article 209

- (1) A person whose personal rights were unlawfully violated shall have the right to protection in respect of any person who participated in it.*
- (2) A violation of personal rights is unlawful if the restriction of those rights is not based on law.*
- (3) Everyone has the right to request a court or other competent authority to order the cessation of a violation of his personality.*

Special measures in cases of coercion or abuse

Article 210

- (1) In the case of violations of personal rights resulting from coercion or abuse, the injured party may require the court, under threat of a fine, to prohibit the tort-feasor from certain conduct (entry into a certain space, harassment of the injured party by telephone, electronic, by letter or otherwise).*
- (2) If the injured party and the tort-feasor live in the same apartment or family home, the injured party may require the court to prohibit the tort-feasor from any contact with the injured party, and in the case of repeated gross violation of the personal right to move the tort-feasor out of the apartment or family home.*

Financial compensation

Article 210a

(1) In the event of a violation of personal rights, the court shall, according to the gravity of the violation and the circumstances of the case, award fair financial compensation, regardless of the compensation for pecuniary damage, as well as in the absence of pecuniary damage.

(2) In deciding on the claim for just compensation and on its amount, the court shall take into account all the circumstances of the case, and in particular the type, manner of infliction and lasting consequences of the injury, the age of the injured party, occupation and, in general, the personal situation of the injured party, whether parties are insured, the economic situation of the tort-feasor and the injured party, the duration of the unjustified deprivation of liberty, the purpose for which financial compensation is awarded, but also that it does not favour aspirations that are incompatible with its nature and social purpose.

Persons Entitled to Damages in Case of Death or Serious Disability

Article 210b

(1) In case of death of a person due to violation of personal rights, the court may award to members of his immediate family (spouse, children, adopters, parents and adoptees) equitable damages for their mental anguish.

(2) Damages referred to in paragraph 1 of this Article may be also awarded to brothers and sisters should a permanent household unit exist between them and the deceased.

(3) In case of a particularly serious disability of a person caused by violation of personal rights, the court may award to his spouse, children, adopters, parents and adoptees, an equitable pecuniary indemnity for their mental anguish.

(4) The indemnity specified in paragraphs 1 and 3 of the present Article may also be awarded to an extramarital partner, if a permanent household unit had existed between the extramarital partner and the deceased, or injured person, at least three years prior to death, or injury, and if the extramarital union produced a common child or continued by conclusion of marriage before the expiry of the term of three years.

(5) The right to a fair pecuniary compensation also belongs to parents in case of loss of conceived but unborn child, caused by violation of personal rights.

Compensation in Particular Cases

Article 210v

A person being induced to unlawful intercourse or lewd act by deceit, coercion or abuse of a relationship of subordination or dependence, as well as a person being a victim of some other criminal offence against sexual freedom shall be entitled to equitable damages for mental anguish suffered.

Recovery of Future Damage

Article 210g

(1) At the request by a person sustaining loss the court shall also award damages for future non-pecuniary loss if, according to regular course of events, it became certain that it will continue in future.

(2) At the request of the injured party, compensation for future non-pecuniary damage may be awarded in the form of a cash annuity if the purpose of the compensation is more fully realised.

Maturity of non-pecuniary damage compensation obligation

Article 210d

The obligation to compensate for non-pecuniary damage is due on the day of the filing of the written request or the claim, unless the damage arose afterwards.

Inheriting and Assigning Claim for Non-pecuniary Damages

Article 211

(1) A claim for redressing of non-pecuniary damage shall pass to a successor only after being recognised by a final court decision or by a written agreement.

(2) Under the same conditions such claim may be the subject of assignment, set-off and enforced execution.

Several Liability and Reduction of Indemnity

Article 212

Provisions on several liability and reduction of indemnity applicable to pecuniary loss shall apply accordingly to non-pecuniary loss as well.

Section 10

LIABILITY OF SEVERAL PERSONS FOR THE SAME DAMAGE

Joint and Several Liability

Article 213

(1) Liability for loss or injury caused by several persons shall be joint and several.

(2) An instigator and aide, as well as one who assisted liable persons in avoiding to be discovered, shall be jointly and severally liable with them.

(3) Joint and several liability for loss shall also apply to the persons causing it, if acting independently from one another, should their shares in damage caused be impossible to determine.

(4) Should there be no doubt that damage is caused by two or several persons who are in some way interconnected, and should it be impossible to establish who is liable for damage, such persons shall be liable jointly and severally.

Joint and Several Liability of Principal and Contractor for Works

Article 214

A principal and a contractor for works on real property shall be jointly and severally liable for loss inflicted to a third person in relation to the execution of such works.

Recovery of a Payer

Article 215

(1) A judgment-debtor liable jointly and severally who pays off an amount higher than his share of damages may demand from any of the remaining debtors the recovery of what he has paid for them.

(2) The court shall determine the amount of share of individual judgment-debtors, considering the degree of their respective faults and the seriousness of consequences of their acts.

(3) Should it be impossible to establish the amount of shares of the judgment-debtors, each shall bear an equal share, unless equity requires otherwise in proceeding with the specific case.

Therefore, it is important to keep in mind that when deciding on a claim for just compensation and its amount, the court takes into account all the circumstances of the case, and especially the type, manner and lasting consequences of the injury, the age of the injured party, occupation and other cases prescribed by the article 210 para. 2 of the Law on Obligations.

The Supreme Court of Montenegro, as the highest court in the country, appealed to the competent courts to collect data pertaining to case law regarding discrimination on the basis of disability in the field of education and employment, as well as gender discrimination.

Based on the data collected from the courts, it can be seen that the courts from 2015 – 2018 processed no civil cases related to discrimination on the basis of disability in the field of education and employment, nor litigation cases were instituted before the basic courts related to gender discrimination.

We recall that according to the Law on Prohibition of Discrimination, anyone who believes that his rights have been violated by the discriminatory actions of bodies, companies, other legal entities, entrepreneurs and natural persons has the right to protection before a court, and that the procedure is initiated by a lawsuit. Therefore, it is a civil procedure in which the principle of disposition of the parties applies.

As there were no mentioned cases in the Montenegrin courts during the period indicated, there was thus no application of case law concerning the same.

The report indicates that Article 2 of the **Law on the Prohibition of Discrimination, as amended in 2014**, prohibits all forms of discrimination and makes a distinction between direct and indirect discrimination. The Law prohibits discrimination against persons with disabilities, inter alia, in education, vocational training and employment. According to this Law, persons who have been discriminated against can assert their right before the courts by lodging a complaint. The judicial proceedings are to be conducted under urgent procedure. Courts, the various authorities

responsible for dealing with violations and supervisory bodies must keep separate records of complaints in relation to discrimination and transmit the data to the Protector of Human Rights and Freedoms in due time. **The Committee requests that the next report provide information as to how this law is being applied in practice and information on case law and complaints submitted to the competent authorities with regard to discrimination in access to education.**

ANSWER:

Pursuant to Art. 33 of the Law on the Prohibition of Discrimination, courts, inspection authorities and misdemeanour authorities are obliged to keep separate records on discrimination lawsuits. According to this provision, the authorities shall submit the data from the special records to the Ombudsman no later than January 31 of the current year for the previous year, and at the request of the Ombudsman they are obliged to submit the data from these records for a specified shorter period during the year. However, the mentioned authorities have not yet established adequate records, but mostly unsystematically, unevenly and only at the explicit request of the Ombudsman, provide information regarding discrimination. Based on the information provided by the authorities to the Ombudsman, it is impossible to derive accurate data on the protection against discrimination procedures regarding access to education. The data of the basic courts do not provide a detailed account of the cases, nor do they contain the grounds and areas of discrimination as the most important parameters for monitoring this phenomenon.

With this in mind, as well as the obligations arising from the accession process to the European Union, the Ombudsman, in cooperation with the line Ministry of Human and Minority Rights, initiated a procedure to analyse and amend the current Rulebook on the content and manner of keeping a special record of cases of reported discrimination. In this procedure, and in accordance with the planning documents for Chapter 23, it is planned to involve all decision-makers and/or bodies before which anti-discrimination proceedings are conducted in accordance with the law.

However, we recall that the Law on Prohibition of Discrimination (“Official Gazette of Montenegro”, Nos. 046/10, 040/11, 018/14, 042/17) in Art. 15 proscribes discrimination in the field of education, training and vocational training on all grounds of discrimination under Art. 2 paragraph 2 of this Law, while in Article 16 it proscribes discrimination in the field of employment, on all grounds of discrimination under Art. 2 paragraph 2 of this law, including disability.

Education

The report indicates that the Law on Education of Children with Special Educational Needs of 2004 was amended in 2010. The Committee asks that the next report inform it of the actual impact of this Law on the integration of schoolchildren and students with disabilities in mainstream education.

ANSWER:

Pupils with special educational needs are integrated in mainstream education - as governed by the Law on the Education of Children with Special Educational Needs, and the laws that treat each education level individually. Individualisation is achieved by adapting the system to meet the physical, emotional, social and psychological needs of a child with special educational needs. Modularisation of educational programs opens opportunities for students with special educational

needs and should be established for as many occupational standards and qualifications as possible, of varying degrees. An individual transition plan should be implemented in all schools, employers should be sensitised to employ those who complete the education program – that is acquire certificates of professional qualification or certificates of completion of the part of the educational program.

The Committee notes that the “Rulebook on the Method, Conditions and Procedures of Guidance for Children with Special Educational Needs” was revised in 2011 and goes beyond the medical approach.

Law on the Education of Children with Special Educational Needs was amended in 2017. In the field of inclusive education, there is a tendency to achieve fairness in education, and in addition to the academic background, provide the necessary knowledge and skills. It seeks to respect the rights and characteristics of these children, whose developmental and educational needs must be met and satisfied in order to be able to live independently. The concept is focused on inclusive quality and accessible education for children with special educational needs in accordance with their interests, opportunities and needs. Individualisation is achieved by adapting the system to meet the physical, emotional, social and psychological needs of a disabled child. The amendments to the Law on the Education of Children with Special Educational Needs focus on updating the practice; improvement of models and services of basic and additional support for children with disabilities, sustainable, optimal engagement of teaching assistants. In this sense, the Law includes regulations concerning: anti-discrimination provisions, clarification of the term children with special educational needs, programs, the role of resource centres and schools with special departments, special education teachers who work in them, concretisation of an individual developmental education program, introduction of an individual transition plan, technical support in teaching - teaching assistant: conditions, scope, manner. The Rulebook was harmonised with the Law and oriented towards the human rights model and functional assessment.

The report also mentions Inclusive Education Strategies, adopted in 2008 (see 2012 Conclusions), which aim to provide accessible education for children and young people in line with their interests, abilities and needs. After analysing the implementation of the measures foreseen by this strategy, a new strategy for 2014-2018 was adopted with a focus on access, continuity of education and support at all levels.

As regards tangible measures, the report shall contain the following information:

- individual development and education plan has been improved and focuses not only on education but also on methods, forms of work and activities.
- for students with special educational needs, the individual transition plan is implemented in two phases: at the end of primary education and at the end of secondary education. The report provides details of the contents of this plan.
- Local community commissions have been established to provide guidance for children with special educational needs.
- The Bureau of Education offers mobile assistance services.
- Children with severe or moderate disabilities are enrolled in special classes in mainstream schools. Unified teaching of individual subjects is provided with their peers enrolled in regular classes.
- The report cites improvements in dozens of schools in terms of access. Most schools are on one level. Equipment for the visually impaired is being introduced on a smaller scale.

With regard to special schooling, the special schools have been transformed into resource centres which focus their educational activity on severely disabled children, for whom these centres are the best and only solution (see also Conclusions 2012). The Committee requests that the next report provide information on the number of pupils attending these centres, the requirements for a child to be accepted, and how the enrolment fees are paid.

ANSWER:

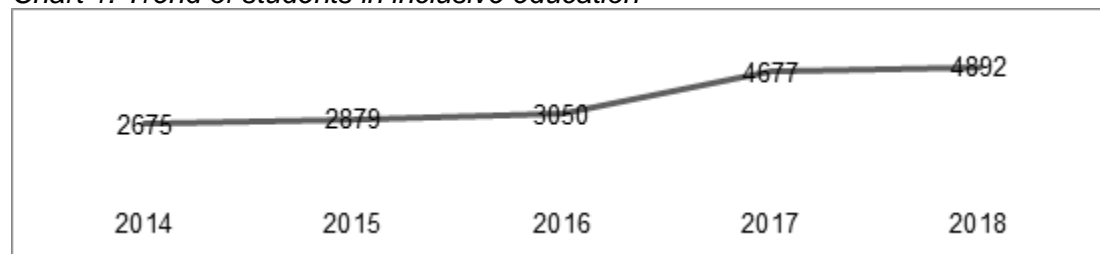
The concept is such that it is imperative to engage in mainstream - inclusive teaching. Amendments to the Law on Education for Children with Special Educational Needs focus on updating the practice; improving models and services of basic and additional support for children with disabilities; development of individual development education program, introduction of individual transition plan. Guidance policy was oriented towards human rights model and functional assessment. Education and all services in the education system are free of charge.

The Committee nonetheless recalls that, in order to effectively assess these statistics, it needs to know the total number of pupils with disabilities, the breakdown of pupils with disabilities between mainstream and special education, and the nature of their special needs.

ANSWER:

When it comes to the type of disability, analyses show that in the education and preschool system, the most common developmental disabilities in children are intellectual, socio-emotional and learning disabilities, attention disorders, autism and speech and language difficulties, physical and combined disabilities, and at the end visual and hearing impairment. The trend of students in the mainstream education and information about those involved in the resource centres is:

Chart 1: Trend of students in inclusive education



Source: Inclusive Education Strategy

Table 1: Number of students in resource centres

| Levels | RC „1. jun“, Podgorica | RC “Podgorica” | RC “Dr Peruta Ivanović”, Kotor |
|-------------------|------------------------|----------------|--------------------------------|
| Elementary school | 37 | 26 | 19 |

| | | | |
|-------------|----|----|----|
| High school | 34 | 10 | 18 |
|-------------|----|----|----|

It also requests full and up-to-date data on the number of children with disabilities who are not enrolled in school and the steps taken to remedy this situation, and the number of persons with disabilities who leave the education system with no qualifications.

ANSWER:

The 2019-2025 Inclusive Education Strategy provides measures to improve the model of guidance and support in the education system. It implies redefining the model of inclusion and child support based on the concept of human rights, developing a multidisciplinary approach to improve support systems for early identification and intervention, early child development, support, individualisation and transition. Also, according to MEIS, there are no registered children leaving the system.

It also requests specific data on the schooling of children with a mental disability, the success rate of children with disabilities as compared with other children, especially as regards access to vocational training, further education or entry into the open labour market.

ANSWER:

Individual developmental education program prescribes forms of work, adaptation, standards of knowledge, achievements and skills, technical support, in accordance with individual capabilities. All students have a Transitional Program. It is implemented in two phases: at the end of primary school and at the end of secondary education. The first phase is aimed at identifying the potential and preferences of the child with the aim of choosing a future occupation. In order to enable children with special educational needs to receive education in accordance with their abilities, modularised educational programs based on gradual professional qualifications of different levels of education are of particular importance. An IPA project “Improving educational programs and services to meet the needs of marginalised groups” is underway, which deals with modularisation of programs, training of teachers in vocational education.

Vocational training

In its previous conclusion (Conclusions 2012), the Committee requested that the next report provide further information about access to vocational training, including in higher education. The report indicates that the legal basis on which measures and activities in relation to vocational rehabilitation and employment of persons with disabilities are implemented is the Law on Employment and Exercising Rights with respect to Unemployment Insurance (Official Gazette of Montenegro, no. 14/2010, 2012, 2013, 2015) and the Law on Professional Rehabilitation and

Employment of Persons with Disabilities (Official Gazette of Montenegro, no. 49/08, 73/10 and 39/11). The Committee refers to its previous conclusion (Conclusions 2012) for a description of the vocational training system and the different types of higher education.

The report also indicates that the Government of Montenegro has adopted the 2008-2016 Strategy on the Integration of Disabled Persons, which aims to improve the situation of persons with disabilities and include them in all aspects of society on an equal footing. In line with the objectives and measures laid down in the Strategy, two-year action plans have been adopted.

The report indicates that individual development training exists for students with disabilities. Upon successful completion of the course, pupils are issued with a certificate by the school, for instance a vocational qualification certificate awarded by the Ministry of Work and Social Affairs.

To provide educational support for persons with speech and hearing impairments, the Vocational Training Centre has adapted five training courses for mechanics, cooks, hairdressers, sales assistants and press preparation operators. All of the courses are run at the Resource Centre in Kotor. The report states that the teachers have been trained to deliver the courses effectively.

The Committee repeats that it needs to know the number of persons with disabilities who are in vocational training in the open labour market and other existing training systems. Consequently, there is not enough information to be able to determine whether tangible progress has been made in terms of access to vocational training or learning.

ANSWER:

In the period from 1 January 2015 until 31 December 2018 the financing of 195 employment projects for persons with disabilities was approved through six public calls of a total value of € 9,392,016.35. These projects involved 1220 people with disabilities.

Within these projects, persons have undergone training programs that have contributed to increasing their employability, and over 50% of them have, over the duration of the projects, established an employment relationship of at least ½ the duration of the project.

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

Paragraph 2 - Employment of persons with disabilities

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

Employment of persons with disabilities

The report describes the Law on Employment and Exercising Rights with respect to Unemployment Insurance (Official Gazette of Montenegro, no. 14/2010, 2012, 2013, 2015), which has been amended in order to improve the status of workers with disabilities in categories II and III who are registered as unemployed. **The Committee refers to its questions in the**

examination of Article 15§1 and requests clarification of the categories of disability.

ANSWER:

The definition of “persons with disabilities” is contained in Article 2 paragraph 2 of the Law on Prohibition of Discrimination against Persons with Disabilities, and reads:

“A person with disabilities is a person having long-lasting physical, mental, intellectual or sensory impairments, which in interaction with various barriers may hinder full and effective participation of this person in society on an equal basis with others.”

It should be borne in mind that the legal system of Montenegro provides for the obligation of horizontal harmonisation of regulations and, through Article 1 of the Law on Prohibition of Discrimination against Persons with Disabilities, leaves room for the definition of the term “persons with disabilities” through other regulations in accordance with the subjects of those laws.

Persons with disabilities are not recognised by the new Law on Mediation in Job Placement and Unemployment Rights (“Official Gazette of Montenegro”, No. 24/19) as a special target group. This law introduces the notion of a particularly vulnerable group of unemployed persons, which includes persons who are at risk of social exclusion due to different circumstances (socio-demographic characteristics, insufficient or inadequate education, health reasons, etc.), which makes them disadvantaged in the labour market. In this connection, persons with disabilities may be covered under the aforementioned term, and the provisions of this Law, which prescribe the rights and obligations of unemployed persons, shall apply to the same.

In addition, the Law on Professional Rehabilitation and Employment of Persons with Disabilities (“Official Gazette of Montenegro”, No.49/08, No.73/2010, No.39/11 and No.55/16), Article 6 stipulates the categories of persons with disabilities who may exercise the rights established by this law. Accordingly, the right may be exercised by a person who has been recognised as a disabled worker in terms of retirement and disability insurance regulations; a person with disabilities, who is classified in a certain category and degree of disability, who completed special education in accordance with a special law; a person with a disability, who is classified in a specific category and degree of disability in accordance with special regulations and has completed full-time education; a person with a disability or physical disability in accordance with the regulations on veterans’ disability protection; a person who has completed the education, with the adapted implementation of the educational program and the provision of additional professional assistance or special educational or educational program, in accordance with a special law.

Persons who have not attained the status within the meaning of Article 6 paragraph 1 of this Law shall attain the status of persons with disabilities depending on the percentage of disability, in accordance with this Law.

The Committee underlines that it needs to systematically receive up-to-date data on the number of persons with disabilities who are in employment (in the open labour market or in sheltered employment), the number of those who are benefiting from an employment promotion measure and the number of those who are seeking work. In the absence of these figures, there is nothing to show that the situation is in conformity with Article 15§2.

ANSWER:

The Law on Vocational Rehabilitation and Employment of Persons with Disabilities stipulates that the Fund for Professional Rehabilitation and Employment of Persons with Disabilities should be organised at the Employment Office of Montenegro and that the Fund's resources be provided primarily from a special contribution paid by employers who did not meet the prescribed quota when employing persons with disabilities. These funds are paid into the Budget of Montenegro.

As of January 1, 2014, the Fund has been allocated a separate budget item in the revenue and expenditure side of the Budget of Montenegro, i.e. the Budget of the Employment Office of Montenegro

The funds of the Fund, according to the Law, can be used for: measures and activities of vocational rehabilitation for unemployed and employed persons with disabilities, co-financing of special employment organisations, programs of active employment policies involving persons with disabilities, subsidies, financing of grant schemes and financial assistance for participants in vocational rehabilitation measures.

In the period from 01/01/2015 until 31/12/2018, 1475 persons with disabilities were employed, of which 1127 were employed on a temporary basis (these persons extended their employment) and 348 were employed on a permanent basis. Employers who have hired the above individuals have been recognised as eligible for a wage subsidy.

Employment positions for persons with disabilities are: executive director, assistant graphic technician, legal and administrative technician, accounting administrator, administrative worker, control and billing of commissions in an insurance company, tariff-controller in an insurance company, assistant worker in woodworker, assistant cook, waiter, hygienist, warehouse clerk, assistant hairdresser, cleaner, food and service worker, curator, marketing manager, librarian - librarian, accountant, TC operator, physiotherapist - masseur, salesman - translator and others.

According to the records of the Employment Office of Montenegro, on December 31, 2018, there were 8222 unemployed persons with disabilities, of which 4477 or 54.45% were women. For the implementation of the program of vocational rehabilitation and employment with disabilities, € 17,067,949.10 was spent in this period, for:

- vocational rehabilitation programs - € 581,203.16;*
- earnings subsidies - € 5,815,845.60;*
- subsidy (adjustment of workplace and working conditions) - € 255,353.72;*
- subsidy (participation in financing the personal expenses of the assistant in work) - € 394,550.52;*
- active employment policy programs involving persons with disabilities (public work) - € 88,912.68;*
- grant scheme financing - € 9,663,728.72;*
- financial support for program participants - € 87,963.03 and fees for members of the Vocational Rehabilitation Committees and Fund Councils - € 180,391.67.*

Anti-discrimination legislation

The Committee notes that the Law on Prohibition of Discrimination of 2011 was amended on 26 June 2015 (outside the reference period). Article 22 of the new Law deals with discrimination on the ground of disability in vocational rehabilitation, work and employment. The Committee will examine these amendments in its next report. **It requests that the next report**

contain information as to whether victims of discriminatory practices can be compensated for the financial losses and mental distress that they have suffered, whether judicial and non-judicial remedies are available to them, and whether there is any case law on this subject.

ANSWER:

The reply given within the answer referred to in paragraph 1 of Article 15

The following is the 2010 Report on Cases of Discrimination against Persons with Disabilities before the Montenegrin Courts - June 2017, submitted by the Supreme Court of Montenegro:

Montenegro became a member of the Convention on the Rights of Persons with Disabilities and the Optional Protocol on the Rights of Persons with Disabilities on December 2, 2009, which represents a remarkable effort to ensure consistent, substantive protection for persons with disabilities. In accordance with Article 35, paragraph 1, of the Convention, an Initial Report on the Implementation of the Convention on the Rights of Persons with Disabilities has been prepared on the measures taken to enable the enjoyment of the rights recognised by the Convention and the progress made in the enjoyment of the said rights.

The Supreme Court of Montenegro, as the highest court in the country, at the request of the Ministry of Human and Minority Rights, has collected data from all Montenegrin courts that will serve the purpose of the defence of the Initial Report, scheduled for August 2017.

This Report provides a detailed account of all cases of discrimination against persons with disabilities, from 2010 to the date of submission of the report. During the reporting period, litigation cases of discrimination against persons with disabilities were pending in two courts, before the Basic Court in Podgorica and Niksic, and a detailed account of the ongoing proceedings is presented below. For the aforementioned period, there have been no charges / criminal proceedings before our courts for discriminatory treatment of persons with disabilities.

Basic Court in Podgorica

The lawsuit was filed before this court, business code P.br.157/13, on January 15, 2013 by Milan Saranovic against the Health Insurance Fund, requesting that the violation of the plaintiff's right to equality be established, done by preventing the use of a public administration facility, because of his personal trait - disability. According to the lawsuit, the plaintiff, with the intention of selecting a dentist in the branch of the respondent in Podgorica, found access to the facility where the respondent regional unit is located, inaccessible, since as the user of electric wheelchair he was unable to access the respondent's premises as the entrance to the building has 10 steps, without any alternative way of overcoming this architectural barrier, thereby causing the respondent to discriminate against the plaintiff under the provisions of Art. 8 and Art. 18 of the Law on Prohibition of Discrimination against Persons with Disabilities. In this case, a judgment was rendered finding a violation of the plaintiff's right to equality due to his personal trait - disability, and partially upholding the claim regarding the compensation of non-pecuniary damage, which judgment was reversed by the judgment of the High Court in Podgorica Gž.5049/13 of June 24, 2014, as concerns operative part of the judgement, under the third paragraph, which rejected a part of the claim, as well as in the second paragraph, which decided on the costs of the proceedings.

The lawsuit was filed before this court, business code P.No.4981/13, on December 2, 2013 by Miroslava Mima Ivanović v. State of Montenegro - Parliament of Montenegro, for discrimination

and compensation of non-pecuniary damage. In a lawsuit, the plaintiff essentially stated that she was suffering from chronic juvenile arthritis from the age of three, which damaged her eyesight and caused her movement to be restricted, forcing her to use a wheelchair for movement. She pointed out that she repeatedly attended meetings held in the building of the Parliament of the Republic of Montenegro on behalf of the Association of People with Disabilities of Montenegro, stating the exact dates and meetings that she attended. During the attendance of the said meetings, she was a victim of direct discrimination by the respondent, since the building of the Parliament of Montenegro, as a public building, was not adjusted to persons with reduced mobility and persons with disabilities as there was no ramp, which is why these persons are prevented from having unhindered access, movement, residence and work there. As the building of the designated public institution is not adapted to persons with disabilities in the manner prescribed by applicable regulations, she considers to have been discriminated against in the aforementioned situations. In the said case, on April 8, 2014, a judgment was rendered declaring that the respondent acted discriminatory against the plaintiff, while denying her access to the Parliament building when the plaintiff participated in gatherings organised in the building of the Parliament of Montenegro, on behalf of the Youth with Disabilities Association of Montenegro, namely: on 3 March, 2013 to mark the 60th anniversary of the entry into force of the European Convention for the Protection of Human Rights and Fundamental Freedoms; on 1 October 2013 at the Conference "Implementation of European standards against discrimination"; on 10 October at the session of the Working Group for Building Confidence in the Electoral Process to Explain the Amendments submitted by UMHCG together with the Union of the Blind of Montenegro to the Law on Election of Councillors and Deputies; and on 18 December, 2013 when she attended the session of the Committee on Economy, Finance and Budget of Montenegro, while in second paragraph, the claim of the prosecution was rejected as ungrounded, which requested that the respondent takes all necessary measures so that the discrimination committed would not be repeated. In third paragraph of the operative part of the judgment, the plaintiff's claim was partially upheld and the respondent was obliged to pay the plaintiff the amount of € 3,000.00, within 15 days after the judgment becoming final, on the basis of compensation for non-pecuniary damage caused by discrimination; the plaintiff's claim for €7,000.00, with the associated costs of the court proceedings, was dismissed as ungrounded. In paragraph four of the operative part of the judgment the respondent is obliged to reimburse the plaintiff for the costs of civil proceedings in the amount of €1,500.00, within 15 days following the judgment becoming final. The aforementioned judgment was reversed by the judgment of the High Court in Podgorica Gž.br.2407/14 of 5 June 2014, in third paragraph, so that the plaintiff's request to oblige the respondent to pay the amount of € 1,500.00 as non-pecuniary damage for violation of honour and reputation due to discrimination was rejected, while the remainder of the appeals of both plaintiff and respondent were dismissed as ungrounded and the first instance verdict upheld. Deciding on the plaintiff's review, the Supreme Court of Montenegro rendered Judgment Rev. No.822/14 of 9 April 2015, revising the judgment of the High Court in Podgorica Gž.br.2407/14 of 5 June, 2014, in the operative part, under paragraph one, and stated the following:

The respondent's appeal is rejected as ungrounded and the judgment of the Basic Court in Podgorica P. br.4981/13 of 8 April 2014, in third paragraph, which partially upheld the claim and obliged the respondent to pay to the plaintiff the amount of € 3,000.00 based on non-pecuniary damage, for violation of honour and reputation due to the discrimination committed, and dismissed part of the claim beyond the amount awarded, of € 7,000.00, as ungrounded.

The judgment of the Basic Court in Podgorica P.br.4981/13 of 8 April 2014, in the operative part under second paragraph, is set aside, rejecting the plaintiff's request that the respondent be obliged to take all necessary measures to prevent the discrimination from being repeated, as ungrounded, as well as in the operative part under paragraph four, deciding the costs of the civil

proceedings, as well as the judgment of the High Court in Podgorica Gz.br.2407/14 of 5 June, 2014, in the part related to that part of the first instance judgment, and the case in that part was remanded to the trial court for retrial.

In retrial, this Court rendered judgment P.br.3185/15-13 of 26 June 2017, rejecting the plaintiff's claim seeking to oblige the respondent to take all necessary measures to prevent the discrimination from being repeated, as ungrounded, and the respondent was ordered to pay the costs of the civil proceedings in the amount of €150, within 15 days after the judgment becomes final.

The lawsuit was filed before this court, business code P.br.3634/14, on 21 July 2014 by Miroslava Ivanovic v. State of Montenegro - Directorate for Youth and Sport, for discrimination and damages. The prosecution alleges that from the third year of life the plaintiff suffers from chronic juvenile arthritis, which has damaged her eyesight and caused her movement to be restricted, which forced her to use a wheelchair for movement. She further stated that on behalf of the NGO "Association of Youth with Disabilities of Montenegro" on 23 April 2014, in the Multimedia Hall of the Cultural Information Centre Budo Tomovic she participated in a public hearing on the drafting of the Law on Youth, which was organised by the respondents, who did not take into account the venue of the said debate, since the said Hall is located on the first floor of the KIC, which is not accessible to people with reduced mobility and people with disabilities. She points out that access to the hall is not provided by a sloping ramp, a hydraulic crane, an elevator, or otherwise, to guarantee undisturbed access and stay in the hall for persons with reduced mobility, which is why she entered the hall with the help of her colleagues and friends. This constitutes direct discrimination in terms of the Law on the Prohibition of Discrimination and the Law on the Prohibition of Discrimination against Persons with Disabilities. In the aforementioned case, on 24 April 2015, a judgment was rendered, partially upholding the claim, establishing that the respondents made direct discrimination against the plaintiff on 23 April 2014 by preventing unimpeded access to public debate on draft version of the Law on Youth, organised in a multimedia hall located on the first floor of the KIC Budo Tomovic Building in Podgorica, and prohibiting respondents from repeating discriminatory acts by organizing public hearings in public buildings and areas inaccessible for persons with reduced mobility and persons with disabilities, as well as in public facilities where persons with mobility impairments and persons with disabilities are disabled, restricted or hindered from using them, and the respondent is ordered to pay to the plaintiff, in compensation for non-pecuniary damage for mental anguish suffered as a result of a violation of a personal rights, jointly and severally, the sum of € 1,500.00, and € 300.00 in compensation for the costs of the proceedings, all within 15 days after the judgment becoming final. Also, the claim was rejected insofar as it required the respondents to commit themselves to the plaintiff to compensate non-pecuniary damage for the mental anguish for violation of the personality rights, in addition to the amount awarded, and to pay jointly and severally the amount of another € 1,500.00, as ungrounded. This judgment was upheld by the judgment of the High Court in Podgorica Gž.br.2966/15 of 19 January 2016.

The lawsuit was filed before this court, business code P. br.1843/14, on 16 April 2014 by Milenko Vojcic from Niksic against the respondent Capital Podgorica, for discrimination, prohibiting repetition of discrimination and compensation for non-pecuniary damage. In the said case, on February 20, 2015, this Court delivered a judgment finding that the respondent committed direct discrimination against the plaintiff on March 18, 2014 by preventing him, due to architectural barriers, from attending a public hearing on the Draft Decision on the erection or construction and removal of access ramps, lifts and similar facilities for access and movement of persons with reduced mobility and persons with disabilities on the territory of the Capital of Podgorica, which was scheduled for March 18, 2014, at which based on the official call of the respondent, as the

organiser, the plaintiff should also have participated on behalf of the Association of Youth with Disabilities of Montenegro. In the second paragraph of the operative part of the judgment, the plaintiff's claim requiring the respondent to be ordered to take all necessary measures to prevent the discrimination committed from being repeated, that is, to prohibit the respondent from repeating the discrimination act, was dismissed as ungrounded. In the third paragraph of the operative part of the judgment, the plaintiff's claim was partially upheld and the respondent was obliged to pay the plaintiff the amount of € 1,500.00 within 15 days following the judgment becoming final, on the basis of compensation for non-pecuniary damage for violation of honour, reputation and rights due to the discrimination committed. The plaintiff's claim requiring the compensation in the additional amount of € 3,500.00 was dismissed as ungrounded. Finally, the respondent is obliged to reimburse the plaintiff for the costs of civil proceedings in the amount of € 150.00 within 15 days after the judgment becomes final. The said judgment was upheld by the judgment of the High Court in Podgorica Gz.br.1847/15 of 15 September 2015. In deciding on the revision of the plaintiff, the Supreme Court of Montenegro rendered Judgment Rev.No.1379/15 of 17 March 2016, which partially upheld the revision, and reversed the judgment of the Basic Court in Podgorica, P. br. 1843/14 of 20 February, 2015, in paragraph 2 and 4 of the operative part and judgment of the High Court in Podgorica, Gz. br. 1847/15 of 15 September 2015, in the part relating to this part of the first instance judgment, and it pronounced:

The respondent is prohibited from engaging in acts that threaten to discriminate and to repeat the act of discrimination.

The Respondent is obliged to reimburse the plaintiff for litigation costs in the amount of € 750 within 15 days of the receipt of this judgment.

In the remaining part, the revision is dismissed as ungrounded.

Lawsuit was filed before this court, business code P.br. 1132/14 on 10 March 2014 by Milenko Vojcic from Niksic against the respondent Hypo Alpe Adria Bank AD Podgorica for discrimination, prohibition of repetition and non-pecuniary damage. In the said case, this court delivered a judgment on 22 January 2015, which found that the respondent had committed direct discrimination against the plaintiff on 12 December 2013, by preventing him from accessing the office located in Podgorica in Sveti Petar Cetinjski br.143, so in second paragraph the respondent was ordered to take all necessary measures to prevent discrimination committed from being repeated and prohibited the respondent from repeating the act of discrimination. In third paragraph of the operative part of the judgment, the claim was partially upheld, and the respondent was obliged to pay the plaintiff the sum of EUR 1,000.00 for the direct discrimination committed, and for non-pecuniary damage due to mental anguish suffered as a result of violation of honour, reputation and personality rights. The part of the claim was dismissed as ungrounded regarding non-pecuniary damage in the part beyond the amount awarded, of EUR 2,000.00, by which the plaintiff requested to oblige the respondent to pay him the amount of compensation for non-pecuniary damage for the mental anguish suffered due to the direct discrimination committed, due to violation of honour, reputation and personal rights. Finally, the respondent was ordered to pay the plaintiff, in respect of the costs of the civil proceedings, an amount of EUR 156.65, within 15 days from the day the judgment becomes final, under the threat of enforcement. The High Court in Podgorica, by Judgment Gz.br.1364/15 of 22 September 2015, rejected the appeal as ungrounded and upheld the judgment of the Basic Court in Podgorica P.br.1132/14 of 22 January 2015, in the operative part under paragraphs 1, 3 and 5, and reversed as ungrounded the said first instance judgment in the operative part under paragraph 2 by rejecting the plaintiff's claim seeking that the respondent takes all necessary measures so that the discrimination committed would no longer be repeated and to prohibit the respondent from repeating the discrimination act. In deciding on the revision of the plaintiff, the Supreme Court of Montenegro rendered Judgment

Rev. No.1320/15 of 15 December 2015, reversing the judgment of the High Court in Podgorica Gz.br.1364/15 of 22 September 2015, in part revising the judgment of the Basic Court in Podgorica P.br.1132/14 of 22 January 2015; by dismissing the respondent's appeal in its entirety as ungrounded, while upholding entirely the first instance judgment, also under paragraph 2 of the operative part. By the same judgment, the review against the decision on costs of the second instance proceedings was dismissed as ungrounded, and the respondent was obliged to reimburse the plaintiff for the costs of the review proceedings in the amount of € 200.00, within 15 days of receipt of this judgment.

The lawsuit was filed before this court, business code P.br.3647/15, on July 31, 2015 by Miroslava Ivanovic - Mima and the NGO "Association of Youth with Disabilities" against the capital Podgorica, for discrimination and compensation. The plaintiff alleges that she has been suffering from chronic juvenile arthritis since third year of life, which damaged her vision and caused her movement to be restricted, forcing her to use a wheelchair for movement, and that she is a member of the UMHCG - a second-order plaintiff, a non-governmental organisation. which is dedicated to providing support, opportunities and a program to strengthen the personal, educational and professional development of handicapped youth. She further pointed out that on 8 April 2015 and 14 April 2015, the First Order plaintiff, as a representative of the Second Order plaintiff participated in the 7th session of the Assembly of the Capital City, where, among other things, the possibilities of access to public facilities and the movement of persons in general were discussed. The respondent was the organiser of the session in question, and the respondent should have known that the assembly would be attended by persons with disabilities, which the respondent failed to take care of, but organised the session in the old Government building, at ul. Jovana Tomasevica bb, which is inaccessible to persons with disabilities and persons with reduced mobility. She asked the court to find that the respondent on 8 April 2015 and 14 April 2015 committed a serious form of direct discrimination against the plaintiffs, preventing them from having unhindered access to the 7th session of the Capital City Assembly, which was organised in the old Government building in Ul. Jovana Tomasevica in Podgorica, whose participants were plaintiffs; to prohibit the respondent from repeating discriminatory actions against plaintiffs by organizing sessions of the Capital City Assembly in public facilities and in public areas inaccessible to persons with reduced mobility and persons with disabilities, as well as in public facilities where persons with reduced mobility and persons with disabilities are prevented, restricted or impaired from using them, as well as to oblige the respondent to pay the amount of € 5,000.00 for the non-pecuniary damage for mental anguish due to the serious form of direct discrimination for violation of the rights of person, honour and reputation, and to the plaintiff of the second order the amount of € 3,000.00 in respect of non-pecuniary damage due to damage to the reputation and personal rights of the legal person. On 2 March 2016, the court rendered a judgment partially upholding the plaintiff's claim, by which it was established that the respondent committed a serious form of direct discrimination against the plaintiff on 8 April 2015 and 14 April 2015, by preventing her from having unhindered access to the 7th session of the Capital City Assembly, which was organised in the old Government building in Ul. Jovana Tomasevica in Podgorica, and the respondent was forbidden to repeat the discriminatory act by organizing sessions of the Capital City Assembly in public facilities and in public areas inaccessible to persons with reduced mobility and persons with disabilities, as well as in public facilities where persons with reduced mobility and persons with disabilities are disabled, limited or hindered from use of the same, and the respondent is ordered to pay to the first order plaintiff non-pecuniary damage for mental anguish for violation of the personal rights, rights to honour and reputation, within 3 days from the day the judgment becomes final, under the threat of enforcement. By the same judgment, the claim of the first order plaintiff was rejected in so far as it sought to oblige the respondent to pay her another € 2,000.00 in respect of non-pecuniary damage for her mental anguish as a result of violation of her personal rights, honour and reputation, and dismissed as

ungrounded the second order plaintiffs' claim seeking to establish that the respondent on the same days, 8 April 2015 and 14 April 2015, committed a serious form of direct discrimination, when preventing her from having unhindered access to the 7th session of the Capital City Assembly, which was organised in the old Government building in Ul. Jovana Tomasevica in Podgorica, and to prohibit the respondent to repeat discriminatory acts against the second order plaintiff by organizing sessions of the Capital City Assembly in public facilities and in public areas inaccessible to persons with reduced mobility and persons with disabilities, as well as in public facilities where persons with reduced mobility and persons with disabilities are disabled, impaired, or restricted from using of the same, and to order the respondent to pay the amount of € 3,000.00 to the second order plaintiff in respect of non-pecuniary damage for the violation of the reputation and personal rights of the legal entity, all within 15 days from the day of the judgment becoming final under the threat of enforcement. Finally, the respondent was ordered to reimburse the first order plaintiff for the costs of the proceedings in the amount of € 225.00, within 15 days from the day the judgment becomes final under the threat of enforcement. The aforementioned judgment was upheld by the judgment of the Bijelo Polje High Court Gz.br.1371/16 of 9 November 2016. Ruling on the revision of the second plaintiff, the Supreme Court of Montenegro rejected the revision as ungrounded, by Judgment Rev. No.429/17 of 09 May 2017.

- In 2016, 6 requested cases were opened, which are still pending before this court:

- 1) P. br.5589/16 - Plaintiff: Korac Desanka, case in progress before Judge Katarina Jankovic
- 2) P. br. 5736/16 - Plaintiff: Goran Macanovic, case in progress before Judge Branislav Lekovic
- 3) P.br.6038/16 - Plaintiff: Marijana Scekcic, case in progress before Judge Konatar Sanja
- 4) P.br.6094/16 - Plaintiff: Dzano Rastoder, case in progress before Rovčanin Dijana
- 5) P.br.6139/16 - Plaintiff: Sasa Vukovic, case in progress before Judge Diana Radulovic
- 6) P.br.6140/16 - Plaintiff: Ljubinka Lekovic, case in progress before judge Biljana Krgovic

* In the aforementioned 2016 cases, on the respondent's side there is the PI Centre for Social Work and the State of Montenegro, for the purpose of discrimination against persons with disabilities.

Basic court in Niksic

In the Basic Court in Niksic, in the period from the adoption of the Law on Prohibition of Discrimination in 2010 until 28 June 2017, two lawsuits were filed to establish discriminatory treatment of persons with disabilities.

In one case, a complaint for discriminatory treatment was filed on 18 December 2011, and in the second case on 10 April 2017.

The lawsuit in the first case was partially upheld, while the second lawsuit is still pending.

In the Basic Court in Niksic, during the indicated period, there were no dismissed or set aside judgments, charges, or indictments, nor were there any proceedings for discriminatory treatment suspended.

In the Basic Court in Niksic, in the period from the adoption of the Law on Prohibition of Discrimination in 2010 until 28 June 2017, there were no decisions imposing a provisional measure to prevent the risk of irreparable harm, particularly serious violations of the right to equal treatment, or to prevent violence resulting from discriminatory treatment.

In the aforementioned Basic Court in Niksic, one final verdict was issued for discriminatory treatment.

In order to determine whether the right to non-discrimination in employment is actually being guaranteed for persons with disabilities, the Committee requested that the next

report indicate what exactly is being done in terms of reasonable adjustments, whether the courts have been asked to hear any complaints resulting from breaches of the obligation to make reasonable adjustments, and whether the aforementioned obligation has led to an increase in the employment of persons with disabilities in the open labour market. Since the report leaves this question unanswered, the Committee considers that it has not been established that the obligation to make reasonable adjustments is effectively respected.

ANSWER:

The Supreme Court of Montenegro, as the highest court in the country, appealed to the competent courts to collect data pertaining to case law regarding discrimination on the basis of disability in the field of education and employment, as well as gender discrimination.

Based on the data collected from the courts, it can be seen that the courts from 2015 to 2018, had no civil cases related to discrimination on the basis of disability in the field of education and employment, nor litigation cases were instituted before the basic courts related to gender discrimination.

We recall that according to the Law on Prohibition of Discrimination, anyone who believes that his rights were violated by the discriminatory treatment of bodies, companies, other legal entities, entrepreneurs and natural persons has the right to protection before a court, and that the procedure is initiated by a lawsuit. Therefore, it is a civil procedure in which the principle of disposition of the parties applies.

As there were no cases mentioned in the Montenegrin courts during the period indicated, there was thus no application of case law to the same.

Measures to encourage the employment of persons with disabilities

The report also presents the National Strategy for the Development of Employment and Human Resources for 2011-2015, which aims to promote social inclusion, particularly the integration of persons with disabilities into employment. The results achieved are monitored by annual reports on the implementation of the measures and activities under the action plans. The report indicates that a strategy of this kind for the 2016-2020 period is currently being developed. **The Committee recalls that, in order to assess whether the situation is in conformity with Article 15§2, it needs to know the number of persons with disabilities who are benefiting from measures to facilitate their employment in the open labour market, and the overall rate of transfer of persons with disabilities in sheltered employment to the open labour market.**

It requests that the next report give details of other measures taken to encourage the employment of persons with disabilities, especially those who became disabled as a result of a workplace accident or occupational illness.

ANSWER:

Vocational rehabilitation is a process that is implemented with the aim of training disabled persons for social and work integration.

It covers measures and activities that enable people to prepare adequately for the labour market,

to be able to work, to stay employed, to advance or change their professional careers.

Pursuant to the Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of the Republic of Montenegro, No. 49/08, 73/10, 39/11 and 55/16), vocational rehabilitation includes 14 measures, namely:

Measure 1: Advising, encouraging and motivating persons with disabilities to actively seek employment

Measure 2: Determination of remaining working capacity

Measure 3: Assistance in accepting one's own disability and familiarizing with the possibilities of joining training and work

Measure 4: Assistance in the selection of appropriate professional goals

Measure 5: Developing social skills and competences

Measure 6: Assistance in finding the right job

Measure 7: Analysis of the specific workplace and work environment of persons with disabilities

Measure 8: Developing a workplace and work environment adaptation plan for the disabled

Measure 9: Developing a plan for the necessary equipment and resources for work for the disabled

Measure 10: Training to work in a specific workplace

Measure 11: Monitoring and professional assistance in training and education

Measure 12: Follow-up of persons with disabilities in the workplace after employment

Measure 13: Evaluating the success of the rehabilitation process for an individual with a disability

Measure 14: Evaluating the performance of a disabled employee

The combination of these measures within the framework of vocational rehabilitation helps to promote employment mediation for persons with disabilities, in accordance with their capabilities and work capacities, while providing support to employers. Through this process, persons with disabilities are given the opportunity and support in identifying their own opportunities.

In addition to persons with disabilities from the records of all regional units of the Office, the measures and activities of vocational rehabilitation, in accordance with the law, include employed persons with disabilities for which the employer has applied for the right to a grant for equipping the workplace of an employed person with a disability, and a subsidy to participate in the financing of the personal expenses of assistants in the work of persons with disabilities. Thus, through certain measures, after analysing the specific workplace and working environment of persons with disabilities, a plan of adaptation of workplace and working environment and a plan of the necessary equipment and means for work for disabled persons were made and the need for an assistant in the work determined.

Vocational rehabilitation measures in the observed period (2015-2018) included a total of 871 persons with disabilities (491 women or 56.37%).

In the reporting period, there were 281 persons with disabilities who were previously involved in the vocational rehabilitation process (156 women).

The Commission for Vocational Rehabilitation determines the percentage of disability taking into account the medical, as well as social and other criteria, which determine the abilities of persons with disabilities necessary for inclusion in the labour market, that is their employability. This means that disability is determined not only by the medical model (impairments and illnesses), but in interaction with various barriers, which can prevent the disabled person from participating effectively and equally in society with people without disabilities.

In the reporting period, the first-instance committees issued findings and opinions on the established percentage of disability for 8,214 persons (50% women).

Based on the opinion of the Committee for Vocational Rehabilitation, persons with disabilities are included in vocational rehabilitation programs, through which their remaining working ability is determined, and after that they are directed, trained, prepared and skilled for a specific job.

The Commission for Vocational Rehabilitation gives its opinion on:

- The need to include unemployed persons with disabilities in vocational rehabilitation measures and activities, with the aim of adequate job training, in order to achieve competitiveness in the labour market.*
- The need to involve an employee with a disability in appropriate vocational rehabilitation measures and activities, with the aim of retaining existing employment, promotion or career change.*
- The need to include an employee with a disability in vocational rehabilitation measures and activities, with the aim of exercising the right of the employer to subsidies for grants to adjust the workplace and working conditions for employment of persons with disabilities, credit under favourable conditions for the purchase of machinery, equipment and tools needed for employment of persons with disabilities and participation in financing of personal expenses of the assistant (assistant in work) for persons with disabilities.*

The first-instance committees for vocational rehabilitation in the reporting period considered 848 cases at the request of a person for inclusion in vocational rehabilitation measures and activities (50% of women) and issued an opinion on the need for inclusion for all persons, on the basis of which decisions were made on recognition of the right to vocational rehabilitation.

The Vocational Rehabilitation Committee gives an opinion on the remaining working capacity for persons enrolled in the vocational rehabilitation program, after implementation of measures 1 and 2 (counselling, encouragement and motivation of persons with disabilities to actively seek employment and determining their remaining working capacity). Following implementation of all necessary measures, the Vocational Rehabilitation Committee gives an opinion on the possibility of their employment, based on the report of the professional rehabilitation practitioner.

In the reporting period, the committees considered the submitted findings and evaluations of professional rehabilitation practitioners for 434 persons and issued opinions on the remaining working capacity for all persons.

In the reporting period, Vocational Rehabilitation Committees issued an appraisal of employment opportunities for 152 persons, on the basis of which employment decisions were issued.

In order to make an assessment or a decision on a person's employment opportunity, it is necessary to evaluate all the person's employment opportunities, which is a time consuming process, depending on the problems identified and the restrictions regarding the person's inclusion in the labour market.

The largest number of persons (80%) was assessed as employable under special conditions on the open market with the adjustment of jobs, that it workplace and in special organisations - work centre.

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

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

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

Anti-discrimination legislation and integrated approach

The Committee recalls that it deferred its previous conclusion (Conclusions 2012) pending receipt of information as to the existence of anti-discrimination legislation covering both the public sector and the private sector in fields such as housing, telecommunications, cultural activities, leisure and transport, and effective remedies for those who have been treated unlawfully. In response, the report indicates that the Law on Prohibition of Discrimination against Disabled Persons of 2011 was amended in 2015 (outside the reference period). The Committee notes that the amendments made to the Law introduce a ban on discrimination on the ground of disability regarding access to buildings and public spaces, access to information and means of communication, access to public transport and restrictions on the right to independence and life in the community. The Committee will examine these amendments in its next report. **It requests that the next report contain information as to whether victims of discriminatory practices can be compensated for the financial losses and mental distress that they have suffered, whether judicial and non-judicial remedies are available to them, and whether there is any case law on this subject. The Committee notes that it has not been established that legislation guaranteeing effective protection for persons with disabilities against discrimination in the area of housing was in force during the reference period. The Committee also asked whether the legislation provides effective remedies to persons with disabilities who have suffered discriminatory treatment in the aforementioned areas. As the report does not contain this information, the Committee repeats its question.**

ANSWER:

The answer provided in reply to par. 1 and 2.

Forms of financial aid to increase the autonomy of persons with disabilities

In its previous conclusion (Conclusions 2012), the Committee also requested details of the various benefits and other forms of financial assistance available to persons with disabilities.

The report states in addition that the Law on Social and Child Protection of 2014 provides that persons with disabilities are entitled to basic social welfare benefits, such as a personal incapacity allowance (€108.80 per month) and a care and assistance allowance (€63 per month).

The Committee requests that the next report clearly indicate all of the benefits and other forms of economic assistance available to persons with disabilities.

ANSWER:

The protection of persons with disabilities is prescribed by the Law on the Prohibition of Discrimination, the Law on Social and Child Welfare and the Law on Privileges for the Travel of Persons with Disabilities. In accordance with the Law on Social and Child Welfare, the 2016-2020 Strategy for Integration of Persons with Disabilities in Montenegro was adopted. In addition to this strategy, the 2017-2021 Strategy for the Protection of Persons with Disabilities from Discrimination and the Promotion of Equality prescribes the promotion of the position of persons with disabilities.

So far, 13 day care centres have been established, namely: in Bijelo Polje, Niksic, Pljevlja, Herceg Novi, Plav, Ulcinj, Cetinje, Berane, Mojkovac, Rozaje, Danilovgrad, Podgorica and within the transformation of the Youth Centre "Mladost"– Bijela. There are 247 day care centre users (children and young people with disabilities and impairments) registered in 13 day care centres.

When it comes to disability support services, adults with intellectual disabilities are among the 1200 users of the gerontology program, as 66 home care assistance users.

In the course of 2018, the Accessibility Analysis of the Centres for Social Work was made, and accordingly, the made an appropriate plan of adaptation of the facilities and their adjustment to the applicable regulations and standards, the implementation of which is expected soon.

As for the legal capacity of persons with disabilities, a request was made for 10 users of the accommodation service in the Public Institution "Komanski Most" to the competent centres for social work to initiate procedures to review their deprivation of legal capacity, with the aim of preparing them for supported housing. So far, one beneficiary has been partially reinstated, while the other nine are pending decisions. Also, there are ongoing procedures to review the deprivation of legal capacity of all beneficiaries with other institutions providers of social and child care accommodation services.

One of the most significant activities related to the advancement of the position of persons with disabilities is the preparation of an Action Plan for the implementation of the recommendations of the UN Committee on the Rights of Persons with Disabilities within the new OHCHR database, which is underway. Ministry employees have been trained to work with this database. The UN Committee's recommendations have been processed in the aforementioned electronic database, four NGO representatives have been elected, and by the end of the month we expect the line ministries to delegate their representatives to draft this AP. The final document is expected by the end of the year, after which each representative of the Ministry will have access to an electronic database to report on the activities carried out under their responsibility.

The Ministry of Labour and Social Welfare regularly carries out consultations with persons with disabilities. Cooperation has been raised to a higher level since the Memorandum of Cooperation with Disability Organisations has been signed, which provides as a special obligation "Ensuring consultation and active participation of persons with disabilities, including children with disabilities and developmental impairments, through organisations representing and advocating for them, when planning, developing, implementing and monitoring the implementation of policies and legislation."

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

In accordance with the Law on Social and Child Welfare, the basic material benefits in social protection are:

- *material allowance;*
- *personal disability allowance;*
- *care and assistance allowance;*
- *health care;*
- *funeral expenses;*
- *one-off financial assistance;*
- *compensation to the parent or guardian of the beneficiary entitled to the personal disability allowance.*

According to Article 32 of the Law on Social and Child Welfare, a person with severe disability is entitled to personal disability allowance. The right to a personal disability allowance may be exercised by a person provided that he/she is not a beneficiary of the right to care and assistance allowance in accordance with this Law or other laws. The amount of personal disability allowance is 178.19 EUR per month.

Pursuant to Article 33 of the Law on Social and Child Welfare, the right to care and assistance allowance may be exercised by a person who, due to physical, mental, intellectual or sensory impairments or changes in medical condition, needs care and assistance in order for his needs to be met. The right to care and assistance allowance may be exercised by a person, provided that this right has not been exercised in accordance with other laws and that he/she is not a beneficiary of the right to personal disability allowance under this law. The amount of care and assistance allowance is EUR 65.35 per month.

According to Article 34 of the Law on Social and Child Welfare, the right to health care is provided to the beneficiary of: material allowance, personal disability allowance, allowance for care and assistance and accommodation services, if he did not exercise this right on another basis.

According to Article 35 of the Law on Social and Child Welfare, the right to funeral expenses in the event of death of a beneficiary of: material allowance, personal disability allowance, allowance for care and assistance and accommodation shall be provided in accordance with this Law. Entitlement to funeral expenses for the beneficiary of material allowance, personal disability allowance, allowance for care and assistance and accommodation shall be vested in a person who has assumed payment for the funeral expenses, if this right has not been exercised on another basis. The funeral costs for the beneficiary are provided at the competent centre for social work in the amount of 315 EUR.

According to Article 37 of the Law on Social and Child Welfare, the right to one-time financial assistance may be exercised by an individual or family who, due to special circumstances affecting their housing, material and medical condition, is in a state of social need. The amount of assistance is determined by the centre for social work, depending on the individual's needs, that is, the family's needs and the state's financial resources.

According to Article 39a of the Law on Social and Child Welfare, personal disability allowance beneficiary's parent or guardian may exercise right to compensation. One of the parents, or guardian of the beneficiary of the right to personal disability allowance, is entitled to compensation for each child individually. The right referred to in paragraph 1 of this Article shall also be exercised by one of the parents or a guardian of two or more children, at least one of whom is the beneficiary of the right to personal disability allowance, and the other children beneficiaries of the right to care and assistance allowance, for each child individually. The right referred to in paragraph 1 of this Article shall also be exercised by one of the parents, or a guardian of two or more children

beneficiaries of the right to care and assistance allowance, for each child individually. This fee amounts to 193 EUR per month.

Measures to overcome obstacles

Communication

The report indicates that Article 12 of the Law on Prohibition of Discrimination against Disabled Persons of 2011, as amended in 2015 (outside the reference period), prohibits discrimination on the ground of disability in respect of access to information and means of communication.

The Committee wishes to know what is being done to promote access to new telecommunications technologies. It also asks what legal status is given to sign language.

ANSWER:

The Agency for Electronic Communications and Postal Services, in accordance with its competencies, has prepared expert bases for the Rulebook on the types of benefits and special measures for access to public electronic communication services for persons with disabilities (Official Gazette of Montenegro 43/14 and 26 / 17), which was adopted on the basis of Article 83 paragraph 3 and Article 154 paragraph 5 of the Law on Electronic Communications (Official Gazette of Montenegro 40/13, 56/13 and 2/17), by the Ministry of Information Society and Telecommunications (the present Ministry of Public Administration), with the consent of the Ministry of Labour and Social Welfare. The Rulebook prescribes the types of benefits and special measures for access to public electronic communication services for persons with disabilities.

Benefits for providing access to electronic communications services for persons with disabilities imply providing physical and financial opportunities for access to publicly available electronic communications services, which is equal to those of other end users.

For users who are disabled, the operator of the Universal Service provides, and the operator of public electronic communications services, within the objective technical capabilities, enables:

- 1) unhindered access to its services, including unhindered access to unique European emergency number 112;*
- 2) priority in accessing the network as well as in troubleshooting;*
- 3) availability of appropriate terminal equipment, adapted to the needs of those persons;*
- 4) unimpeded accessibility to its outlets and stores, and*
- 5) regular informing on all characteristics of services intended for this group of users.*

The operator of public electronic communications services provides for persons with disabilities the use of electronic communications services at cheaper prices, enables the procurement or rental of appropriate terminal equipment on preferential terms, while the operators of Universal service provide all of the above free of charge.

Terminal equipment, depending on the type of disability, should be adapted to the needs of persons with disabilities, and in particular:

- 1) *have a keyboard designed to be used by the blind, partially sighted or immobile persons (has larger, easily accessible and recognizable keys);*
- 2) *enables hands-free use;*
- 3) *has a visual and audible alarm signal with adjustable sound control or sound levels that can easily be managed;*
- 4) *allows screen reading and has easily adjustable screen contrast;*
- 5) *it has sound signals of incoming calls and messages that can be replaced with visual ones;*
- 6) *enables two-way text communication instead of speech communication;*
- 7) *allows to connect hearing aid or other way to use the telephone device more easily by persons with hearing aids, and*
- 8) *has a speed dial setting.*

Terminal equipment is rented to persons with disabilities by the operator for the period stipulated in the subscription contract and the user is obliged to compensate the equipment in case of loss or intentional damage, while purchase can be provided at purchase price with the possibility of paying in instalments within the term of the subscription contract.

For users who are disabled, the operator provides:

- 1) *priority in the implementation of the connection request;*
- 2) *more favourable prices of services, which are adjusted to the payment capacity of these persons, in accordance with the special regulation;*
- 3) *communication with the emergency services and unique European number 112 by using sign language or other non-verbal language or SMS, as required by emergency services and OKC 112;*
- 4) *priority in troubleshooting of access lines and terminal equipment, and*
- 5) *subscription contracts and invoices printed at their request in such a way that they can be read by blind or visually impaired persons.*

The Universal Service Operator, as concerns services related to the Universal Service, provides persons with disabilities with free access to a public electronic communications network and a monthly subscription for publicly available electronic communications services.

In order to ensure the conditions for obtaining benefits, the operators cooperate with organisations of persons with disabilities and the Agency for Electronic Communications and Postal Services, to monitor the degree of accessibility of those persons and the benefits and to determine what improvements are needed.

The Agency also, in accordance with its competencies, developed the expert basis for the Rulebook on Access of Persons with Disabilities to number 112 and Emergency Services (Official Gazette of Montenegro Nos. 42/14 and 34/17), which was adopted pursuant to Article 143 paragraph 7 of the Law on Electronic Communications (Official Gazette of Montenegro Nos. 40/13, 56/13 and 2/17) by the Ministry of Information Society and Telecommunications, with the consent of the Ministry of Labour and Social Welfare. The Rulebook prescribes the manner, conditions and dynamics of providing access to persons with disabilities to the number 112 and emergency numbers.

Operators, OKC 112, emergency services and local self-government units will, through the provision of special terminal devices adapted to the needs of persons with disabilities, as well as by taking measures to adapt facilities, make calls to the number 112 and emergency numbers to persons with disabilities as equally accessible as other persons. Also, operators, OKC 112 and the emergency services allow persons with disabilities to communicate with OKC 112 and

emergency services through telephone calls and SMS messages, as well as enable two-way communication of persons with disabilities with OKC 112 and emergency services using sign language or other non-verbal ways of communication, according to technical capabilities.

The Agency has also, on the basis of Article 11, paragraph 1, item 1, Article 14, paragraph 1, item 6 and Article 89 of the Law on Electronic Communications adopted a Rulebook on the manner of assessing the affordability of prices of services and special packages of universal service for socially disadvantaged and disabled persons (“Official Gazette of Montenegro, Nos. 33/14 and 13/17). This Rulebook determines the manner of assessing the accessibility of prices of services and special packages of the Universal services for socially deprived persons and persons with disabilities.

The Rulebook stipulates that the special prices of the Universal Service shall be considered too high and inaccessible to the socially disadvantaged and disabled persons if the basket of Universal Service services calculated at these prices costs more than 5% of the minimum wage in Montenegro.

Universal Service Basket represents the average consumption of a Montenegrin user using electronic communications services at a fixed location, which includes a free connection to the electronic communications network and a monthly subscription fee, as well as free 120 minutes of telephone calls to fixed networks in Montenegro, 10 minutes of telephone calls to mobile networks in Montenegro, 15 minutes of telephone calls abroad and 2 GB of transferred data. After spending free resources for disabled users, privileges are 50% lower for calls and the Internet, and for socially disadvantaged users, privileges are 33% lower for calls and Internet.

The Agency makes the assessment of the affordability of the Universal Service special prices after the change of these prices by the Universal Service Operator and after the change of the minimum wage in Montenegro.

| Activity | Period of implementation | Outputs |
|--|--------------------------|--|
| <i>Preparation of the first version of Guidelines for development and management of web site presentations of public authorities, public administration bodies and local government bodies</i> | 2016 | <i>2016 - First version of the Guidelines for development and management of web site presentations of public authorities, public administration bodies and local government bodies</i> |
| <i>Development of new version of Guidelines for development and</i> | 2017 /2018 | <i>2017 - New guidelines for development and management of web site presentations of public authorities, public administration bodies and local government bodies developed</i> |

| | | |
|--|-------------------------|---|
| <p><i>management of web site presentations of public authorities, public administration bodies and local government bodies</i></p> | | <p><i>2018 – Prepared an updated version of the Guidelines for the Development and Management of Public Administration Websites (Version 2.0). Following the accelerated development of web technologies, the Ministry of Public Administration has produced an updated version of the guidelines, with special attention to the application of the principles of universal design in web site design, and a segment related to e-accessibility was upgraded in line with the new standards in the field.</i></p> |
| <p><i>Development of guidelines for the creation of electronic documents in accordance with e-accessibility standards</i></p> | <p><i>2017</i></p> | <p><i>2017 - Developed “Guidelines for the creation of electronic documents in accordance with e-accessibility standards” with the aim of increasing e-accessibility for persons with disabilities, in the drafting of which relevant institutions and associations of persons with disabilities participated, while WCAG 2.0 and other technical standards for creating accessible documents have been applied.</i></p> |
| <p><i>Organizing educational workshops for the administrators of the portal and sub-portals of the Government of Montenegro in accordance with e-accessibility standards</i></p> | <p><i>2017/2018</i></p> | <p><i>November 28, 2017 - The first educational workshop for administrators of the web portal of the Government of Montenegro - e-Accessibility Standards, organised by the Ministry of Public Administration. The workshop was attended by about 40 administrators and officials from different public administration bodies.</i></p> <p><i>December 3, 2018 - Educational Workshop “Openness and Accessibility of the Government of Montenegro Web Portal” held by the Ministry of Public Administration and the Agency for Personal Data Protection and Free Access to Information. The workshop was attended by about 50 participants, administrators of the Government web portals and sub-portals, content editors and PR officers of public administration bodies and authorised officials for free access to information in ministries.</i></p> |
| <p><i>Organizing Roundtables / Lectures on e-Accessibility of PWD (People with Disabilities)</i></p> | <p><i>2018</i></p> | <p><i>Two workshops on e-Accessibility were held:</i></p> <p><i>27 November 2018 - “Ensuring accessibility of information and communication technologies / e-Accessibility - WEB and TV/ video accessibility” in cooperation with the Agency for Electronic Media;</i></p> <p><i>5 December 2018 - “On Standards, Policies and Key Guidelines for Web Accessibility” - in cooperation with the Chamber of Commerce, the concept of e-Accessibility was presented to representatives of ICT companies and the readiness of ICT companies in Montenegro to develop such solutions was discussed.</i></p> |

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| Social welfare documents available in an accessible format on the MLSW website | 2018 and 2019 | 5 documents in accessible format, in enlarged font, have been published on the MLSW website |
|--|---------------|---|

When it comes to the legal status of sign language, the Law on the Education of Children with Special Educational Needs emphasises the use of sign language - a resource centre is responsible for the teaching (for children through an early intervention program, for staff in schools through professional development), while the use of sign language is enabled through the Individual Development and Educational Program.

Housing

In its previous conclusion (Conclusions 2012), the Committee requested that the next report indicate the forms of aid that persons with disabilities can personally request for works to renovate housing, install lifts and remove obstacles to mobility, the number of recipients of these forms of aid, and the progress made in general in improving access to housing. In response, the report indicates that the Law on Spatial Planning and Construction as amended in 2014 (Official Gazette of Montenegro, no. 51/08, 40/10, 34/11, 35/13, 33/14) provides that public buildings must be accessible.

The report indicates that the Ministry of Sustainable Development and Tourism has adopted the “Rulebook on detailed conditions and mode of adjusting facilities for access and movement of persons with reduced mobility” (Official Gazette of Montenegro, no. 10/09, 48/13, 44/15) which sets out the conditions and arrangements for ensuring the possibility of unobstructed access, movement, accommodation and work for persons with reduced mobility in public facilities and residential and commercial buildings, and the conditions and arrangements for adapting access to residential and commercial buildings.

The Committee notes from the report that the Ministry of Sustainable Development is responsible for enabling the permanent removal of architectural and other barriers in public spaces, transport systems, public facilities and residential buildings (see the report for more details). In co-operation with disabled persons’ NGOs, the ministry also established an Action Plan for 2014 in order to adapt access to public buildings for persons with disabilities (see the report for more details). The Committee asks the next report to contain information on the outcome of the Action Plan.

ANSWER:

Implementation of the Action Plan for the Adaptation of Facilities in Public Use for Access, Movement and Use by Persons with Reduced Mobility and Persons with Disabilities for 2014

The Government of Montenegro, at its session of 31 October 2013, adopted the Action Plan for the Adaptation of Facilities in Public Use for Access, Movement and Use by Persons with Reduced Mobility and Persons with Disabilities for 2014. The Action Plan was developed in cooperation with NGO representatives dealing with the issues of persons with disabilities. On that

occasion, 13 priority facilities for adaptation were identified, as follows:

- 7 in Podgorica (Centre for Social Work, Republic Health Insurance Fund, Parliament of Montenegro, Tax Administration, Ministry of Finance, Basic Court and Faculty of Economics),
- 3 in Niksic (Health Centre, SWU General Hospital, Hospital for Pulmonary Diseases Brezovik),
- 2 in Berane (Dr Niko Labovic Health Centre, the main building and facility with the selected doctor's office for women, and the Berane General Hospital), and
- 1 in Pljevlja (Health Centre - laboratory and X-ray building).

The implementation of the said Action Plan started in 2014 when the technical documentation for all 13 facilities was prepared and revised - the value of design development is €97,204.00.

During 2015, the following facilities were completed: Centre for Social Work in Podgorica, Tax Administrations in Podgorica, Parliament of Montenegro in Podgorica, Health Centre in Berane - the office of the selected doctor for women Phase I and the Health Centre in Pljevlja - laboratory and X-ray service. The total value of the works performed in 2015 amounted to € 413,044.56.

In 2016, the following facilities were completed: Health Insurance Fund in Podgorica, Basic Court in Podgorica, and Faculty of Economics in Podgorica. The total value of the completed works in 2016 amounted to € 480,301.40.

The implementation of the Action Plan continued in 2017, when the following facilities were completed: Public Health Centre "Dr Niko Labovic" Berane Phase II, Public Health Hospital in Berane, Public Health Centre in Niksic and Public Health Hospital for Pulmonary Diseases - Brezovik in Niksic. The total value of the works performed in 2017 amounted to € 1,149,058.27.

In 2018, the facility of the PHI General Hospital in Niksic was completed. The total value of the works performed in 2018 amounted to € 210,760.28.

Out of the total of 13 facilities defined by the Action Plan, by October 2019, 12 facilities were adapted. The total value of the executed works is € 2,350,368.51.

Works are underway to adjust the Ministry of Finance building in Podgorica. This building is expected to be adapted by the end of this year.

With regard to social housing, the report states that the Law on Social Housing, which created the legal framework in this field, was adopted in July 2013. In particular, Article 4 identifies the groups with a priority right to social housing, which include persons with disabilities.

The Committee asks once again whether grants are offered to persons with disabilities for renovation works, to install lifts and to remove obstacles to mobility; it also asks how many people have received them.

ANSWER:

The Law on Social Housing, which was adopted in 2013, establishes a legal framework for providing an adequate standard of housing for all households that, in terms of wages, have difficulty accessing decent housing on the market. The Law on Social Housing establishes that social housing is housing of an appropriate standard to be provided to individuals or households who, for social, economic and other reasons, cannot resolve the issue of housing.

According to the Law, priority is given to persons with disabilities in the exercise of the right to social housing, among other groups of persons.

Project for Dealing with Citizens' Housing Needs on Favourable Terms - Project 1000+ has been implemented in phases since 2010, in cooperation and through a loan arrangement with the Council of Europe Development Bank (CEB). The first phase of the Project was implemented in 2010-2011, the second phase in the period 2015-2017, while the implementation of the third phase (2017-2019) is ongoing. Persons with disabilities have a priority in addressing the housing issue in all three phases of the Project. 21 persons with disabilities have resolved the housing issue through this Project.

Regarding the Committee's question "whether grants are offered to persons with disabilities for renovation works, to install lifts and to remove obstacles to mobility; and how many people have received them", we inform you that in order to improve the position of persons with disabilities and remove architectural obstacles in the facilities, the Ministry of Sustainable Development and Tourism set a clear and understandable legal framework in the area of accessibility (Law + Regulations + Decisions).

The Law on Spatial Planning and Construction of Buildings ("Official Gazette of Montenegro" no. 0564/17, 44/18 63/18) as well as the Law on Spatial Planning and Construction of Buildings ("Official Gazette of Montenegro" Nos. 51/08, 40/10, 34/11, 35/13, 33/14), establishes the basis for providing accessibility elements to facilities for persons with disabilities, which are under construction. Namely, over the complete process of construction of buildings, starting with the issuing of the urban and technical requirements, drafting of the project documentation, auditing, as well as in the construction phase, supervision over the construction of buildings, all participants in the construction must pay special attention to the conditions for access and movement of persons with disabilities and persons with reduced mobility. Penalties in the amount of € 5,000 - € 40,000 are prescribed for non-compliance with the prescribed standards. In addition to legal regulation, the "Rulebook on detailed conditions and mode of adjusting facilities for access and movement of persons with reduced mobility" was adopted, which represents the legal and technical basis for the design.

Regarding the adaptation of existing buildings, provision of access and movement of persons with reduced mobility in the buildings, in order to simplify the procedure for obtaining approval for the installation of facilities - access ramps, lifts, etc., which are necessary to make the existing facility accessible, all municipalities have adopted Decisions on the erection and construction of access ramps and elevators and other facilities for access and movement of persons with disabilities, thus considerably simplifying the administrative procedure for obtaining approval for their installation. This enables faster, easier and cheaper construction of the same.

Maintenance of collective residential buildings, which are in condominium ownership (where the ownership of a separate part - apartment or other spaces is indivisibly linked to the property of all owners on the common parts of that building - approaches, stairway corridors), is the responsibility of the owner, according to the Law. Bearing in mind that all interventions on a

residential building, and even works on the adaptation of that building to persons with reduced mobility, can only be carried out with the consent of the condominium owners, the Law on Maintenance of Residential Buildings prescribes that works on a residential building providing unhindered access, movement, residence and work of persons with reduced mobility and persons with disabilities do not require the consent of apartment owners, all with the aim of removing barriers for the erection or construction of access ramps, lifts or other facilities that will allow access to persons with disabilities.

The non-governmental sector dealing with issues of persons with disabilities was actively involved in the process of drafting these documents.

Culture and leisure

In its previous conclusion (Conclusions 2012), the Committee requested information about access for persons with disabilities to cultural activities. In response, the report notes specific actions carried out in favour of certain categories of persons with disabilities.

The report also states that the provisions concerning culture have been recognised as being in the public interest. This area is covered by various laws (see the report for more details).

The activities of the Ministry of Culture in relation to the rights of persons with disabilities can be broken down as follows:

- Accessibility of cultural items and property
- Promoting and supporting the creativity of persons with disabilities
- Cultural and media production in formats which are accessible for persons with disabilities.

The report also presents the National Cultural Development Programme, a strategic document which pays particular attention to equal inclusion of persons with disabilities in cultural activities, and Action Plan for its implementation. The Committee asks the next report to contain information on the outcome of these initiatives.

ANSWER:

The integration of persons with disabilities into cultural flows is recognised in the laws and strategic documents in the field of culture, as a segment of public interest. It can be generally emphasised that accessibility in national cultural institutions is partial and there is room for continuous improvement. Partial accessibility of municipal cultural institutions for the needs of this target group is evident.

I Accessibility of cultural items and property

Accessibility of national cultural institutions

1. *Ministry of Culture uses a facility adapted to the needs of persons with disabilities (ramp, lift). In addition, Braille inscriptions and employee data are provided on the premises.*
2. *The buildings of the Directorate for the Protection of Cultural Property and the Centre for Conservation and Archaeology of Montenegro, in the same facility in Cetinje, are partially adapted to the needs of persons with disabilities (access ramps).*

3. *The National Library of Montenegro "Djurdje Crnojevic" in Cetinje uses two facilities with the status of immovable cultural property (former Italian and French mission buildings) to perform their activities. The building of the former Italian mission is partly adapted (ramp), while it is very difficult to intervene on the French mission building to ensure adequate accessibility for persons with disabilities.*
4. *The National Museum of Montenegro has the following buildings in Cetinje: Government House, The Billiard, King Nikola's Palace, Former Serbian Mission, Njegos's Birth House, Mausoleum of Bishop Danilo on the Eagle's Karsts, the building that houses the Relief of Montenegro, Mausoleum on Lovcen, Dado Atelier, Montenegrin Gallery "Miodrag Dado Djuric", Court Church in Cipur. Of these facilities, only the Montenegrin Gallery "Miodrag Dado Djuric" is accessible to persons with disabilities (access ramp and elevator). Also, there is a partial accessibility for persons with disabilities in the King Nikola Palace (access ramp).*
5. *Centre for Contemporary Art of Montenegro is located in King Nikola's Palace in Krusevac, Podgorica and has partial accessibility for persons with disabilities (access ramp).*
6. *The Royal Theatre "Zetski Dom" from Cetinje has an access ramp for persons with disabilities*
7. *The Montenegrin National Theatre from Podgorica has an access ramp and organises part of its program activities in formats accessible to persons with disabilities.*
8. *The Library for the Blind is a public institution specializing in the needs of the visually impaired and, in accordance with the nature of the activity, is fully accessible to that category of person. The building used by the library, as a tenant, does not have an access ramp.*
9. *The Maritime Museum, located in Kotor, Old Town, is fully accessible to persons with disabilities and provides services in formats adapted to persons with disabilities.*
10. *Apart from the inscription on Braille, the Museum of Natural History in Podgorica is not adapted to the needs of persons with disabilities.*

In 2015, the following activities were implemented to improve accessibility:

- *The building of the former Russian mission in Cetinje has been completely adapted*
- *National Library "Djurdje Crnojevic" in Cetinje, was partially adapted for persons with disabilities.*

Concerning cultural items, in 2015 the Directorate for the Protection of Cultural Property adopted two Decisions as well as the approval of a conservation project for the adaptation of St. Basil's of Ostrog Church for accessibility to persons with reduced mobility and one decision on the conservation conditions for the development of the Conservation Project of installation of aids for the purpose of adapting the Faculty of Dramatic Arts, former Turkish mission in Cetinje, to persons with disabilities.

In 2016, the following activities were implemented to improve accessibility:

The Library for the Blind in Podgorica is a national institution that offers services for the visually impaired by ensuring that books are accessible electronically to users in audio recordings. The library for the blind has created the conditions for people with visual impairments to constantly rent a variety of literature and use it for educational, informational and professional purposes, whenever they need it.

In 2016, the publishing activity of this institution concerned the publishing of books in formats adapted to the visually impaired (audio format and Braille), while the artistic program intended for persons with disabilities included: 3 literary nights, 3 concerts, 3 stands and 10 regular and 2

extraordinary screenings of films adapted for the visually impaired, in several cities of Montenegro.

In May 2016, a concert of visually impaired artists Darko Martinovic was held at the Budo Tomovic Cultural Information Centre to mark 10 years of State Independence and 10 years of the Library's work. On the same occasion, a literary and musical matinee of a visually impaired artist was organised, as well as a prize literary competition for the visually impaired. In cooperation with Radio Homer, the library also implements numerous programs for persons with disabilities.

In 2017, the following activities were implemented to improve accessibility:

- *An access ramp was provided at the Cathedral Church in Niksic*
- *Approval from the Directorate for the Protection of Cultural Property for the installation of a ramp at St. Anthony of Padua Church in Cetinje*
- *Conservation conditions for ramp mounting have been issued for the Austro-Hungarian mission in Cetinje, where the building of the Academy of Fine Arts is located, for the needs of persons with paraplegia.*
- *An access ramp for persons with disabilities was constructed on the premises of the Tivat Cultural Centre (Gracija Petovic House), and through the reconstruction of the Great Hall of the Tivat Cultural Centre in 2018, adjustments are planned to the entrances, exits and seating for persons with disabilities.*

2018

Cooperation with cultural institutions and monitoring in the process of adapting cultural buildings and cultural assets to the needs of persons with disabilities continued.

II Promoting and supporting the creativity of persons with disabilities

Public competitions as a form of support

Incentives and support in culture shall be provided through a public competition in accordance with the conditions and criteria laid down in the Law on Culture. This public competition is intended for public institutions, companies in the field of culture, as well as individuals-authors, which means that the competition is also accessible to persons with disabilities. Also, the Law on Culture, as one of the competition criteria for project evaluation, established, among others, the promotion of creativity of persons with disabilities. In this way, projects aimed at that target group are particularly encouraged. The competition usually does not receive a large number of applications from persons with disabilities. On this basis, on average, 3 projects in this field are supported annually, mostly author's projects (publication of a book, an art exhibition, etc.).

In 2015, the following projects were supported on this basis:

- *Exhibition "Montenegro 2015" by artist Mirsad Koljenovic, who is a disabled person*
- *The project "Chess and Media in Promoting the Opportunities for the Blind" was realised, a chess tournament in which blind and partially sighted persons participated, as well as journalists, in order to raise the level of public awareness on equal participation of persons with disabilities in all segments of the society.*

In 2016, the following projects were supported:

- *Poetical musical manifestation of the blind and visually impaired people of Montenegro - "Never give up because everything is possible in life", realised by the Municipality of Berane, Secretariat for Sport, Culture and Youth*
- *Exhibition of the author with the disability Mirsad Koljenovic "Montenegro" and*
- *The fine arts workshops through the project The Picture is About Equality, artist Sonja Djuranovic, intended for children with certain disabilities.*

In 2017, the following projects were supported:

- *Poetical musical manifestation of the blind and visually impaired people of Montenegro - "Never give up because everything is possible in life", realised by the Municipality of Berane, Secretariat for Sport, Culture and Youth*
- *The exhibition called "Montenegro" by artist Mirsad Koljenovic,*
- *Manifestation, Evening of Amateur Creators - Young People, Children and Persons with Disabilities realised by D.O.O. Plavski horizont.*

In 2018, the following projects were supported:

- *Other meetings of amateur creators, young people, children and persons with disabilities, realised by D.O.O.Plavski horizon*
- *Art workshops in Savnik by artist Ana Miljkovic for children with special needs*
- *Awakened Dreams, a collection of poetry by Biljana Obradovic aimed at children with some form of disability and*
- *An exhibition Montenegrin Landscapes by Mirsad Koljenovic*

Contest for NGOs

As of 2018, the Ministry of Culture is also implementing a competition aimed at financing non-governmental organisations, which relates to the promotion and support of cultural activities in the sector. On this basis, the Ministry of Culture co-financed 4 projects for persons with disabilities in 2018. The following projects in the amount of EUR 39,644.95 were supported in the competition.

- *"Homer Cultural Scene", realised by the NGO Homer Cultural Centre, Podgorica*
- *"International Film Festival Capture Film Kotor", realised by NGO ART 365, Podgorica in partnership with NGO Association of Youth with Disabilities of Montenegro, Podgorica*
- *"Exhibition of sculptures as a way and model of communication and expression of visually impaired citizens in Berane municipality", realised by the NGO Organisation for the Blind for Berane, Andrijevica, Plav and Rozaje, from Berane*
- *"Music for Inclusion", realised by the NGO Association of the Blind of Montenegro, Podgorica*

Other activities realised from 2015 to 2018

In 2015, national and local cultural institutions implemented the following activities:

- *During the screening of the play The Auditor, the Montenegrin National Theatre provided a significant number of free tickets to persons with disabilities.*
- *Inclusive programs and workshops for children with special needs were organised within the Kotor Festival of Children's Theatre in cooperation with UNICEF.*
- *Within the city of Perast, an exhibition was organised by the Association of Paraplegics, where the president of that association, Vijeko Radomori, also had an exhibition.*
- *KIC Budo Tomovic from Podgorica organised the promotion of the textbook "Etiquette in*

- daily communication with persons with disabilities” and an interactive debate.*
- *PE Cultural Centre Bar, in cooperation with the Cultural Centre from Niksic and the Association of Paraplegics from Niksic, organised a cultural and artistic evening called “You Don’t Know What We Know”, within the project “Let Our Voice Be Heard”.*
 - *The PE Centre for Culture “Nenad Rakocevic” from Mojkovac organised two concerts to help persons with disabilities, as well as the Handicrafts Fair for craft made by persons with disabilities.*
 - *At the Berane Cultural Centre, a central event called “Never give up because everything is possible in life”, dedicated to the blind and visually impaired on the occasion of “International White Cane Day”, was organised.*
 - *Three performances (“Our Children”, “Donkey Years” and “Shabby Alibaba and Robbers”) were performed at the Kolasin Cultural Centre, featuring children with special needs as participants. -*
 - *The Rozaje Cultural Centre has, through a few activities, secured the participation of children with special needs at the International Golden Flake Festival (winner of the Special Needs Children Award Ljupco Karakutovski), and in cooperation with the NGO “Make Life Easy for Children with Special Needs”, a New Year’s program aimed at that population was organised*

Also, in 2015, two persons with disabilities started working, one in the National Library “Djurdje Crnojevic” and the other in the National Archives of Montenegro.

In 2016

- *The Montenegrin Cinematheque presented two films that were thematically related to persons with disabilities, as follows: “Margarita with the straw” and “Shoulder the lion”.*
- *PI Centre for Culture Plav, during 2016, within the manifestation of the Blueberry Days, also organised by the centre, organises stands on which persons with disabilities make different types of souvenirs, in the context of affirmation of the cultural and tourist characteristics of Plav.*
- *The public institution “Ratkovic’s Poetry Evening” from Bijelo Polje, as part of the manifestation of Ratkovic’s Poetry Evening, has cooperated with children from the Laza and Tisa Association in the realisation of exhibitions, as part of the program of this public institution.*
- *The concert “Let’s make life easier for children with special needs” was held at the PI Centre for Culture of Rozaje, and on December 3, 2016, a program was organised to mark the International Day of Persons with Disabilities.*
- *PI Centre for Culture Petnjica organised a lecture on the topic “Epilepsy” organised by NVU persons with disabilities, with lecturer Dr. Zilha Idrizovic.*
- *Within the framework of the III Bihor Cultural Summer, the Assembly of the Association of Persons with Disabilities was held, while on 21 December 2016, Humanitarian charity concert was held in the organisation of the Bihor Cultural Club, where all the proceeds are intended for children with special needs.*
- *Workshops at the Homer Drama Studio in Podgorica with the visually impaired have been organised through the Kotor Festival of Children’s Theatre.*

In 2017

- *Implementation of workshops in Pljevlja, Tivat and Cetinje within the Norwegian project “To Really Live” for which the Ministry of Culture has provided to the Association of Youth with Disabilities of Montenegro the space for the realisation of the workshop in Cetinje.*
- *Also, in 2017, the Montenegrin Cinematheque presented a film called “Praskozorje”, directed by Gentijan Koci, which partly addresses the issues of persons with disabilities.*

- In 2018

On November 27, the Library for the Blind of Montenegro organised a cultural program called *Homer's Gift to Njegos*.

III Formats which are accessible for persons with disabilities.

- Issue of "Glas" magazine for the visually impaired (published once a month in MP3 and Daisy format). Support for the magazine in question is ongoing from 2015 to 2018 through the Program for the Protection and Preservation of Cultural Property.
- Guide to the Maritime Museum of Montenegro published through the European Heritage Days segment
- The National Library "Djurdje Crnojevic" adapted the edition of the Mountain Wreath in Braille.
- On April 24, 2018, the Centre for Contemporary Art of Montenegro realised a tactile exhibition for the blind and visually impaired called "Please Touch". The exhibition was organised by the Union of the Blind of Montenegro and the international organisation "New Acropolis" with the support of this public institution. The exhibition is specially designed and adapted to allow the blind and partially sighted to tactfully experience three-dimensional and relief objects.

IV Conclusion:

There is a continuing need to develop a policy of more active inclusion of persons with disabilities in the culture from the point of view of the necessity of improving accessibility, as well as through more intensive involvement in programs that are meaningful to them.

Depending on the priorities and financial possibilities, a number of cultural buildings and goods are adapted each year to the needs of persons with disabilities. Access to cultural institutions (national and municipal) is a segment that needs to be developed, as well as accessibility to protected cultural goods. It should be noted that accessibility to cultural property is governed by legal provisions which stipulate that interventions are possible where the authenticity of cultural property is not affected.

As for the support programs, they will be continuously pursued as a identified priority for the development of culture (aforementioned competitions), where the opportunity for participation is provided to all social groups on an equal basis, with the implementation of the prescribed legal conditions and criteria that encourage the implementation of projects intended for that target group. Although generally the number of projects in this field is not large, it has proven to be a quality way of cooperating in presenting content of this type.

Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

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

The Committee asks the next report to provide information on the number of complaints related to sex-based discrimination in employment lodged with the Protector For Human

Rights and Freedoms, and in particular information on their outcome and sanctions applied against the employers. It also asks whether cases of gender-based discrimination were brought before the courts and information on their outcomes.

ANSWER:

The amendments to the Gender Equality Law 2015 are based entirely on the Ombudsman's position on the need to unify procedures within a single equality body that would function as part of the Ombudsman's structure and organisation. The previous filing mechanism to the line Ministry of Human and Minority Rights, and the absolute absence of its use, have indicated the lack of sustainability of such a solution. The Ombudsman's powers under the Law on Prohibition of Discrimination were incorporated into the Gender Equality Law of 2015, and both laws were harmonised with respect to the work of this institution to protect against discrimination based on gender identity.

In 2015, the Protector had eight (8) complaints regarding gender discrimination. Out of this number, in two (2) cases, violations of rights and recommendations were identified, namely: in one case, discrimination based on sex in advertising catering and health services, while the other identified discrimination on the basis of sex in relation to the right to undisturbed enjoyment of property. The recommendations made in the first case were respected, while the recommendations made in the second case were not respected.

During 2016, the Protector had three (3) complaints about gender discrimination. In none of these cases was a violation of rights established. However, in the same period, he had 19 complaints about discrimination on the basis of maternity leave, which were filed after the adoption of the Law on Amendments to the Law on Social and Child Welfare, i.e. the provisions of Articles 54a and 54b on the payment of lifetime cash benefits based on giving birth to three or more children.

By analysing the conditions and consequences of the measures prescribed by Arts. 54a and 54b of the Law on Amendments to the Law on Social and Child Welfare, in relation to women who do not meet the legal requirements for entitlement to a lifetime payment on the basis of child birth, the Ombudsman concluded that the disputed legal solutions were contrary to the principle of non-discrimination set out in Art. 8 of the Constitution, and the Law on Protection against Discrimination. In line with such a finding, it recommended that the Ministry of Labour and Social Welfare and the Parliament of Montenegro eliminate essential inequalities between different categories of women and use an anti-discriminatory approach and a test of protection against discrimination when adopting regulations. In addition, when analysing the provision 32a of the Rulebook, which stipulates that the request shall be accompanied by "(...) proof of work experience from the Pension and Disability Insurance Fund of Montenegro, (...)" the Protector concluded that by this condition "work experience" was equalised with "insurance service", which is why in this section it also found a violation of rights and made a recommendation to the line ministry. On this basis, in eight (8) cases it identified violations of rights and made recommendations. The disputed provisions of the Law, which were the subject of examination before the Ombudsman, were evaluated in proceedings before the Constitutional Court of Montenegro, which found the unconstitutionality of the provisions, while the legal status of women beneficiaries of compensation for giving birth to three or more children, after the repeal of unconstitutional provisions, was regulated by the Law on the Execution of the Decision of the Constitutional Court of Montenegro.

During 2017, the Ombudsman had three (3) complaints about gender discrimination. In one (1) case the Ombudsman identified a gender-based violation of rights by hatred speech and gave

recommendations; in one (1) it established discrimination in the exercise of the right to equal pay for work of equal value and made a recommendation, while in one (1) case no discrimination or violation of another right was established.

On the basis of maternity/pregnancy, there were 11 cases examined, of which in four (4) cases the Ombudsman identified violations of rights and recommendations; one (1) case was completed by reference to other remedies; one (1) was completed by indication; one (1) proceeding was discontinued because the same matter (factual and legal) had been decided in court proceedings; in one (1) case no discrimination or violation of another right was established; one (1) case is completed by merger, while two (2) cases were completed in another way.

Out of this number, four (4) cases of maternity/pregnancy discrimination and one (1) of gender discrimination concerned work and employment. In three cases (3) violations of rights were identified and recommendations made; one (1) ended with indication, while in one (1) case no discrimination or violation of another right was found. In two (2) cases, the recommendations were complied with, while in one (1) case, the recommendations were partially complied with.

During 2018, the Ombudsman had 16 cases examined due to gender discrimination, gender change and gender identity. The cases were closed in such a way that in four (4) cases the violation of rights was determined and recommendations were given; one (1) was resolved by an indication; in four (4) cases the applicants were referred to other remedies; the proceedings in three (3) cases were discontinued because the infringement had been remedied during the proceedings; while one (1) case was suspended due to institution of court proceedings; in two (2) cases the Ombudsman could not act because complaints have not been supplemented within the time prescribed, nor after the expiration thereof, while one (1) case has been completed by merger.

Out of this number, four (4) cases have been registered in the area of work and employment due to gender discrimination, gender change or gender identity. In one (1) case, an infringement was established and recommendations were made; in one (1) case the applicant was referred to other remedies; one (1) case was terminated by suspension because a lawsuit had been instituted after the complaint was filed; while in one (1) case the Ombudsman did not act because the complaint was not supplemented within the time prescribed, and even after the expiration thereof. In the case in which the violation was found, the first recommendations were respected.

The Supreme Court of Montenegro, as the highest court in the country, appealed to the competent courts to collect data pertaining to case law regarding discrimination on the basis of disability in the field of education and employment, as well as gender discrimination.

Based on the data collected from the courts, it can be seen that the courts have not processed cases in the period from 2015 to 2018 related to discrimination on the basis of disability in the field of education and employment, nor litigation cases were instituted before the basic courts related to gender discrimination.

We recall that according to the Law on Prohibition of Discrimination, anyone who believes that their rights have been violated by the discriminatory treatment of authorities, companies, other legal entities, entrepreneurs and natural persons has the right to protection before a court, and that the procedure is initiated by a lawsuit. Therefore, it is a civil procedure in which the principle of disposition of the parties applies.

As there were no cases mentioned in the Montenegrin courts during the period indicated, there

was thus no application of case law to the same.

In its previous conclusion, the Committee asked whether there were any occupations prohibited to women and/or whether there were any restrictions on the type of work which may be done by women, or any regulations restricting them from working at night (Conclusions 2012). The report indicates that Section 104 of the Labour Law provides that “an employed woman [...] shall not work in a job position with prevailing hard physical labour, works under ground or water, or a job involving tasks that can have detrimental effect on and an increased risk for [her] health and life”. Moreover, Section 105 of the Labour Law provides that “an employed woman working in industry and civil engineering may not be deployed to work at night, with the exception of (i) women working on executive positions or performing jobs of health, social and other protection or (ii) when it is necessary to continue work which was interrupted due to natural hazards, or to prevent damage to raw materials or other materials.

The Committee recalls that according to the Appendix to Article 20 (§2), provisions concerning the protection of women are not deemed to be discrimination. Such provisions must be objectively justified by needs that apply exclusively to women, such as those relating to maternity (pregnancy, childbirth and the post-natal period). These particular rights are also guaranteed by Article 8 of the Charter (right of employed women to protection of maternity). On the other hand, prohibiting women from performing night work or underground mining while authorising men to do so is contrary to the principle of equal treatment. **Thus the Committee considers that the situation in Montenegro is not in conformity with the Charter on the ground that legislation prohibits the employment of women in underground and under water works, work at night and other jobs involving hard physical labour, which is contrary to the principle of equality as enshrined in Article 20 of the Charter.**

ANSWER:

The new Labour Law, which is pending adoption, as stated in the previous replies, made a correction to the article prohibiting the employment of women in underground and underwater work, night work and other jobs related to heavy physical work, which is contrary to the principle of equality set out in Article 20 of the Charter, so that the provision is deleted from the Law and applies only to the category of employees under the age of 18 years. By the said amendment, and the application of equal treatment, women were exempted from this prohibition and equalised in this respect with men.

The Committee previously asked for confirmation that the law provides for a shift in the burden of proof in discrimination cases. It also requested information on sanctions and remedies in discrimination cases (including any limits to the amount of compensation that may be awarded) (Conclusions 2012). The report indicates that the Law on Prohibition of Discrimination provides in Section 29 that the burden of proof incumbent to the defendant. The Committee asks how this rule has been applied in practice by providing examples of cases of discrimination based on gender dealt with by the courts or the Protector of Human Rights and Freedoms.

ANSWER:

With regard to the rules on the burden of proof in anti-discrimination proceedings, we first recall that discrimination should always be viewed in the context of the exercise of a right, whether it is prescribed by an act of the international law or a standard prescribed as such in the domestic law (Constitution, law, bylaws). Another element underlying discrimination is the unequal treatment to which a person or group of persons is exposed. Finally, in order to be able to examine the existence of discrimination at all, it is necessary to have a comparator, that is, a person or a group of persons in relation to whom the possible victim of discrimination was at a disadvantage. The latter needs not be proven in certain forms of discrimination where the act or action is of such a nature that it undoubtedly affects a particular person or group of persons (for example: hate speech).

All the above elements should be proved by the person seeking protection against discrimination, as well as the minimum of facts relating to its existence, and thus make probable discrimination, in order to shift the burden of proof to the authority, legal or natural person against whom the protection proceedings are instituted. This legal solution and procedural law should enhance the victim's position as a weaker party and facilitate the process of proving discrimination. This specific procedural rule was introduced in the proceedings before the Protector after the court proceedings of 2017 by the amendment of the Law, although the Protector has applied it before as a procedural law based on international human rights law and European Union law.

Example 1:

The Protector initiated proceedings to investigate the violation of the right to equal pay for work of equal value on the basis of gender done to the detriment of senior prison superintendent and senior prison police officer of the first class, women, of the Institute for the Execution of Criminal Sanctions. The procedure was initiated on own initiative, and to the knowledge of the employees who were themselves affected by the contested Decision on the special benefit (Official Gazette of Montenegro, No. 061/16).

The Protector, on the assumption of direct discrimination, and in accordance with the rule of reverse burden of proof, requested a statement from the Ministry of Justice in order to present the criteria, benchmarks and indicators according to which the Ministry of Justice and the Ministry of Finance decided not to include the women, senior prison superintendents, that is, the senior class I police officers in the Decision on the Special Benefit. The Protector did not accept the justification of the Ministries as legally valid, objective and sustainable, which stated that at the moment of proposing jobs and adopting the Decision on special benefit there were no women in the prison, that is women convicted of organised crime, corruption, money laundering, war crimes and terrorism. First of all, the current and changing structure of detained and convicted women could not have influenced the omission of female servants who systematically perform tasks in these specific cases, and it was to be expected that the situation regarding women's criminal liability would change over time, with a tendency to increase or decrease in the number of detainees and/or convicted women for these crimes. The Protector made a recommendation to equate senior superintendents of the prison police and senior prison police officers of the 1st class in the Department of Internal Security for Women of the Correctional Facility and the Podgorica Detention Prison with senior superintendents of the prison police and senior prison officers of the 1st class of Department of Internal Security for Men of the Correctional Facility and the Podgorica Detention Prison, in terms of special benefit for conducting specific activities in cases of organised crime, corruption, money laundering, terrorism and war crimes. The recommendation was respected.

Example 2:

The Protector initiated the complaint procedure of the Union of Doctors of Medicine of Montenegro, who filed the complaint on behalf and with the consent of the victim of discrimination based on gender in the exercise of labour and employment rights. The complaint was about the unequal treatment of the Public Health Centre Rozaje of MD X.X, which was made on the basis of gender, compared to a group of employees of the Public Health Centre Rozaje. By shifting the burden of proof to the Public Health Centre Rozaje, the Ombudsman found that inequality violated the right to training, which forms an integral part of labour rights. Due to the annulment of the competition in a situation where the evident advantage of the candidate X.X in comparison with other male candidates according to the criteria on the basis of which the specialisation was awarded, discrimination was determined and appropriate recommendations were given to the Health Centre. The recommendation was respected.

With regard to remedies, the Committee notes that persons who consider to be discriminated against have the possibility to address a complaint to the Protector of Human Rights and Freedom and/or before the competent courts, asking for compensation of damage (Section 26 of the Law on Prohibition of Discrimination). **The report does not specify the amount of compensation that could be granted by the courts to victims of discrimination.**

ANSWER:

As stated in the answers to the previous questions, compensation for victims of discrimination is regulated by the Law on Obligations, as referred to by the Law on Prohibition of Discrimination (Article 21, paragraph 1t.3).

In addition, pursuant to article 33 of the Law on the Prohibition of Discrimination, "Courts, Plaintiffs' offices, misdemeanour bodies, the police authority and inspection bodies are obliged to keep a special record of complaints filed, proceedings initiated and decisions taken within their jurisdiction regarding discrimination.

The bodies referred to in paragraph 1 of this Article shall submit the data from the special register to the Ombudsman no later than January 31 of the current year for the previous year, and at the request of the Ombudsman, they shall submit the data from these records for a specified shorter period during the year."

The Committee recalls that anyone who suffers discrimination on grounds of sex must be entitled to adequate compensation, i.e. compensation must be both proportionate to the loss suffered by the victim and sufficiently dissuasive for employers (Conclusions 2012 (Article 1§2) Albania).

Any ceiling on compensation that may preclude damages from making good the loss suffered and from being sufficiently dissuasive is proscribed (Conclusions 2012 (Article 1§2) Albania). **The Committee asks whether there is any limit/ceiling to the amount of compensation that may be awarded to a person who has been a victim of discrimination on grounds of sex.**

ANSWER:

With regard to the right to adequate compensation in cases of discrimination on grounds of sex, it is recalled that Art. 26 of the Law on Prohibition of Discrimination stipulates that under a lawsuit for protection against discrimination one may also claim:

- 1) establishment of the fact that the respondent has acted discriminatory against the plaintiff;
- 2) prohibition of exercising the activity that bears potential treat of discrimination, i.e. prohibition of repetition of discrimination activity;
- 2a) removing consequents of discrimination activity;
- 3) compensation of damage, in accordance with the law;
- 4) publication in the media, at the expenses of respondent, of the judgement establishing discrimination.

In the cases referred to in paragraph 1, items 1 and 2 and 2a of this Article, the lawsuit shall be exert together with the claim for protection of the right of which is decided in a civil proceeding, if those claims are correlated and based on the same factual and legal ground.

With respect to damages, the Law on Obligations sets no limits on the amount of pecuniary or non-pecuniary damages that can be awarded to a victim of discrimination; the damages are awarded in accordance with free judicial conviction and case law in analogous - factual legal situations. To this end, the court, taking into account all the circumstances arising from the damages caused, awards damages in the amount necessary to bring the injured party's financial situation to the state he would have been into had there been no harmful act or omission; or damages proportional to the severity of the mental pain suffered by the violation of reputation, honour and dignity of the person. In case of compensation for ordinary damage and compensation for loss of potential profit, the amount of compensation for damages shall be determined according to the prices at the time of the court decision, unless otherwise provided by law. In assessing the amount of loss of potential profit, account shall be taken of the profit that could have reasonably been expected from the ordinary course of affairs or special circumstances, the occurrence of which was prevented by the wrongdoer's act or omission.

Therefore, as stated in the previous answer, there is no limit to the amount of damages that can be awarded to the victim of discrimination, on any ground or gender, but in the same circumstances the court determines each case in accordance with the previously cited article 210 a) item 2 of the Law on Obligations.

In its previous conclusion, the Committee asked whether equal pay is explicitly provided for in legislation and whether there are methods for comparing jobs and pay outside the enterprise or undertaking concerned (Conclusions 2012). The report indicates that Section 77 (2) of the Labour Law expressly provides for the principle of equal remuneration for men and women for work of equal value. In case of violation of this right, workers may claim compensation equivalent to the underpaid part of the salary (Section 77(4)). **However, the Committee notes that the principle enshrined in Section 77(2) seems to be limited to workers employed by the same employer as it refers to “work of equal value performed with an employer”.**

ANSWER:

The principle contained in Article 77 (2) has been amended by the new Labour Law and does not apply to “employees employed by the same employer”, but for the purposes of a more comprehensive regulation of the equality of pay, a provision is laid down that establishes equal pay in such a way that “an employee is guaranteed equal pay for the same work or work of the same value”.

The Committee recalls that under Article 20, equal treatment between women and men includes the issue of equal pay for work of equal value. Usually, pay comparisons are made between persons within the same undertaking/company. However, there may be situations where, in order to be meaningful, this comparison can only be made across companies/undertakings. Therefore, the Committee requires that it be possible to make pay comparisons across companies. It notes that at the very least, legislation should require pay comparisons across companies in one or more of the following situations:

- cases in which statutory rules apply to the working and pay conditions in more than one company;
- cases in which several companies are covered by a collective works agreement or regulations governing the terms and conditions of employment;
- cases in which the terms and conditions of employment are laid down centrally for more than one company within a holding (company) or conglomerate (Conclusions 2012, Statement of Interpretation on Article 20)

ANSWER:

Pursuant to the provisions of the Labour Law, it is stipulated that an employee is entitled to an adequate salary, which is determined in accordance with the law, the collective agreement and the employment contract. An employee, male or female, is guaranteed equal pay for the same work or work of the same value with the employer. Work of the same value means work that requires the same degree of education, that is, qualification of the level of education or professional qualification, responsibility, skills, working conditions and results of work.

In case of violation of the right, the same salary is not guaranteed for the same work or work of the same value to the employed man or woman, the employee is entitled to compensation for damages in the amount of unpaid part of the salary.

An employer decision or agreement with an employee that is inconsistent with the above is deemed null and void.

Also, the Law on Public Sector Earnings does not recognise the difference in earnings between men and women.

While supervising the implementation of the Labour Law, the Labour Inspectorate, as well as administrative oversight made by the administrative inspection, encountered no problems related to the difference in earnings between men and women.

Thus, wages and salaries are prescribed by the Labour Law, the General Collective Agreement concluded for the territory of the state of Montenegro and applicable to all employees and employers, and branch collective agreements applicable to employees and employers in a branch, group or subgroup. An employer collective agreement applies to employees with that employer.

The collective agreement, in accordance with the law, establishes the rights, obligations and

responsibilities from employment and on the basis of employment, the procedure of amendments to the collective agreement, the mutual relations of the parties to the collective agreement and other issues of importance for the employee and employer. The collective agreement is concluded in writing and is directly applicable.

The General Collective Agreement defines the elements for determining the salary, remuneration, other employee benefits and determines the scope of rights and obligations from employment in accordance with the law.

A branch collective agreement establishes the minimum wage in a branch of activity, group or subgroup of activity, elements for determining basic wage, remuneration and other employee benefits and regulates the scope of rights and obligations of employees in accordance with the law.

The collective agreement with the employer determines the minimum wage, the elements for determining the basic wage, compensation of wages and other employee benefits and regulates broader rights, obligations and responsibilities from employment and on the basis of the employee's work in accordance with the law and the collective agreement.

For the conclusion of branch collective agreements the Labour Law stipulates participants in their conclusion, namely: 1) for the area of economy; 2) for public enterprises and other public services established by the state; 3) for public institutions established by the State; 4) for compulsory social security organisations; 5) for public bodies and organisations and bodies of local self-government; 6) for political, trade union, sports and non-governmental organisations; 7) for foreign natural and legal persons (embassies, diplomatic missions and consular posts, representations of foreign companies, etc.); 8) for persons who independently perform artistic or other cultural activities.

Therefore, all issues related to wages and other remunerations are regulated by branch collective agreements and apply to companies in that branch of activity, or group, except that a collective agreement with the employer can determine only a broader scope of rights than those established by the branch collective agreement and the law. All employees enjoy the right to equal pay, without discrimination on any grounds. The branch collective agreements define the basic groups of jobs with the coefficients for determining the earnings based on the required expertise and complexity of jobs in that branch of activity.

The Committee recalls that in equal pay litigation cases the legislation should allow pay comparisons across companies only where the differences in pay can be attributed to a single source. For example, the Committee has considered that the situation complied with this principle when in equal pay cases comparison can be made with a typical worker (someone in a comparable job) in another company, provided the differences in pay can be attributed to a single source (Conclusions 2012, Netherlands, Article 20) or when pay comparison is possible for employees working in a unit composed of persons who are in legally different situations if the remuneration is fixed by a collective agreement applicable to all entities of the unit (Conclusions 2014, France, Article 4§3).

In the light of the above mentioned, **the Committee reiterates its question whether in equal pay litigation cases it is possible to make pay comparisons outside the company directly concerned. It reserves its position on this point.**

ANSWER:

It is not possible to make comparisons of earnings outside the company directly concerned.

Equal opportunities

The Committee notes from the document “Women and Men in Montenegro”, published by the Montenegro Statistical Office that the gender pay gap decreased slightly from 13.8% in 2009 to 13.2% in 2011. The same publication indicates that the gender pay gap stood at 33.5% in the manufacturing industry, 16.1% in the hospitality sector and 13.9% in the health and social service sector.

The Committee asks the next report to provide updated information on the employment rate of women and the gender pay gap in both the private and the public sectors.

ANSWER:

Statistics Office-MONSTAT does not have data on earnings by gender. The Statistical Directorate conducts a regular Monthly Survey on Employee Wages, on the basis of which data on average earnings are broken down by sector of activity classification, as well as at the level of municipalities, and it is not possible to provide gender data by this survey. Also, please note that the Statistics Office does not have data on earnings by private and public sectors.

The latest available employment rate data for 2018 is 47.5% overall, women’s employment rate is 40.8% and men’s is 54.5%. The source of the employment rate data is the Labour Force Survey. The dynamics of data publishing is quarterly and annual, and data are available on the website of the Statistical Directorate, www.monstat.org, domain Labour Market, Labour Force Survey, press releases.

The Committee notes that pursuant to amendments to Section 149(1) of the Labour Law, the General Collective Agreement defines the elements determining the basic wage, benefits and other earnings of employees. Wages can be increased further by branch collective agreements or individual agreements at the enterprise level (Section 149(2) and (3)) (ILO-CEACR, Direct Request (CEACR) – adopted 2013, published 103rd ILC session (2014)). **The Committee asks for information in the next report on how the principle of equal treatment between women and men is taken into consideration in the context of the minimum wage fixing process and how equal treatment is being promoted by means of collective agreements.**

ANSWER:

It is worth pointing out that gender equality is especially protected in our national legislation, starting with the Constitution of Montenegro, which stipulates that the state guarantees equality between women and men and develops equal opportunities policy and that employed women enjoy special protection. The Labour Law regulates the prohibition of discrimination, both direct and indirect, of employees on all grounds, including gender, based on, among other things, working conditions and all rights arising from employment. The provisions of the employment contract establishing discrimination on any of the prescribed grounds are deemed null and void.

Furthermore, the new Draft Labour Law improved the provisions relating to wage equality, and envisaged equality of earnings between men and women, with a separate article in the new Labour Law relating to wage equality, with the same name. Similarly, the new law stipulates equal pay for every employee, without deciduously stating that it applies to men and women. This is for the sake of more comprehensive regulation of wage equality.

The principle of non-discrimination is proclaimed in the Constitution of Montenegro and the Labour Law. Labour Law is an umbrella law and collective agreements must comply with the provisions of the Labour Law. A collective agreement and an employment contract may not contain provisions granting an employee lesser rights or establishing less favourable working conditions than rights and conditions established by law.

A collective agreement and an employment contract may determine a greater scope of rights and more favourable working conditions than the rights and conditions established by this law. If certain provisions of a collective agreement stipulate a narrower scope of rights, or more unfavourable working conditions than rights or conditions established by law, the provisions of the law shall apply. If certain provisions of the employment contract stipulate a narrower scope of rights or more unfavourable working conditions than the rights, that is, conditions stipulated by law and collective agreement, they are deemed null and void. If the collective agreement is not concluded with the employer, the branch collective agreement for the respective activity is directly applied, and if there is no branch collective agreement, the general collective agreement shall apply.

The Committee also notes that the UN Committee on the Elimination of Discrimination Against Women (CEDAW) has raised concerns with regard to the high rates of female unemployment, the concentration of women in low-paid sectors of employment and the lack of flexible work arrangements and childcare facilities which force women into part-time employment (Concluding observations of the Committee on the Elimination of Discrimination against Women – Montenegro, 4 November 2011).

The Committee asks the next report to provide information on the measures taken to reduce the gender pay gap and to address the occupational gender segregation, as well as to increase the representation of women in senior/management positions.

ANSWER:

In Montenegro, there are no official statistics on the participation of women and men in managerial positions (at different levels of management), CEO positions and in governing bodies of companies, or data on managerial structure depending on the size, sectoral affiliation and ownership structure of the company.

That is why in 2013 the Montenegrin Employers Federation (UPCG) conducted the first survey on women managers in Montenegro. The UPCG survey was conducted according to a unique International Labour Organisation (ILO) questionnaire, in 103 companies operating in Montenegro, and for the needs of the ILO global study on women in business and management: Gaining momentum, which ILO ACT/EMP published in January 2015. This means that the data

for Montenegro are also presented in the global ILO study.

In order to enable a comparative analysis of the data and better review the possible changes that have taken place in Montenegro in the meantime, the UPCG, with the support of the ILO, re-conducted the research and published in December 2017 a new document “Report: Women in Management in Montenegro”. For these purposes, UPCG used the same questionnaire, so that it is possible to compare the data and show any changes that occurred in the period 2013-2017.

UPCG RESEARCH DATA

Source: Union of Employers of Montenegro (2017), “Report: Women in Management in Montenegro”

The discrepancy between the number of highly educated women and their underrepresentation in management positions indicates that a significant number of companies in Montenegro are consciously giving up on the knowledge, skills and potential of specially qualified personnel, and thus good business results and many other benefits arising from engagement of such personnel. It should be emphasised that the effects of rejecting highly qualified workforce from the corporate ladder of companies, in a negative sense, indirectly affects both the state (lower GDP) and the overall Montenegrin society (lower productivity and standard of living). The results of the UPCG survey presented in this Report are very clear about the fact that women in Montenegro have not yet been given the opportunity to show their economic potential in the best way and to provide their full economic contribution. Some of them are:

The labour market in Montenegro shows both horizontal segregation (the so-called grouping of women into typically “female”, lower paid occupations) and vertical segregation (“limited professional advancement and a small number of women in so-called “positions of power”).

The relationship between women and men at different levels of management and leadership positions in companies in Montenegro shows that women are more present at the middle management level (50.1%), then at the lower (43.3%) and higher managerial level (42.9 %).

There are least women at the highest level of management, that is in the position of top management (36.6%), which, according to the results of the research, is still “reserved” for men who have as many as 63.4% in that position.

In addition to the highest managerial level, men are more represented at the higher level (57.1%) and the lowest level of management (56.7%) than women.

A comparative analysis of the two UPCG surveys shows some negative developments that have occurred over the four-year period, regarding women’s participation in top management positions. Namely, in this position, there were 36.6% women in 2017, which is less than in 2013 when there were 42.4% in top management positions. On the other hand, the data also point to some positive trends recorded at the middle management level - in 2017 the participation of women in these positions is as high as 50.1%, which is an increase compared to the indicator of 46.7% from 2013.

Conclusion: The results of a new UPCG survey show a clear dominance of men in relation to women at all levels of management and leadership - except at the middle management level (women are more present than men).

The analysis shows that there are only 6.1% of women in the position of the President of the Board of Directors in Montenegrin companies, while only 26.4% of women are CEO.

This UPCG Report also shows some of the negative trends that occurred in the period between the two surveys regarding the number of women in CEO positions (2017: 26.4% women; 2013: 39% women).

Women are predominantly represented in positions of communications managers and public relations managers (82.1% each), as well as human resources managers (75.6%). It should be borne in mind that this information, among other things, points to the segregation by gender within the management professions, that is, the existence of the phenomenon of “glass walls” in Montenegrin companies.

Very few companies in the country monitor and report on the percentage of women and men at different levels of the hierarchy (18.3%). Namely, although most of the companies surveyed have an Equal Opportunities Policy (75%), less than half of large enterprises implement the monitoring and reporting practices as indicated above.

When performing so-called exit interview (interview with employees leaving the company), the representatives of companies do not usually raise gender issues (68.4% of enterprises answered).

Data on differences between men and women in terms of how they calculate their work performance and the benefits they receive (such as travel costs, vehicles, bonuses, etc.) show the following:

In 84.4% of companies there is no difference between men and women managers in terms of how their performance is calculated in determining earnings, while in 5.6% of companies there is a small difference, and only 2.2% of companies stated that this difference is represented to a large extent.

According to the respondents, in 71.4% of enterprises women managers have much the same benefits as male managers (travel expenses, vehicle, bonuses...), while in only 5.5% of companies men and women do not have the same benefits at all.

BARRIERS AND SUPPORT MEASURES:

According to the survey participants, the five most important barriers to women’s leadership in companies in Montenegro are: (1) Women have greater responsibility to their families than men, (2) Insufficient managerial or overall work experience for women, (3) Roles for men and women assigned by society, (4) Men are not encouraged to take time off because of family responsibilities, (5) Stereotypes about women.

According to the respondents, the five most important MEASURES for the advancement of women’s positions in leadership/management of companies are: (1) Assigning visible and challenging tasks to women managers, (2) Training for women executives, (3) Promotion of women in the overall business and functioning of the company, (4) Women’s recognition and support, (5) Creating a more inclusive corporate culture.

According to the respondents, the five most useful models of support that UPCG and ILO can provide to companies in attracting and retaining qualified women and promoting women

managers are: (1) Identifying best business examples for women in management positions, (2) Networking with other companies to exchange good practices, (3) Creating an Equal Opportunity Policy, (4) Developing a strategy to promote more women in management, (5) Networking with women's business associations.

The report indicates that women have access to programs of professional orientation, counselling, career development, adult education and training in proportion of 60%. It further mentions that the project "Virtual Enterprises" was designed for those who wish to be trained to work in companies, as well as to unemployed persons who intend to establish their own enterprises. In 2014, 57 persons completed work on this project, of which 40 were women (70%). The Investment and Development Fund of Montenegro (IDF) continued in 2014 its "Program of financial support to women in business" developed as a special credit line for setting-up and development of micro, small and medium enterprises in which women are carriers of the business.

The Committee asks that the next report provide updated information on the status of women in employment and training. It wishes to be kept informed about the implementation of all positive actions/ measures taken to promote gender equality in employment.

ANSWER:

The following is a report and lines of credit related to entrepreneurship development.

Development of entrepreneurship through support to specific target groups (young people, women, high school students, etc.)

To support entrepreneurship development in 2019, the Investment and Development Fund (IRF) has defined the following lines of credit:

- 1. Credit line for higher education support;*
- 2. Credit line for support of technological surpluses;*
- 3. Credit Line for Supporting Women in Business-START UP;*
- 4. Credit Line for Supporting Women in Business;*
- 5. Business Support Line for Women in Business-UNDP;*
- 6. Business Support Youth Credit Line;*
- 7. Credit line to support start-ups, start-ups in business;*
- 8. Entrepreneurship Support Line of Credit.*

Credit terms:

- Interest rate:

- Direct lending: from 0% - 3.5%;*
- Bank lending: 4%;*
- Repayment period: up to 12 years (with grace period included);*
- Grace period: up to 4 years;*

Maximum loan amount: up to € 50,000.00 for direct loans (for men entrepreneurs up to € 30,000.00, for women entrepreneurs up to € 50,000.00). For loans that will be realised through commercial banks, the maximum loan amount is € 1,000,000.00.

| <i>Entrepreneurship development</i> | <i>2017</i> | | <i>2018</i> | | <i>01/01-31/08/2019</i> | |
|---|---------------------|---------------|---------------------|---------------|-------------------------|---------------|
| | <i>amount</i> | <i>number</i> | <i>amount</i> | <i>number</i> | <i>amount</i> | <i>number</i> |
| <i>Lending to young people in business</i> | 889,000.00 | 27 | 333,400.00 | 13 | 564,000.00 | 11 |
| <i>Business start-up lending - start up</i> | 2,638,120.00 | 20 | 8,166,900.00 | 44 | 3,508,500.00 | 27 |
| <i>Higher Education Lending Program</i> | 130,000.00 | 5 | 96,800.00 | 3 | 0.00 | 0 |
| <i>Entrepreneurship Development Support Program</i> | 159,585.00 | 5 | 80,000.00 | 3 | 130,000.00 | 3 |
| <i>Women in Business Support Program</i> | 2,090,000.00 | 15 | 997,000.00 | 18 | 224,500.00 | 6 |
| <i>Women in Business Support Program- UNDP</i> | 128,923.35 | 14 | 170,000.00 | 19 | 47,500.00 | 6 |
| <i>Women in Business Support Program-start up</i> | 159,618.00 | 5 | 56,000.00 | 2 | 34,000.00 | 2 |
| Total: | 6,195,246.35 | 91 | 9,900,100.00 | 102 | 4,508,500.00 | 55 |

| <i>Entrepreneurship development</i> | <i>2017</i> | | <i>2018</i> | | <i>01.01-31.08-2019</i> | |
|--|---------------------|---------------|---------------------|---------------|-------------------------|---------------|
| | <i>amount</i> | <i>number</i> | <i>amount</i> | <i>number</i> | <i>amount</i> | <i>number</i> |
| <i>Agricultural Development Support Program - Agro Budget</i> | 65,990.09 | 9 | 40,524.17 | 6 | 15,000.00 | 2 |
| <i>Agricultural Development Support Program - IPARD</i> | 0.00 | 0 | 250,000.00 | 1 | 1,949,787.36 | 18 |
| <i>Agricultural Development Support Program - IPARD like</i> | 3,137,925.26 | 76 | 891,761.37 | 8 | 0.00 | 0 |
| <i>Agricultural Development Support Program and Food productions</i> | 512,621.27 | 27 | 309,900.00 | 17 | 77,000.00 | 3 |
| Total: | 3,716,536.62 | 112 | 1,492,185.54 | 32 | 2,041,787.36 | 23 |

Article 24 - Right to protection in case of dismissal

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

Scope

The Committee recalls that under Article 24 of the Charter all workers who have signed an employment contract are entitled to protection in the event of termination of employment. According to the Appendix to the Charter, certain categories of workers can be excluded. Among them workers undergoing a period of probation or a qualified period of employment, provided that this is determined in advance and is of reasonable duration. Exclusion of employees from protection for six months or 26 weeks is not considered reasonable if it is applied indiscriminately, regardless of the employee's qualifications.

The Committee notes that, in reply to its question whether certain categories of workers may be excluded from the protection against dismissal, the report states that during probation period the employee has all rights and obligations arising from employment in accordance with the task of the workplace; if the employee during the probation period

does not meet the requirements of the working position, the employment shall be terminated upon expiry of the period determined in the employment contract. The Committee therefore understands that employees undergoing a period of probation are protected against dismissal on an equal ground with employees working under employment contract under indefinite period. It asks for confirmation of this understanding, meanwhile the Committee reserves its position on this point.

ANSWER:

Probationary work is a special condition of employment and can be determined by the act on systematisation. An employee who has an employment relationship and is on probation shall enjoy all employment rights in accordance with the duties of the workplace he performs. Thus, an employee on probation enjoys the right to protection against dismissal within the meaning of Article 24 of the Charter, or according to the Annex to the Charter, within the meaning of Article 24, the term "termination of employment" which means termination of employment at the initiative of the employer. The Labour Law stipulates that an employer may terminate an employee's employment contract if there are reasonable grounds for this related to the capacity or behaviour of the employee and those based on the operational requirements of the company (economic reasons) as follows:

1) due to non-realisation of the results of work determined by the collective agreement, the act of the employer or the employment contract, for a period not shorter than 30 days;

2) due to non-compliance with obligations stipulated by law, collective agreement and employment contract, which must be harmonised with the law and collective agreement;

3) if his behaviour is such that he cannot continue working with the employer in the cases prescribed by law and the collective agreement or the act of the employer, which must be harmonised with the law and the collective agreement;

4) if he refuses to conclude the annex to the employment contract referred to in Article 40 paragraph 1 items 1 and 2 of this Law;

5) if he refuses to conclude the annex to the employment contract referred to in Article 40 paragraph 1 item 3 of this Law;

6) if he abuses the right to absence due to temporary disability to work;

7) due to economic problems in business;

8) in the case of technical and technological or restructuring changes which have led to the elimination of the need for his work.

(2) An employer may terminate an employment contract within the meaning of paragraph 1 item 1 of this Article if he has previously given the employee instructions for work.

The Committee recalls that Article 24 determines in a detailed manner the valid grounds on which an employer may terminate an employment relationship:

- those connected with the capacity or conduct of the employee;
- those based on the operational requirements of the undertaking, establishment or service (economic reasons).

The Committee recalls that under Article 24 dismissal of an employee at the initiative of the employer on the ground that the former reached the normal pensionable age (age when an individual becomes entitled to a pension) will be contrary to the Charter, unless the

termination is properly justified with reference to one of the valid grounds expressly established by this provision of the Charter. In its previous conclusion (Conclusions 2012) the Committee asked how the legislation complied with this approach. Due to the lack of the requested information, the Committee considers it has not been established that the legislation prohibits dismissal of an employee at the initiative of the employer on the ground that he/she has reached the pensionable age.

ANSWER:

Termination of employment on the ground that the employee has reached the retirement age, that is when he acquires the right to retirement, is termination of employment by force of law and does not constitute termination of employment by the employer.

An employer may terminate an employment contract only for the reasons specified in Article 143 of the Labour Law, which are reasons relating to the capacity or behaviour of the employee and for economic reasons, that is, the employer cannot terminate the employment contract on the basis that the employee has reached the age for retirement, but then the employee ceases to work under the force of law.
