



28/04/2023

RAP/RCha/MNE/12(2023)

## **EUROPEAN SOCIAL CHARTER**

12th National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF MONTENRGRO**

Articles 7, 8, 16, 17, 19, and 27  
for the period 01/01/2018 – 31/12/2021

Report registered by the Secretariat on

28 April 2023

**CYCLE 2023**



Montenegro

Ministry of Labor and Social Welfare

Address: Rimski trg 46  
81000 Podgorica  
Montenegro  
tel: +382 20 482 305  
[www.gov.me/mrs](http://www.gov.me/mrs)

**12th NATIONAL REPORT ON THE IMPLEMENTATION OF THE REVISED EUROPEAN SOCIAL  
CHARTER**

**(Arts. 7, 8, 16, 17, 19, 27)**

**MONTENEGRO**

April 2023

## Article 7- The right of children and young persons to protection

**Article 7 of the Charter - With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:**

**1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;**

*a) Please provide information on the measures taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including children working in the informal economy. In this regard, please provide information on the number of children actually working (either from existing statistics on this issue or from surveys to be conducted to obtain such information), as well as on measures taken to identify and monitor sectors where it is strongly suspected that children are working illegally (General question, Conclusions 2019).*

### **REPLY:**

The labor inspection continuously monitors, among other things, whether employers employed children for work during routine inspections in all economic operations. Typically, underage workers can be found during the summer tourist season for a total of two months. Irregularities found concerned juveniles employed without proper documentation, such as a signed employment contract, parental permission to work, or a medical certificate. In addition, the fines involved the employer's failure to make a decision on shift work, which affected all workers, not just children. The majority of the children were found in the hospitality business, retail establishments, stands for the sale of trinkets, etc. rather than in dangerous and health-damaging jobs. Typically, family-run businesses employ children.

In 2022, centers for social work in Montenegro documented 66 cases of child beggars. No cases of minors being rescued from illicit work were found recorded at the centers for social work. The center for social work's mission is to provide aid and protection to children who have been found begging, and to collaborate with other appropriate institutions to reduce the frequency with which begging occurs. Centers for social work take necessary protective actions within the bounds of the law after becoming familiar with each individual case. They take on not just the task of making sure children are secure, but also of providing them and their families with therapy services. The children receive referrals to additional service providers in the social and child protection system, the public school system, and the medical care system to aid in his or her continued reintegration into society. The child and his family exercise rights according to the Law on Social and Child Protection. The guardianship authority may also file a complaint with the Court for Misdemeanors against parents or guardians, mostly, who fail to stop their minor children from begging or even induce them.

Begging cases begin with the Police Directorate being notified, and then the information is sent to the Court for Misdemeanors, which runs the trial.

There have been no shifts in the jurisdictions responsible for enforcing the laws prohibiting the worst types of child labor, such as child begging, in the recent past. The Protocol on the handling of bodies, institutions, and organizations in Montenegro dealing with children involved in street life guides the actions of the competent authorities. In order to protect children who are living and working on the streets, the Protocol mandates cooperation between the five ministries, the ministries of the interior, justice, education, health, labor and social welfare, and the Police Directorate.

*b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

Since the regulations prohibiting the employment of children under the age of 15 are not effectively implemented and the work performed by children under the age of 15 in the home is not monitored, the Committee has previously concluded that the situation in Montenegro is not in accordance with Article 7, paragraph 1 of the Charter.

Article 20 of the Labor Law (“Official Gazette of Montenegro” numbers 74/19, 8/21, 59/21, 68/21, and 145/21) details the general and special requirements for employment. Two general requirements are stipulated: 15 years of age, and general medical capability. All those seeking employment in Montenegro are subject to these general conditions. The age of 15 years represents the age limit when a person acquires general legal working capacity. The new provision in the Labor Law, which went into effect on January 7, 2020, is an exemption for those who are still required to attend primary school and so cannot engage into an employment for as long as they attend primary school.

The Department of Labor Inspection is a division of the Directorate for Inspection Affairs that is responsible for overseeing two distinct but related fields: groups of jobs concerning labor relations and employment, and groups of jobs concerning occupational health and safety. According to the 2021 Labor Inspection Report, 53 labor inspector positions were standardized. This includes 37 positions in labor relations (including the head inspector) and 16 positions in occupational health and safety. There are a total of 44 inspectors on staff, with 33 focusing on labor relations and 11 on occupational health and safety.

The Labor Inspection monitors compliance with: the Labor Law, the Law on Foreigners, the Law on Strikes, the Law on Trade Union Representativeness, the Law on Professional

Rehabilitation and Employment of Persons with Disabilities, the Law on Volunteer Work, the Law on Prohibition of Abuse at Work, the Law on Gender Equality, the Law on Prohibition of Discrimination, the Law on Prohibition of Discrimination against Persons with Disabilities, the Law on Professional Training of Persons with Higher Education, the Law on Protection of Citizens of Montenegro Working Abroad, the Law on Employment Mediation and Rights During Unemployment, Law on Safety of Maritime Navigation, Law on Occupational Health and Safety and Law on Population Protection from Infectious Diseases. This inspection also supervises the application of the General Collective Agreement, branch collective agreements, collective agreements with the employer and other by-laws, which regulate the field of labor relations, employment and occupational health and safety.

The labor inspection did not find any minors under the age of 15 working. No one under the age of 15 is allowed to work in any capacity. The inspection team had no prior knowledge or indication that any work was being done at the house of the minor. In particular, it is important to note that the Constitution protects the right of every citizen to the inviolability of the apartment, which states that the apartment can only be entered with a court order, making the subject of controlling work at home a complex legal matter.

**2. to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;**

*If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the question(s) raised.*

**REPLY:**

Because it has not been proven that the law prohibiting the employment of minors on hazardous or unhealthy jobs is effectively implemented, the Committee previously came to the conclusion that the situation in Montenegro is not in accordance with Article 7 paragraph 2 of the Charter.

The new Labor Law fully complies with Council Directive 94/33/EC of June 22, 1994 on the protection of young people at work in its provisions relating to the protection of employees under the age of 18. Employees under the age of 18 are protected by the Labor Law under Article 120, which forbids them from working in jobs that are potentially hazardous and with increased risk to their health as well as those that are physically demanding (such as jobs underground or underwater). Additionally, the employer is required to give children occupations that won't negatively impact their development under the Rulebook on Occupational Health and Safety Measures in the Working Environment (Official Gazette of Montenegro, No. 104/20). Additionally, Article 6 of this Rulebook forbids assigning minors to jobs: that are objectively outside of their physical or psychological capabilities; exposing them

to dangerous substances, which result in hereditary genetic damage, or otherwise have a long-term negative impact on their health; involving accident risks that minors are unable to recognize or avoid because of their inattention or lack of experience; or jobs where there is a health risk due to extreme cold or heat, noise or vibration. The employer is responsible for making sure that children aren't exposed to any detrimental exposure to physical, biological, chemical, or other risks while at work.

Additionally, the Rulebook on jobs with special working conditions and the requirements that must be satisfied by the employee to work on those jobs (Official Gazette of Montenegro, No. 70/16) prohibits employment of anyone under the age of 18 in those jobs.

The Labor Inspectorate's top priorities for 2021 included reducing the gray economy on the labor market (informal employment and unpaid work among the formally employed) and ensuring a safe workplace from the perspective of occupational health and safety, along with controlling the respect of epidemiological measures.

In the area of occupational health and safety, attention is paid to the control of: ensuring occupational safety and health measures, i.e. working conditions that do not lead to injuries at work, occupational diseases and work-related diseases; harmonization of normative acts with the provisions of the Law on Occupational Health and Safety; provision of inspection and examination of work equipment and examination of working environment conditions within prescribed deadlines; training of employees for safe work; provision of specialist medical examinations of employees who work at workplaces with special working conditions, i.e. increased risk; organization of occupational safety and health jobs with the employer; keeping records on occupational safety and health; procurement, issuance and provision of means and equipment for personal protection at work; collective insurance of employees; taking necessary measures and assigning employees to provide first aid, fire protection and evacuation of employees, and of the adoption of the act on risk assessment.

The Labor Inspectorate conducted a total of 11,369 inspections during the reporting period (8,107 in the areas of labor relations and employment and 3,262 in occupational health and safety), and they discovered a total of 3,958 irregularities.

During the inspection, persons under the age of 18 were not found to be working at workplaces with particularly difficult physical tasks, or tasks that could have a harmful and increased risk of affecting their health.

**3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;**

*If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee previously found that Montenegro's situation did not comply with Article 7 paragraph 3 on the grounds that the law preventing minors from working while they are enrolled in obligatory school is not consistently enforced in daily life.

The general and unique requirements for establishing employment are outlined in Article 20 of the Labor Law: age of fifteen and general health capacity. All individuals who desire to establish employment on Montenegro's territory are subject to general conditions. The age of 15 years represents the age limit when a person acquires general labor legal capacity. The novelty made by the Labor Law, which came into effect on January 7, 2020, is an exception for people who are enrolled in primary school and who, in that case, are not permitted to create an employment relationship while they are enrolled in primary school.

If a legal entity enters into a contract in contravention of Article 20 of this law, it will be fined with a fine between EUR 2,000 and EUR 20,000, according to Article 208 paragraph 1 point 3. Minors are frequently seen at work during the summer tourist season. Irregularities in the employment of minors included failure to enter into an employment contract, the absence of parental approval, or the absence of a certificate of health capacity. The inspection found no evidence that the minors were enrolled in primary school at the time they were discovered working.

**4. to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;**

*If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee previously came to the conclusion that the situation in Montenegro is not in compliance with Article 7 paragraph 4 of the Charter, considering the limit of 40 hours of work per week for young workers under the age of 16 is excessive, and it has not been determined whether the legislation on working hours and holidays for young workers under the age of 18 is effectively implemented.

The new Labor Law stipulates that working hours less than full time for employees under the age of 15 may be determined by the collective agreement with the employer in accordance with the requirements of Council Directive 94/33/EC of June 22, 1994 on the protection of young people at work, in which case the employee exercises all the rights from the employment relationship to the fullest extent possible.

Additionally, if a worker under the age of 18 works at least four hours each day, he or she is entitled to a break from work that lasts at least 30 minutes continuously every working day. Time spent at work includes breaks that occur during working hours.

The labor inspection monitors the working hours of workers under the age of 18, as well as for other employees, through the work schedule by shifts and the schedule for the use of weekly rest, which the employer is obliged to determine, if the activity is constantly performed and the weekly rest is not used on Sundays. Additionally, decisions about annual leave are inspected because the law mandates a minimum of 24 working days of annual leave for those under the age of 18. Additionally, inspection of the employer's collective agreements is done, and these individuals are directly questioned about this matter as well as about any night or overtime work that is illegal for them to perform.

**5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;**

*a) Please provide updated information on net minimum wages and allowances payable to persons under 18 years of age. Please provide information on measures taken to ensure that fair remuneration is guaranteed to young workers:*

- i) In atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers.)*
- ii) in the gig or platform economy and*
- iii) having zero hours contracts.*

**REPLY:**

According to the Labor Law, each employee is entitled to receive compensation that is decided in line with the law, the collective bargaining agreement, and the employment contract. Equal compensation for similar or work of equal value is guaranteed for the employee. Work of equal value requires education at the same level, including professional qualifications, abilities, working conditions, and output. Employees are entitled to compensation of damage in the amount of the unpaid portion of their salary in the event that this right is violated.

Therefore, regardless of gender, age, or any other personal characteristic, all employees are guaranteed equal pay.

Additionally, the provisions of the labor legislation do not recognize a different treatment when it comes to the age of engaged persons regarding atypical employment contracts (part-time employment contracts, fixed-term employment contracts, fixed-term employment contracts within the duration of the project, fixed-term employment contracts for performing seasonal work, apprentice employment contracts, and contracts on temporary and occasional jobs). The equal wage principle also applies in this situation.



An apprentice employment contract is a contract with a person who forms an employment relationship for the first time at a specific educational level, that is, the qualification of the educational level or professional qualification. For the purpose of preparing an employee for independent performance of work and job tasks in accordance with the legislation and the collective bargaining agreement, the employer may enter into the apprentice employment contract for a specific amount of time. According to current law, the apprentice's pay cannot be less than 80% of the base pay for the job to which he is assigned throughout the reference period. Given that it comes to a person who establishes an employment relationship for the first time with a certain level of professional education or educational qualification, these are most often younger people who acquire the level of school education after reaching the age of 17 or 18, i.e. after completing secondary education and exceptionally at the age of 15 after completing compulsory primary education.

For education levels VI and VII (tertiary education), an apprenticeship lasts nine months; for lower education levels, it lasts six months.

The labor legislation of Montenegro does not recognize zero-hours contracts, employment contracts on platforms or in the GIG economy, or any other similar arrangements.

*b) Please provide information on measures taken to ensure that this right is effectively enforced (e.g., through Labour Inspectorates and similar enforcement authorities, trade unions)*

**REPLY:**

Supervision over the application of the Labor Law, i.e. the above-mentioned provisions, is carried out by the Directorate for Inspection Affairs through the Department for Labor Inspection. During the inspections, labor inspectors inspect the employment contracts of minors, control decisions on working hours and shift schedules, and in this regard check whether minors have guaranteed daily and weekly rest, and whether they are exempt from night work.

*c) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The minimum wage was raised from 250.00 to 450.00 in the net amount and is now in effect as of January 1, 2022, thanks to changes to the Labor Law that the Montenegrin Parliament approved on December 31, 2021.

In December 2021, the average gross monthly wage in Montenegro was 802 euros, while the average net monthly wage was 537 euros.

According to this law, the collective bargaining agreement, and the employment contract, an employee has the right to a minimum wage for standard job performance and full-time hours, for time that is equivalent to full-time work.

Equal pay for similar work or work of equal value is also guaranteed to the employee. Work that has the same value requires education at the same level, including professional qualifications, abilities, working conditions, and output.

Employees are entitled to compensation of damage in the amount of the unpaid portion of their salary in the event that this right is violated.

The aforementioned rules make it abundantly obvious that all employees, regardless of age, are entitled to a minimum wage for standard work performance and full-time hours, as well as the guarantee that all employees, regardless of age, are entitled to equal pay. The Labor Law forbids both direct and indirect discrimination against job applicants and workers based on factors like age, among others.

According to Labor Law Article 46, an employer can enter into a fixed-term employment contract with a person who establishes an employment relationship for the first time with a particular level of education, i.e., educational qualification level or professional qualification in the capacity of an intern, for the purpose of training for independent performance of work and work tasks in accordance with the law.

The internship period lasts, unless otherwise provided for:

- 1) nine months for education levels VI and VII; and
- 2) six months for other qualification levels.

In the event of a temporary inability to work owing to health care and health insurance requirements, as well as maternity, parental, adoptive, and foster care leave, the internship will be extended.

This clause only applies to people who create their first employment relationship at a specified level of education, it should be highlighted. Therefore, regardless of age, the same clause is applicable to all apprentices, even if in practice, young employees—those who have just finished their secondary and higher education—make up the majority of them. It is vital to define the term apprentice in order to comprehend this institute better. An apprentice is a person who first forms an employment relationship for the aim of preparing for independent work, not someone who forms an employment relationship for the first time. Therefore, an apprentice can be a person who was previously employed but with a different level of education. This contract is unique in that its main objective—rather than generating income—is to prepare the employee for independent work. This is also one of the reasons that the length of this contract is set at six or nine months, depending on the level of education, and that there is an option to pay less than what is typically paid to employees at the workplace where the trainee is receiving training (e.g., 80% of the salary for the relevant job group).

**7. to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;**

*If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee earlier came to the conclusion that Montenegro's situation complies with Article 7, Paragraph 7 of the Charter and made a request for more information.

According to the Labor Law, an employee is entitled to a paid vacation. The right to vacation cannot be denied or waived by an employee. Other than in the event of termination of employment, the right to annual leave cannot be substituted by monetary compensation.

Temporary inability to work due to illness, maintenance of pregnancy, paid leave, maternity, parental, adoptive and foster care leave, rest on national and religious holidays and absence due to responding to the call of state authorities are considered time spent at work for acquiring the right to use annual leave.

A worker under the age of 18 is entitled to at least 24 working days of paid vacation.

Two job groups are under the control of the Labor Inspectorate: the job group for occupational health and safety and the job group for labor relations and employment. There are 53 systematized jobs in 2021, including the head inspector, of which 37 in the area of labor relations and 16 positions in the area of occupational health and safety. There are 44 inspectors in total, 33 of whom work in the field of labor relations (11 men and 22 women, including the chief inspector; all have law degrees), and 11 in the field of occupational safety and health (three men and eight women, all graduates of engineering with a variety of technical and technological professions). 14 of the total engaged labor inspectors are based in Podgorica, with the remaining inspectors being stationed in other cities.

The Labor Inspectorate will continue to keep an eye on how paid annual leave for employees under the age of 18 is actually being used in the future. No instances of non-compliance with this legislative requirement have been reported. Given that a sizable portion of workers are still employed without an employment contract or without enrolling in social security, and that most employers routinely engage in illegal overtime work, 25 labor inspectors could not act in regards to the exercise of these rights of employees through regular supervision. This is particularly true in light of the numerous initiatives that workers submitted to the inspectorate for inspection oversight. The inspectors prioritized the implementation of initiatives and carried out supervision regarding specific violations of the law that were pointed out by the submitters of the initiative. All inspectors are lawyers who have obtained the necessary job experience, shown an admirable level of knowledge and enthusiasm, and go through training aimed at obtaining a professional education.

**8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;**

*If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee earlier came to the conclusion that Montenegro's situation complies with Article 7, Paragraph 8 of the Charter and made a request for more details.

An employee under the age of 18 cannot be required to work overtime, that is, more than eight hours a day, or at night, in accordance with the Labor Law (Article 120 paragraph 4). Because of this, it is prohibited to schedule labor for those who are under the age of 18 from 10:00 pm to 6:00 am.

If a legal entity does not offer employee protection in accordance with Article 120, it will be penalized between EUR 2,000 and EUR 20,000.

The labor inspectorate found no instances of workers under the age of 18 working at night in violation of the law, and there were no citizen appeals to the inspection, which would suggest that there is a suspicion that the aforementioned group of people works at night. Given that a sizable portion of workers are still employed without an employment contract or without enrolling in social security, and that most employers routinely engage in illegal overtime work, 25 labor inspectors could not act in regards to the exercise of these rights of employees through regular supervision. This is particularly true in light of the numerous initiatives that employees submitted to the inspectorate for inspection oversight. The inspectors prioritized the implementation of initiatives and carried out supervision regarding specific violations of the law that were pointed out by the submitters of the initiative. All inspectors are lawyers who have obtained the necessary job experience, shown an admirable level of knowledge and enthusiasm, and go through training aimed at obtaining a professional education.

**9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;**

*If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

Because Montenegro's laws do not mandate frequent medical exams for those under the age of 18, the Committee previously came to the conclusion that the country does not comply with Article 7 paragraph 9 of the Charter.

The Labor Law also specifies general requirements for establishing employment contracts, including a minimum age requirement of 15 years old and a general health capacity.

If the work won't jeopardize the minor's health, development, morals, or education, or if it isn't illegal, parents, adoptive parents, foster parents, and guardians must approve in writing before an employment contract can be made with a person under 18 years of age.

Only on the basis of the conclusions of the appropriate health authority, which establishes his capacity to perform the work for which the employment contract is concluded and that such labor is not hazardous to his health, may a person under the age of 18 enter into an employment contract.

Article 20 of the Law on Health Care (Official Gazette of Montenegro Nos. 3/16, 39/16, 2/17, 44/18, 24/19, 82/20, 8/21 and 3/23) stipulates that:

"Measures of specific employee health protection provided by the employer in terms of labor regulations are:

- 1) preservation and improvement of health;
- 2) prevention and control of infectious diseases;
- 3) prevention and early detection of occupational and work-related diseases;
- 4) prevention of injuries at work;
- 5) medical examinations to determine work ability;
- 6) detection and suppression of risk factors for the occurrence of chronic non-communicable diseases;
- 7) protecting the health of employees who are exposed to an increased health risk at the workplace and preventing situations that cause that risk;
- 8) health protection of employees from the categories of vulnerable groups (young, old, migrants);
- 9) organization of first aid for employees;
- 10) health care of employees in relation to sexual and gender identity;
- 11) protection to prevent injuries from sharp objects for health workers who directly provide health care, as well as for other employees who can be injured by sharp objects.

Except as provided in paragraph 1 of this article, the state offers employees the first examination and check-ups by a physician with expertise in occupational medicine, as well as specialized medical care for business owners, employers with up to five employees, and people working in agriculture who are covered under the rules governing health insurance."

As a result, when it comes to the health care of employees, the Law on Health Care does not make a distinction between minors and adults; instead, it applies to all employees equally.

## **Article 8 – The right of employed women to protection of maternity**

**Article 8 - With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:**

**1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks;**

*a) Please provide information whether the Covid-19 crisis had an impact of on the right to paid maternity leave (in particular whether all employed women concerned – in the private as in the public sector - continue to receive at least 70% of their salary during the whole length of the compulsory maternity leave during the Covid-19 crisis).*

**REPLY:**

The Labor Law (Article 130 paragraph 1) stipulates that during the use of the right to maternity leave, parental leave, leave for adoption of a child and leave of a foster parent, the employees have all the rights from the employment relationship as they had before the start of the use of that leave, as well as all rights to improvements in working conditions to which they would be entitled during their absence.

This Article protects employees who take adoption or foster care leave both while exercising the aforementioned rights and once they return to work. It also protects parents while they take advantage of their rights to maternity and parental leave.

Employees enjoy full rights from the employment relationship while exercising these rights as prior to taking maternity, parental, adoption, or foster care leave. This clause also states that the employee will be entitled to better working conditions than those he would have had if he hadn't exercised his right to leave. For instance, if the coefficients used to determine salary are increased, the employee who is away from work as a result of the utilization of these rights will also be affected. On the other hand, if the working conditions deteriorated in any manner, the employee who is taking a leave would not be subject to the consequences. For instance, if the pays of the employees are decreased, the employees using the aforementioned leaves cannot have their wages reduced both while on leave and right away after returning.

According to the Labor Law's Article 130, paragraph 2, an employee who is taking advantage of their right to maternity leave, parental leave, leave for adopting a child, or leave to be a foster parent is entitled to wage compensation, which cannot be less than the wage compensation in the event of a temporary inability to work due to pregnancy. The law and required health insurance stipulate situations where employees are entitled to compensation of wages in the amount of 100% of the basis, including the case of pregnancy maintenance. The average of the employee's basic income—that is, the wage compensation—earned over

the 12 months prior to the month in which she/he began taking one of the aforementioned leaves serves as the basis for calculating wage compensation.

Additionally, Article 102 specifies wage compensation. In particular, the right to wage compensation, like the right to salary, belongs to the employee in lieu of salary in situations where the employee is absent from work for a justified reason. The use of leave designed to balance professional and family obligations (maternity leave, parental, adoptive, and foster care leave, and leave for child care) is one of the legitimate reasons listed in paragraph 1 of Article 102 for which the employee will be entitled to wage compensation in the amount determined by the collective agreement and the employment contract for the time of absence from work.

According to the rules governing social and child protection, the employer is entitled to a refund of funds based on the payment of the employee's wage compensation during the use of maternity, parental, adoption, and foster care leave.

The right to paid maternity leave was unaffected by the Covid-19 crisis because the epidemic did not result in any changes to or repeals of the existing laws controlling this matter. Every working woman in the private and public sectors is entitled to wage compensation in the amount of 100% of the compensation basis during the whole time of required maternity leave, as well as during parental leave and leave for the purpose of adoption.

The labor inspectorate did not receive information during the Covid-19 outbreak or determine in its routine checks that the crisis affected the full amount of earnings provided to new mothers as required by law.

*b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee previously concluded that the situation in Montenegro is in accordance with Article 8, Paragraph 1 of the Charter.

**2. to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;**

*a) Please provide information:*

*i) whether the Covid-19 crisis had an impact on the possibility of dismissing pregnant employees and employees on maternity leave and*

*ii) whether there were any exceptions to the prohibition of dismissal during pregnancy and maternity leave during the pandemic.*

## REPLY:

According to Labor Law's Article 123, Paragraph 1, an employer cannot terminate an employee's employment while she is pregnant or while she is taking parental or maternity leave. In paragraph 2 of this article, there is a special exception that refers to the termination of a woman's employment during pregnancy, that is, the use of the right to maternity or parental leave. Namely, a woman's employment can be terminated for reasons that cannot be related to pregnancy or the exercise of any of the mentioned rights, but this possibility is limited by two more conditions, namely:

- the employment relationship may be terminated due to a serious breach of the employment obligation or due to the existence of one of the reasons related to the termination of the employment relationship under the force of law provided for in Article 164 of the Labor Law, except for termination of fixed term employment contract;

- The employer must describe the specific reasons for the dismissal in writing. This means that in addition to the customary justification, the employer must "specially justify" the decision when terminating a woman's employment while she is pregnant. To do this, the employer must specifically explain how the conditions for the termination of the employment were met while keeping in mind the special protection of women during pregnancy and the use of the right to maternity and parental leave.

Given that the aforementioned categories of employees are not present at work, it is difficult to apply any of the reasons for individual dismissal in practice, which makes the prohibition on terminating employment contracts due to the use of maternity and parental leave primarily refer to collective dismissal. For both parents who take use of their entitlement to maternity and paternity leave as well as for working women who are pregnant, the prohibition against firing employees also applies in cases where a worker is declared redundant, or whose employment is no longer required.

Additionally, according to paragraph 5 of this article of the Labor Law, if an employed woman's employment contract expires while she is pregnant or using her parental leave or maternity leave benefits, the period for which the employment relationship was established under the contract for a fixed period of time is extended until the right to absence has expired. Here, it is understood that both parents have the right to protection if their employment contract expires during the course of taking advantage of their parental or maternity leave, with the duration of the contract being extended until the conclusion of the parental or maternity leave. Additionally, the intern's employment agreement, or internship, is prolonged throughout maternity and paternity leave.

The aforementioned Labor Law clauses were all fully applicable during the Covid 19 outbreak. The option of terminating on pregnant workers and those on maternity leave was unaffected by the Covid-19, according to the Labor Inspectorate, which is to be expected given that the state reimburses employers' salary costs for the aforementioned categories of workers. The



possible illegal dismissal of expectant women and new mothers was not the subject of any specific reports filed with the labor inspectorate.

*b) If the previous conclusion was one of non-conformity, please explain whether and how the non-conformity was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee previously concluded that the situation in Montenegro is in accordance with Article 8 paragraph 2 of the Charter and requested additional information regarding specific examples of compensation awarded in cases of illegal dismissal of workers who were pregnant or on maternity leave.

When it comes to specific examples of compensation awarded in cases of illegal dismissal to employed women who are pregnant or on maternity leave, we point out that the information system in the judiciary does not recognize the different bases of compensation for damages from the employment relationship. Also, the current information system does not support the differentiation of disputes in relation to the plaintiff's gender.

**3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;**

*If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee previously concluded that the situation in Montenegro is in accordance with Article 8 paragraph 3 of the Charter.

**4. to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;**

*a) Please provide updated information to confirm that no loss of pay results from the changes in the working conditions or reassignment to a different post and that in case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave.*

**REPLY:**

The Labor Law states that the employer must offer temporary assignment to other suitable jobs to a pregnant employee or while nursing a child and who works in jobs that may endanger her life and health, that is, that may endanger the life and health of the child and the unborn child, based on the findings and recommendations of the qualified medical doctor.

An employed woman who is temporarily transferred to another position retains all of her rights under the employment arrangement she had prior to the temporary transfer.

The employed woman has the right to paid leave in accordance with the collective agreement, which cannot be less than the compensation that the employee would have received if she were at her work place, if the employer is unable to provide transfer to another suitable job in this situation and in the doctor's opinion, performing the duties of her workplace may endanger her health or the health of her child or the unborn child.

As a result, 100% of the compensation basis is provided as wage compensation in this instance.

It should be noted that the Rulebook on Occupational Health and Safety Measures in the Working Environment (Official Gazette of Montenegro, No. 104/20), requires the employer to take precautions to ensure that women who are pregnant, new mothers, and nursing mothers are not exposed to hazardous materials, working practices, and working conditions if the risk assessment shows an unacceptable risk for her health and the health of the child. The Rulebook details the physical, biological, and chemical substances as well as the working environments that pregnant women, new mothers, and nursing mothers must not be subjected to.

Additionally, night work is not permitted for pregnant employees, new mothers, or nursing mothers.

Women who are pregnant or who have children under the age of three are not permitted to work overtime, nor even at night.

A working woman who has a child older than two years is only permitted to work at night if she expressly consents to it in writing.

An employer who has a contract with an employee for performing tasks that require night work must assign the pregnant employee, new mother, or nursing employee to perform tasks outside of night work that are appropriate for her level of education, that is, the level of qualifications and work ability.

If the employer is unable to offer the deployment, it is required by law to give her a paid leave with wage compensation that cannot be less than the wage provided in the event of a temporary inability to work due to pregnancy maintenance.

If a child has a developmental disability, one of the parents, adoptive parents, guardians, or foster parents, as well as a single parent who has a child under the age of seven, may work overtime, or at night, only with written consent.

The labor inspectorate did not identify any irregularities in the application of the aforementioned regulations during the reporting period.

*b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee previously concluded that the situation in Montenegro is in accordance with Article 8, Paragraph 4 of the Charter until additional information is received.

The requested information is contained in the reply to the previous question.

**5. to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women.**

*a) Please provide updated information to confirm that no loss of pay results from the changes in the working conditions or reassignment to a different post and that the women concerned retain the right to return to their previous employment at the end of the protected period.*

**REPLY:**

According to Article 124 of the Labor Law, an employer must, based on the findings and recommendations of a qualified medical doctor, temporarily assign a pregnant woman and a woman who is nursing a child to other jobs, if doing so will preserve her health or the health of her child with the exercise of the right to earnings in the same amount as before deployment, as well as the exercise of other rights from the employment relationship in full. The working woman has the right to paid leave, with the condition that the wage compensation cannot be less than the wage that the employee would have received if she had been at work, if the employer is unable to offer her such a deployment. As a result, 100% of the compensation basis is provided as wage compensation in this instance.

The employer is required to offer the employee a return to the same or a suitable job with at least the same wage in the event of termination of use, such as the expiration of maternity, parental, or leave for the purpose of adopting a child.

*b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee previously concluded that the situation in Montenegro is in accordance with Article 8 paragraph 5 of the Charter.

### **Article 16 – The right of the family to social, legal and economic protection**

**Article 16 - With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means**

*a) Please provide updated information on measures taken to reduce all forms of domestic violence against women including information on incidence and conviction rates.*

#### **REPLY:**

The Montenegrin Constitution is the main source of protection against domestic violence and violence against women, with applicable regulations, strategic plans, and recognized international human rights treaties following. One of the first nations to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence is Montenegro (Istanbul Convention). By ratifying the Convention, Montenegro took on a number of responsibilities, including the protection of women from all forms of violence and prevention, the investigation and eradication of domestic violence and violence against women, the contribution to the eradication of all forms of discrimination against women, and the enhancement of international cooperation with regard to the eradication of domestic violence and violence against women.

A new 2016 - 2020 Domestic Violence Prevention Strategy was adopted at the start of 2016. Five goals in all were defined in accordance with the challenges and requirements. A system of indicators has been constructed in relation to all objectives and activities that is in compliance with the norms and guidelines outlined, first and foremost, by the Istanbul Convention, CEDAW, and the UN Convention on the Rights of the Child. The main objectives are: a strengthened administrative and professional framework, a multidisciplinary approach to the implementation of regulations in the area of domestic violence protection, an elevated level of public awareness of violence against women and domestic violence, a strengthened institutional system of protection against domestic violence, and improved access to justice and legal protection against domestic violence.

In parallel, Montenegro started a social and child protection reform that regulated the case management procedure for response to domestic violence and other forms of violence against women.

A new Protocol on handling, prevention, and protection from violence against women and domestic violence was developed as part of the program Support to Anti-Discrimination and Gender Equality Policies, implemented by UNDP in collaboration with the Ministry of Human and Minority Rights and funded by the European Union. The Protocol's drafting process started in the second quarter of 2018 when UNDP hired a foreign expert, who worked with the Ministry of Labor and Social Affairs to create the Protocol. The Protocol's primary objectives are: implementing the Istanbul Convention into institutions' and organizations' routine operations in order to effectively and quickly protect victims of violence; facilitating data and information exchange between pertinent institutions and organizations via information systems; and harmonizing data collection practices at said institutions and organizations in order to create a single database. The Protocol on handling, prevention, and protection from violence against women and domestic violence, signed on September 28, 2018, took effect on January 1, 2019.

A coordination committee was set up by the Montenegrin government in 2021 for the purpose of coordinating, implementing, monitoring, and evaluating the various programs and initiatives designed to prevent and address all of the kinds of violence included by the Istanbul Convention. The Committee discussed changing the Criminal Code of Montenegro's section on domestic violence during its deliberations. The requests tended to increase punishments while also separating criminal offenses from misdemeanors. Two national plans—the National Plan for the Improvement of General Support Services for Victims of Violence and the 2019–2021 National Plan for the Improvement of Specialized Support Services for Victims of Violence—were adopted in accordance with the Istanbul Convention and the 2016–2020 Domestic Violence Protection Strategy.

The Action Plan for monitoring the implementation of the GREVIO Committee's recommendations and the implementation of actions and activities from this Action Plan was adopted in the first quarter of 2020. The aforementioned Coordination Committee keeps an eye on both the Action Plan and the National Plans.

The Ministry of the Interior established an Operational Team in addition to the Coordination Committee to address domestic violence and violence against women. The Council for Citizen Control of Police Work, the Ministry of Finance and Social Welfare, the Ministry of Health, the State Prosecutor's Office, the Supreme Court, the High Court for Misdemeanors, as well as specialized non-governmental organizations that support victims of violence are present in addition to the MoI and Police Directorate officers.

The Operational Team's responsibility is to evaluate current practices in light of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and national laws. Through the analysis of representative cases and pertinent reports, information, and opinions, the Operational Team aims to establish additional guidelines and initiatives for deliberate changes in public policies and institutional practice in the area of prevention and protection from all forms of domestic violence and violence against women, covered by the Convention, including cases of arranged child marriages, with a special, primary focus on the actions and work of the Police

Directorate. The team operates under the guiding principles of improving cooperation and developing a distinctive procedure, with the goal to influence and start changes in the weak links in the chain of acting institutions.

The Operational Team took proactive action in its job and started a number of initiatives that helped to improve the situation overall. They recommended and provided answers to concrete, specific instances based on the analyses that were done, and gave instructions for various local and state authorities' activities. The Operational Team was incorporated into the language of the Protocol on handling, prevention, and protection from violence against women and domestic violence based on the work completed thus far and the outcomes obtained. According to the aforementioned Protocol, if multidisciplinary teams created by the Law on Protection against Domestic Violence are unable to successfully resolve a particular case, they may turn to the Operational Team. This is because they are acknowledged as an extremely significant and effective body in the system of protection against violence.

The National Document for the Implementation of the Istanbul Convention was started to be drafted towards the end of 2020. The aforementioned paper, for which UNDP in Montenegro hired a specialist, is meant to replace the 2016-2020 Domestic Violence Protection Strategy. In order to guarantee that all institutions take part in implementing the Convention, it is significant to stress that this document will not only be a paper of the Ministry of Finance and Social Welfare but also a national document. The paper will be adopted in the first quarter of 2023. Through the establishment of new services, training, and awareness-raising initiatives, the National Plan for the Implementation of the Istanbul Convention will give a special emphasis on members of the Roma and Egyptian populations, women with disabilities, and women living in rural regions.

Services and general support services are offered in Montenegro via the police, health care system, and social and child protection system. Women's non-governmental organizations offer specialized support services, as acknowledged by the Istanbul Convention, and the majority of their funding comes from donations. In order to ensure a high-quality service and to integrate NGOs into the social protection system, the Ministry of Labor and Social Welfare requires licensed providers of housing assistance for victims of violence. The process for licensing service providers in the social and child protection system is outlined in the Law on Social and Child Protection ("Official Gazette of Montenegro", No. 27/13, 1/15, 42/15, 56/16, 66/16, 1/17, 31/17 - Decision of the Constitutional Court of Montenegro, No. 42/ 2017, 50/2017, 59/2021, 145/2021-I, 145/2021-II). Furthermore, it stipulates that professionals working for service providers must pass a professional exam and obtain a work license. The Commission for taking the professional exam in social and child protection was established by the Ministry of Labor and Social Welfare, and the exams were organized beginning on October 30, 2017.

The Covid-19 virus epidemic outbreak in Montenegro in March 2020, and it was highlighted that domestic violence and violence against women often rise during emergencies.

The Ministry of Labor and Social Welfare, the Directorate for Social and Child Protection, along with its permanent partner, UNDP in Montenegro, developed a Crisis Action Plan for

providers of specialized services for victims of violence in accordance with the Istanbul Convention in order for the state to assist victims of domestic violence in the best possible way. The state and non-governmental organizations that offer specialized support services for victims of violence against women and domestic violence have collaborated to create this Crisis Action Plan. The Crisis Action Plan, in our opinion, is very important and has to be further developed.

Since its launch on May 23, 2019, the database for domestic violence has been a reliable component of the capital project Social Record - Integrated Information Social Welfare System (IISSS).

Since then, notifications from the Police Directorate (Mol) and reports of domestic violence from centers for social work (MFSW) have been shared in an automatic, consistent way using a predetermined set of data.

Managers at the centers for social work automatically receive an email notification about every report of violence, and the automatic creation of the document date and its submission by representatives of both departments are both ensured.

Managers and case managers involved in domestic violence cases in centers for social work can readily track these cases, measures taken, and activities thanks to the Social Record application's particular section on domestic violence. Managers in centers for social work could quickly and easily obtain a large set of data from that particular IISSS module, SWIS BI (Business intelligence), which was crucial for monitoring cases (such as those involving domestic violence that was repeated or cases involving children, including the age of the children, their level of risk, the nature of the violence, etc.). We will attempt to include the courts, the prosecutor's office, and accredited NGOs with the aid of the greatest IT specialists. In Montenegro, there are three approved shelters, and one short-term shelter for up to 7 days, which in theory satisfies Montenegro's requirement to have one center-shelter for every 200,000 residents.

The NGO "SOS for women and children victims of violence-Nikšić" Emergency phone administers the National SOS line for victims of domestic violence (NSOSL) and is available twenty-four hours a day, seven days a week. The aid and support service's activity is similarly structured inside the NSOSL in Albanian. Since 2015, this national telephone line has been operational.

*b) For States Parties not having accepted Article 31, please provide updated information on the availability of adequate affordable housing for families.*

**REPLY:**

There is no right to affordable housing for families in the Law on Social and Child Protection. According to the Law on Social Housing ("Official Gazette of Montenegro", No. 35/13) which specifies the authority of local self-governments, social housing is defined as housing of an

appropriate standard provided to individuals or households who, for social, economic, or other reasons, cannot resolve the issue of housing.

According to this law, natural persons who do not own an apartment or other type of housing facility (hereinafter, “residential facility”) or whose residential facility does not meet acceptable standards and who are unable to provide a residential facility with the income they generate may exercise their right to social housing. If satisfying the requirements set forth by this legislation, a Montenegrin citizen who resides on Montenegro’s territory may exercise the right. A foreign citizen and a stateless individual whose status has been resolved in line with the law or an international agreement may exercise the right.

Priority is given to the following groups when utilizing the right to social housing under this law: single parents, or guardians, people with disabilities, people over the age of 67, young adults who were children without parental care, families with children who have developmental disabilities, members of the Roma and Egyptian (RE population), people who are displaced, people who are internally displaced from Kosovo and are living in Montenegro, foreigners with permanent residence, or temporary residence who had the recognized status of a displaced person or an internally displaced person and a victim of domestic violence.

*c) Are family or child benefits provided subject to a means-test? If so, what is the percentage of families covered?*

**REPLY:**

The family benefit, which is obtained based on standards relating to the income and property of family members, can be thought of as financial assistance in the context of social and child protection. Families in which every member is unable to work and single parents whose eligibility can be determined even though they don’t fulfill the required standards on the recommendation of the center for social work’s commissions are exceptions. 6,307 families made advantage of their entitlement to financial assistance in November 2022. According to the most recent statistics data, 192,242 homes were registered in Montenegro, meaning that 3.281% of families use financial assistance. There are 3.3 people in the typical Montenegrin family.

Child benefit, utilized by children up to the age of 18, is a fundamental entitlement under child protection, and around 112,000 of them were registered without first determining their parents’ financial position.

Around 12,000 children who receive financial assistance, children who use the allowance for care and assistance, children who utilize their right to personal disability allowance, children without parental care, and children whose parent, who receives financial assistance, has established an employment relationship based on an agreement on actively resolving a disadvantageous social situation for nine months from employment, are categorized in a special group of beneficiaries.



Out of the entire 140,000 children who were registered, approximately 124,000 were beneficiaries.

d) Please provide information about the amounts paid in child/family benefit as well as the median equivalised income for the reference period.

**REPLY:**

OVERVIEW OF PAYMENTS FOR CHILD BENEFIT AND FINANCIAL ASSISTANCE BY YEAR					
TYPE OF FINANCIAL ASSISTANCE	YEARS				
	2018	2019	2020	2021	
CHILD BENEFIT	4,623,418.19	4,540,500.39	4,502,654.36	4,910,303.92	7,063,433.92
CHILD BENEFIT 0-6 YEARS				2,153,130.00	
FINANCIAL ASSISTANCE	10,926,991.07	10,352,602.07	10,044,968.54	9,561,586.16	
TOTAL:	15,550,409.26	14,893,102.46	14,547,622.90	16,625,020.08	

OVERVIEW OF THE AVERAGE NUMBER OF BENEFICIARIES AND THE TOTAL FUNDS PAID FOR CHILD BENEFITS BY YEAR			
TYPE OF FINANCIAL ASSISTANCE	YEAR 2018		
	average number of rights holders	average number of children	the total amount paid on an annual basis
CHILD BENEFIT	7,590	14,903	4,623,418.19
CHILD BENEFIT 0-6 YEARS			

TYPE OF FINANCIAL ASSISTANCE	YEAR 2019		
	average number of rights holders	average number of children	the total amount paid on an annual basis

CHILD BENEFIT	7,383	14,483	4,540,500.39
CHILD BENEFIT 0-6 YEARS			

TYPE OF FINANCIAL ASSISTANCE	YEAR 2019		
	average number of rights holders	average number of children	the total amount paid on an annual basis
CHILD BENEFIT	7,383	14,483	4,540,500.39
CHILD BENEFIT 0-6 YEARS			

TYPE OF FINANCIAL ASSISTANCE	YEAR 2021			
	total amount paid on an annual basis	average number of rights holders	average number of children	the total amount paid on an annual basis
CHILD BENEFIT	4,623,418.19	7,064	13,677	4,910,303.92
CHILD BENEFIT 0-6 YEARS		27,086	35,800	2,153,130.00
TOTAL:				7,063,433.92

OVERVIEW OF THE AVERAGE NUMBER OF BENEFICIARIES AND THE TOTAL PAYABLE FUNDS OF FINANCIAL ASSISTANCE BY YEAR		
YEAR 2018		
average number of families	average number of family members	total amount paid on an annual basis
9,311	31,003	10,926,991.07
YEAR 2019		

average number of families	average number of family members	total amount paid on an annual basis
8,827	29,619	10,352,602.07
YEAR 2020		
average number of families	average number of family members	total amount paid on an annual basis
8,527	28,764	10,044,968.54
YEAR 2021		
average number of families	average number of family members	total amount paid on an annual basis
8,037	27,284	9,561,586.16

**When it comes to individual amounts, the amount of financial assistance for an individual was monthly:**

<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
76.56 Euro	68.58 Euro	68.03 Euro	67.62 Euro

**The monthly child benefit was:**

				In EUR
	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
- until the age of 6	30.00	-----	-----	-----
- beneficiaries of financial assistance	48.55	24.66	24.46	24.31
- whose parent, adoptive parent, guardian, foster parent, as a beneficiary of financial assistance, established an employment relationship on the basis of an agreement on actively overcoming an unfavorable social situation	48.55	24.66	24.46	24.31
- beneficiaries of the care and assistance allowance	57.37	33.19	32.93	32.73
- beneficiaries of personal disability benefits	66.20	41.18	40.86	40.62
- without parental care	66.20	41.18	40.86	40.62

It is clear that the harmonization percentages were low, but they were the result of the implementation of Articles 38 and 58 of the Law on Social and Child Protection, which state

that adjustments are made semi-annually with the movement of the cost of living and the average salary of employees in the territory of Montenegro based on statistical data for the previous half-year in a percentage that represents the sum of half the percentage of the increase in the cost of living and half the percentage of the increase in wages.

Higher compensation levels can only be decided in this regard by revising the law governing compensation increases or by amending the aforementioned sections of the law, which would create a new method of harmonising compensation.

The average annual equivalent disposable income in 2019 was 4,241 euros, according to data from the Statistical Office of Montenegro (Monstat), while the median annual equivalent disposable income, also known as the mean value (median) of the equivalent disposable income in 2020, was 3,768 euros.

As the mean value (median) of equivalent disposable income in 2020, the median annual equivalent disposable income was EUR 3,911.

*e) Is there a length of residence requirement imposed on nationals of other States Parties lawfully resident in your country for eligibility to child/family benefits?*

**REPLY:**

The use of the right to family and child benefit for foreign citizens residing in our country is the same as for citizens of Montenegro. The exception is if the status they received in Montenegro under a special law ceases, and therefore their rights from social and child protection cease.

*f) What measures have been taken to ensure that vulnerable families can meet their energy needs, in order to ensure their right to adequate housing (which includes access to essential services)?*

**REPLY:**

In the area of social and child protection, the Program of the Government of Montenegro prescribes a measure of subsidizing monthly electricity bills for about 20,000 families and individuals who are in financial or health need. About 3 million euros are allocated annually for these purposes.

*g) If specific temporary measures were taken to financially support vulnerable families during the Covid-19 pandemic, will they or are they expected to they been maintained or withdrawn? If they have been withdrawn, what effect is this expected to have on vulnerable families?*

With the help of five packages of measures, the Montenegrin government quickly addressed the crisis. Three distinct packages of support for social protection were offered by the

government in 2020, with the first one being implemented on April 9—just three weeks after the first confirmed case in the nation was identified. Following that, there were two additional packages that offered social protection at about 35 million euros in April and July 2020. The Montenegrin social protection system was able to support current users swiftly, but it was unable to expand social aid to people who were further impoverished, vulnerable groups. The first aid package in 2020 included a one-time payment of 50 euros for recipients of financial assistance, while the third aid package included a payment of 200 euros.

As the year 2021 was also marked by a pandemic, in the fight against Covid-19, and in order to alleviate the difficult financial situation, the Government of Montenegro implemented a package of measures where a total of €826,300.00 was provided from the budget reserve in one-time assistance for beneficiaries of: financial assistance and beneficiaries of personal disability benefits. According to the Conclusion of the Government of Montenegro number: 07-398/2 of 28 January 2021, recipients of personal disability benefits received €50.00 in one-time cash assistance in February, while recipients of financial assistance received either €50.00 for families with one member or €100.00 for families with more members. 2,767 recipients of personal disability benefits received one-time assistance of €138,350.00, while 8,354 families receiving financial assistance were included in this package of measures and they were paid a total of €687,950.00. Institutions for social and child protection during that time allowed consumers access to rights and services in accordance with the policies set forth by the relevant authorities. Centers for social work could receive direct or computerized requests from citizens for the implementation of specific rights. In order to protect the users' health through the implementation of all epidemiological measures (vaccination, protective masks, etc.), a particular regime has been put in place in institutions that house users.

In addition to the aforementioned, the Committee for the distribution of a portion of the budget reserve funds granted financial support to residents in line with the expert report and the social worker's opinion. A Social voucher for purchases in supermarkets in the amounts of 30, 50, and 100 euros was implemented in September 2021. A total of 2,924 vouchers for a combined €180,540.00 were distributed. Through a media campaign that was run on the subject, the public was made aware of this new type of help for residents who are in need.

In order to increase child protection in 2021, it is mandated that all children aged 0 to 6 have the right to child allowance, regardless of their parents' financial situation, in addition to the already prescribed categories. As of 2021, 36,715 children had used this right, costing €2,153,130. Depending on the category of the child, the allowance ranged from €30 to €60.90 in 2021, with a total of €7,063,433.92 allotted for all child categories combined. In addition, the Law on Amendments to the Law on Social and Child Protection was adopted in December 2021 and stipulates that all children up to the age of 18 have the legal right to child allowance, with the application period beginning on October 1, 2022.

To protect jobs, the government implemented pay subsidies and offered one-time benefits to all officially registered unemployed people. Due to strict legal requirements designed to safeguard the new poor, the government was unable to horizontally expand existing

programs. Instead, it offered one-time assistance to everyone registered with the Employment Agency of Montenegro. The second package offered a one-time assistance of 50 euros to all officially registered unemployed people and another assistance of over 100 euros in January 2021.

Wage subsidies of 50% to 100% of an employee's pay were implemented as part of the first aid package and then expanded in order to promote the development of new jobs and protect employment. The sectors classified as threatened by the pandemic were enlarged using data on the turnover of the Tax Administration in January 2021, and subsidies were raised to offer a one-time 100 percent of the minimum gross salary.

*h) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee previously concluded that the situation in Montenegro is not in accordance with Article 16 of the Charter because it was not determined that the measures taken to solve the problem of domestic violence were sufficient and that family benefits do not cover a significant percentage of families.

**Legal protection of families**

**Rights and obligations, dispute resolution**

We note out that Article 291 of the Family Law ("Official Gazette of the Republic of Montenegro", Nos. 1/07, 53/16, and 76/20) states that community property is handled and disposed of by the spouses during the marriage jointly and consensually.

The same law's Article 292 provides that spouses may agree to have one of them manage and dispose of the entire community property or just a portion of it. The contract may solely cover management or only cover disposal. Management also involves disposal within the context of ordinary business, unless otherwise agreed.

The contract may mention any and all management and disposal tasks, merely routine management chores, or only certain tasks in particular.

The contract on management or disposal of community property may be terminated at any time by either spouse, with the exception of situations where doing so would manifestly harm the other spouse.

If no contract is achieved, the property of the spouses is divided equally, according to Article 294 of the same law.

The court will split the community property according to the contributions of each spouse upon request from a spouse who can demonstrate that his/her contribution to the acquisition of community property is clearly and considerably more than the contribution of the other spouse.

The court will consider a variety of factors when calculating each spouse's share, including each spouse's income and earnings, as well as the contributions made by each spouse to the other's work, household, and family, child care, as well as other types of work and cooperation in the management, upkeep, and growth of community property.

Inferring from this legal requirement that both the woman and the man must demonstrate their financial contributions to the acquisition of property, it can be said that there is no discrimination in this regard.

When it comes to the mediation process for resolving disputes between spouses, we draw attention to the fact that the Law on Mediation expired in 2020 after the adoption of the new Law on Alternative Dispute Resolution (Official Gazette of the Republic of Montenegro, No. 77/20), which stipulates under Article 12 that the party intending to initiate court proceedings must first get in touch with the Center for Alternative Dispute Resolution to try to resolve the dispute by mediation.

Regarding the resolution of disputes through mediation, this Law harmonizes with the Family Law and the Law on Civil Procedure.

In order to obtain an understanding or an agreement between the spouses about the exercise of parental rights after divorce and an agreement on the division of community property, the court must order the parties to their initial mediation session, according to Article 326 of the Family Law.

In circumstances where there is a reasonable suspicion of domestic violence, the court will not order the parties to attend the initial mediation session as it would be useless, as an exemption to paragraph 1 of this article.

According to Article 329 of the Law on Civil Procedure, if the preliminary hearing was not held, the court must notify the parties of the possibility of resolving the dispute through mediation or other alternative dispute resolution methods at the first hearing for the main hearing.

The court will advise the parties to settle the dispute through mediation in line with the law governing alternative dispute resolution if it determines during the process that it may be satisfactorily resolved through mediation.

The court may decide to direct the parties to the initial meeting with the mediator in order to try to resolve the disagreement in the mediation procedure, up until the final end of the procedure, if it believes that it is warranted given the circumstances of the particular case.

The conciliation process is economical because there are no charges involved, and it is

optional for the spouses.

### **Domestic violence against women**

Measures to solve the problem of domestic violence

A Coordination Committee was set up by the Montenegrin government in 2021 for the purpose of coordinating, implementing, monitoring, and evaluating the various programs and initiatives designed to prevent and address all of the kinds of violence included by the Istanbul Convention. The Committee discussed changing the Criminal Code of Montenegro's section on domestic abuse during its deliberations. The requests tended to increase punishments while also separating criminal offenses from misdemeanors. Two national plans—the National Plan for the Improvement of General Support Services for Victims of Violence and the 2019–2021 National Plan for the Improvement of Specialized Support Services for Victims of Violence—were adopted in accordance with the Istanbul Convention and the 2016–2020 Domestic Violence Protection Strategy.

The Action Plan for monitoring the implementation of the GREVIO Committee's recommendations and the implementation of actions and activities from this Action Plan was adopted in the first quarter of 2020. The aforementioned Coordination Committee keeps an eye on both the Action Plan and the National Plans.

The Ministry of the Interior established an Operational Team in addition to the Coordination Committee to address domestic abuse and violence against women. The Council for Citizen Control of Police Work, the Ministry of Finance and Social Welfare, the Ministry of Health, the State Prosecutor's Office, the Supreme Court, the High Court for Misdemeanors, as well as specialized non-governmental organizations that support victims of violence are present in addition to the MoI and Police Directorate officers.

The Operational Team's responsibility is to evaluate current practices in light of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and national laws. Through the analysis of representative cases and pertinent reports, information, and opinions, the Operational Team aims to establish additional guidelines and initiatives for deliberate changes in public policies and institutional practice in the area of prevention and protection from all forms of domestic violence and violence against women, covered by the Convention, including cases of arranged child marriages, with a special, primary focus on the actions and work of the Police Directorate. The team operates under the guiding principles of improving cooperation and developing a distinctive procedure, with the goal to influence and start changes in the weak links in the chain of acting institutions.

The Operational Team took proactive action in its job and started a number of initiatives that helped to improve the situation overall. They recommended and provided answers to concrete, specific cases based on the analyses that were done, and gave instructions for various local and state authorities' activities. The Operational Team was incorporated into the language of the Protocol on handling, prevention, and protection from violence against



women and domestic violence based on the work completed thus far and the outcomes obtained. According to the aforementioned Protocol, if multidisciplinary teams created by the Law on Protection against Domestic Violence are unable to successfully resolve a particular case, they may turn to the Operational Team. This is because they are acknowledged as an extremely significant and effective body in the system of protection against violence.

Services and general support services are offered in Montenegro via the police, health care system, and social and child protection system. Women's non-governmental organizations offer specialized support services, as acknowledged by the Istanbul Convention, and the majority of their funding comes from donations. In order to ensure a high-quality service and to integrate NGOs into the social protection system, the Ministry of Labor and Social Welfare requires licensed providers of housing assistance for victims of abuse.

There are two licensed service providers for children and two licensed service providers for adults and the elderly who provide the SOS telephone service to children and adults who are victims or witnesses of violence, gender-based violence, domestic violence, and exploitation or who are at risk of becoming victims.

There are three shelters in Podgorica, Nikšić, and Bijelo Polje that provide long-term housing (for a maximum of 12 months) for adults and elderly people who are victims, witnesses of violence, gender-based violence, domestic violence, and exploitation or who are at risk of becoming victims. In Bijela, long-term housing in a shelter is offered to children who are victims, witnesses, or at-risk victims of abuse, gender-based violence, domestic violence, and exploitation. Additionally, Podgorica offers the service of providing temporary housing in a shelter (for a maximum of 7 days) for adults and elderly individuals who are victims, witnesses, or at-risk of becoming victims of violence, gender-based violence, domestic violence, and exploitation.

Montenegro was given a number of compliments during the Committee of Member States of the Istanbul Convention meeting on June 8, 2022 in Strasbourg, but it also received a number of new recommendations that it must report on by 2024. The improvements in services for Egyptian and Roma women, the nationalization of the Coordinating Body for the monitoring of the Istanbul Convention, the expansion of shelter services, and the creation of a shelter for rape victims are all mentioned in the recommendations.

It is first necessary to alter the current legal rules and laws and properly classify victims of violence in all legislation in order to implement the Istanbul Convention in Montenegro. The Law on Social and Child Protection and all by-laws will be amended in the upcoming time by the Ministry of Labor and Social Welfare in order to implement the policies and programs.

The Criminal Code and Criminal Procedure Code have been amended by the Ministry of Justice in accordance with the Istanbul Convention and the GREVIO Committee's recommendations. In particular, the definition of "family" was broadened to include partner and same-sex partner violence; new criminal offenses, such as "revenge pornography" and sexual harassment; and an expansion and harmonization of the criminal offenses of rape and genital mutilation with the Convention.

Through the establishment of new services, training, and awareness-raising initiatives, the National Plan for the Implementation of the Istanbul Convention will give a special emphasis on members of the Roma and Egyptian populations, women with disabilities, and women living in rural regions.

## **Social and economic protection of the family**

### **Facilities for child care**

30 private preschool institutions (PPU) and 21 state preschool institutions (JPU) make up Montenegro's network of preschool facilities. Larger cities like Podgorica, Budva, Bar, Tivat, Herceg Novi, Kotor, Nikšić, and Ulcinj are primarily where private preschools may be found. A total of 23,080 kids (47% girls and 53% boys) from birth to the start of primary school participated in EPE programs in 170 educational units and 778 groups throughout the 2019–2020 school year. When the 2016–2020 Early and Preschool Education Strategy started to be implemented in the 2015–2016 school year, 16,972 kids were divided up into 123 educational units and 575 educational groups. Based on these findings, it can be concluded that there was a consistent upward trend in both the number of children (by about 36%) and the capacity (the number of educational units increased by about 38% and the number of educational groups by about 35%) during the previous application period.

In Montenegro, 52% of all preschool-aged children (ages 0 to 6) were covered during the 2019–2020 academic year. In comparison to children aged 3 to primary school who attend kindergarten (approximately 77%), coverage was much higher than for those up to 3 years old who attend daycare centers (approximately 37%). Although significant progress was made in the previous period in terms of coverage (at an average rate of about 3 percentage points per year), it is still significantly lower than the average for 27 EU countries for children aged 4 to entering school in 2017 and the EU target for 2020 (95%).<sup>5</sup> As a result, the implementation of the previous strategy led to a major improvement in coverage, and in the future, we should continue to increase the capacity and coverage of children to match the coverage levels in EU nations.

The execution of the campaigns (“Everyone in Kindergarten”, “I’ll Shine in Kindergarten,” and “Every Falcon Goes to Kindergarten”) to educate parents and society about the value of EPE for young children’s development undoubtedly contributed to the growth of interest in including kids in EPE and, consequently, the proportion of children who are covered.

EPE employed 2,593 people during the 2019–2020 school year, of which 1,290 (or roughly 50%) were teachers, 572 (or roughly 22%) nurses, 49 (1.8%) professional associates, and 682 (or roughly 26%) administrative and support staff.

The Institute of Education issues licenses to all PU workers allowing them to work in educational facilities; these permits must be renewed every five years. The number of children to the number of professionals who work directly with children (teachers and nurses) is around 14.7 children to one specialist.

Ensuring fair access to high-quality EPE programs is vital for maintaining EPE quality. In order to increase the fairness of EPE, numerous initiatives aimed at assisting staff members and children from underrepresented groups were put into action during the previous period. The success of these initiatives is regularly monitored through collaboration and exchange of knowledge and best practices with staff members and kindergarten management. The Ministry of Labor and Social Welfare's coverage of the total costs for the stay and feeding of children with a referral decision, children from the Roma and Egyptian communities, families of financial assistance beneficiaries, and those without parental care, as well as the Ministry of Education's coverage of 50% of the cost for children of single parents, are both significant measures that helped increase the availability of EPE for children from vulnerable groups.

A new 2021–2025 Early and Preschool Education Strategy was adopted in order to guarantee equal opportunities for the early development of all children in Montenegro by improving the accessibility, quality, and fairness of EP:E.

## **Family benefits**

### **Equal access to family benefits**

We draw attention to Article 5 of the Law on Social and Child Protection, which states the following with regard to the requirement of the duration of stay of a person with temporary or permanent residence in terms of the right to family benefits:

“A Montenegrin citizen residing on state territory may exercise rights under this law.

A foreigner having an authorized temporary residence or permanent residence in the state may use the social and child protection rights outlined by this Law and the international agreement.

An asylum seeker and a foreigner under subsidiary protection may exercise their rights from social and child protection provided by this law and an international agreement in line with the Law.

In exceptional cases, a person who does not fall under the definitions of paragraphs 1, 2, and 3 of this article but who requires a suitable form of protection owing to unique circumstances and social risk has the right to a one-time financial aid and the service of temporary housing.”

This means that in order to enjoy the right to family benefits, one must be a resident of the state either temporarily or permanently. The Law on Social and Child Protection does not specify any requirements about the length of stay.

In addition, paragraph 4 of Article 5 of the Law on Social and Child Protection, which states that exceptionally an individual who is not covered by the terms of paragraphs 1, 2, and 3 of this Article and who, because of unique circumstances and social risk, needs an appropriate form of protection, has the right to a one-time financial aid and the right to a temporary housing service. This indicates that any foreign non-resident citizens who are lawfully present

on the territory of Montenegro and who are in a situation of social need are likewise subject to the aforementioned regulation.

### **Family benefits level**

In addition to the aforementioned listed categories, it is mandated that all children aged 0 to 6 years, regardless of their parents' financial position, are eligible to child benefit beginning in 2021 in order to promote child safety. There were 36,715 kids who used their entitlement, spending a total of €2,153,130. Depending on the category of the child, the allowance ranged from €30 to €60.90 in 2021, with a total of €7,063,433.92 allotted for all child categories combined. In addition, the Law on Amendments to the Law on Social and Child Protection was adopted in December 2021 and stipulates that all children up to the age of 18 have the legal right to child benefit, with the application period beginning on October 1, 2022. Around 85,000 children are anticipated to become new recipients of the children's allowance, for whom an annual allocation of €30,600,000.00 will be made.

According to Articles 38 and 58 of the Law on Social and Child Protection, financial benefits from social and child protection must be adjusted on a half-yearly basis based on the cost of living and the average wage of employees in the Montenegrin territory based on statistical data for the previous half-year in a percentage representing the sum of half the percentage of growth, that is, the cost of living decrease and half the percentage of wage growth.

Given that the minimum wage increased to €450.00 in January 2022 from the current €222.00, it is anticipated that financial benefits will increase by a greater percentage starting in July 2022 in accordance with Articles 38 and 58 of the Law on Social and Child Protection.

### **Protective measures for vulnerable families**

The third strategic document for the integration of Roma and Egyptians in Montenegro was titled "Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020" and was carried out through one-year action plans. The main objective of the Strategy was to increase the socioeconomic standing of Egyptians and Roma in Montenegro in order to achieve their complete social inclusion.

The Action Plans for the implementation of the Strategy defined and undertook concrete activities in a variety of areas (legal status, social status, and family protection (within which four sub-areas were defined, namely: fight against domestic violence and violence against women; prevention and suppression of begging; fight against human trafficking; and prevention of illegal child marriages), and the area of culture, identity, and information), in accordance with the aforementioned strategic goal. The goal of all the initiatives was to close the gap between the public as a whole and the members of the Roma and Egyptian community.

In addition to the competent departments who were in charge of carrying out specific operations, a significant contribution was made to the process of integrating members of the Roma and Egyptian populations between 2016 and 2020 by non-governmental organizations working to strengthen the position of members of the Roma and Egyptian populations as well as the Montenegrin Roma Council.

In February 2016, the Ministry of Human and Minority Rights for the purpose of drafting a 2016-2020 Strategy for the Social Inclusion of Roma and Egyptians in Montenegro carried out Survey on the Social Position and Social Inclusion of Roma and Egyptians in Montenegro 2016 (hereinafter: 2016 Survey). The purpose of the 2016 Survey was to determine the status and standard of living of Egyptian and Roma community members. The Ministry of Human and Minority Rights also conducted the Survey of the Socio-Economic Situation of Roma and Egyptians in Montenegro 2020 (hereinafter: 2020 Survey) in the middle of 2020 to ascertain whether the gap between Roma and the Egyptian community members and the rest of the population has been reduced, that is, to ascertain whether the Strategy's implementation has made progress in terms of the integration of the two groups.

The Regional Housing Program, which made a significant contribution to the closure of the Konik camp, the largest collective camp for displaced people in Montenegro, as well as other collective centers for the accommodation of displaced and internally displaced people, is responsible for the construction of housing units for members of the Roma and Egyptian communities. For members of the Roma and Egyptian communities in Podgorica, Nikšić, and Berane, 233 housing units were constructed through this program, housing more than 1,000 individuals. With the development of the aforementioned housing units, Camp Konik, the biggest collective camp in Montenegro, was shut down. The state's involvement in this initiative, through local self-governments and the Capital City, was the distribution of land for the construction of housing units and the establishment of basic infrastructure (water, sewage, poison). The HELP-Hilfe zur Selbsthilfe, with the assistance of donors, implemented several projects funded by the German Government, the European Union, and UNHCR, providing 100 housing units in the municipalities of Podgorica, Nikšić, Tivat, Berane, Pljevlja, and Herceg Novi, making a significant contribution to long-term and sustainable solutions for social housing, i.e. the construction of housing units. Residential units, whose construction was funded by the German government, were delivered in Herceg Novi (for 23 beneficiaries), Tivat (for 49 beneficiaries - 4 families, settlement 7. jul), and Nikšić (Zvjerinjak) for a total of 132 beneficiaries during the reporting period.

We can say that these, along with the closure of Camp Konik, are the key accomplishments achieved in the previous five years in the field of housing, given that more than 1,000 members of the Roma and Egyptian communities have received housing as a result of the construction of the aforementioned housing units.

We can highlight the employment of more than 20 associates<sup>1</sup> paid by the state budget, or

---

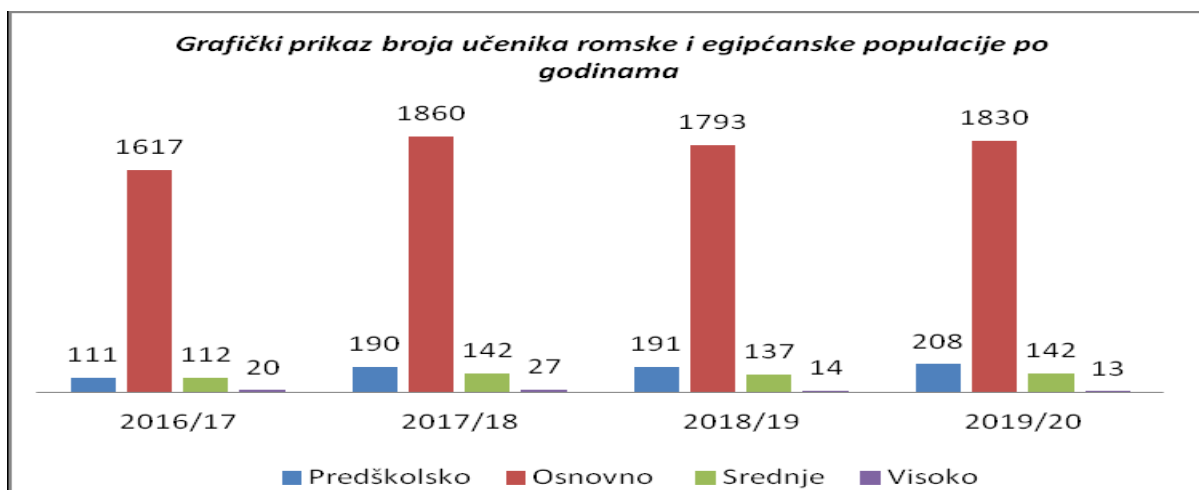
<sup>1</sup> Associate in the social inclusion of Roma and Egyptians in the field of education

the budget of the Ministry of Education, as significant accomplishments in the field of education. Before the 2018–19 school year, associates were only employed on a project-by-project basis. Since that time, they have been paid by the state budget. Hiring associates solves many problems in the education of children of the Roma and Egyptian community, such as regular attendance, communication between parents and teachers, and the motivation of children to study; increase in the number of students from the Roma and Egyptian community in secondary and primary schools, where in the 2015/16 school year only 99 students from the Roma and Egyptian community attended high school compared to the 2020/21 school year, where 174 students from the Roma and Egyptian community attended high school, while in 2015/16, 1,438 students from the Roma and Egyptian communities attended primary school, and in 2020/21 1,793 students attended primary school; closure of the district unit of the elementary school “Božidar Vuković Podgoričanin” near the Konik refugee camp, where in the school year 2016/17 all children from the mentioned district department were integrated into seven (7) city schools in Podgorica and transportation was regularly provided by the Ministry of Education.

These are the three biggest successes in the field of education over the last five years, but it’s also important to note that the transportation of students, the scholarship for secondary school students (60 euros per month) and university students (150 euros per month) from the Roma and Egyptian community, and the lengthening of preparatory kindergarten from two to four weeks were all continuously implemented.

Table no. 2: Number of pupils/students of the Roma and Egyptian community at all levels of education from 2016 to 2020						
School year	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Preschool education	224		190 (113 M, 77 F)	191	208	224 (118 F)
Primary education	1438 772 M, 666 F)	1617	1860 (998 M, 862 F)	1793	1830	1793 (864 F)
Secondary education	99 (49 F)	112	142 (79 M, 63 F)	137 (62 F)	142	174 (73 F)
Tertiary education	20	20	27	14 (7 F)	13	17 (9 F)

**Graphic presentation of the number of pupils/students of the Roma and Egyptian population by year**



In the field of education, the organization HELP-Hilfe zur Selbsthilfe, in addition to constructing a kindergarten in Konik, specifically contributed to the strengthening of educational institutions for scheduling classes for students of the Roma and Egyptian population by purchasing vehicles for organizing transportation, followed by capacity building and teaching staff sensitization to work with students of the two populations. CVE<sup>2</sup> provided a major contribution during the reporting period in terms of adult literacy, basic education, and professional training. Additionally, CVE regularly held workshops on the value of education and learning for the advancement of the individual and the family. A project run by the NGO “Mladi Romi” in collaboration with the Ministry of Education, where mentors (teachers) are engaged in primary and secondary schools, made a significant contribution to the rise in the number of students from the Roma and Egyptian community in secondary schools. Earlier, an initiative run by the Roma Education Fund resulted in the hiring of mentors and tutors<sup>3</sup>.

Key accomplishments in the healthcare sector - three associates<sup>4</sup> were hired in the healthcare sector during the reporting period. It is significant to highlight that the associates were first employed on a project basis before being retained permanently and funded from the Montenegrin budget. The position of Associate in Social Inclusion of Roma and Egyptians in the Field of Health was standardized before the employment relationship began. Additionally, a significant accomplishment over the preceding five years was the rise in the average life expectancy of Egyptian and Roma residents from 55 to 55.9 years (2016 Survey and 2020 Survey).

We can consider this, along with the employment of associates, as a major accomplishment in the field of health care for Roma and Egyptians over the previous five years. In the 2016 Survey, only 43.5% of the respondents replied they had a health card, while in the 2020 Survey, as many as 90.9% of the respondents replied they had a health card.

<sup>2</sup> Center for Vocational Education

<sup>3</sup> Support for students in specific teaching subjects with the content and mastery of which students have the most difficulties.

<sup>4</sup> Associate in the social inclusion of Roma and Egyptians in the field of health

All Health Centers also routinely administered immunizations to kids as part of the Compulsory Immunization Program. Additionally, monthly preventive exams for members of the Roma and Egyptian communities were conducted, as well as advertising on the value of reproductive health that focused on Roma and Egyptian women. Additionally, various workshops on the value of preventive exams, how to avoid getting married too young, and the necessity of maintaining personal hygiene for health were held for members of the Roma and Egyptian populations.

Key employment-related accomplishments - Throughout the reporting period, the ZZZCG<sup>5</sup> continuously carried out active employment policy initiatives, adult education and professional training programs, initiatives involving members of the Roma and Egyptian communities through seasonal employment, and public works initiatives. Data on the number of members of the Roma and Egyptian populations who were actively looking for work between 2016 and 2020 may be found in Table No. 4 of the ZZZCG records. According to the data above, there was a minor decline in the number of unemployed members of the Roma and Egyptian communities who are actively looking for work by December 31, 2019, compared to 2017. This can be viewed as a major success for the years 2017–2019. Data from December 2020, however, reveal an increase in the number of unemployed members of the Roma and Egyptian communities compared to data from 2017, which is a result of the Covid-19 pandemic's effects on the economy, which also led to a decline in the number of employed members of both the Roma and Egyptian communities as well as the majority population. The table also displays the number of members of the Roma and Egyptian communities who were involved in public works projects, adult education and training programs, activities involving members of the Roma and Egyptian communities through seasonal employment, and if we exclude 2020 from Table No. 4 due to the effects that the Covid-19 pandemic had on the economy of Montenegro, and is really not comparable with the period 2016-2019, it is clear that by December 31, 2019, there was an increase in the number of people/citizens of the Roma and Egyptian community involved in active employment policy measures, as well as in seasonal jobs, which are concrete activities and, also, key achievements when it comes to the field of employment.

The table 4 shows that the number of individuals who have completed levels III, IV, and VII of education has increased, which is an indication that the number of educated individuals from the Roma and Egyptian communities is growing. This information is related to the educational level of individuals from the Roma and Egyptian communities who are actively looking for employment. On the other hand, it is required to carry out specific actions and make use of the affirmative action concept so that educated Roma and Egyptian people do not wait long for employment.

Table no. 4: The number of persons from the Roma and Egyptian community who are on the records

---

<sup>5</sup> Employment Agency of Montenegro



of the ZZZCG and who are actively seeking employment for the period 2016-2020, as well as the number of persons included in public works programs, education and training programs, active employment policy programs, etc.					
	2016	2017	2018	2019 <sup>6</sup>	2020
The number of citizens of the Roma and Egyptian community on the records of the ZZZCG <sup>7</sup>	1731 (766)	928 <sup>8</sup> (508 F)	766 (404 F)	747 (375 F)	996 (527 F)
% of citizens of the Roma and Egyptian community in total registered unemployment	3,53 %	1,78 %			2.09 %
VII degree of education <sup>9</sup>	/	/	1 person (F)		3 people (F)
VI degree of education	One person				
IV degree of education	1,27 % (59,09% F)	7 people with IV degree of education	5 people or 0.62%  3 F		15 people or 1.50 %  (9 F)
III degree of education	2,59 % (28,88 % F)		14 persons or 1.74 % 3 F		19 persons or 1.90 % (3 F)
II degree of education	0,86% (60% F)		16 persons (6 F) 1.99 %		16 persons or 1.60 % (10 F)
Persons without occupation	95,23% (44,29% F)				943 persons or 94.67% (502 F)
Number of persons involved in public works	18	39 (5 F)	33 persons (7 F)	36 (10 F)	15 (2 F)
Number of persons involved in education and training programs <sup>10</sup>	4 F	66 (35 F)	26 (9F)	23 (9 F)	/
The number of persons		265			

<sup>6</sup>In 2019, 11 newly registered persons were employed, while 6 persons were included in some of the measures of the active employment policy.

<sup>7</sup> Employment Agency of Montenegro

<sup>8</sup> Note: the amendment to the Law on Health Insurance created the conditions for citizens of Montenegro, who are not employed, to exercise their right to health care at the Health Fund, which is no longer conditioned by the unemployment status that would be maintained at the Agency. That regulation gave the possibility to edit the records of unemployed persons, which should contain persons who need the services of the Employment Agency, i.e. only those persons who are actively looking for employment. Pursuant to the Law on Employment and Claiming Rights from Unemployment Insurance, records of a person seeking employment cease to be kept if he refuses inclusion in AEP (Active Employment Policy) programs, refuses appropriate employment, is not available for employment or works contrary to labor regulations.

<sup>9</sup> Degree of education

<sup>10</sup> Adult education and training programs, in accordance with legal regulations, include programs related to programs for the acquisition of professional qualifications and programs related to the acquisition of key skills.

included in the adult basic education program					
Number of persons involved through seasonal employment	/	49 (26 F)	82 (48 F)	108 (54 F)	49 (23 F)
Number of persons included in some of the active employment policy programs		12	72 <sup>11</sup> people (25F)	79 (22 F)	
Number of persons employed as Associates <sup>12</sup> through the HELP project	6				
Number of interns through the project <sup>13</sup> "Social inclusion of Roma and Egyptians through employment"		42 interns			
The project "Let it be clean" <sup>14</sup>			100 persons	20 (3 F)	
The number of persons who underwent literacy training at the Institute for the Execution of Criminal Sanctions <sup>15</sup>			4 minors 5 adults		

The fact that the Combined Mobile Biometric Teams of the Ministry of the Interior of Montenegro and Ministry of the Interior Agency for Civil Registration of Kosovo have been actively providing legal and practical assistance to internally displaced people from Kosovo who reside in Montenegro since May 2014, and that as of December 31, 2020, there were 39 cases left that are active out of the total (1,380), reflect key accomplishments in the area of legal status. The mobile team of the Mol of Kosovo made 22 trips to Montenegro with the

<sup>11</sup> which makes 7.75% of the total number of Roma and Egyptians who were in the records of the ZZZCG as of 12/31/2017.

<sup>12</sup> Associate in the social inclusion of Roma and Egyptians in the field of employment

<sup>13</sup> It is the project "Social inclusion of Roma and Egyptians through employment", within the grant scheme "Implementation of training and projects for employment of persons with disabilities and members of the Roma and Egyptian population", for which the Capital City of Podgorica applied in partnership with the international organization "HELP" – Hilfe zur Selbsthilfe e.V., whose implementation is approved by the European Union.

<sup>14</sup>By the conclusion of the Government of Montenegro dated March 5, 2018, in 2018, the Plan for the preparation of the summer tourist season for 2018 was adopted, which foresees the implementation of the project "Let it be clean" in 2018. The Ministry of Sustainable Development and Tourism, JP Morsko dobro, the Employment Agency of Montenegro, the Capital City, the Royal Capital City, all municipalities and public utility companies are responsible for the implementation of the project.

<sup>15</sup>The Institute for the Execution of Criminal Sanctions organized literacy workshops for 4 minors, all of whom were members of the Roma and Egyptian population, while of the 7 adult prisoners who participated in the literacy workshops, 5 were members of the Roma and Egyptian population. In the organization of the NGO HELP with the Center for Education and Training - ZOPT, in the Institute for the Execution of Criminal Sanctions, training was conducted for occupations - carpenter and locksmith.

help of UNHCR and OSCE, where they provided support to about 1,380 people. This population is broken down into three groups, namely:

- completed requests - individuals who received a Kosovo travel document - 1,221
- unresolved cases - those who are now employed - 39
- postponed cases - 120 people who passed away and emigrated from Montenegro

Comparing 2016 Survey and 2020 Survey, where in 2016, 40.7% of respondents reported having a birth certificate, compared to 90.9% according to the 2020 Survey, demonstrates them as important advancements in the field of legal status. Additionally, 87.4% of respondents in the 2020 Survey compared to 24.1% in the 2016 Survey possessed a valid ID card.

Important developments in the social standing and family protection. Numerous seminars on the subject of “Fight against domestic violence, child/arranged marriages, and begging” were held for members of the Roma and Egyptian communities, as well as for officials from the Police Directorate, judiciary, and prosecutor’s office. Additionally, campaigns were continually planned in every Roma settlement in Montenegro, with the exception of 2020. On the aforementioned subjects, “from door to door” campaigns were run, and flyers in Montenegrin, Roma, and Albanian were distributed. The victims or perpetrators of domestic violence, child or arranged marriages, or begging who are Roma or Egyptian community members do not, however, have official statistics; hence, there are no data that may be compared to demonstrate performance metrics.

It’s significant to remember that the Electronic Database for Domestic Violence was launched in 2019, which is one of the major accomplishments in this field. The database made it possible for the Ministry of the Interior (Police Directorate) and Centers for Social Work to automatically exchange data. This led to the establishment of a distinctive, systematic method of documenting domestic violence incidents. Additionally, two programs “Fight against domestic violence, child/arranged marriages, and begging” and “Integrating the principles of prevention in the fight against human trafficking into the educational system of Montenegro”—were accredited in an effort to prevent underage and/or forced marriages among the Roma and Egyptian populations. The International Organization for Migration (IOM) helped in the development of Standard Operating Procedures (SOP), which specify how to give a person who has been identified as a possible victim the status of a victim of human trafficking. Team members are accessible round-the-clock and travel to the field to support a particular case if necessary.

According to 2020 Survey, a little less than half of respondents claim to have used the services and assistance of Centers for Social Work, indicating a considerable growth in the number of people using these institutions’ services. A third of respondents say they received one-time financial aid in the previous four years, while over 40% say they receive some sort of financial aid each month. The substantial expansion of state aid aimed at children with disabilities is particularly noteworthy. The proportion of respondents who participated in workshops on

how to make men and women equally powerful and how to lessen domestic violence has dramatically grown.

Only by comparing data from 2016 Survey and 2020 Survey can significant developments in the areas of culture, identity, and information be seen. The number of respondents who said they listened to or watched TV programs about Roma concerns, culture, and language increased from 14.4% in 2016 to 44.3% in 2020.

Contests for the finest research article on the subject of “Social integration of Roma in Montenegro” that has been featured in the media have been regularly announced by the Ministry of Science. Additionally, in keeping with the contest, rewards were routinely given out on April 8, which is the International Romani Day. The Ministry of Education, Science, Culture and Sports has consistently held a competition each year for the co-financing of program content in local print media and media scientific journals, where the social inclusion of Roma is also included in the topics. Additionally funded was the creation of audio-visual movies and radio jingles illustrating the challenges and successes in resolving this issue. The Public Service and regional public broadcasters air the advertisements.

For a long period, the program “Savore” was continuously broadcast twice a month on the national public service RTCG, longer than 30 minutes, bilingual, with translation from Roma to Montenegrin or from Montenegrin to Roma depending on the speaker. Paths of Life, Bridges, and Agricultural Knowledge are only a few of the shows that were broadcast concerning the lives of Roma and Egyptians in Montenegro. Additionally, the program “Roma Voice” was frequently broadcast on Radio Montenegro, which airs for 25 minutes, twice weekly.

Additionally, significant occasions for the Roma community, such as April 8 (International Romani Day) and November 5 (World Day of the Romani Language), are consistently observed with appropriate celebrations each year.

Every two years, the Montenegrin Fund for the Protection and Exercise of Minority Rights announces a public competition for the funding of initiatives important to the preservation and protection of minority peculiarities. Additionally, throughout the reporting year, the Montenegrin Center for the Preservation and Development of Minority Culture continued to provide funding for initiatives aimed at preserving Roma culture in the country.

The “2021 – 2025 Strategy for the Social Inclusion of Roma and Egyptians in Montenegro” and the “Action Plan for the Implementation of the 2021 Strategy” were both accepted by the Montenegrin government in September 2021.

The National Action Plan for the Implementation of the “Decade of Roma Inclusion 2005-2015,” which was adopted in 2005, was the main strategic document that came before the adoption of the 2021-2025 Strategy for the Social Inclusion of Roma and Egyptians in Montenegro. Its goal was to break the cycle of poverty and exclusion of Roma from Montenegrin society through projects in the fields of education, employment, housing, and health care. The Government of Montenegro adopted the 2008-2012 Strategy for the Improvement of the Position of the RAE Population in Montenegro at the end of 2007, taking into account the Action Plan’s limited effectiveness in addressing four priority areas. After the

Strategy's expiration, a new strategic document titled the 2012-2016 Strategy for the Improvement of the Position of the Roma and Egyptians in Montenegro was created. The strategic document that preceded the new strategy was called 2016-2020 Strategy for Social Inclusion of Roma and Egyptians in Montenegro.

The main objective of the 2021–2025 Strategy for Social Inclusion of Roma and Egyptians is to strengthen the socioeconomic and legal standing of Roma and Egyptians in Montenegro by creating an open, inclusive society built on the fight against and eradication of all forms of discrimination, anti-Gypsyism, and poverty.

The Strategy anticipates that it will be executed through 2021 Action Plan, followed by two additional two-year Action Plans for the years 2022–2023 and 2024–2025, which include the priority actions and activities that must be carried out during the allotted time.

The strategic document is in accordance with all national umbrella and sectoral strategies, or planning documents that address important matters for a particular area of public policy, as well as commitments from Montenegro's ongoing negotiations with the European Union and other international commitments. Additionally, the Strategy is in line with the objectives of the Western Balkans Partners' Declaration on the Integration of Roma/Roma Women as Part of the European Union Enlargement Process and the EU Roma Strategic Framework for Equality, Inclusion and Participation for 2020-2030<sup>16</sup>.

The Strategy addresses every issue that is thought to be crucial to resolving the issues of the Roma and Egyptian community, including discrimination, poverty, political and social engagement, housing, employment, education, and health, civil status and personal documentation, as well as social and family protection.

The Government established the Commission for Monitoring the Implementation of the Strategy in order to keep an eye on the actions that were carried out. The National Coordinator for Monitoring the Implementation of the 2021–2025 Strategy for the Social Inclusion of Roma and Egyptians oversees the Commission's operations.

### **Housing for families**

Based on the August 14, 2020 modifications to the Law on Spatial Planning and Building Construction, the local government entities that handle the legalization process for unlawful buildings are able to receive applications for legalization on a daily basis together with the supporting documentation required by law because there is no specified deadline for submission.

If the owner and members of family household do not own another residential property on Montenegro's territory, then the illegal building is deemed to be a primary residence if it has a net construction area of up to 200 m<sup>2</sup> and is where the owner of the illegal building and members of his family household live.

---

<sup>16</sup> EU Roma strategic framework for equality, inclusion and participation for 2020-2030, available at: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_1813](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1813)

It should be emphasized that during the construction of illegal buildings, the first decision is made to prohibit the execution of works. If the investor does not suspend the works in accordance with the adopted decision, a demolition decision is issued, which orders the investor himself to remove the illegal building, and only if the investor does not act according to this decision, the inspection issues a decision on the enforcement permit, which authorizes the state to remove the illegal building. The illegal builder has the right to appeal against all these decisions and in the administrative procedure can submit evidence, if any, in order to suspend the enforcement procedure.

Additionally, it is highlighted once more that it is not possible to demolish primary housing facilities before offering alternative housing, i.e., moving occupants out of the primary housing facility.

In relation to social housing, it is important to note that there are 167,177 families in Montenegro, per data from the 2017-2020 Social Housing Program. The basic family is defined as a union of two or more people living in the same household, including married or cohabiting partners with or without children as well as one parent with children.

According to Monstat data, 78.2% of all households are apartment owners or co-owners, 9.6% are renter households, and 5.7% are households that include parents, children, or other family members.

The right to an apartment does not fall under any constitutional protections in Montenegro. The Social Housing Act from 2013 for state or municipal apartments gives recipients of social assistance, young parentsless people, people with disabilities, RAE population, and displaced individuals the right to assistance when resolving housing issues.

„The right to social housing may be exercised by natural persons who do not own an apartment or other housing facility, that is, individuals whose housing facility does not meet appropriate standards and whose income does not enable them to provide a residential facility, in accordance with the law,” as stated in Article 3 of the aforementioned law. The priorities for claiming the entitlement to social housing are laid out in Article 4 of the same law.

The definition of authority over the management and upkeep of the housing fund, or the facilities that will be constructed or made available for these purposes in the future, is one of the most significant issues covered by the Law on Social Housing. 2,310 housing units are planned to address socially vulnerable families' housing needs, according to information received from local self-government units. This information is not final due to several factors, including the fact that many local governments have not yet gathered and systematized the data required for the development and adoption of the local social housing program, which is expressly mandated by Article 7 of the Law on Social Housing, as well as to provide and organize social housing maintenance and management, including the buildings and apartments owned by the municipalities, which are still not all registered in the real estate cadastre.

The recording and analysis of the current housing stock is the first phase, which is a requirement for developing a local social housing program. In order to establish the

municipalities' ownership over the existing stock, it was advised to all local self-government units to record the existing housing stock as soon as feasible, along with registering social housing apartments with the appropriate agencies. The amount of housing facilities accessible to each local self-government unit can only be determined after the resolution of property and legal relations, and from there, an assessment and analysis of housing needs may be initiated.

Additionally, the local self-government unit's regulations provide more specific requirements for exercising the right to social housing in accordance with the local social housing program. In relation to the allocation of housing units to people who have not resolved their housing issue, a sizable number of local self-government units—16 out of a total of 24—have adopted acts that specify the method of allocation, selection criteria, and method of evaluating criteria by groups of people. However, not all of them have done so; as a result, it is still up to the remaining local self-government units to adopt these acts in the upcoming period.

On the other hand, Article 636 of the Law on Obligations (Official Gazette of Montenegro, No. 47/08, 4/11, 22/17) states that anyone with a legal interest can ask the local government authority to evict someone if they move into separate or common parts of a residential building without a basis in law or if that basis ends. The eviction process must go quickly.

It is intended to provide funding through the Regional Housing Program for Montenegro to address the housing needs of 6,063 people (1,177 households) who fall into the most vulnerable categories (vulnerable people living in private accommodations, with particular attention to Camp Konik and who are housed in informal collective centers).

More than 13 Montenegrin municipalities, including Berane, Andrijevica, Podgorica, Ulcinj, Nikšić, Budva, Rožaje, Plav, Herceg Novi, Bar, Danilovgrad, Tivat, and Pljevlja, are participating in the regional housing project. The Konik camp, which served as Montenegro's largest collective camp for displaced people, as well as other collective facilities for the housing of displaced and internally displaced people, were all heavily impacted by this program.

Through the aforementioned program, it is anticipated that: 907 housing units will be built, 120 residential units will receive building supplies, 50 ready-made houses will be built, and 62 rooms will be added to the Pljevlja Old People's Home; purchase of apartments in Herceg Novi Municipality with potential for project expansion to other coastal municipalities; Reconstruction of the Trebjesa Military Complex, an existing military facility, for the creation of an adult care facility for the aged and disabled in the municipality of Nikšić. The project's overall cost is 27.696 million euros, with the state contributing 15% of that amount, or 4,154 million euros. The total amount of money needed is 23.542 million euros.

The overall cost of the MNE1 project, "Construction of 62 residential units in Nikšić," was €2,557,801.21, of which €1,980,000.00 came from the grant and €577,801.21 came from the local unit. Without additional effort, the project was completed within the allotted time frame, saving €180,000.

MNE2 "Construction of 171 housing units for residents of Camp Konik in Podgorica" has a total cost of €7,430,215.61; of that amount, €6,226,662 is coming from the grant.

The Assembly of Donors approved the expansion of the housing construction project on Konik for an additional 51 housing units. This was possible because good design practices saved €1,950,977.11 on the MNE 2 sub-project.

MNE 3 “Construction of a Home for the Elderly and Disabled in Pljevlja” - the value of the project is €2,812,816, of which €1,918,000 is a grant.

The project, MNE 4, is titled “Construction of 94 residential units in the municipality of Berane” and has a total cost of €3,990,647.48, of which €3,575,779 was donated.

MNE 6 is a €5,178,743.7 project titled “Reconstruction of existing military facilities - Trebjesa military complex for the purpose of building a home for elderly and disabled adults in the municipality of Nikšić,”

MNE 7 is titled “Purchase of apartments in Herceg Novi for 36 socially disadvantaged families” and has a total cost of €953,470.41, of which €918,007.46 comes from a grant and €147,297.56 comes from the state.

MNE 8 “Building 50 homes for people with land and building permits throughout Montenegro” the state contribution is €120,000.00, while donor monies are worth €1,254,000.

The overall project cost for MNE 9, “Construction of 96 apartments at Vrela Ribnička in Podgorica,” is €4,002,061.06; donor contributions make up €3,229,964 of that amount.

Over 1,000 people now have a place to live thanks to the construction of 233 housing units for members of the Roma and Egyptian communities in Podgorica, Nikšić, and Berane through the Regional Housing Program. With the development of the aforementioned housing units, Camp Konik, the biggest collective camp in Montenegro, was shut down. In this initiative, the state, local self-governments and the Capital City, contributed by allocating land for the building of housing units and basic infrastructure (water, sewage, and electricity). The organization HELP-Hilfe zur Selbsthilfe, with the assistance of donors, implemented several projects funded by the German Government, the European Union, and UNHCR, providing 100 housing units in the municipalities of Podgorica, Nikšić, Tivat, Berane, Pljevlja, and Herceg Novi, making a significant contribution to long-term and sustainable solutions for social housing, i.e. the construction of housing units. Residential units, whose construction was funded by the German government, were delivered in Herceg Novi (for 23 beneficiaries), Tivat (for 49 beneficiaries - 4 families, settlement 7 Jul), and Nikšić (Zvjerinjak) for a total of 132 beneficiaries during the reporting period.

### **Participation of organizations that represent families**

In accordance with the Decree on the election of representatives of non-governmental organizations to the working bodies of state administration bodies and conducting public consultations in the preparation of laws and strategies (“Official Gazette of Montenegro” number 41/18), the Ministry of Labor and Social Welfare publishes a public call for applicants as part of the establishment of a working group for the creation of laws, by-laws, and strategic



documents in the fields of social and child protection. One of the criteria for the selection of a representative is that the NGO representative has experience in the field related to the issue that the working body examines and normatively regulates.

### **Article 17 – The right of children and young persons to social, legal and economic protection**

**1. With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:**

**a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;**

**b) to protect children and young persons against negligence, violence or exploitation;**

**c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;**

*a) Please provide information on measures taken by the State to:*

*i) reduce statelessness (e.g., ensuring that every stateless migrant child is identified, simplifying procedures to ensure the acquisition of nationality, and taking measures to identify those children who were not registered at birth) and*

#### **REPLY:**

Montenegro is one of the countries that established a procedure for determining the status of stateless persons, through the adoption of the new Law on Foreigners ("Official Gazette of Montenegro", no. 12/18, 3/19), which entered into force in March 2018 and the Rulebook, which determined the closer way to establish the procedure, the content of the request for determining the status of a stateless person, the content of the request for issuing a travel document for a stateless person, as well as the appearance and content of the travel document itself. In accordance with this law, activities were undertaken to determine and recognize the status of stateless persons, which ensures the enjoyment of basic human rights and freedoms while respecting ratified conventions.

Since the new Law on Foreigners has been in effect, as of January 2023, nine (9) people have had their status as stateless persons established. The process for determining whether an

applicant is a stateless person is still ongoing for eleven (11) people, is suspended for 7, and 1 application was rejected.

The free legal aid initiative, funded by the UNHCR, provided assistance to all 29 individuals who submitted a request to determine their status as stateless people. Regularly printed leaflets in Montenegrin, Roma, and Albanian languages about the significance of registration in the birth registers and the free legal assistance they can get in those procedures are produced by local NGOs Law center and Civic Alliance, who are excellent partners with UNHCR in providing free legal aid to people at risk of statelessness. Flyers were distributed in communities where people at risk of becoming stateless live. Additionally, those who are at risk of becoming stateless are encouraged to get in touch with these two NGOs for more assistance through their media appearances, particularly in the morning shows of TV stations with national coverage.

As evidence of Montenegro's commitment to addressing this issue in October 2021 with the help of the UNHCR, the Ministry of the Interior organized a number of workshops for the training of Ministry of the Interior officials in the application of the Law on Foreigners in the part related to stateless persons. The responsible Montenegrin authorities and representatives of pertinent French organizations and universities exchanged experiences in the area of statelessness during a two-day international symposium on the subject. Additionally, the Ministry of the Interior dispatched a representative to the consultations in Madrid on October 20–21, 2022, regarding best practices for identifying and protecting stateless people in Europe.

The Strategy on Migration and Reintegration of Returnees in Montenegro for the years 2021–2025, together with an Action Plan for 2021 and 2022, was adopted by the Montenegrin government. In accordance with the EU acquis and best practices in the areas of legal migration, asylum, preventing irregular migration, readmission, return, integration, internally displaced persons (IDPs), and statelessness, this strategic document will guide national migration policy over the course of the next five years.

The Montenegrin government has acknowledged these challenges and, as part of its new migration strategy, has planned the creation of two documents to address the problem.

The first has a deadline for adoption of the end of June 2022 and is a thorough review of national legislation in the area of socio-economic rights for people with the status of stateless individuals.

The second document amends the Law on Foreigners to clarify the process for determining a stateless person's status as well as the rights and responsibilities before and after the

stateless person's status is ultimately recognized. The end of 2022 will serve as the deadline for these amendments.

*ii) facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular situation. (General question posed in Conclusions 2019).*

**REPLY:**

The right to universal birth registration, for all children without distinction, including Roma and Egyptian children, children of refugees and internally displaced persons, children abandoned by their mothers, and children born in a health facility and out, is one of the priority areas under the jurisdiction of the Directorate for Civil Status and Personal Documents at the Ministry of the Interior, which concerns the rights of all children born in Montenegro. According to the terms of the Law on Birth Registers ("Official Gazette of the Republic of Montenegro", No. 47/08, 41/10, 40/11 - other law and 55/16), the health institution is required to notify the birth of a child in a maternity hospital or other health institution without exception.

After a period of 30 days has passed since the day the child was born but was not recorded in the birth register and the process for ascertaining the facts surrounding the birth has been completed, the subsequent registration of the birth of a child will be carried out. If it is found over the course of the procedure that there are no grounds for registration, the application for registration will be rejected.

The biggest obstacle was registering children born outside of a medical facility in the birth register. However, with the adoption of the Law on Amendments to the Law on Extrajudicial Procedure in 2015, significant progress was made in this area by identifying the time and location of birth for those who weren't registered, who, according to the rules governing the maintaining of registers, cannot substantiate their own time and place of birth in the birth register.

The guardianship authority or any other person with a direct legal interest, such as a person who is not listed in the birth registration, may propose the start of extrajudicial procedures. The local jurisdiction is granted to any court with subject matter jurisdiction in order to facilitate the exercise of rights. In order to enter the fact of birth in the birth registry, the competent court must deliver a final decision on the time and location of birth to the organizational units of this Ministry within 8 days of the date of finality.

Please be aware that this Ministry considers the universal right of every child to be registered as a top priority, especially when it comes to registering children in the birth register when the mother is unknown or does not have an identity document.

The Family Law's protections for abandoned children also apply to parents who abuse their parental rights or blatantly disregard their parenting responsibilities. When a child is born whose one or both parents are unknown, the authority in charge of maintaining the birth register is required to notify the guardianship authority so that protective measures can be

taken. Additionally, the state administration authority in charge of social welfare matters takes steps within its purview to avoid child abandonment, the recording of such children in birth records, and the institutionalization of such children.

In accordance with the Law on Birth Registers, a child whose parents are unknown must have their birth recorded in the birth registration of the municipality in which they were discovered. The guardianship authority's enforcement decision, which includes the following information: name, surname, gender, and place of birth, forms the basis for registration. The location of the child's discovery is listed as the child's birthplace. The report on the child's discovery forms the basis of the guardianship authority's enforcement decision. The decision and the minutes are delivered to the official.

In accordance with the Law on Administrative Procedure, all means appropriate for establishing the factual situation, which correspond to the individual case, such as documents, statements, may be used as evidence during the process of registering a child in the register of births when the mother does not have an identity document, such as documents, witness' statements, the parties' own declarations, the results and advice of court experts, interpreters, and an inquiry. Common knowledge, information held by a public authority, and legal presumptions do not require proof.

The Ministry of the Interior's objective of achieving universal birth registration for all children without exception has been achieved in full light of the aforementioned circumstances.

In the previous reporting period, the Ministry of the Interior produced brochures on the registration of infants that instruct parents on the procedure and steps they need to take in order to register their child in the civil registry right away after being born and distributed them to the designated categories. This was done in collaboration with UNHCR and with support from the "Roditelji.me" association. Additionally, workshops were organized in collaboration with the aforementioned association, which were open to the general public and all citizens so that people and vulnerable categories as well, could learn about the process for registering in the birth register as well as the options for status resolution.

We also inform you that when it comes to vulnerable categories of persons from Ukraine who exercise the right to temporary protection in Montenegro, the Directorate for the Integration of Foreigners with Approved International Protection and the Reintegration of Returnees upon Readmission - for every minor who exercises the right to temporary protection, and who is unaccompanied by a parent, informs the locally competent center for social work, in order to appoint a guardian for the minor, that is, if the minor is accompanied by a close relative, to review whether the person accompanying the minor, which is most often a close relative, meets the requirements to be a guardian to a minor. Also, for any minor from Ukraine, on whose behalf a parent or guardian intends to submit a request for approval of temporary protection, and who does not have an identity document, i.e. is not entered in the parent's passport, the parent or guardian is instructed to contact the Embassy of Ukraine in Podgorica, so that that minor would be issued an identity document - a temporary identity card for a person from Ukraine, so that every minor from Ukraine would be identified.

*b) Please provide information on measures taken to:*

*i) child poverty (including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing etc.) and*

*ii) combat discrimination and promote equal opportunities for children from particularly vulnerable groups such as ethnic minorities, Roma children, children with disabilities, and children in care.*

*iii) States should also make clear the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.*

**REPLY:**

In Montenegro, data from an analysis conducted by UNICEF in February 2021 show that young children (up to 5 years old) are most impacted and at risk from poverty. The Montenegrin government is aware that supporting children's growth from an early age is the cornerstone of creating a stable society.

We may claim that children in Montenegro are impacted by the Covid-19 virus pandemic in a variety of ways given the overall circumstances. Many families experienced a sizable or total loss of income. Due to a lack of computers and internet access, parents' lack of information literacy, and parents' incapacity to assist their children, children living in poverty have been disproportionately impacted by the shift to online schooling during the Covid 19 epidemic. Although they received the technical tools necessary to enable online learning, the lack of consistent contact with peers had a negative impact on their social connections and linguistic abilities.

The Government of Montenegro introduced the right to child benefit for children aged 0 to 6 years in 2021 as one of the first steps on the way to offer sustainable solutions, to support and help families and as part of a package of social services, in order to lower the poverty rate, i.e. to provide support to children at a young age, especially in the period of crisis caused by the pandemic. There have been 36,715 children who have used this right. Depending on the child's category, the individual child allowance in 2021 ranged from 30 to 60.90 euros, or a total of 7,063,433.92 euros.

The Law on Social and Child Protection specifies the allowance for children under the age of six. The child must not be older than 6 years old and must reside in Montenegro in order to exercise this entitlement. With the assistance of UNDP and UNICEF in Montenegro, the Ministry of Finance and Social Welfare efficiently implements this project in terms of a straightforward process for submitting requests to centers for social work, as well as educating parents and guardians on how to use the child benefit. The likelihood of being poor is higher in families with children, and child poverty is more prevalent than adult poverty. Additionally, these households are more likely to encounter financial troubles or hardship and be able to escape it more easily, especially during shocks or crises like the recent Covid-19

outbreak. Such households are aided in being shielded from the aforementioned effects by child benefit.

The government also offered free textbooks to all primary school pupils in an effort to assist families with children and lower risks. Amendments to the Law on Primary Education served as the foundation for the implementation thereof. The right to an education under equal circumstances is guaranteed by the Montenegrin Constitution, which also states that the state is responsible for establishing fair conditions and a suitable environment for attaining the objectives of education and making education accessible to everyone. By mandating the right to free textbooks for elementary schools at the expense of the state budget, the framework for ensuring equality and creating equal access to primary education for everyone is established.

The Council of Europe Convention on action against trafficking in human beings, which Montenegro ratified in 2008 and for which the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) conducted the third round of evaluation and produced a report adopted by the Secretariat of the Convention on May 2, 2021, which shows the activities implemented, is one of the important international documents that Montenegro has ratified regarding the fight against human trafficking. The report recognizes the achieved progress, but also indicates the areas in which additional work is needed in order to implement the 26 conclusions and recommendations that GRETA sent to Montenegro.

The 2019-2024 Strategy for Action Against Trafficking in Human Beings was adopted, in which the emphasis is placed on preventive action and the implementation of actions that will contribute to the sensitization and strengthening of the professional capacities of representatives of institutions for better recognition of victims and potential victims of human trafficking, as well as strengthening awareness of wider public in relation to this phenomenon, which contributes to improving the efficiency and functionality of the system of prevention, identification, protection, assistance and monitoring of victims of human trafficking with a special focus on children.

Adoption of the Standard Operating Procedures for the Identification of Victims of Human Trafficking, which were created by the Ministry of the Interior with assistance from the International Organization for Migration and are included in the National Plan for Formal Identification adopted in 2020, so that they serve as the foundation for the work of the Team for Formal Identification of Victims of Human Trafficking, formed with the Ministry of the Interior. The National Plan for Formal Identification, adopted in 2020, serves as the basis for the Standard Operating Procedures for the Identification of Victims of Human Trafficking, which are followed by the team responsible for this task.

The Strategy for Exercising the Rights of the Child 2019–2023 was adopted in 2019. Creating better conditions for the exercise of children’s rights in all areas covered by the United

Nations Convention on the Rights of the Child and its optional protocols is the focus of the national, comprehensive, and interdepartmental Strategy for Exercising the Rights of the Child 2019-2023.

In this document, a five-year strategic horizon is mentioned. The working group for the preparation of this document, formed by the Decision of the Minister of Labor and Social Welfare, consisted of representatives of the Ministry of Labor and Social Welfare, the Ministry of Internal Affairs, the Ministry of Finance, the Ministry of Justice, the Ministry of Health, the Ministry of Culture, the Ministry of Education, the Ministry of Defense, the Ministry of Human and Minority Rights, the Institute for Social and Child Protection, the NGO sector, and a member of the working group was also a representative of children.

Additionally, focus groups that were formed with the goal of designing a Strategy included roughly 100 children. Children and children's representatives were given the opportunity to voice their opinions by being involved in the formulation of the Strategy. The involvement of children was helpful in defining activities that are in the best interests of the child and that serve to create a child-friendly atmosphere, as well as in understanding the viewpoints of children and young people.

*c) Please provide information on any measures adopted to protect and assist children in crisis situations and emergencies.*

**REPLY:**

All the above-mentioned rights from social and child protection are regularly established and in this sense there is no impact of a possible crisis or emergency situation. Also, the fees for exercised rights are regularly paid on a monthly basis.

*d) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

Previously, the Committee deferred the conclusion pending receipt of information.

**Legal standing of the minor**

It is important to draw attention to the provisions of the Family Law and the Inheritance Law (Official Gazette of Montenegro, Nos. 1/07, 53/16, and 76/20), which both pertain to the legal status of children born in marriage and those born out of wedlock.

According to Article 4 of the Law on Inheritance, relatives from full adoption and common-law marriages are on par with blood relatives in terms of inheritance rights.

The decedent's estate is passed down to the decedent's children and spouse in accordance with Article 11 of the same Law.

This line of heirs receives an equal share of the estate.

Article 6 of the Family Law states that regardless of whether a child was born into a marriage or was born outside of it, parents, other relatives, and children all have the same rights and obligations towards one another.

According to Article 254 of the same law, parents are required to provide for their children until they are 26 if they are enrolled in school.

According to Article 12 of the same law, a man and woman who live together for at least three years (hence referred to as cohabiting) have the same legal rights to support one another and other property rights as if they were married.

In terms of the rights referred to in paragraph 1 of this article, an extramarital union is equivalent to marriage, even before the three-year period has passed if a common child was born in it or it was continued by marriage.

If there were challenges to concluding a lawful marriage at the time of the extramarital union's establishment, the effect mentioned in this article's paragraph 1 is not produced.

When it comes to measures taken by the state to reduce statelessness and facilitate birth registration, especially for vulnerable groups, such as Roma, asylum seekers and children with unregulated position, the requested information is provided in the first general question on the application of Article 17 paragraph 1.

### **Children's right to public protection**

The Strategy for the Development of the Social and Child Protection System 2018-2022 expired in December 2021. The general goal of this strategic document was to improve the quality of life of users of social and child protection and their empowerment for an independent and productive life, and the specific goals are: improved normative framework in social and child protection, improved quality system in social and child protection and improved social services and child protection and created preconditions for continued deinstitutionalization.

Adoption of the new strategic document is planned for the third quarter of 2023. The goals of the previous strategy remain relevant for the new strategic framework in the field of social and child protection.

The Strategy clearly defined the needs that exist in the field of social and child protection, emphasized the processes that must be initiated and presented the administrative responsibility of actors in the system for implementing reforms.



The most significant activities realized during the implementation of the Strategy were: improved normative framework - certain changes to the Law on Social and Child Protection and by-laws; the licensing procedure for professional workers and service providers has been improved; the process of accreditation of the training program was started and the training program for professional workers, associates and volunteers was developed; activities related to the establishment and development of social and child protection services - support for life in the community, accommodation and counseling and therapy services were implemented.

As for the number of children in institutional accommodation, according to data from December 2022, a total of 94 children are housed in the Mladost "Bijela" Children's Home, of which three children are under 3 years old and 38 children have developmental disabilities. 370 children are placed in family foster care.

### **Children in conflict with the law**

In accordance with the Committee's request, we submit the following information on the number of children who have been subjected to correctional measures as well as on the nature of such sanctions, on the number of criminally sanctioned children, as well as data on juvenile prison sentences with their duration.

#### **1. Correctional measures by year and type, pronounced**

<b>2021</b>			<b>109</b>
	Institutional measure	Referral to a prison-type institution	2
		Referral to a non-institutional correctional institution	2
	A measure of increased supervision	Increased supervision by guardianship authorities	24
		Increased supervision by the legal representative	22
	Warning and guidance measure	Performing community service or humanitarian work	50
		Undergoing an appropriate examination or rehab process for addiction caused by alcohol or drug use	1
		Involvement in sports activities	1
		Judicial reprimand	5
		Other	2

<b>2020</b>			<b>166</b>
	Institutional measure	Referral to a prison-type institution	5
		Referral to a non-institutional correctional institution	3
	A measure of increased supervision	Increased supervision by guardianship authorities	45
		Increased supervision by the legal representative	35
		Increased supervision with day care in an appropriate institution or organization for the upbringing and education of minors	2
	Warning and guidance measure	Apologies to the injured party	3
		Performing community service or humanitarian work	64
		Judicial reprimand	7
		Other	2
<b>2019</b>			<b>191</b>
	Institutional measure	Referral to a prison-type institution	9
		Referral to a non-institutional correctional institution	4
	A measure of increased supervision	Increased supervision by guardianship authorities	64
		Increased supervision by the legal representative	39
	Warning and guidance measure	Performing community service or humanitarian work	69
		Payment of a certain amount of money in favor of a humanitarian organization, fund or public institution	1
		Attending school regularly or going to work	1
		Judicial reprimand	4

1. Number of criminal sanctions imposed on minors

<b>Year</b>	<b>The number of imposed criminal sanctions</b>
2021	120
2020	170
2019	200
2018	177

## 2. Juvenile prison sentences with their duration

<b>Year</b>	<b>Duration</b>	<b>The number of imposed sentences</b>
2018	6 months	5
2019	1 year	5
2019	2 year	1
2019	6 months	2
2020	1 year	1
2020	6 months	1
2020	7 months	1

In accordance with Article 62 of the Law on the Treatment of Minors in Criminal Proceedings (“Official Gazette of the Republic of Montenegro”, Nos. 64/2011 and 1/2018), the judge for minors may, in exceptional circumstances, upon the reasoned proposal of the state prosecutor for minors, after hearing the minor, order custody of a minor, when there are reasons for ordering custody prescribed by the Criminal Procedure Code, if the purpose for which the detention was ordered cannot be achieved by measures under Articles 60 and 61 paragraphs 1 and 2 of this Code. These include measures such as measures of supervision and bail, measures of temporary supervision by the guardianship authority, as well as measures of temporary placement of minors in another family, correctional institution or organization for the upbringing and education of minors, when it is necessary to separate the minor from the environment where he lives or works.

The juvenile judge must give justification for the custody determination when making a ruling. Within 24 hours of the judgement being delivered, the juvenile and his defense attorney may appeal the detention ruling to the Juvenile Council of the High Court. The appeal, the detention decision, and other essential documents are promptly sent to the Council by the first-instance court through which it was filed. The decision’s execution is not postponed by the appeal.

The State Prosecutor for Juveniles has 24 hours from the moment the judgement was delivered to submit an appeal with the Juvenile Council of the Higher Court against the decision rejecting the juvenile's detention recommendation. The decision's execution is not postponed by the appeal.

The Juvenile Council is required to decide in the aforementioned situations within 48 hours. The duration of the pronounced correctional measure of referral to a non-institutional type correctional institution, to an institution of the institutional type, and the juvenile prison sentence includes the time spent in detention as well as any other deprivation of liberty. Detention in the preliminary procedure may not run longer than 30 days, depending on the court for minors' detention judgment.

For good cause, the Juvenile Council of the High Court may extend custody for a maximum of 30 days.

The duration of a minor's detention is outlined in Article 63 of the aforementioned law. A minor is kept segregated from adults in a facility. In exceptional circumstances, the juvenile judge may order that the child be detained alongside an adult who wouldn't negatively affect him, in order to prevent the negative effects of loneliness on the child's personality development.

Depending on their requirements and availability, juveniles in custody will have access to educational programs and psychosocial support.

According to the Criminal Procedure Code, juvenile judges have the same authority over imprisoned children as the investigating judge, or the president of the court, have over detainees who are adults.

The juvenile judge is required to give special consideration to the imprisoned child's personality and the necessity to protect him while he is in custody.

A minor cannot be sentenced to solitary confinement, according to Article 119.

### **Right to assistance**

In response to the Committee's query regarding migrant children's housing options, we state that the Directorate for the Reception of Foreigners Seeking International Protection, housed within the Ministry of the Interior, is responsible for the reception and housing of foreigners seeking international protection in accordance with the Law on International and Temporary Protection of Foreigners (Official Gazette of Montenegro, number 2/17 and 3/19) and the Rulebook on rules of residence and house rules in the Reception Center ("Official Gazette of Montenegro", number 61/17, 40/19 and 114/21).

Facilities for housing minor migrants are available in the Department Spuž of this Directorate, in the area designated for the housing of minor migrants and families, regardless of whether they are accompanied or not. A portion of the JU Ljubović's accommodation capacity, 25 places, which was not required in previous years, was also determined in addition to the Directorate's accommodation capacities.

405 migrant children, both accompanied and unaccompanied, utilised the lodging options provided by the Directorate for the Reception of Foreigners Seeking International Protection - Department Spuž during the course of 2022.

The Ministry of the Interior's medical facility offers medical health care to migrant children. This group of people is cared for by the Institute for Emergency Medical Assistance, the Health Center of the Capital City, and the Clinical Center of Montenegro in the event of emergencies or serious problems.

Bone testing is not done in Montenegro to determine the age of unaccompanied migrant children.

### **Child poverty**

Before the reform of the right to child benefit, as many as 84% of children were not covered by the benefit. Due to the fact that it is directly related to the fulfillment of the criteria for obtaining the financial assistance, the child benefit, which is intended to reduce poverty among children, covered only 9.5% of all children in Montenegro in 2018 (ending at the age of 17), while overall, every third child lived in a household at risk of poverty.

All children ages 0 to 6 who are living in vulnerable homes, including those who receive personal disability allowance, care and assistance allowance, or financial assistance, as well as those without parental care, receive child benefit beginning in June 2021. This led to an increase in the number of children getting this benefit from 14,903 to 48,000.

A new legislation amendment was adopted in December 2021, adding a child benefit for all children under the age of 18, beginning in the fourth quarter of 2022.

All children would be eligible for the child benefit with this expansion, which also suggests that a bigger proportion of the population will indirectly benefit from the benefit. They will profit from this since 56% of the population now resides in homes with children under the age of 18. Given that 68% of the poorest 20% live in homes with at least one child under the age of 18, coverage rates would rise especially among these households. It is anticipated that Montenegro would see a triple impact when it begins providing the universal child benefit to all children. It is possible to lower the at-risk-of-poverty rate to 21.2%. Additionally, the universal child benefit can lower the percentage of children at risk of poverty to 24.9%, removing 10,180 kids from that risk zone.

**2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.**

*a) What measures have been taken to introduce anti-bullying policies in schools, i.e. measures relating to awareness raising, prevention and intervention? (General question, Conclusions 2019).*

**REPLY:**

With the 2019–2021 Action Plan, the Ministry of Education brought the Program for Suppression of Peer Violence and Vandalism in Educational Institutions in Montenegro into effect.

In collaboration with the UNICEF Office for the school year 2021–2022, the Program: Safe Development and Growth Result from Prevention, was put into practice in 2008.

The Ministry undertakes the following program for the 2022–2023 academic year: Support for the implementation of nonviolence prevention initiatives in schools as part of the Support to the inclusion of children from Ukraine in Montenegro’s educational system. The following initiatives have been planned and are now being carried out: workshops to raise awareness of the value of violence prevention, the development and execution of school action plans, and themed trainings.

2019 saw the completion of the Protocol on collaboration on the “Safety of Children” program between the Ministries of the Interior, Education, and Police Directorate. The “Safety of Children” program aims to enhance and provide information, abilities, and attitudes in order to promote elementary school students’ safety cultures. In 2019–2020 school year the trained police officers of the Police Directorate held lectures for 1,857 students in 43 elementary schools. In addition, 473 children attended lectures on juvenile delinquency and peer aggression that took place at nine schools. In school year 2020–2021, 414 pupils attended 13 lectures across 13 elementary schools. In collaboration with the Ministry, police officers from the Police Directorate developed and videotaped lectures that were posted on the online learning platform Digital School. Peer violence, juvenile delinquency, safe use of the internet, and social networks are only a few of the lectured topics.

Since 2015, the “My Values and Virtues” campaign has been in operation. This program’s objective is to foster in pupils a variety of significant values and virtues as well as the development of their character. The evaluation revealed that the program’s implementation significantly changed the learning environment, student-teacher and student-student relationships, community involvement, etc. In the Institute for Education’s catalog of professional training programs for teachers for the school years 2022–2023, and 2023–2024, the professional training program for teachers titled “My Values and Virtues” is listed.

From 2012 through 2017, the “Surf Smart” project, which addresses cyberviolence, was put into action. The Ministry of Education developed the “Show What You Know” quizzes, which are available at [www.pokazistaznas.edu.me](http://www.pokazistaznas.edu.me), to encourage kids to continually learn about safe Internet usage. They are posted on the online learning platform Digital School and utilized in the teaching of informatics as an adjunct teaching tool to achieve results in this discipline.

The NET buddies application was developed for Android devices and as a web application at the URL [www.netprijatelj.me](http://www.netprijatelj.me) in collaboration with the UNICEF Office in Montenegro. Children are guided through realistic scenarios in this instructional game, which teaches them how to spot, stop, and report online violence. On the online learning platform Digital School, the NET buddies application is built up and used as an adjunct teaching tool in the IT classroom.

The Digital School platform has online courses on Definitions and Indicators of Violence in Educational Institutions and Online Violence.

The most up-to-date information and guidance for staff members in educational institutions about children's online safety is published on the teachers' portal ([www.skolskiportal.edu.me](http://www.skolskiportal.edu.me)). You can report computer incidents and illegal content through this site, and reports are routed right to the National CIRT team (the team responsible for responding to computer incidents).

The electives Healthy Lifestyles, Civic Upbringing, and Civic Education all cover topics relating to violence.

Records of information on the activities of pedagogical and psychological services have been added to the Education Information System (MEIS). Through their efforts, incidents of emotional, physical, extortion, cyber, sexual, social, and verbal abuse are documented. All educational institutions have adopted the module.

Montenegro's primary and secondary schools have established safety squads. The MEIS program keeps track of team member information.

At the Institute for Education, a pedagogue has been established as an expert who responds quickly to all reported incidents of violence in schools.

For the school years 2022–2023 and 2023–2024, professional training programs for teachers are listed in the catalog. The Institute for Education accredited 22 trainings in the area of violence prevention.

Improvements have been made to the Instruction "Distribution of Responsibility and Action Aimed at Prevention in Cases of Violence" in order to promote better responsibility, cooperation, and the implementation of preventative and support measures, particularly those pertaining to vandalism. The procedures and actions to be used when handling incidents of violence and vandalism at schools are described in depth. The Instruction for Schools contains a list of the subjects and objectives of class meetings. According to the schedule, class meetings are held once a week. The following themes are suggested: What constitutes student violence; If there weren't any violence at school; Needs and behavior; How to meet needs; Roles and emotions; Think how others feel; Suggestions for reimbursing a child for harm they cause; Collaboration, "Closed communication", Topic of importance to the class (the form of violence: fights, cyber violence, vandalism); and Damage Reduction - Vandalism. The Instruction also includes a list of the contact information and phone numbers for the centers for social work in each municipality. The National Council for Education awarded this document a favorable review. All schools received the instruction electronically, and it was also posted on the school portal. Meetings on the subject of violence were held

with the principals of all primary and secondary schools this school year at the Institute of Education. The principals were given a printed copy of the Instruction “Distribution of Responsibility and Action Aimed at Prevention in Cases of Violence and Vandalism” at these meetings.

The National Council for Education adopted the Education Program that was established for the purpose of acquiring the professional qualification Assistant in the prevention of violence and vandalism at schools. For the purpose of obtaining this certification, adult education facility has been accredited.

*b) What measures have been taken by the State to facilitate child participation across a broad range of decision-making and activities related to education (including in the context of children’s specific learning environments)? (General question, Conclusions 2019).*

**REPLY:**

The student parliament is made up of representatives from all school classes. When professional bodies at the school are working on matters that concern students (student standards, free activities, etc.), representatives from the student parliament have the right to participate. Additionally, a member of the student parliament is permitted to attend meetings of the management board or school board.

In accordance with the Law, the School, among other things, grants the student the following rights: to take part in the creation of instructions that outline his rights and obligations; to voice an opinion regarding the work of the teacher; on protection from all forms of school violence, discrimination, abuse, and neglect; to take part in shaping the content of professional excursions and other types of educational work; etc. The school is required to undertake an anonymous survey of students in all classes (except from those in the first cycle of primary school) about educational programs, the work of teachers, and working conditions at least once a year as part of the self-evaluation process.

*c) What measures have been taken to address the effects of the Covid-19 pandemic on the education of children (including in particular disabled children, Roma and Traveller children, children with health issues and other vulnerable children)?.*

**REPLY:**

Due to the circumstances surrounding the Covid-19 pandemic, the campaign to enroll RE children in preschool, primary, and secondary education was not organized the typical way – in schools, cities, and through personal contact – but rather was organized inside the Ministry of Education’s facilities using all available public communication channels.



The Ministry, schools, NGO sector, and partners in social inclusion apostrophize electronic registration and support with the registration. The Ministry, the Institute for Education, the Ministry for Human and Minority Rights, the Roma Council, and the NGO “Mladi Romi” were all represented. The tagline “Everyone goes to school” and encouragement to parents and children served as the overall theme.

The campaign also underlined that parents can get in touch with the educational institution for help registering their children if they are unable to do it electronically. Additionally, the NGO “Mladi Romi” and the NGO “Koračajte sa nama” offered technical assistance.

This presented challenge for the entire educational system, but notably for pupils from underrepresented groups. The online learning was accompanied by initiatives aimed at providing members of marginalized groups with specific assistance through all forms of public information. The Ministry put into effect a number of measures in collaboration with partner organizations and the NGO sector.

-One hundred smartphones with free cards for three months were given to elementary school students in collaboration with the HELP organization and Telekom Crne Gore.

Students at the elementary schools “Božidar Vuković Podgoričanin” and “Radomir Mitrović” in Berane (70 + 30) received phones as gifts.

- The Ministry gave 45 phones and free cards to children in the last few grades of elementary school in collaboration with the NGO “Mladi Romi.”

-Phones were also given to all RE students in high schools (40 REF through the NGO “Mladi Romi” and 75 by the U.S. Embassy).

- UNICEF is participating in providing help to RE students and those in a state of socioeconomic need, with 92 packages of press materials and delivery to children who are still outside the system, in collaboration with the Red Cross of Montenegro and with the support of the Ministry (includes approximately 80 schools).

- Schools organized the distribution of materials by hiring social inclusion specialists (mediators), and in some cases, Red Cross volunteers also took part. This action involved roughly 500 pupils in all.

*d) Please provide information on the measures taken to ensure that state allocation of resources to private education does not negatively impact on the right of all children to access free, quality public education (based on a Statement of Interpretation from Conclusions 2019).*

**REPLY:**

General Law on Education and Upbringing (“Official Gazette of the Republic of Montenegro”, No. 64/02, 31/05, 49/07, 4/08 - second law, 21/2009 - second law, 45/2010, 40/2011 - second law, 45/2011, 36/2013 - Decision of the Republic of Montenegro, 39/2013, 44/2013, 47/2017,

59/2021, 76/2021 - correction, 146/2021 and 3/2023) prescribed conditions for financing of private institutions.

According to this law, a private institution that offers publicly acceptable educational programs may receive funding from the Montenegrin budget if it can demonstrate that it meets the following criteria:

- 1) offers a first through final grade curriculum;
- 2) has operated a preschool program for at least a year;
- 3) has at least two first-grade classes enrolled, and for the art school, at least 35 students; and
- 4) has hired the teachers and staff members required for the institution's mission, in accordance with the law and other regulations.

The Ministry evaluates whether the private institution complies with the standards outlined in this article's paragraph 1.

According to Article 138 of this law, secondary religious institutions that offer publicly acceptable educational programs may receive funding from the Montenegrin government. An administrative contract governs the rights and responsibilities that the state and a private entity have toward one another.

The Law also specifies a funding ceiling. If the existence of the (sole) public institution established by the state in the same location is threatened by the enrollment of pupils in a private school, then a private primary school does not receive funding from the Montenegrin budget.

According to the Ministry's decision, the private institution in this case no longer receives funding from public sources.

The founder of a private institution determines the tuition charge per student or child. Exceptionally, the amount of money allocated per student or child in a private institution that receives funding from the Montenegrin budget may be up to 10% higher than the amount supplied to a public institution.

The funding of the private institution from the Montenegrin budget is halted if the tuition fee is levied in violation of the guidelines in paragraph 2 of this article.

The state is required to make sure that children, students, or participants finish their education, which includes any education received from a private institution that no longer receives funding from public funds and so is not able to offer a publicly recognized educational curriculum.

*e) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

Because children without a residence permit are not allowed to attend school, the Committee comes to the conclusion that Montenegro's situation does not comply with Article 17 paragraph 2 of the Charter.

The Montenegrin Constitution establishes free and mandatory primary education. All children between the ages of six and fifteen are required to attend primary school, which lasts nine years, according to the Law on Primary Education. The parent/guardian must ensure that his child fulfills the primary school obligation.

Children with granted temporary or permanent residency are not the only ones who have the right to education; so do minors seeking international protection, those seeking asylum, and foreigners covered by subsidiary protection.

Therefore, a foreigner seeking international protection has the right to primary and secondary education under the Law on International and Temporary Protection of Foreigners ("Official Gazette of Montenegro", No. 2/17 and 3/19). A minor foreigner seeking international protection has the same access to primary and secondary education under the same conditions as a Montenegrin citizen, as long as they follow the rules governing primary and secondary education. Even after reaching the age of majority, a minor foreigner requesting international protection who has begun exercising their right to secondary education will be permitted to do so under the same circumstances as a Montenegrin citizen. For a minor foreigner seeking international protection, this right may be exercised within three months after the date the application for international protection was submitted until the execution of the return decision. When a minor foreigner seeking international protection does not speak Montenegrin well enough to participate in regular classes, he will be permitted to participate in preparatory and supplementary classes, including Montenegrin language classes, in accordance with the rules governing education, so that he can exercise his right to education.

Foreigners receiving subsidiary protection and asylum seekers both have the right to an education.

According to the laws governing education, those seeking asylum and foreigners covered by subsidiary protection have the same access to primary, secondary, and higher education as Montenegrin nationals. The same rules that apply to Montenegrin residents apply to asylum seekers and foreigners who are subject to subsidiary protection when exercising their entitlement to adult education. According to the law governing the recognition of foreign educational documents, asylum seekers and foreigners under subsidiary protection may

exercise their entitlement to such recognition. A prior learning assessment (“prior learning”) will be performed in accordance with special regulations for asylum seekers and foreigners under subsidiary protection who, for valid reasons, are unable to provide the required documentation proving their foreign qualification. The absence of official documentation attesting to a specific foreign professional qualification cannot be used as the only basis for rejecting a request for recognition of foreign educational documents and qualifications.

Asylum seekers are referred to as “foreigners who have applied for international protection” in the Law on International and Temporary Protection of Foreigners, but refugees are referred to as “persons who have been granted asylum” in the same law.

We offer the following details in response to the Committee’s inquiry regarding the proportion of children from Roma and Egyptian families enrolled in primary education:

Data for 2018–19

In elementary schools, the 2018/19 school year, from I to IX grades there were 1,798 students (m 940 – f 858). In secondary schools from I to IV grades, there were 135 secondary school students from the RE community (m 73-f 63). Number of students in the academic year 2018/2019, according to the competition that was published for the awarding of scholarships, 14 RE students applied.

Data for 2019/20

There were 204 RE students in preschool for the 2019–20 school year (m 104–f 104)

There were 1,834 primary school students from grades I through IX (m 976-f 858) in primary schools during the 2019–20 school year. At secondary schools for the school year 2019–20 there were 149 RE students (m 85-f 64) enrolled in high schools during the year, in grades from I to IV. According to the competition that was publicized for the awarding of scholarships, 14 RE students applied for the academic year 2019–2020.

Data for 2020/2021

In the 2020–21 school year, there were 224 RE children (m 106–f 118) enrolled in preschool. There were 1,793 primary school students in grades I through IX (m 929-f 864) in the 2020–21 school year. According to the competition that was advertised for the awarding of scholarships, 15 RE students applied for the academic year 2020–2021.

In the area of education, the new Strategy for the Social Inclusion of Roma and Egyptians 2021–2025 has established the following objectives by 2025:

- Increase in the percentage of Roma and Egyptian children attending early childhood education programs from 16% to 30%;
- Increase in the percentage of Roma and Egyptian community members who have completed primary school rises from 56% to 75%;

- The percentage of Roma and Egyptian community members who have completed secondary school education rises from 3% to 20%;
- The number of Roma and Egyptian community members enrolling in higher education institutions annually rises from 4 to 15.

The Committee wanted details on the steps taken to guarantee that youngsters living on the streets had the right to an education.

Promotion - The Ministry of Education promotes enrollment in preschool education, in the first grade of primary and secondary schools in Podgorica, Nikšić, Berane, and Tivat in collaboration with the Ministry of Human and Minority Rights, the Institute for Education, the National Roma Council, and non-governmental organizations that deal with issues of members of the Roma and Egyptian communities. In order to notify parents about the options for enrolling RE children in preschool, primary, and secondary education this academic year, flyers in Montenegrin, Romani, and Albanian were delivered. However, owing to the epidemiological situation, they were not distributed.

It was highlighted that parents should contact the educational institution and the Associates in Social Inclusion for registration assistance if they are unable to register their children electronically.

Free textbooks are being distributed to students in grades I through IX who are Roma or Egyptian. All primary school students will receive free textbooks beginning with the 2021–2022 school year.

Transportation - In Podgorica, Nikšić, Berane, and Cetinje, free transportation is offered to roughly 600 RE elementary school pupils.

Associates (mediators) - In keeping with the standard, associates (mediators) continued to be involved in the social inclusion of RE in schools. This method has shown to be quite effective in reducing dropout rates and integrating children from the RE population into the educational system.

In the elementary schools in Podgorica, Nikšić, Bar, Berane, Ulcinj, Herceg Novi, and Tivat, 25 associates (mediators) were engaged.

Members of the Roma Egyptian community are especially invited to participate in the free trainings that are provided for associates in the social inclusion of Roma and Egyptians in education.

Scholarships - for the school year 2022–2023, the Ministry of Education has established a scholarship competition for high school students from the Roma and Egyptian communities. On September 1st, the competition was announced, and it ended on October 17th, 2022.

A scholarship was given to each full-time high school student and member of the RE community who entered the competition. Secondary school pupils receive a monthly fee of €60, while scholarship for university students is €225 monthly.

Children who are members of the RE community are welcome to participate in the Adult Literacy and Education Program at no cost to them.

#### **Article 19 – The right of migrant workers and their families to protection and assistance**

**With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:**

**11. to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;**

*If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

#### **REPLY:**

The Committee determines that the situation in Montenegro complies with Article 19 paragraph 11 of the Charter, pending receipt of the relevant information. The Committee requested information in the next report on adult migrant language instruction as well as whether or not children who are still having difficulty in school due to language hurdles can receive further support either inside or outside of the classroom.

The National Council approved a leveled educational program for studying the Montenegrin language in 2013, and it was created by the Center for Vocational Education.

In compliance with the Law on International and Temporary Protection of Foreigners, the Center for Vocational Education created the Education Program for learning the Montenegrin language, history, and culture for asylum seekers and foreigners under subsidiary protection.

According to the aforementioned Program and Article 23 of the Law on Adult Education (“Official Gazette of Montenegro”, Nos. 20/11 and 47/17”), authorized Adult Education Centers must advertise for enrolment, or inclusion in the educational program. The curriculum was developed in accordance with the Common European Framework of Reference for Languages and is aimed at immigrants under subsidiary protection and asylum seekers. In order to integrate into the community and nation in which he finds himself, the candidate should have an interest in learning the Montenegrin language fundamentally. He

or she should also demonstrate the drive to practice the content in-depth and hone language skills.

Supplemental classes are organized according to a special publicly valid educational program, for a maximum of one school year, for students who enroll in classes for the first time and do not know or do not know the language sufficiently in which the classes are held, as a special help in mastering the language and better involvement in classes.

**12. to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.**

*If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee had previously postponed reaching a conclusion until receiving the requested information.

**REPLY:**

The institution's classes are held in the official Montenegrin language, according to the general law on education and upbringing. Additionally, instruction is provided in the institution's official languages, including Bosnian, Albanian, and Croatian, while maintaining the same linguistic foundation and recognizing the rights of minorities.

Albanian, Bosnian, Croatian, and Romani are the primary minority languages of Montenegro. 2019–2023 Minority Policy Strategy set the goal "Improved respect for the principles of multiculturalism and multiethnicity in the educational system of Montenegro in accordance with international and national standards, through further strengthening of the capacity of educational institutions and the application of the principle of affirmative action", which will be accomplished by establishing normative and resource-technical assumptions for the study of minority languages in educational institutions, improved multicultural and multi-ethnic character of educational curricula and through strengthened capacities of teaching staff in educational institutions in the function of realizing the rights of members of minority nations and other minority national communities. There have been efforts to translate primary and secondary general education (gymnasium) textbooks from Montenegrin to Albanian, while teaching curricula in institutions that offer classes in the Montenegrin language now cover topics from minority peoples' literature, history, art, and cultures in addition to the mother tongue. An inclusive environment free from social exclusion and/or discrimination is what the

education system itself aims to create. In schools, the open curriculum includes 20% of teaching content created by teachers, parents, and schools in collaboration with the local community. This significantly contributes to the realization of the right to study the specificities of language, culture, history, and other peculiarities of minorities and the environment where the school operates. The Ministry of Human and Minority Rights, in collaboration with the Ministry of Education, implemented seminars for teachers on cutting-edge integrative teaching techniques with a focus on multiculturalism and the implementation of 20% of the open part of the curriculum in order to implement an open curriculum. In order to increase their awareness and expertise in the area of defending the rights of 30 members of minority countries and other minority national communities, it was also decided to train teachers of significant subjects in the field of human and minority rights. At least 15% of primary and secondary educators who are currently working have received training in the area of understanding the human rights of citizens of minority countries and other minority national communities. Bilingual classes are offered at all levels by the Ministry of Education in both Montenegrin and Albanian. A working group was established in collaboration with the Ministry of Education for the analysis and proposal of programs for education in the language of members of the Croatian minority in Montenegro in regular classes in primary and secondary general schools that deal with the language and culture of the minority population. In order to incorporate the history, language, culture, and traditions of the Croatian population in Montenegro into the general curriculum, changes to the curriculum were also recommended.

#### **Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment**

**Article 27 – With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:**

**1. to take appropriate measures:**

**a) to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;**

**b) to take account of their needs in terms of conditions of employment and social security;**

**c) to develop or promote services, public or private, in particular child day care services and other childcare arrangements;**



- a) *Please provide information on whether the Covid-19 crisis had an impact in particular on the possibilities for and the consequences of remote work on the right of workers with family responsibilities to equal opportunities and treatment.*

**REPLY:**

According to Article 42 of the Labor Law, if the nature of the activity permits it, an employment may be established for labor performed outside employer's premises.

Telework and work from home are both considered to be part of the employment relationship when performed off the employer's property. This employment contract must include information on the following in addition to the data required by each employment contract:

- 1) the type of work and the method of organizing it;
- 2) the working environment and the method of supervising it;
- 3) the use of own funds for work and the payment of costs associated with their use;
- 4) the payment of other expenses associated with the performance of the work and the method of determining them; and
- 5) other rights and obligations.

Employers are required to preserve records of employment contracts for work performed outside their premises and to notify the administrative authority in charge of inspection supervision.

When there is an imminent threat to the lives or health of employees or if the job endangers the environment, the labor inspector can forbid the employer from undertaking work beyond the employer's premises.

The aforementioned provision was fully applied during the Covid-19 pandemic.

Additionally, the application of Article 103 of the Labor Law came to light during the epidemic and as a result of the disruption of work in several businesses. Specifically, the employee is entitled to compensation for lost wages during absences from work resulting from interruptions of work that happened without the employee's fault in an amount equal to 60% of the basis for compensation, which is his average salary earned over the preceding half-year and cannot be less than the minimum wage in Montenegro. Here, an interruption of work is understood to include interruptions brought on by issues with the employer's operations, interruptions brought on by a state agency's decision to forbid the performance of certain tasks, interruptions brought on by natural disasters, and interruptions in other situations covered by the collective bargaining agreement.

- b) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee deferred previous conclusion pending receipt of information.

Since April 30, 2019, the Law on Mediation in Employment and Rights During Unemployment (“Official Gazette of Montenegro”, number 24/19) has been in effect.

The Employment Agency of Montenegro implements the active employment policy initiatives that are outlined in the aforementioned Law. These include:

- 1) adult education and training;
- 2) employment incentives;
- 3) direct job openings; and
- 4) entrepreneurship incentives.

Depending on the demands of the labor market and the determination of target groups, which are specified in the Employment Action Plan and the Work Program of the Agency, the Employment Agency may adopt additional active employment policy measures.

Active employment policy programs involve unemployed people.

Employees who have lost their jobs owing to structural, economic, or technical changes may also be included in some active employment policy programs.

According to this law, employers, or education organizers, may take part in the implementation of the active employment policy program.

Through initiatives aimed at assisting the unemployed, young people, women, and recipients of social benefits—individuals whose social characteristics have an adverse impact on the overall socio-economic system and who, as a result, represent a vulnerable group on the labor market—the Employment Agency of Montenegro implements active measures of the labor market.

For a total of 5,972 jobless people during the reference period, the Agency developed and implemented new active employment policy programs in addition to the standard ones. Young individuals make up 47.90% of all participants in these programs, while 5.2% are social assistance recipients and 51% are women.

Programs that primarily aimed to align these individuals’ knowledge and skills with the demands of the labor market, i.e., the demands of certain occupations for which they have the necessary level of education, were implemented in order to integrate 2,937 unemployed people into the labor market. These programs included education and training programs for 1,272 people, training for independent work for 721 people, and training for employment with an employer for 944 people. Women make up 53.12% of the total participants in the aforementioned programs, followed by young people (44.23%) and those receiving social assistance (4.77%).

In addition to the aforementioned, vocational training programs were put into place during the reference period for 12,288 jobless people with higher education, 7,513 of whom were

women (61.14%). Additionally, 490 young people participated in training and job programs, of whom 460 worked to combat the gray economy and 30 supported the development of agriculture, 288 of whom were women (58.77%).

The Agency implemented employment incentive programs for 118 people and public work programs for 2,236 unemployed people who had the knowledge, skills, and competencies needed on the job market but were having trouble finding employment due to the lack of available jobs. Women make up 64.31 percent of the total participants in the aforementioned programs, followed by young people (25.70 percent) and those receiving social assistance (4.29%).

The Agency developed activities to promote entrepreneurship and employment over the reviewed period, creating 70 new jobs as a result. In this way, 30 unemployed women are employed or made independent contractors.

The Agency began implementing the “Activating Women” Pilot Project in 2021 in an effort to lessen the effects of the Covid-19 pandemic on Montenegro’s workplace. In this project, 121 individuals between the ages of 25 and 49 who had preschool-aged children were involved, of whom 73% were young and 4.2% were recipients of social assistance.

**2. to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;**

*a) Please provide information on whether the Covid-19 crisis had an impact on the right to parental leave.*

**REPLY:**

The crisis brought on by the Covid 19 outbreak had no bearing on how the Labor Law’s parental leave provisions were put into practice.

According to Article 127 of the Labor Law, parental leave is the right of each parent to take time off work to care for the child. This leave may be taken up to 365 days following the end of maternity leave in order to care for the child.

Parental leave is a right that belongs to both parents equally. As a result, each parent has a unique right to parental leave that they are free to exercise whether or not both parents are working. Parental leave can be taken up until the child turns one. If we consider that the mother of the child uses the first 70 days after the child’s birth, or maternity leave, we can say that parental leave lasts a total of 295 days.

Parental leave is therefore a privilege that both parents are entitled to use equally (147.5 days for the mother and 147.5 days for the father). Parental leave that has been initiated by one parent may, however, be transferred to the other parent following a 30-day waiting period; in this event, the parent who transferred the right to the other parent forfeits the ability to use the parental leave.

The employee enjoys all the rights under the employment relationship that they had up until the start of the use of the maternity or parental leave, in addition to all the rights to better working conditions that they would have been entitled to throughout their leave.

*b) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

As a result of the law's failure to grant each parent a unique, non-transferable right to parental leave, the Committee earlier came to the conclusion that the situation in Montenegro does not comply with Article 27 paragraph 2 of the Charter.

The parental leave provisions of the Labor Law, which took effect on January 7, 2020, are completely in line with Council Directive 2010/18 EU implementing the Revised Framework Agreement on parental leave.

According to Article 127 of the Labor Law, parental leave is the right of each parent to take time off work to care for the child. This leave may be taken up to 365 days following the end of maternity leave in order to care for the child. We stress that the right to maternity leave belongs to the mother of the child and must last 98 days, of which 28 days must pass before the due date and 70 days must pass after the baby is born. The right to parental leave belongs to both the mother and the father of the child.

Parental leave is a right that belongs to both parents equally. As a result, each parent has a unique right to parental leave that they are free to exercise whether or not both parents are working. Parental leave can be taken up until the child turns one. If we consider that the mother of the child uses the first 70 days after the child's birth, or maternity leave, we can say that parental leave lasts a total of 295 days. When the mother has passed away, is gravely ill, has abandoned the child, has her parental rights revoked, or is serving a jail sentence, the father is allowed to use the first 70 days after the child's birth. In addition, if two or more children are born, both parents may take use of the right to maternity leave, which lasts for 70 days after the child is born.

As a result, both parents have the right to use the 295-day parental leave in equal amounts (147.5 days for the mother and 147.5 days for the father). Parental leave that has been initiated by one parent may, however, be transferred to the other parent following a 30-day

waiting period; in this event, the parent who transferred the right to the other parent forfeits the ability to use the parental leave.

According to Article 128 of the Labor Law, there are certain situations in which one parent is permitted to use all of the parental leave, or a portion of the leave that would otherwise belong to the other parent but is unavailable to him because of concrete reasons. Those objective circumstances would be: if one of the parents is deprived of parental rights, deprived of business capacity, declared missing, unknown, of unknown residence or place of residence or, according to the findings of the competent center for social work, has grossly neglected the care of the child; when one of the parents, in order to protect the child, is prohibited or limited in contact with the child on the basis of a court order; when one of the parents is seriously ill or is dependent on the help of another person according to the opinion of the competent doctor; if one of the parents is engaged as a military person in a military mission outside Montenegro, provided that he waived the right to use parental leave in favor of the other parent in a written statement.

The employee enjoys all the rights under the employment relationship that they had up until the start of the use of the maternity or parental leave, in addition to all the rights to better working conditions that they would have been entitled to throughout their leave.

As a result, the employee is entitled to remuneration just like he would receive at his job, and the employer is entitled to reimbursement of that income through the Center for Social Work.

The employer is required to provide the employee a return to the same job or to another acceptable job with at least the same wage when the employee's parental leave time has expired after the child becomes one year old.

An additional benefit for employees is the provision that, if the work process at that employer permits it, the employer may, after the parental leave has expired, enable a change in the working hours or schedule for that employee, taking into account the needs of the employee that he stated in his written request.

It should be noted that there is no need for both parents to be working in order to exercise the right to parental leave; rather, Article 127, paragraph 6, specifies that if one parent is employed and the other is unemployed, the parent who is employed has the right to parental leave. Parents may exercise their right to parental leave whether or not they are in a married or cohabiting union because it is not dependent on marriage.

**3. to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.**

*a) Please provide information on whether the Covid-19 crisis had an impact on the prohibition of dismissal on the ground of family responsibilities and whether there were any exceptions to the prohibition of dismissal on the ground of family responsibilities during the pandemic.*

## REPLY:

What is not deemed a justifiable basis for the termination of an employment contract is outlined in Article 173 of the Labor Law. The use of leave for the maintenance of maternity, paternity, parental, adoptive, and foster care leaves, as well as absence from work for child care and special child care, is one of the unjustifiable grounds cited.

According to Labor Law's Article 123, Paragraph 1, an employer cannot terminate an employee's employment while she is pregnant or while she is taking parental or maternity leave. In paragraph 2 of this article, there is a special exception that refers to the termination of a woman's employment during pregnancy, that is, the use of the right to maternity or parental leave. Namely, a woman's employment may terminate for reasons that cannot be related to pregnancy or the exercise of any of the aforementioned rights, but this possibility is limited by two more conditions, namely:

- The employment relationship may be terminated due to a serious breach of the employment obligation or due to the existence of one of the reasons related to the termination of the employment relationship under the force of law provided for in Article 164 of the Labor Law;
- The employer must describe the specific reasons for the dismissal in writing. This means that in addition to the customary justification, the employer must "specially justify" the decision when terminating a woman's employment while she is pregnant. To do this, the employer must specifically explain how the conditions for the termination of the employment were met while keeping in mind the special protection of women during pregnancy and the use of the right to maternity and parental leave.

Given that the aforementioned categories of employees are not present at work, it is difficult to apply any of the reasons for individual dismissal in practice, which makes the prohibition on terminating employment contracts due to the use of maternity and parental leave primarily refer to collective dismissal. For both parents who take use of their entitlement to maternity and paternity leave as well as for working women who are pregnant, the prohibition against firing employees also applies in cases where a worker is declared redundant, or whose employment is no longer required.

Additionally, according to paragraph 5 of this article of the Labor Law, if an employed woman's employment contract expires while she is pregnant or using her parental leave or maternity leave benefits, the period for which the employment relationship was established under the contract for a fixed period of time is extended until the right to absence has expired. Here, it is understood that both parents have the right to protection if their employment contract expires during the course of taking advantage of their parental or maternity leave, with the duration of the contract being extended until the conclusion of the parental or maternity leave. Additionally, the intern's employment agreement, or internship, is prolonged throughout maternity and paternity leave.

Even during the Covid 19 outbreak, the Labor Law's aforementioned clauses were all fully in effect.

*b) Please explain whether a ceiling on compensation for unlawful dismissals was applied on the ground of family responsibilities during the Covid-19 crisis.*

**REPLY:**

Article 208 of the Labor Law stipulates that a legal entity will be fined between EUR 2,000 and EUR 20,000 if it fails to protect employees in accordance with, among other things, Article 123 of the same Law. For the same offense, a responsible person in a legal entity will be fined in the amount of 200 to 2,000 euros. The aforementioned provision was in full force throughout the duration of the Covid-19 pandemic.

*c) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

**REPLY:**

The Committee previously concluded that the situation in Montenegro is in accordance with Article 27 paragraph 3.