

GENDER MAINSTREAMING: EXAMPLES FROM MONTENEGRO

Analysis of gender component integration in policy-making in Montenegro,
with emphasis on the drafting of the Labour Law, Companies Law and Law
Amending the Law on Health Insurance



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LIST OF ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
LLC	Limited Liability Company
EU	European Union
IA	Institute Alternative
MHMR	Ministry of Human and Minority Rights*
MONSTAT	Statistical Office of Montenegro
NGO	Non-governmental organisation
NSDS	National Sustainable Development Strategy
OSCE	Organization for Security and Co-operation in Europe
APAGE	Action Plan for Achieving Gender Equality
RIA	Regulatory Impact Assessment
SIGMA	Joint Initiative of the Organization for Economic Cooperation and Development (OECD) and the European Union (EU)
UN	United Nations
UNDP	United Nations Development Programme

* Note: During the period of conducting the research and writing the analysis, this was the official title of the ministry. By adopting the Decree on Government Administration's Organisation and Manner of Work from 07.12.2020, (Official Gazzete of MNE, 118/20) this title changed to Ministry of Justice, Human and Minority Rights.



IN THE LONGER RUN, GENDER
MAINSTREAMING AIMS TO TRANSFORM
DISCRIMINATORY SOCIAL INSTITUTIONS
AND PRACTICES, RECOGNIZING THAT
DISCRIMINATION CAN BE EMBEDDED
EXPLICITLY OR IMPLICITLY IN A WIDE
VARIETY OF LAWS.

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE), 2017.

EXECUTIVE SUMMARY

Gender-sensitive legislation is a starting point for gender gap elimination. This analysis assesses the extent of gender perspective integration in the drafting of laws regulating labour relations, companies and health insurance. Although consideration of the potential impacts of policies on the positions of women and men is obligatory, that statutory obligation has been disregarded. This is illustrated by the Labour Law envisaging, due to the pressure exerted by the employers, that women employed on short-term contracts who take pregnancy-related sick leave would not have that period count towards the 36-month term required to obtain an open-ended contract i.e. permanent employment.

The institutional set-up for gender mainstreaming is deficient. Due to the lack of human and technical resources, the Gender Equality Division within the line Ministry is unable to issue opinions to all proposed legislation. The Gender Equality Council held only two meetings during the four-year term. During the term of the former Parliament, the Gender Equality Committee, as the concerned working body, issued opinions to fourteen proposals for laws, some of which largely influenced the position of women, such as the Proposal for the Law Amending the Law on Health Insurance. Although the Action Plan for the Gender Sensitive Parliament was adopted in 2019, there has been no monitoring of its implementation and the key objectives related to gender mainstreaming have not been achieved.

Targeted early stakeholder consultations (*javne konsultacije*) and full-scale public consultations (*javne rasprave*) aiming to collect data that would essentially respond to the need for reduced gender gap are lacking; gender gap is most evident in the domains of labour, power and money, and health. There is no advanced and gender-disaggregated statistics to serve as the basis for policy adoption and monitoring. For instance, there is no reliable statistics on the gender pay gap. The key stages in policy making are not adequately regulated, in particular with regard to the interventions following the completion of public consultations.

In order to facilitate gender-sensitive legislation, it is necessary to ensure targeted consultations with all stakeholders capable of contributing to a better picture of the needs of women and men in specific areas, as well as technical, material, financial and human resources for the work of the competent authorities. The training programmes on gender equality and policy making and evaluation should encompass mainstreaming of gender into all public policies. This Analysis includes also specific recommendations for amending some key regulations to enable gender mainstreaming across all stages of public policies, from comprehensive Regulatory Impact Assessments (RIA), to the procedures for setting up and assigning tasks to Working Groups and more effective public consultations.

INTRODUCTION

Article 3 of the Law on Gender Equality¹ requires the decision makers in Montenegro to implement gender mainstreaming, as it envisages assessment and evaluation of the impact of all decisions and activities on the position of women and men, at all stages of planning, adopting and implementing decisions.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) serves as the grounds for this obligation on the part of state authorities. The Convention binds all signatories – Montenegro being one of them – to implement appropriate measures to eliminate discrimination against women in the social, cultural, economic, civil and other spheres of life. Undertaking adequate legislative and other measures for the sake of practical implementation of these principles is stated as one of the actions towards achieving the said goal.²

The CEDAW Committee's Concluding Observations on the 2nd Periodic Report of Montenegro from 2017 confirmed the importance of putting in place gender-sensitive legislation in the country.³ The Observations mention the Law on Social and Child Protection as a concern, noting that adoption of amendments to the Law without any prior gender impact assessments reinforced the traditional role of women as homemakers and mothers, incentivising them to leave the formal labour market. Let us recall that the Parliament of Montenegro cancelled the benefits for 22,000 women who had accessed them on the grounds of having given birth to three or more children, on the basis of amendments of the Law on Social and Child Protection. Those women had renounced their jobs or pensions in order to be able to switch to the benefit.

Adoption of gender-transformative laws that consider the practical and strategic needs of women and men has special importance in the achievement of gender equality, better quality of life and realisation of the rights of citizens, as the end beneficiaries of all public policies. The United Nations (UN) defined gender mainstreaming as early as in 1997, as the process of assessing the implications for women and men of each planned action, including legislation, policies or programmes, in all areas and at all levels⁴. In addition to the Gender Equality Law, Montenegro has envisaged gender mainstreaming as a tool for achieving gender equality in

1 Law on Gender Equality (Official Gazette of RMNE 46/07 of 31 July 2007 and Official Gazette of Montenegro 73/10 of 10 December 2010, 40/11 of 08 August 2011, 35/15 of 07 July 2015).

2 Convention of the United Nations on Elimination of All Forms of Discrimination against Women (CEDAW), Women's Rights Centre, Podgorica, 2018.

3 Concluding Observations on the 2nd Periodic Report of Montenegro (CEDAW/C/MNE/2), CEDAW Committee, 21 July 2017.

4 Mainstreaming a gender perspective into all policies and programmes in the United Nations system, Resolution adopted by ECOSOC, excerpt from A/52/3, Chapter IV, 1997.

its Action Plan for Achieving Gender Equality (APAGE)⁵, National Sustainable Development Strategy (NSDS)⁶ and by signing numerous international documents.

The APAGE Implementation Programme⁷, which is the development document for gender equality implementation, prioritises the obligation of the Parliamentary Gender Equality Committee, all ministries and state administration authorities to ensure that gender equality component is incorporated in the design of all national policies, including strategies and action plans. The performance indicator envisaged in the Implementation Programme are the number and percentage of national policies that possess gendered indicators.

Besides APAGE, the latest Methodology for policy development, drafting and monitoring of strategic planning documents⁸ stresses the importance of gender perspective in designing the mentioned documents. The Methodology highlights the categorisation of stakeholders who may be impacted by changes in different ways, primarily women and men. It also stresses the importance of applying a gender perspective throughout the process of designing strategic documents: impacts, situation assessment, goal setting, activities, indicators, and development of financial estimates.

Still, the 2017 and 2018 Reports on APAGE implementation show that the Ministry of Human and Minority Rights (MHMR) was the only one to have assessed gender component in document drafting. During the period in question, that Ministry issued opinions to a number of laws, including the Law on Civil Servants and State Employees, Law on State Administration, Law on Media etc.⁹

Although APAGE prescribed the obligation of incorporating gender equality component for all ministries and state administration authorities, the Reports on the implementation of APAGE suggest a lack of proper understanding of that obligation. To prove gender mainstreaming, the ministries and state administration authorities frequently reported that all of the documents within their respective remits used gender-sensitive language. That explanation does not meet the purpose of gender mainstreaming and giving thorough consideration to the needs and experiences of women and men in the course of policy making.

Given the mentioned limitations, this Analysis aims to explore the extent to which gender equality perspective was incorporated in policy making in Montenegro, with a particular focus

5 Action Plan for Achieving Gender Equality for 2017-2021, Implementation Programme for 2019 and 2020, Ministry of Human and Minority Rights, Podgorica, March 2019, p. 13.

6 National Sustainable Development Strategy until 2030, Ministry of Sustainable Development and Tourism, Podgorica, July 2016.

7 Action Plan for Achieving Gender Equality (APAGE) 2017-2021, with the Implementation Programme for 2017-2018, Podgorica, March 2017, p. 42.

8 Methodology for Policy Development, Drafting and Monitoring of Strategic Planning Documents, second edition, amended, General Secretariat of the Government of Montenegro, 2020.

9 Report on the implementation of APAGE in 2017-2021, Implementation Programme for 2017-2018, p. 9.

on the **Labour Law**, **Companies Law** and **Law Amending the Law on Health Insurance**¹⁰. The OSCE's Practical Guide to Gender-Sensitive Legislation¹¹ provided the key analytical framework for assessing the adoption of the mentioned laws in the context of gender mainstreaming. Namely, in order to assess to what extent gender perspective was integrated in legislative drafting, we pay special attention to the following:

- **Current situation assessment** (whether the needs of women and men in the given area were considered and recognised);
- **Ex-ante impact of the laws** on target groups (whether the law addresses the recognised needs and priorities of women and men);
- The stage of **integration of gender-focused interventions and perspectives** (whether the law specifically included provisions that would enhance gender equality);
- **The stage of development of gender-sensitive indicators for implementation** (existence of a plan for monitoring the implementation of the law from the perspective of its expected contribution to better gender equality).

Given the important role of the Parliament, which should present the platform for the dialogue on the needs and interests of women and men, we particularly review the contents of the amendments tabled in the Parliament, discussions on the proposals for laws, and the work of the Gender Equality Committee.

The laws selected for this review regulate the areas with traditionally deep gender gaps in Montenegro. The inequality between women and men is evident in **the labour market**, in terms of equal access to employment and work conditions, in the domain of **money** and financial self-sustainability, and lastly in the domain of health, i.e. access to **healthcare**. These areas correspond with three out of the six domains addressed in the Gender Equality Index¹² when measuring the progress in the achievement of gender equality in the European Union member states and in the candidate countries, including Montenegro.

The findings contained here come as a result of analysis of publicly available documents (drafts, proposals and adopted version of the covered laws, APAGE and its Implementation Programmes and Implementation Reports, Parliamentary Committees' Reports and proposed amendments). In addition, requests for free access to information were sent to the competent institutions in order to access to the documents that were not publicly available (decisions establishing Working Groups tasked with drafting laws, reports from early consultations and public consultations, Rules of Procedure of the Gender Equality Council etc.). During the research, we encountered some limitations, such as lack of the minutes from the meetings of the Working

¹⁰ Draft Law and Proposal for the Law were titled *Law Amending the Law on Health Insurance*, whereas upon adoption the title was changed to *Law on Compulsory Health Insurance*.

¹¹ *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*, OSCE, 2017.

¹² *Gender Equality Index for Montenegro*, Montenegro, 2019, Olivera Komar.

Groups drafting some of the laws, which prevented insight into the discussions and assessment of the incorporation of gender equality in the course of drafting of some legal provisions.

Seven in-depth interviews were conducted in order to verify the data generated by the analysis. They were conducted with the representatives of senior management of the state authorities tasked with developing the mentioned laws¹³ or with improved implementation of Regulatory Impact Assessment (RIA)¹⁴. Gender mainstreaming was also discussed with former MPs who had tabled amendments containing gender component to the laws covered by this Analysis,¹⁵ and with the Head of the Gender Equality Division of the MHMR¹⁶. In addition, a focus group discussion was organised with representatives of trade unions, associations and organisations involved in health, labour and entrepreneurship sectors, and NGOs dealing with gender equality issues¹⁷.

The draft analysis was presented at the conference “Gender Equality and Public Policies in Montenegro: More Than Quotas”. The comments and suggestions received during conference from representatives of Ombudsman, Government and Parliament of Montenegro, were used to improve the analysis.¹⁸

The document starts off with a section on the general context for decision making and gender mainstreaming in Montenegro, followed by three key sections reviewing the respective steps leading up to the adoption of the three laws. The Analysis looks at the process of adopting legislation – from the establishment of the relevant Working Group to the enactment in the Parliament – in order to assess whether and to what extent gender perspective was integrated in specific legal provisions. **Part One** focuses on the **Labour Law** and analysis of the practical and strategic needs of women, gender impact assessment and framework for monitoring and evaluation of the Law. **Part Two** follows the same format in the analysis of the **Companies Law**, while **Part Three** addresses the **Law Amending the Law on Health Insurance** and incorporation of gender component. Finally, the document includes recommendations to improve gender mainstreaming in Montenegro.

13 In-depth interviews were conducted in May 2020 with: Zoran Ratković, Director General, Directorate for Labour at the Ministry of of Labour and Social Welfare; Slađana Pavlović, Director General, Directorate for International Cooperation and Harmonisation of Legislation at the Ministry of Health, and Renata Milutinović, Head of the Department for Industrial Development at the Ministry of Economy.

14 In-depth interview with Bojana Bošković, Director General, Directorate for Financial System and Business Environment Improvement, Ministry of Finance.

15 In-depth interview with Anka Vukićević, former MP, conducted on 30 November 2020, and interview with Nada Drobnyak, former MP, conducted on 11 November 2020.

16 In-depth interview with Biljana Pejović, Head of the Gender Equality Division at the Ministry of Human and Minority Rights, conducted on 30 November 2020.

17 Focus group discussion took place on 27 November 2020 via Zoom, and involved: Milena Popović Samardžić and Milena Petrović from the Trade Union of Montenegrin Physicians; Dušan Radoman from the Non-governmental Association “Doctors”; Kristina Mihailović from the “Parents” Association; Edita Dautović from the Association of Women Entrepreneurs of Montenegro; Branka Vuksanović from the Association of Business Women of Montenegro, and Ana Vukotić from the Women’s Rights Centre.

18 “Public Policies Often Ignore Needs of Women and Gender Gap”, Institute Alternative, 04.02.2021, available at: <https://bit.ly/37jrUAG>

THE INSTITUTIONAL SET-UP FOR GENDER MAINSTREAMING: LITTLE ROOM FOR AFFIRMATIVE ACTION

The process of legislative drafting, which concludes once a law is published in the Official Gazette, involves a number of prescribed procedures and steps. Those steps need to be understood and considered in the context of possible interventions and integration of gender perspective into Montenegrin legislation, so that the laws are adjusted to the practical and strategic needs and priorities of women and men.

Inclusiveness of legislative drafting: Limited participation of all stakeholders

The process of legislative drafting begins at the line ministry. This stage of the process is of high importance in terms of assessment of the needs of women and men, since major changes of the contents of the law rarely take place in the course of further procedure. For the purpose of legislative drafting and in the aim of professional collaboration, the ministries usually set up Working Groups, composed of civil servants from the line ministry and other ministries and state administration authorities. In addition, those Working Groups may also include experts from outside the state administration.¹⁹ This provision of the Decree on Government Administration's Organisation and Manner of Work opens possibilities for collaboration and involvement of external experts, who can contribute their specific expertise to ensure the quality of the draft law and help the law capture various perspectives and experiences.

The Law on State Administration regulates the relations between the trade unions and the ministries. When drafting laws that regulate the position, rights and obligations of the employees, the ministries are required to share the drafts or proposals for laws with the representative trade union for feedback. NGOs are also enabled to take part in the Working Groups and other working bodies established by the state administration authorities, for the purpose of deliberating on issues of common interest or regulating relevant issues.

Still, although the Decree on the election of NGO representatives to the working bodies of state administration²⁰ regulates the participation of NGO representatives in the working bodies, it imposes a limitation concerning involvement of several representatives of different NGOs. Participation of several NGO representatives who would contribute their expertise

¹⁹ Decree on Government Administration's Organisation and Manner of Work (Official Gazette of Montenegro 087/18 of 31 December 2018, 002/19 of 11 January 2019, 038/19 of 05 July 2019, 018/20 of 18 March 2020).

²⁰ Decree on the election of representatives of NGOs to the working bodies of state administration and conducting public consultations in preparation of laws and strategies (Official Gazette of RMNE 38/03 and Official Gazette of MNE 22/08, 42/11, 54/16 AND 13/18).

would enable a multidisciplinary approach in legislative drafting. The precondition for NGO participation, under the Decree, is possession of a track record in the specific field which constitutes the subject-matter or which is being regulated by the working body, allowing for participation and election of only one representative with experience in the specific field. Since the selected NGO which possesses expertise in the given field may not necessarily advocate improved gender equality or possess awareness of the distinctive experiences and needs of women and men, this prevents involvement of additional working group members who would address the subject-matter of the law from the gender perspective and would also address some other cross-cutting issues (such as environment or minority rights).

Furthermore, review of the Government of Montenegro Rules of Procedure, Law on State Administration and Decree on Government Administration's Organisation and Manner of Work suggests that the operation of the Working Groups tasked with legislative drafting is not sufficiently regulated. The identified gap refers to the competences and duties of members, scope of their work, division of tasks and duties and leaves room for arbitrariness on the side of ministries when determining the priorities and method of operation. Working Group members are not obliged to carry out an in-depth status quo analysis, consult with a wide range of interest groups, consider several options and then determine the one that is best suited for the law. The mentioned regulations do not require that minutes from Working Group meetings be prepared, thus hindering a more detailed insight into their operation.

The Human Resources Management Authority (HRMA) organises general, specialised or individual courses to develop the skills and knowledge of civil servants. Gender equality and use of gender-sensitive language in business communication are included among the human-rights-related topics covered by the HRMA Programme²¹. A specific thematic unit covers development and evaluation of public policies, which addresses topics such as legislative drafting, standards related to consulting the public, RIA etc. However, the 2020 Calendar of Training Events for Civil Servants and State Employees²² shows that only four days of training were envisaged to train civil servants on gender equality. The thematic units on human rights and gender equality did not cover the specific topic of gender mainstreaming. On the other hand, the survey conducted by the Gender Equality Committee and MHMR in 2013 showed that most civil servants did not understand the concept of integrating a gender perspective and thought it irrelevant because “the law guarantees equality to all”.²³

The Gender Equality Division of the MHMR and the Gender Equality Council of Montenegro have important roles in policy making, in terms of gender mainstreaming. APAGE requires

21 General Programme of professional training and development of civil servants and state employees, HRMA, 2019/2020.

22 Calendar of training events for civil servants and state employees for the implementation of the General Programme of professional training and development (January – June 2020 and September – December 2020), HRMA, 2020.

23 Second survey on the knowledge and application of Gender Equality Law in the institutions of Montenegro, Gender Equality Committee and MHMR, 2014.

the MHMR to issue its opinion in the course of development of all national policies, including strategies and action plans. Still, it can be argued that the capacities of the Gender Equality Division are not suited to such maximised objectives. Bearing in mind that the Secretariat for Legislation received as many as 115 proposals for legislation in 2019 only²⁴, and that, according to the current Rulebook on Internal Organisation and Systematisation²⁵, Gender Equality Division has four positions, including its Head, the objective of mainstreaming gender into all public policies cannot realistically be expected to be met. In particular since the obligations set in the APAGE represent only one portion of the activities falling within the remit of the Division.

The Gender Equality Council is another professional-advisory body within the MHMR, competent for gender-based analysis of regulations and strategic documents adopted at national and local level. It was established in 2016. Although envisaged to meet at least quarterly²⁶, until December 2020 the Council held only three meetings, including the constitutive one. One of its members stated lack of quorum and the excessive number of members as reasons behind its poor performance, as it was difficult to convene the Council. The Council may hold a meeting only if majority of its 25 members attend.²⁷ This hindered this body's relevant influence on gender mainstreaming.

Regulatory Impact Assessment: Simplified, rather than complete impact assessment

During the law-making process, the drafting authority is required to comply with the rules set by the Secretariat for Legislation and to carry out the Regulatory Impact Assessment (RIA) in line with the Ministry of Finance regulations²⁸.

RIA is a tool used by the drafting authority to carry out an ex ante evaluation of the impact of the prospective regulation on the overall system, but also to assess its impact on citizens. The Institute Alternative has highlighted in the past that RIA Forms were being completed only as a matter of form and that genuine analysis of the provisions included in a regulation was lacking. These findings are supported by the official Report on the quality of RIA from 2017²⁹ made by Ministry of Finance. The Report identified insufficient status quo analysis,

24 2019 Performance Report, Secretariat for Legislation.

25 Rulebook on Internal Organisation and Systematisation of the MHMR, December 2018.

26 Gender Equality Council Rules of Procedure.

27 Decision amending the Decision on the establishment of Gender Equality Council No: 05-023-557/16-21 of 26 May 2016, MHMR.

28 Government of Montenegro Rules of procedure (Official Gazette of Montenegro 003/12 of 13 January 2012, 031/15 of 18 June 2015, 048/17 of 24 July 2017, 062/18 of 21 September 2018).

29 Report on the quality of implementation of RIA in Montenegro for January 2016 – November 2017, Ministry of Finance, Podgorica, December 2017.

failure to provide information on comparative practices, best experiences and other reasons for introducing a provision, as well as lack of ministries' capacity to clearly define the positive and negative impacts that would result from implementation of the given regulation. The 2019 Report³⁰ also identified insufficient attention devoted to stating and describing the consequences and to making sure that those consequences are measurable.

Although the Gender Equality Law required the ministries to assess, in the course of policy-making, the implications those policies would have for women and men, not even the updated RIA Manual from 2018³¹ included the need for gender mainstreaming or provided any guidelines for considering the strategic and practical needs of women and men. The Manual included a note that Montenegro implemented the simplified version of RIA, focused on the impact of measures on the business and on the Government. The Government set the objective of introducing, by 2020, "a comprehensive impact assessment, which will include factors such as social, legal and environmental impact and impact on human rights". That objective was not accomplished in 2020, as no comprehensive or full-scale RIA that would require reflection on possible impacts of a piece of legislation on women and men has been introduced to date. During the interview with the Director General of the Directorate for Financial System and Business Environment Improvement at the Ministry of Finance, lack of funding was presented as the reason for not introducing full-scale RIA – specifically, the funding that ministries should have allocated to hire external experts to carry out the analyses required for such RIA.

It should be noted that the Instruction on Preparation and Assessment of the Impact Analysis of Decisions and Other Regulations of Local Self-Government Bodies³² from 2020 recognises the assessment of the impact of regulations on gender equality as one of the phases of impact analysis, as well as the obligation of proposers to determine whether the problem has a gender dimension.

The shortcomings in policy making in Montenegro have been noted in the course of the regular monitoring of implementation of principles of public administration in the candidate countries. The 2017 Montenegro Report provided by the Joint Initiative of the OECD and EU (SIGMA)³³ stated that, although a regulatory framework for inclusive policy making was in place, the quality of those policies remained a challenge. It also stated the lack of regulations that define the process of internal policy making within the ministries and of the mechanism

30 Report on the quality of implementation of RIA in Montenegro for January for 2019, Ministry of Finance, Podgorica, March 2020.

31 Guide for RIA analysis, Ministry of Finance, Podgorica, 2018.

32 Instruction on Preparation and Assessment of the Impact Analysis of Decisions and Other Regulations of Local Self-Government Bodies (Official Gazette of MNE 105/20)

33 Monitoring Report: The Principles of Public Administration, Montenegro, SIGMA, November 2017.

for monitoring the process of implementation of public consultations. It highlighted the lack of policy alignment across ministries. Ministries' comments accompany proposed policies, without reflection on the contents of such comments or explanation as to whether they needed to be taken into account in the course of further procedure.

Early consultations and public consultations: No proactive approach in seeking stakeholder contribution

To enhance public participation in legislative drafting, the ministries have available to them the mechanisms of early consultations (*javne konsultacije*) and public consultations (*javne rasprave*). The interested public is consulted at the **initial stage of drafting**, when the authorities, organisations, associations and individuals interested in the issues to be regulated share their initiatives, proposals, suggestions and comments. Once the draft is ready, public discussions on the text take place in the form of roundtables, debates, presentations or submission of objections, proposals and suggestions, either in writing or electronically.³⁴

In order to ensure the quality of public consultations, the Ministry of Public Administration has been recognised by the new Rulebook on Internal Organisation and Systematisation³⁵ as the competent body for monitoring the quality of public consultations in the preparation of laws and strategies. Guidelines for Monitoring the Quality of Public Consultations in the Preparation of Laws and Strategies³⁶ have also been prepared. Guidelines also contain a recommendation for self-assessment of the process of public discussions and consultations by ministries, giving opinions on the quality of reports on the results of public consultations by the Ministry of Public Administration, continuous training etc. However, as this is relatively new, non-obligatory document for those concerned, the essential effects of the guidelines are yet to be assessed.

For several years, the Institute Alternative (IA) has warned of the Government and ministries failing to put in place the conditions for greater participation of the interested public in policy making. The process of development of the Government Work Programme is not transparent, participatory or open for the suggestions provided by the public. The ministries do not post the lists of laws and strategies to be subject to public consultations during the year covered by the Programme in a timely manner.³⁷ Public consultations, early consultations, roundtables should provide additional opportunities for review of the proposed provisions. Public opinion

34 Decree on the election of NGO representatives into the working bodies (Official Gazette of RMNE 38/03 and Official Gazette of MNE 22/08, 42/11, 54/16 AND 13/18).

35 Rulebook on Internal Organisation and Systematisation (Official Gazette of MNE 18/2020)

36 Guidelines for Monitoring the Quality of Public Consultations in the Preparation of Laws and Strategies, SIGMA and OECD, June, 2020.

37 *Samo tri ministarstva najavila planirane javne rasprave za ovu godinu (Only three ministries announce public consultations for this year)*, Institute Alternative, 06 March 2020.

polls³⁸ show that public consultations, as a mechanism for citizen involvement, have still not seen full-scale implementation in Montenegro. The poll shows that as many as 60% of citizens are not informed about public consultations, while only 2% have participated in them.

On the other hand, when motivating the stakeholders to participate in decision-making, the administration often satisfies only the statutory minimum – by publishing the invitation to public consultations on the ministry’s webpage, eGovernment webpage and in one daily newspaper that is not particularly widely read. During the focus group discussion held in order to consult with the prominent associations, organisations and trade unions in the country, all of the participants reported that they had never been proactively informed by a ministry on any early consultations or public consultations in an attempt to motivate them to take part. The problem is also that draft secondary legislation does not accompany the draft law at the public consultations; since secondary legislation elaborates the application of the law to detail, the interested public is prevented from fully understanding the goal and spirit of the law and thus also from providing full contribution. The steps that follow the public consultations in the course of law-making are not specified. There have been cases when the Government-approved Proposal for the Law introduced major novelties that, however, did not stem from the feedback or suggestions obtained during the public consultations.

The Parliament and gender mainstreaming: Modest results

After some possible amendments and additions, the Proposal for the Law is forwarded to the Parliament, i.e. the relevant Parliamentary Committees – the Legislative Committee and the Lead Committee – for consideration. This is also referred to as the “first reading”³⁹. Apart from considering the Proposal for the Law, the Lead Committee also considers the opinions shared by the other Committees that considered the same Proposal and communicates its position on those opinions to the plenary.

Out of the total of fourteen Parliamentary Committees, the Gender Equality Committee has to be singled out as the most relevant for gender mainstreaming. Besides APAGE, the Rules of Procedure of the Parliament also stipulate that the Gender Equality Committee considers proposals for laws, other regulations and general acts concerning the implementation of the gender equality principle.⁴⁰ During the former term of the Parliament, from 2016 to 2020, the Committee considered and issued positive opinions to 14 Proposals for Laws.⁴¹ Its decisions were mainly unanimous.

38 *Perceptions of Public Administration*, Institute Alternative, Podgorica, March 2018.

39 Rules of Procedure of the Parliament of Montenegro (Official Gazette of the Republic of Montenegro 017/18 of 20 March 2018).

40 Ibid.

41 Parliament of Montenegro website, Gender Equality Committee, from the 1st meeting (22 Dec2016) to the 45th meeting (22 June2020.)

Besides the Lead Committee and other relevant Committees, MPs may consider a proposal for a law either individually or as a group and propose amendments. Amendments are tabled in writing and are accompanied by a rationale; it is up to the relevant Committee to consider such amendments and propose their adoption or rejection to the plenary. During the interview conducted with a former MP⁴², it was stated that lack of openness of the relevant Committees for suggestions tabled by the opposition, even when they were constructive, posed a constraint to efficient participation of MPs.

Besides the APAGE, the Action Plan for the Gender-Sensitive Parliament⁴³ defines a set of activities for continuous integration of gender equality principle in the process of development of laws and policies. Thus, the Plan envisages amending the Rules of Procedure to include a definition of the procedure for assessing gender impact, developing forms and methodology for such assessment, training staff for this activity, developing analyses of legislation etc. Although no reports on the implementation of the Action Plan for Gender-Sensitive Parliament are available, during the in-depth interview with the former Chair of the Gender Equality Committee, we learned that the measures focused on improved gender mainstreaming had not been implemented.

It is important to note that, at the time of adoption of the laws covered by this Analysis, the opposition MPs were boycotting the Parliament because of the 2016 coup d'état case. Later on, some MPs attended some of the sessions, some of them even for several months (Democratic Front), while others kept boycotting it throughout its term (Democratic Montenegro and Civic Movement United Reform Action – URA) till the inauguration of the new Parliament following the 2020 election.

42 MP in the 26th convocation of the Parliament, 2016-2020.

43 Action Plan for the Gender-Sensitive Parliament of Montenegro, June 2019 – October 2020.

DRAFTING AND IMPLEMENTATION OF THE LABOUR LAW

Analysis of the practical and strategic needs of women in the labour market

The new Labour Law was adopted in late 2019, it aimed to align the labour legislation with the European Union *acquis communautaire*, ILO conventions and recommendations ratified by Montenegro, and other sources of international law.

The most important novelty introduced by the Labour Law	Chief shortcoming of the Labour Law
The Law prevents the employer from terminating a short-term employment contract with a female employee if the contract is set to expire during her pregnancy or pregnancy-related sick leave.	The Law leaves room for discrimination against women, since the time spent on pregnancy-related and maternity leave does not count towards the 36-month period which is required to get a short-term contract extended into an open-ended one.

The Law includes provisions related exclusively to women's needs and their protection in the labour market. Those provisions were included mainly in view of Montenegro's obligation of aligning its legislation with the contents of the Directive on protection of women who have recently given birth or are breast-feeding, Directive on the Framework Agreement on parental leave and other Directives.⁴⁴ The major novelties concerning protection of women in the labour market include in particular the ban against the employer refusing to conclude an employment contract with a woman on the account of pregnancy and the ban against offering contract amendments that contain worse terms due to pregnancy, childbirth or breastfeeding. Furthermore, the Law entitles pregnant women to taking one day off work each month in order to attend prenatal checks; employers are banned from terminating employment contracts with pregnant employees or employees exercising their rights to maternity and parental leave.⁴⁵

⁴⁴ Interview with Mr. Zoran Ratkovic, Director General, Labour Directorate, Ministry of Labour and Social Welfare, conducted on 20 May 2020 at the premises of the Ministry.

⁴⁵ Labour Law ("Official Gazette of Montenegro" 074/19 of 30 December 2019), Articles 121, 122 and 123.

The Working Group in charge of drafting the Labour Law did not include representatives of the civil society organisations involved in women's rights. That could have been caused by the restrictive nature of the Decree on electing NGO representatives, which prioritises the organisations involved in the subject-matter regulated by the law in the narrow sense. The NGO sector representative in the Working Group in charge of drafting the Labour Law was a representative of "Status", a non-governmental association advocating for workers' rights.⁴⁶

During the development of the Labour Law, a representative of the Ministry of Human and Minority Rights (MHMR) took part in the Working Group. That ensured compliance with the Ministry's obligation of issuing opinions concerning gender mainstreaming; that obligation is set in the Action Plan for Achieving Gender Equality (APAGE). The Head of the Gender Equality Division at the MHMR stressed that her participation in the process had amounted to attendance of the initial meetings of the Working Group tasked with drafting the Law.⁴⁷ During those meetings, she suggested alignment with the EU Directives concerning the protection of occupational health and safety of pregnant women, women who have recently given birth or are breastfeeding, implementation of the Framework Agreement on parental leave and other Directives concerning gender equality. Since the drafting of the Law stretched over the two subsequent years, and no minutes were produced from the Working Group meetings, it is not possible to assess how the Working Group further approached the position of women and the protection of women's rights in the labour market.

The positive aspects of Labour Law drafting referred to extended public consultations on the draft Law, which took fifty days (ten days longer than the statutory minimum). Three roundtables were organised during the public consultations - in Budva, Bijelo Polje and Podgorica, with the aim to ensure better geographic coverage. Consultations with the public had been organised prior to that, and lasted over twenty days.

Although the Law specifically regulates the issue of protection of women, the Ministry of Labour and Social Welfare (MLSW) did not send the invitation to public consultations to those who possess expertise in the field and could help improve the legal provisions, such as women's rights organisations in Montenegro. The invitations were posted solely on the Ministry of Labour's website and on the eGovernment portal. The only organisation involved in women's rights that took part in the public consultations on the Labour Law was the "Parents" Association.

46 *Nacrt Zakona o radu: Udruženje za prava radnika smatra da se Nacrtom zakona ukidaju prava radnika i diskriminišu građani (Draft Labour Law: Workers' Rights Association believes that the Draft Law revokes workers' rights and discriminates citizens)*, available at: <https://bit.ly/3iafmQ2>

47 In-depth interview with Biljana Pejović, Head of the Gender Equality Division at the Ministry of Human and Minority Rights, conducted on 30 November 2020.

The long interval between the public consultations in 2017 and the adoption of the Law at the end of 2019 prevented the stakeholders such as the trade unions, associations and NGOs from constantly tracking the changes in the text of the Law, as was reported during the focus group session. On the other hand, they thought that the long interval enabled the employers to lobby and pressure for amendments that would render financial savings for them. They provided as an example that, during the interval in question, they had learned by chance about withdrawal of the initially agreed provision on the protection of pregnant women and women who had recently given birth from contract termination. Following that, they launched an additional initiative towards the MLSW, so the provision was ultimately included in the final version of the Law adopted in the Parliament.⁴⁸

Although it introduced welcome novelties concerning protection of women, the process of drafting the Labour Law did not fully acknowledge the need to reduce the gender gap in the labour market. This argument is supported by the fact that the public consultations, instead of serving to mitigate the negative impacts of inequality, served to reverse some provisions that originally guaranteed a greater degree of protection to women. The Telekom, Association of Banks, AmCham and Utilities Company of Budva LLC asked for the term of the short-term contract not to include pregnancy-related sick leave, which was accepted and incorporated in the Law.

It is worth noting here that duration of the short-term contract largely determines future labour rights. The employees who conclude such contracts may be hired for up to 36 months; after that term expires, they must be granted an open-ended contract, i.e. permanent employment, which entails more rights. Following the public consultations, the demand of the business community was accepted, bringing pregnant women into an unequal position, since they would have to wait longer for possible permanent employment. This left room for discrimination on the ground of maternity⁴⁹. The lack of thorough consideration of the needs of women and men respectively and lack of discussion on potential useful solutions could explain these developments in the course of drafting of some provisions. Enhanced women's rights in the new Law came more as a consequence of straightforward transposition of EU Directives. Such "automatic" alignment of legal provisions with the EU *acquis*, although it contributes to better protection of rights, does not rely on detailed analyses of current situations and of different practical and strategic needs of women and men respectively in the work sector, with the aim to address the concrete and specific problems faced by women in Montenegro.

48 Findings from the focus group session held with representatives of trade unions, associations and NGOs, conducted on 27 November 2020.

49 Center for Women's Rights Comments on the Proposal for the Labour Law, 28 November 2019, available at: <http://bit.ly/2KccWnz>

The Women's Rights Centre also pointed out that the Proposal for the Law had to be additionally aligned with the EU Work-Life Balance Directive, which aims to ensure more flexible working hours and paid parental leave for fathers and other guardians (with four months reserved for fathers, out of which at least one month non-transferrable to mothers). That would help establish a more equal division of family duties, fathers would be given more opportunities to take care of the children and women would get more opportunities to engage in paid work.

Gender impact assessment of the Labour Law

The Report on the Regulatory Impact Assessment (RIA) on the Labour Law identifies “employers” and “employees” as the two categories to be impacted by the Law; it also outlines the positive and negative, direct and indirect impacts related to each category. RIA does not provide data disaggregated by either gender or any other major variable such as age, ethnicity, rural or urban residence, marital status etc. These all constitute grounds for multiple and intersectional discrimination at work, which should generate more specific definitions of the male and female beneficiaries of the Law. Still, compared with the Law Amending the Law on Health Insurance and the Law on Companies, whose degree of gender mainstreaming is also covered by this analysis, the Rationale, which makes an integral part of the Proposal for the Labour Law, is informative and detailed and explains the impact the law is to have on women.

Such an approach, together with some of the mentioned provisions, suggests that the Law is not gender neutral, but could be seen as gender sensitive. Specific gender differences were taken into account; the difference in the respective positions of men and women was identified, and measures were taken accordingly. Still, in order for all laws, including the Labour Law, to be gender transformative, they have to go a step beyond the practical needs of men and women that are linked to their socially conditioned gender roles, and address their strategic needs that help eradicate women's dependency from men.

Proposal for the Labour Law in the Parliament: Review of the amendments and the discussion

The Proposal for the Labour Law was submitted to the lead Parliamentary Committee – the Committee on Health, Labour and Social Welfare. Following the discussion and legal-technical corrections, the Committee voted in favour of the Proposal. The Gender Equality Committee issued its opinion on the Proposal as well – following the discussion, majority of the Committee's members voted in favour of the Proposal. Although the Committee supported the Proposal, the Chair of this working body subsequently tabled amendments to

the text, together with a fellow party member. Their amendments proposed that, in case of multiple births, the Law allow maternity leave of 70 days from the birth of the child available simultaneously to both parents. The amendments were approved.

Another amendment concerning multifetal pregnancies was proposed by an independent MP. Given that such high-risk pregnancies caused more psychological and physical strain following child birth, the MP proposed that parental leave be extended by 180 days for each child. This amendment was not approved by the Committee. The amendments that called for the shortening of the 36-month term of short-term contracts were not approved either. The independent MP who proposed the amendment argued that the arrangement placed employees in an uncertain situation concerning possible termination of employment and prevented them from planning family activities. The amendments also asked for the deletion of the articles that, according to the MP, gave huge discretion to employers when deciding on termination of contract and generated insecure jobs and employment that affected the employees' planning of family life. The amendments were not approved, and the MP who proposed them did not get an explanation as to the why her suggestions were rejected.⁵⁰

Gender-based statistics in the field of work and labour relations: No framework for monitoring and impact assessment/ evaluation of the Law

In order to fully establish gender-sensitive legislation and the mechanism for monitoring gender equality at work and to ensure successful implementation of the Labour Law, it is necessary to have in place gender-sensitive, quantitative and qualitative indicators of the implementation of this Law.

Gender-sensitive indicators imply the existence of gender-based statistics, which guides further policy making. Thus, for instance, it is not possible to monitor the success in the implementation of parental leave for fathers, since there are no data on the number of fathers who used it. This directly affects the establishment of a more equal division of family duties.

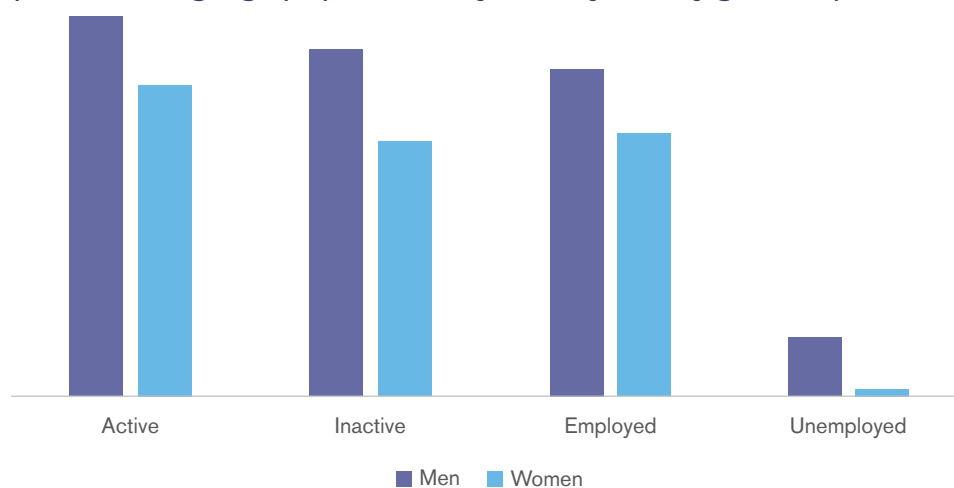
With regard to available gender-disaggregated data on the position of women in the labour market – which decision-makers could use to mitigate the gender gap by means of laws, strategies and plans – the key source of data is the Labour Force Survey (LFS)⁵¹ on the economically active population in Montenegro, conducted by Statistical Office of Montenegro (MONSTAT). The data provided by the survey show the number of the unemployed and the

50 The Report of the Committee that considered and rejected the proposed amendments does not explain the reasons for that rejection; during the interview with the independent MP who proposed the amendments, we learned that such explanation was not provided at the Committee meeting that she attended.

51 Labour Force Survey, Statistical Office of Montenegro (MONSTAT). Available at: <https://bit.ly/3bCtvEE>

unemployment rate, by gender and by quarter of the year. The Statistical Office also releases the statement on the conducted survey and shows the numbers of the inactive, employed and unemployed, by gender. Those numbers can help decision-makers identify the ways to use policies to improve the protection and involvement of women in the labour market. Unlike the Statistical Office, which processes data quarterly, the Employment Agency of Montenegro publishes monthly statistical bulletins that include gender-disaggregated statistics. The latest such bulletin published by the Employment Agency provided an overview of unemployment and employment, vacancies, job seekers etc.,⁵² and showed that women made up 59% of the total number of unemployed persons, as 25,476 out of the total of 43,065 unemployed persons were women.

Graph 1. Working-age population, by activity and by gender (in thousands)⁵³



The Action Plan for Achieving Gender Equality (APAGE) recognised the importance of gender statistics for improved gender equality in the labour market. Under the objective related to ensuring efficient implementation of laws and reducing gender-based discrimination in the labour market, APAGE encompassed gender-disaggregated collection, consolidation and processing of statistics on discrimination and mobbing.

Thus, annual gender-disaggregated reports on mobbing are available from the Annual Report of the Administration for Inspection Affairs⁵⁴. According to the 2019 Report, 13 initiatives related to mobbing were submitted, concerning seven men and six women. Still, the Administration's Report does not provide a gender-disaggregated overview of data on other initiatives, such as those concerning absence of employment contracts or failure to

52 Monthly Statistical Bulletin, Employment Agency of Montenegro, Podgorica, September 2020, available at: <https://bit.ly/3smtTwK>

53 Statement on the Labour Force Survey, Q2 2020, MONSTAT, Podgorica, September 2020, available at: <https://bit.ly/2Llg1Cz>

54 Administration for Inspection Affairs Report for 2019, March 2020, available at: <http://bit.ly/2XzEVRn>

register employees for compulsory social insurance. Furthermore, no gender statistics are available on the initiatives from the given year that concerned reports of discrimination and launching of inspection supervision procedures in cases of violation of employment-related rights through employee discrimination. This prompts the conclusion that the objective related to collection of such work-related statistics has not been achieved.

The Ombudsman Office also addressed the issue of gender-based discrimination in its Annual Report. Thus the 2019 Report stated that the Ombudsman received 20 of complaints concerning gender-based discrimination during the year in question, but that discrimination was not identified in any of those cases.⁵⁵ The Ombudsman warned in the report of the low activity rate for women in Montenegro, stating that that placed them at high risk of economic dependency from other family members, i.e. exposed them to economic poverty. The conclusion was that more robust measures were needed to enhance women's involvement in the labour market.

Gender pay gap statistics is an important area for improved equality, but this is an area where gender-based statistics is still lacking. The latest data on the average monthly wages date back to 2014⁵⁶, which hinders monitoring of the performance of laws, strategies and programmes intended to reduce the pay gap.

The Gender Equality Index⁵⁷, which was calculated for the first time in Montenegro in 2019, provides an overview of the statistics concerning the position of women in the labour market, in particular the employment rate, duration of working life, employment breakdown, flexibility of work conditions and the career prospect index. In addition to the quantitative indicators, it provides also the qualitative ones, generated by the survey among women on barriers to employment.

All of the foregoing can serve as the basis for development of laws and strategies that would mitigate the inequality between women and men. On the other hand, however, the official reports on the performance of courts do not include data on the number of labour disputes initiated by women or the outcomes of such disputes.

For a complete picture of the position of women in the labour market, that would be used to achieve improvements by means of appropriate public policies, it is not sufficient to just collect quantitative information – qualitative information is needed as well, as it can reflect the core of the problem and provide inputs that are not available through statistics. Thus, specific case studies can indicate the essence of the problem and the shortcomings of some solutions that might even that might even seem good. This can be illustrated by the recent

55 2019 Performance Report, Ombudsman Office, Podgorica, March 2020, available at: <https://bit.ly/3sitNXf>

56 Eurostat Structure of Earnings Survey for Montenegro.

57 Gender Equality Index, Montenegro, Olivera Komar, 2019.

case of violation of the right to maternity leave, where a Ministry of Interior employee got her contract terminated because she got pregnant. The case reveals blatant violation of the civil service regulations, abuse of temporary contracts and reversal of the spirit of the law.⁵⁸

The Women's Rights Centre's survey from 2019⁵⁹ can serve as an example of targeted collection of data on the quality of some work-related legal provisions. The survey identified violation of the right to maternity and pregnancy-related leave that should be safeguarded by the Labour Law. In the survey, 35% of female respondents reported not being paid or not being provided benefits during maternity leave. Out of the respondents who left on maternity leave, 42% did not return to their previous positions, while more than a half reported that their contracts had been terminated by the employer.

58 *Diskriminacija u MUP-u: Otvoreno kršenje propisa (Discrimination at the Ministry of Interior: Open violation of regulations)*, Institute Alternative, 09 October 2020, available at: <http://bit.ly/2XCnU95>

59 *Rodno zasnovana diskriminacija u oblasti rada i zapošljavanja u Crnoj Gori (Gender-based Discrimination and Labour in Montenegro)*, Women's Rights Centre, 2019, p. 30.

DRAFTING AND IMPLEMENTATION OF THE LAW ON COMPANIES

Analysis of the practical and strategic needs of women in the field of entrepreneurship

The Companies Law underwent six rounds of amendments since 2002, and that resulted in ambiguities in its implementation and interpretation. That was also the key reason for the adoption of the new Law, which drafting began in 2014. Additional reasons for the new Law were alignment with the European Union Directives and improvement and development of the business and investment environment. Still, none of the eleven parts of the Law addressed elimination of barriers to female entrepreneurship.

The Companies Law regulates the establishment, management, restructuring and representation of companies, along with other issues of importance for their operation. None of the articles or paragraphs of the Law address specifically the strategic and practical needs of women or barriers to starting businesses. While the Labour Law, discussed above, may be said to be gender sensitive, as it addresses protection of women at work, the Companies Law is gender neutral. It ignores the existence of the gender gap between women and men involved in entrepreneurship and provides no legal solutions that would reduce that gap.

Representative of the Ministry of Economy, which proposed the Law, noted that the provisions in the Companies Law were equal for all, as the Law was systemic and aimed to regulate the issues of establishment, management, restructuring and representation of companies.⁶⁰ However, the essence of gender mainstreaming is precisely opposite to the “one-size-fits-all” approach, since the positions of men and women are not equal. Hence, equal measures are not sufficient to help reduce the gender gap.

No thorough gender analysis of the strategic and practical needs of women was conducted in the course of drafting the Law, as it was not seen as a relevant topic. Thus, there was no specific consideration of, for instance, the issue of company establishment or management in order to ensure that the legal provisions are aligned with the needs of women and enable a better environment for their more active involvement. The poor situation of female entrepreneurship is illustrated by the fact that only 9.6%⁶¹ of all registered companies and only

60 In-depth interview with Renata Milutinović, Head of the Division for Industrial Development, Ministry of Economy, May 2020.

61 Data presented at the IA's conference “Gender Equality and Public Policies: More Than Quotas” (4.2.2021), indicate an increase in the number of companies owned by women. It is stated that the share of companies owned by women in the total number of companies in Montenegro is 22.76%, but for now there is no officially published

4% of all real estate are owned by women⁶². This prevents women from starting businesses, since start-up loans require possession of initial capital.

The draft version, the Government-approved Proposal for the Law, nor the adopted version of the Law included an article on the use of gender-sensitive language. The Law identifies *preduzetnik* (male form of entrepreneur), but not *preduzetnica* (female form) as being entitled to perform business activity. The 2010 Legal-technical rules for legislative drafting with the Guidelines for the harmonisation of Montenegrin regulations with the EU legal order⁶³ proposed a clause on the use of gender-sensitive language. The Gender Equality Law requires the authorities, as well as companies, other legal persons and entrepreneurs, to use gender-sensitive language and envisages sanctions in case of non-compliance.

The Working Group tasked with drafting the Proposal for the Companies Law was established in 2014.⁶⁴ Its members did not include any representatives of women's or any other NGOs.⁶⁵ The Decree⁶⁶ that was effective at the time regulated the criteria and procedure for electing NGO representatives into the state authorities' working groups. The representative employers' organisation (Montenegrin Employers' Federation) objected to the Ministry of Economy for not including their representative. The Working Group for drafting the Law did not produce minutes on its work.

During the discussion with the Association of Women Entrepreneurs and the Association of Business Women of Montenegro, we learned that the Ministry of Economy had initiated no communication or cooperation during the drafting of the Law, neither through consultations nor through invitations to attend public consultations and provide inputs.

Once the Working Group approved the Draft Law, public consultations took place from 12 July to 30 September 2017.⁶⁷ The eighty-day duration is commendable and can serve as a positive example of providing sufficient room to stakeholders to get involved in the policy making process. However, a comment the Employers' Federation shared with the Ministry during the public consultations pointed out that sufficient efforts had not been invested

information.

62 The Action Plan for Achieving Gender Equality 2017-2021, Implementation Programme for 2017 and 2018, Ministry of Human and Minority Rights, Podgorica, p. 27.

63 Legal-technical rules for legislative drafting with the Guidelines for the harmonisation of Montenegrin regulations with the EU legal order, available at: <http://bit.ly/3bJT3iW>.

64 Decision on establishment of the Working Group for drafting the Proposal for the Companies Law No. 01-2120/7, Ministry of Economy, 23 December 2014.

65 The Working Group included representatives of the Chamber of Economy, Central Registry of Business Entities, Ministry of Economy, Tax Administration and Commercial Court. Additional support was provided by the German Development Agency (GIZ), involving university teachers from the Faculty of Economics and Law Faculty.

66 Decree on the method of and procedure for establishing cooperation between state authorities and non-governmental organisations (Official Gazette of RMNE 7/21) from 2012.

67 Information obtained during the in-depth interview with Ms. Renata Milutinović, representative of the Ministry of Economy.

towards greater visibility of the invitations to the public consultations. Namely, the Federation objected to insufficient visibility of the draft text which the Ministry had posted on its website but not in any other media, such as daily newspapers. This suggests that entrepreneurs, micro, small and medium-sized enterprises that do not regularly visit the Ministry's website could not obtain timely information and get ready for the public consultations. Objections were voiced also concerning the timing of the public consultations, as they took place in the summer, during the peak season in the sectors of tourism and hospitality, construction, industry and transport, drawing the focus away from participation in the public consultations.

The roundtable within the public consultations took place in Podgorica.⁶⁸ However, such roundtables were not organised in the northern and southern regions, to enable participation of companies from these regions and demonstrate the Ministry's willingness to involve a wider range of stakeholders in the process of drafting the most important piece of legislation for the operation of companies. The Ministry of Economy told us that no individual targeted invitations to public consultations had been sent out to any organisations or associations of male or female entrepreneurs, with the exception of the Chamber of Economy of Montenegro and the Association of Lawyers of Montenegro.

Gender impact assessment of the Companies Law

Although the Companies Law is the longest of the three Laws reviewed here, with the biggest number of articles⁶⁹, paradoxically, the RIA Report for it was the briefest – only three pages long.

The brevity of the RIA for the Companies Law is illustrated by the fact that a single general sentence copied from the Rationale accompanying the Proposal for the Law was used to respond to as many as five questions from the first chapter titled “Problem Definition”, to provide answers to the following:

- Which problems should the proposed act resolve?
- What are the causes of those problems?
- What are the consequences of those problems?
- What entities suffer damage, how and to what extent?
- How would the problem evolve if 'status quo' remained?

One of the answers was also that “frequent amendments to Law have contributed to its

68 The roundtable took place on 25 September 2017 at the Chamber of Economy in Podgorica.

69 The Companies Law includes more than three hundred articles.

systematics becoming considerably vague in terms of the need for clear interpretation and simpler implementation of its provisions, which prompts the need for a new legal act”. Such answers do not serve the objectives of RIA, which should provide responses on the impact that the new regulation will have on relevant entities and the specific problems it is intended to solve. The Strategy for Developing Women’s Entrepreneurship⁷⁰ sets the obligatory analysis of the regulatory framework concerning the conditions for engaging in entrepreneurial activity. Gender is highlighted as a specific aspect, along with improvement to the regulatory framework in the aim of eliminating gender inequality. However, such an analysis was not implemented or considered in the context of adoption of the Companies Law.

Furthermore, under the section “Impact Analysis”, envisaged for precise definition of who will be impacted by the legal provisions and how – positive, negative, direct and indirect impacts – the entities are defined too loosely as “companies”. Thus, the opportunity for the regulatory impact assessment to deep-dive into individual systemic problems and barriers encountered by male and female entrepreneurs in Montenegro was missed, along with the opportunity to improve the way they are able to run their businesses. In the focus groups, representatives of organisations involved in female entrepreneurship noted that one of the barriers to development of female and male entrepreneurship was poor legal regulation of entrepreneurs as physical persons. Due to that, the most frequent choice is to establish a company that has a single employee, in order to optimise the taxes and contributions due. They highlighted the problem that occurred in such cases, where a woman would become employer and at the same time the only employee of the company, which meant that, when she needed to take pregnancy sick leave or maternity leave, she had to hire someone to run the company in order to access the sick-leave reimbursement.

Also, the section on the fiscal impact assessment states that the Proposal for the Law directly leads to more budget revenues from the fees for company registration at the Central Registry of Business Entities (CRPS). However, the RIA Report does not analyse the impact that has on male and female entrepreneurs, micro, small and medium-sized enterprises, or their motivation for starting businesses.

The overall analysis of the RIA Report supports the conclusion that no thorough and detailed analysis of the current situation was conducted, in particular from the gender perspective. Neither the RIA form nor the Rationale accompanying the Law highlighted specifically the issues related to the needs of women. The entire drafting process failed to take into account the gender dimension of the barriers to entrepreneurship in Montenegro. Lastly, although improvement and development of business and investment environment were given as some of the key reasons for the new Law, there was no sufficient analysis of the

70 *Strategy for Developing Women’s Entrepreneurship (2015-2020)*, Ministry of Economy, p. 28.

barriers encountered by entrepreneurs in Montenegro, irrespective of their gender.

It is precisely the third group of reasons that opens room for a more detailed study of the way the proposed legal provisions could contribute to diminishing business barriers, introduce reliefs and incentives to enhance female entrepreneurship as well as entrepreneurship in general. The Law is stated to introduce, as a novelty, mandatory registration of entrepreneurs, which ensures a higher degree of legal certainty for clients and business partners of a physical person engaged in economic activity. Another noted novelty is the concept of the manager who must be authorised by the entrepreneur to manage the affairs⁷¹; this imposed additional obligations on male and female entrepreneurs. The concept of the manager was addressed in the comments to the draft Companies Law provided by the Employers' Federation, which stressed that the provision in question was being introduced only for entrepreneurs, and thus undermined equality with other forms of business activity.

Companies Law in the Parliament, but not before the Gender Equality Committee

Once the Proposal for the Companies Law was approved, the Government shared it with the Parliament of Montenegro for further procedure. The Proposal was considered by the Legislative Committee and by the Economy, Finance and Budget Committee. The two Committees proposed that the Parliament adopt the Proposal. Although MPs⁷² tabled more than 30 written amendments, they did not substantively address improvements to the position of female entrepreneurs, nor did the arguments presented in support of the amendments include gender perspective. The Law was adopted on 25 June 2020, six years after the beginning of the drafting process. The Gender Equality Committee did not discuss the Proposal for the Law.

Gender-based statistics on female entrepreneurship

In order for public policies to regulate and properly address creation of a better investment environment, which develops female entrepreneurship and overcomes the barriers faced by women in Montenegro when starting their businesses, it is necessary to have adequate gender statistics to help identify the causes of the existing gap and ensure monitoring of the narrowing of that gap.

Absence of a comprehensive database on female entrepreneurship in Montenegro,

71 Rationale for the Law, Part II, on entrepreneurs (Articles 61-65).

72 Data from the Parliament's website, Proposal for the Companies Law, amendments tabled by Draginja Vuksanović Stanković PhD, Aleksandar Damjanović, Predrag Sekulić, Nikola Rakočević, Momčilo Martinović, Prof. Branko Radulović PhD, Petar Ivanović and Jovanka Laličić. Available at: <http://bit.ly/39tG4iH>

both at national and local level, is an indicator of insufficiently developed gender statistics in the country. Data on the number of women in governing bodies of companies and in management positions are also lacking. Establishment of such a database is envisaged as an activity in the APAGE, under the objective that refers to encouraging female entrepreneurship. That activity, however, has still not been implemented. The explanation in the Report on the implementation of the APAGE states that MONSTAT does not collect those data, as that is not envisaged in the five-year programme of official statistics or in the annual work plan. Hence, the activity was neither planned nor implemented. Data on women entrepreneurs are not available from the Annual Report of the Tax Administration. Although the Tax Administration keeps records on taxpayer registration in the given year – both entrepreneurs and legal persons - it does not provide gender-disaggregated data.

Besides establishing the database on women entrepreneurs, it is important to take a step further and monitor the indicators linked to the reasons behind the small number of women company owners, such as data on property ownership. A recent activity of the Secretariat to the Competitiveness Council⁷³ can set a good example with regard to analysis of female entrepreneurship as the basis for improved legislative framework and its implementation. The Secretariat launched an online survey⁷⁴ on the ownership and managerial structure broken down by gender, constraints faced by the business community, property status etc. with the aim to come up with a gender assessment of the investment climate and business environment in Montenegro. Although the survey was not linked to the Companies Law, it serves as the model of the analyses that should underpin policies in this field so that they can meaningfully respond to the needs of male and female entrepreneurs.

73 The Council was established, inter alia, with the aim to conduct analysis of applicable regulations from the perspective of their impact on business environment and competitiveness.

74 “*Rodna procjena investicione klime*” (*Gender Assessment of the Investment Climate*) Survey of the Secretariat to the Competitiveness Council, available at: <http://bit.ly/39rXah3>.

DRAFTING AND IMPLEMENTATION OF THE LAW AMENDING THE LAW ON HEALTH INSURANCE⁷⁵

Analysis of women's needs:

Fight to keep the status quo, instead of enhanced protection

In the case of the Law Amending the Law on Health Insurance, there was no Working Group composed of representatives of ministries, NGOs and other bodies, that would conduct situation analysis, consider alternative solutions to the problem and propose new provisions for the Law⁷⁶. The Ministry of Health explained that the Working Group was not formally established, but that the draft that was forwarded for public consultations was prepared by the lawyers employed at the Ministry and the Health Insurance Fund. Absence of this initial step in the policy making process precluded the participation of civil sector representatives and consultations with interest groups concerning the relevant strategic and practical needs of women and men.

Draft Law was forwarded to the Social Council and the Competitiveness Council, primarily in reference to the arrangements for sick leave. The two Councils provided positive opinions to the draft. Our interlocutor from the Ministry of Health reported that, during development of the draft Law, no particular consultations had been held with experts from the women's rights organisation, doctors' associations etc. They explained that the Law defined only the items reimbursable by the government, while other laws, such as the Law on Healthcare and the Law on Medically Assisted Reproduction defined the range of relevant healthcare. They also reported that expert public had been involved in the drafting of those laws, specifically doctors involved in medically assisted reproduction, gynaecologists and others.

The obligation under the APAGE – gender mainstreaming, with emphasis on the MHMR opinion, in the course of drafting all national policies – was not complied with in the case of this Law. The MHMR did not issue an opinion or develop a gender study as envisaged.

⁷⁵ Prior to the Parliamentary procedure and adoption, the Law was titled Law Amending the Law on Health Insurance. Following the adoption, it was titled *Law on Compulsory Health Insurance*.

⁷⁶ In-depth interview with Slađana Pavlović, Director General, Directorate for International Cooperation and Harmonisation of Regulations, Ministry of Health, held on 29 May 2020.

Once the draft Law was completed, the Ministry of Health consulted the interested public during the initial stage of preparing the Law Amending the Law⁷⁷. With regard to the realisation of women's rights, an outstanding comment was provided by the Institute for Public Health of Montenegro, as it proposed that Article 50 of the draft Law be deleted. Article 50 stipulated that an insurance beneficiary wishing to jump the waiting lists should bear the costs of the healthcare provided to them. The comment was supported by a reference to the World Health Organisation recommendation that healthcare systems must seek to provide equal delivery of healthcare services to all who have the same healthcare need, and prioritise those whose needs are greater. The comment was accepted and the article in question was deleted and was not included in the final adopted version of the Law.

Had it been accepted, one of the comments provided during the consultations would have threatened the rights of pregnant women. The Health Insurance Fund proposed amendments to the text of the Law⁷⁸ aimed at reducing the level of abuse by private companies: according to the Fund, those companies filed records on women who were not really employed to enable them to receive compensation for pregnancy sick leave, maternity and parental leave, which are paid from the compulsory health insurance and child care funds i.e. from the national budget. It was therefore proposed that, for the purpose of accessing compensation during temporary leave of absence, health insurance records linked to employment refer only to the records of the same employer. The comment was not accepted, thanks to the intervention of the "Parents" Association during the public consultations. The Association pointed out that the proposed provision blatantly violated the rights of employed pregnant women, adding that the proposed amendments would discriminate also against other employees taking temporary leave from work, according to the regulations on health insurance, and that the proposal could only result in negative consequences for individuals and the society at large.

In reference to the right to three rounds of in vitro fertilisation with the use of assisted reproductive technologies (ART) for women younger than 44, with no children of their own or with less than two alive children born in the same marriage or common-law marriage, the Health Insurance Fund proposed lowering the age requirement for ART to 42. That proposal was not accepted. A different proposal provided by the HIF was accepted, denying IFV funding from the compulsory health insurance funds if both spouses/partners are foreign nationals.

Besides the consultations described above, the Ministry of Health also organised 20-day public consultations on the Draft Law Amending the Law on Health Insurance. Still, similarly to the situation with the Labour Law and the Companies Law, women's rights organisations, with the exception of the "Parents" Association, were not specifically invited to participate.

77 Initiatives, proposals, suggestions and comments were provided by the Health Insurance Fund, Institute of Public Health (IPH), UNHCR Office in Montenegro and Association of Private Practice Physicians in Montenegro.

78 Specifically, Article 14 paragraph 2.

This Law introduced a novelty and a step forward in terms of maternal protection, by stipulating 100% (rather than 70%) wage compensation for those whose children suffer from cancer. In line with the proposal that the Employer's Federation shared during the public consultations, under the new Law, parents taking sick leave on these grounds will be reimbursed total wage compensations.

Gender impact assessment of the amendments to the Law

The RIA Report for the Law Amending the Law on Health Insurance identifies insurance beneficiaries and family doctors as those who will be positively impacted by the legal provisions.

Thus, although some sections of the Law address protection of women's rights, such as regulated healthcare and services provided during and following pregnancy, or procedures for medically assisted reproduction, RIA did not assess the achieved level of protection of women, pregnant women and mothers, or the options available to have their needs met. The reasons for adopting the Law stated in the Rationale for the Proposal for the Law were identical to those stated in the RIA Form, and therefore did not specifically analyse the impact on the strategic and practical needs of women and men.

The Parliamentary procedure: No interest in health insurance among the MPs

Unlike the two other Laws reviewed here, the Proposal for the Law Amending the Law on Health Insurance was adopted in the Montenegrin Parliament without any amendments tabled by the MPs and without any votes against. Following the discussion before the Committee on Health, Labour and Social Welfare and the Legislative Committee, which supported the proposed text, the Law was adopted with 41 votes in favour.

Although the Gender Equality Committee considers proposals for laws concerning the implementation of the principle of gender equality, including its implementation in the field of health, it did not discuss the Proposal for the Law Amending the Law on Health Insurance. Thus, there were no subsequent improvements of the text, in particular of the provisions referring exclusively to the protection of women, for instance the funding of assisted reproduction.

It should be noted that, although the Law did not get on the agenda of the Gender Equality Committee, that Committee, during its term in office, conducted a consultative hearing on "The way to reach the best provisions for the Law on Medically Assisted Reproductions"⁷⁹.

⁷⁹ Minutes from the 36th meeting of the Gender Equality Committee of the Parliament of Montenegro, held on 29 July 2019;

The hearing informed the regulation of health insurance of women during the mentioned procedure. Although the only example of a consultative hearing conducted by the Committee for the purpose of better-defined legal provisions, this can be noted as a positive example of involving female experts in the process of situation analysis and analysis of the impact of that regulation on women, and consequently of drafting legal provisions that respond to the needs of women.

Gender-based statistics on health and women: Still no specific statistics on health

Montenegro is closest to the EU member states' standards in the domain of health – according to the Gender Equality index, the gender gap is the lowest in that specific segment.⁸⁰ Still, a more complete picture of the status of health and access to healthcare includes numerous indicators suggesting the lack of well-developed gender statistics and general statistics that could be analysed and, in line with available data, inform health policies.

MONSTAT, as the competent body for production of official statistics in Montenegro, has still not included health as a statistical category, i.e., domain of data collection. Some such domains, shown on MONSTAT's website,⁸¹ include: labour market, demographics, environment and forestry, education and science, and social protection. However, health has not been recognised as an area that would be assigned special status and where data collection would be conducted.

Thus, data on some issues that generated deep concern among the public, such as prenatal sex selection and selective abortions, raised by the NGOs⁸², were collected on the basis of the available general statistics. There is no targeted data collection that would serve to design actions to prevent such trends in the domain of health; rather, NGOs obtained these results on the basis of MONSTAT's statistics on the number of births and deaths, which indicated fewer newborn girls than boys.

The lack of separate and more up-to-date statistics is illustrated also by the fact that the Gender Equality Index section on health was based on the data obtained from the Survey on Income and Living Conditions that MONSTAT conducted in 2017, and on MONSTAT's demographic statistics. On the other hand, MONSTAT, together with the Gender Equality Division, published the document on “Women and Men in Montenegro”⁸³; the publication,

80 Gender Equality Index for Montenegro, Olivera Komar, 2019, p. 32.

81 MONSTAT website: <http://bit.ly/2LRskpN>.

82 *Građani i Vlada podržali "Neželjenu"* (Citizens and Government support the “Unwanted” campaign), RTCG, 25 April 2018, available at: <http://bit.ly/3bBb4A1>.

83 Women and Men in Montenegro, MONSTAT, Podgorica, 2020, available at: <https://bit.ly/3qhNa0v>.

however, included practically no gender-disaggregated health data. That was pointed out during the external evaluation of the APAGE, with a warning concerning the lack of gender-based statistics on primary, secondary and tertiary healthcare and dental services in Montenegro.

Besides MONSTAT, the Institute for Public Health (IPH) is another institution involved in statistical research and evaluation of the health status of the population and identification of various health risk factors, along with being in charge of managing the registry of diseases. The IPH also conducts analysis of the status and functioning of healthcare, which, as it states, is an integral part of the process of healthcare planning and programming. However, the data in the situation analyses⁸⁴ generated by the IPH for these purposes are not gender-disaggregated. Thus, there are no data on the number of hospitalisations or the average length of treatment for women and men; those data serve to develop health institutions' work plans. Data are not available on hospital mortality, as one of the indicators of the quality of performance of hospitals.

84 *Situaciona analiza zdravstvene zaštite u Crnoj Gori za 2018 (Situation Analysis of Healthcare in Montenegro for 2018)*, Institute of Public Health, Podgorica, December 2019, available at: <https://bit.ly/39yt00o>.

WHAT NEXT?

Although Article 3 of the Law on Gender Equality⁸⁵ stipulates that state authorities, state administration and local government authorities are required to assess and evaluate, across all stages of planning, adopting and implementing decisions or undertaking activities from their remits, the impact of those decisions and activities on the position of women and men, that has remained only dead letter, as the authorities have not implemented the provision in practice.

In order to stop discrimination on the ground of gender and ensure equal opportunities for women and men, gender-mainstreaming has to cover not just the three laws reviewed for the purpose of this Analysis, but legislation in general, given its direct impact on the citizens' quality of life. Still, legislative drafting in Montenegro does not include a detailed gender-based analysis that would ensure an integral picture of the needs, priorities and problems of women and men.

Despite the good intention to further elaborate integration of gender perspective in the APAGE and translate it into reality, APAGE's implementation has shown that some of its objectives, such as issuance of opinions to all proposed legislation by the Gender Equality Division were unrealistic and maximised, given the available capacities. The achievement of this objective has been additionally compounded by the imprecise definition of the expectations from state authorities in terms of gender-mainstreaming. The ministries often use that to conduct an arbitrary assessment of what constituted integration of gender perspective, stating that they "use gender-sensitive language".

On the other hand, the lack of human, financial, organisational and technical capacities of the bodies in charge of gender-mainstreaming is evident, and work must be done to improve them. This primarily refers to the Gender Equality Division, which is entrusted competences that are disproportionate to the number of job positions envisaged and technical equipment available to it. The Division does not have sufficient capacities to issue opinions on all proposed legislation.

The Parliamentary Gender Equality Committee is not up to the task with regard to gender-mainstreaming either. This is supported by the information that during its four-year term, the Committee issued opinions on 14 proposals for laws, each time proposing that they be adopted. The control and consultative mechanisms that could have been used for the purpose of gender-mainstreaming, namely consultations with experts on women's needs, were not sufficiently made use of. The Gender Equality Council did not produce positive impacts in

⁸⁵ Law on Gender Equality (Official Gazette of RMNE 46/07 of 31 July 2007 and Official Gazette of Montenegro 73/10 of 10 December 2010, 40/11 of 08 August 2011, 35/15 of 07 July 2015).

terms of improved gender legislation, or gender equality in general. Since its establishment in 2016, the Council met only twice; the reasons for its poor functioning reported by the interviewed female members referred to its excessive size and inability to secure the quorum necessary for its operation.

The procedures of legislative drafting – from the early stage involving the relevant Working Groups to the voting at the plenary session of the Parliament – are insufficiently transparent, inclusive and participatory, and ultimately insufficiently gendered. In relation to that, it is necessary to ensure that voices of all stakeholders and experts are heard, including those of women's rights NGOs, other organisations, associations and trade unions involved in the protection of women's rights. Still, NGO and trade union representatives stress that they are not being proactively informed by state authorities on the possibilities to participate in legislative drafting which could generate opportunities for gender-sensitive interventions in the aim of the laws endorsing the specific needs of women and men. Also, the long interval between the public consultations and the Government approval of the Proposal for the Law causes fatigue among stakeholders and affects their capacities to influence policies.

According to Government plan, RIA, which the drafting authority is to carry out in the course of developing laws and other regulations, should have transformed into a full-scale assessment by 2020. Such full-scale RIA would imply an impact assessment that takes into account factors such as impact on gender equality as well as impact on the environment, human rights etc. Despite the promise, comprehensive RIA was not introduced in 2020, and analyses suggest that the one currently being implemented, the simplified RIA, is not being implemented properly and that RIA Forms are being completed only as a matter of form, without stating regulatory impacts on various categories in the society.

The most concerning and alarming finding generated by this analysis refers to the institutions giving in to the pressure of lobbying carried out by the companies that have financial interest in amendments to laws, at the expense of women's rights. This is illustrated by the Labour Law, which, due to the pressure from major Montenegrin companies, stipulates that women employed based on short-term contracts who take pregnancy-related sick leave will not have that time counted towards the 36-month term which is a requirement for open-ended contracts. The limitations outlined here point to a lack of systemic preconditions for gender mainstreaming of policies across all areas and at all levels of decision-making, planning and implementation of activities.

RECOMMENDATIONS FOR ESTABLISHING GENDER-SENSITIVE LEGISLATION IN MONTENEGRO

01

The Government of Montenegro should amend the Decree on the election of representatives of NGOs to the working bodies of state administration and conducting public consultations in preparation of laws and strategies to enable NGOs concerned with the position of women and other cross-cutting issues to take part in the Working Groups tasked with drafting laws, in addition to the representatives of the NGO involved in the field regulated by the law;

02

The Decree should be amended also with regard to further stages of policy-making, the ones between the completion of public consultations and the approval of the final version of the Proposal for the Law to be forwarded to the Parliament;

03

The new APAGE should introduce a more realistic plan and division of roles and objectives related to gender-mainstreaming, by requiring key decision makers (ministries, Parliament) specifically to conduct gender-based analyses and impact assessments in the areas where pronounced gender gaps are present (domain of work, power, money, time, education, health);

04

The HRMA and MHMR should improve the section of professional development programmes related to development and evaluation of policies and gender equality, with the aim to raise civil servants' awareness on gender-mainstreaming;

05

The Government of Montenegro Rules of Procedure should regulate the work of the Working Groups, in terms of the competences and duties of their members, to encompass mandatory and thorough status quo analyses in the field addressed by the law, consultations with the expert and interested public and introduction of gender perspective. In addition, the obligation of drawing up minutes from the Working Group meetings should be introduced, in order to ensure transparency and public insight into their work;

06

The Ministry of Finance (Department for Financial System and Business Environment Improvement and Department for Implementation of RIA) should amend the RIA Form by inserting the following question in Section 4 of RIA: "How will the provisions contained in the regulation impact women and men? Please list the positive and negative, direct and indirect impacts." In addition, the Guidance on RIA Report and the RIA Manual should be amended by the Regulatory Reform Council to include useful guidance and advice for implementation of gender-sensitive regulatory impact analysis;

07

Amend the Parliamentary Rules of Procedure in line with the Action Plan for the Gender-Sensitive Parliament of Montenegro, to include a definition of the procedure for regulatory impact assessment (amendment to Article 45 of the Rules of Procedure that would grant to the Gender Equality Committee the competences to conduct gender impact assessment of regulations). In addition, Article 7 of the Rulebook on Internal Organisation and Systematisation of the Parliament should be amended (Department for Support to the Legislative and Oversight Functions) to include, in addition to the note on regulatory impact assessment, also a note on impact assessment from the gender perspective, while the description of duties of the Secretariat to Gender Equality Committee should be supplemented by a note on impact assessment from the gender perspective;

08

Improve the human, financial and technical capacities of the Gender Equality Division for the analysis of gender component integration, by means of amending the MHMR Rulebook on Internal Organisation and Systematisation⁸⁶ and envisaging more positions (the existing number being four)⁸⁷ for civil servants who will perform the wide range of activities stemming from the APAGE, including gender-mainstreaming;

09

Improve gender statistics in Montenegro, i.e. MONSTAT's collection of gender-disaggregated data needed for the purpose of proper monitoring of progress in gender equality, in particular on the gender gap statistics. A health statistics category should be introduced to collect gender-disaggregated data on primary, secondary and tertiary healthcare and dental services;

10

The Ministry of Economy, Department for Development of SMEs, Chamber of Economy, local self-government, MONSTAT, Employment Agency, Association of Business Women and Tax Administration should set up and develop a comprehensive database on female entrepreneurship in Montenegro at national and local level, on the number of women in management boards and similar bodies and in managerial positions, as originally envisaged by the APAGE.

86 Namely: Rulebook of the Ministry of Justice, Human and Minority Rights, which, under the Decision on the election of the Prime-Minister and members of the 42nd Government (Official Gazette of Montenegro 117/20 of 07 December 2020), incorporates the MHMR, including the Gender Equality Division.

87 Head and Independent Advisors I, II and III.

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- In-depth interview with Biljana Pejović, Head of Gender Equality Division at the Ministry of Human and Minority Rights, conducted via Zoom on 30 November 2020;
- In-depth interview with Nada Drobñjak, former MP and Chair of the Equality Committee of the Parliament of Montenegro, conducted via Zoom on 8 December.

Focus group:

- Focus group discussion took place on 27 November 2020 via Zoom, and involved: Milena Popović Samardžić and Milena Petrović from the Trade Union of Montenegrin Physicians; Dušan Radoman from the Non-governmental Association "Doctors"; Branka Vuksanović from the Association of Business Women of Montenegro; Edita Dautović from the Association of Women Entrepreneurs of Montenegro; Ana Vukotić from the Women's Rights Centre, and Kristina Mihailović from the "Parents" Association.

[Institute Alternative \(IA\)](#) is a non-governmental organization, established in September 2007 by a group of citizens with experience in civil society, public administration and business sector.

[Our mission](#) is to contribute to strengthening of democracy and good governance through and policy analysis as well as monitoring of public institutions performance.

[Our objectives](#) are to increase the quality of work, accountability and transparency, efficiency of public institutions and public officials; to encourage open, public, constructive and well-argument discussions on important policy issues; raising public awareness about important policy issues, strengthening the capacity of all sectors in the state and society for the development of public policies.

[The values](#) we follow in our work are dedication to our mission, independence, constant learning, networking, cooperation and teamwork.

We function as a [think tank](#) or a research centre, focusing on the overarching areas of good governance, transparency and accountability. The areas of our work and influence are structured around the following five main programmes: public administration; accountable public finance; parliamentary programme; security and defence, and social policy.

On the basis of our five programmes, we monitor the process of accession negotiations with the EU, actively participating in working groups Public procurement (5), Judiciary and Fundamental rights (23) and Financial control (32). Our flagship project is the Public Policy School, which is organized since 2012, and in 2018 we organized the first Open Budget School.

So far we cooperated with over 40 organizations within regional networks in the Western Balkans and with over 100 organizations in Montenegro. Institute is actively engaged in regional networks: Think for Europe (TEN), Pointpulse, SELDI, WeBER, UNCAC Coalition, Global BTAP, PASOS and The Southeast Europe Coalition on Whistleblower Protection.

The results of our research are summarized in 107 studies, reports and analyses, and the decision-makers were addressed 1036 recommendations. Over four thousand times we communicated our proposals and recommendation to the media for better quality public policies.

We started three internet pages. [My town](#) is a pioneer endeavour of visualization of budgetary data of local self-administrations. [My Administration](#) followed, which serves as an address for all those citizens that have encountered a problem when interacting with public administration and its service delivery system. The newest internet portal, [My Money](#), provided national budget data visualization.

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