

**Government of Montenegro**

**Ministry of Labour and Social Welfare**

## **Questionnaire**

Information requested by the European Commission to the Government of Montenegro for the preparation of the Opinion on the application of Montenegro for membership of the European Union

– ADDITIONAL QUESTIONS –

### **19 Social policy and employment**

Minister:

**Suad Numanovic**



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**CHAPTERS OF THE ACQUIS – ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP**

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## **19: Social policy and employment**

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## I. LABOUR LAW

**Horizontal comment: If possible, please draw up a table, which consists of the list of EU Directives concerned and corresponding national legislative acts.**

**The Labour Law** provides for compliance with the following EU regulations:

- Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, Title VI Article 79 (Working Conditions and Equal Opportunities), Title VII Article 101 paragraph 1 and 2 (*Social Cooperation*);
- International Covenant on Civil and Political Rights, Part II Article 2 paragraph 1, Article 3, Part III Article 8 paragraph 3, Article 22 and 26;
- International Covenant on Economic, Social and Cultural Rights, Part II Article 2 paragraph 2, Article 3, Part III Article 6, 7, 8 paragraph 1 item a), b) and c), Article 10 paragraph 1 item 2 and 3;
- European Social Charter (revised), Article 5, 8, 9, 11, 12, 13 paragraph 2, 15 (employment and remuneration and vocational training), Article 16, 17 and 18 (equal treatment for men and women), Article 19, 20, 21, 22 and 23 (health and safety at work) Article 26 (disabled persons);
- European Convention for the Protection of Human Rights and Fundamental Freedoms, Section I, Rights and freedoms, Freedom of assembly and association - Article 11, Prohibition of discrimination – Article 14, Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, General prohibition of discrimination – Article 1;
- Universal Declaration of Human Rights, Article 2, 7, 23, 24, 25 paragraph 2;
- Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (32000L0078);
- Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (32001L0023);
- Council Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies (31998L0059);
- Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organization of working time (32003L0088);
- Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (31980L0987);
- Council Directive 2002/73/EC, amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (31976L0207);
- Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (32000L0043).
- The Labour Law is harmonized with the following fundamental Conventions and Recommendations of the International Labour Organization:
- Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize;

- Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively;
- Convention No. 29 concerning Forced or Compulsory Labour;
- Convention No. 105 concerning the Abolition of Forced Labour;
- Convention No. 138 concerning Minimum Age for Admission to Employment;
- Recommendation No. 146 concerning Minimum Age for Admission to Employment;
- Convention No. 182 on the Worst Forms of Child Labour;
- Convention No. 100 concerning Equal Remuneration;
- Convention No. 131 concerning Minimum Wage Fixing;
- Recommendation No. 136 concerning Minimum Wage Fixing;
- Convention No. 111 concerning Discrimination in Respect of Employment and Occupation and Recommendation No.111 concerning Discrimination in Respect of Employment and Occupation;
- Convention No. 3 concerning the Employment of Women before and after Childbirth;
- Convention No. 4 concerning the Employment of Women on Underground Work in Mines of all Kinds;
- Convention No. 103 concerning Maternity Protection (revised);
- Recommendation No. 95 concerning Maternity Protection;
- Convention No. 135 concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking; Recommendation No. 143 concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking; Convention No. 132 concerning Annual Holidays with Pay (revised);
- Convention No. 140 concerning Paid Educational Leave; Recommendation No. 148 concerning Paid Educational Leave;
- Convention No. 144 concerning Tripartite Consultations (International Labour Standards from 1976);
- Recommendation No. 152 concerning Tripartite Consultations (Activities of the International Labour Organisation from 1976);
- Consultation Recommendation No. 133 (Industrial and National Levels from 1960); Convention No. 155 concerning Occupational Safety and Health and the Working Environment;
- Convention No. 158 concerning Termination of Employment at the Initiative of the Employer;
- Convention No. 171 concerning Night Work; Recommendation No. 178 concerning Night Work;
- Convention No. 173 concerning the Protection of Workers' Claims in the event of the Insolvency of their Employer.

In relation to **the Law on Alternative Resolution of Industrial Disputes**, the following EU regulations were taken into account:

- Recommendation No. R (86) 12 concerning Measures to Prevent and Reduce the Excessive Workload in the Courts;
- Commission recommendation 200/310/EEC on principles for out of court engaged bodies in agreement resolution of consumer disputes;



- Commission recommendation 28/257/EEC on principles applicable on bodies responsible for out of court resolution of consumer disputes;
- Council Directive 2002/8/EEC on improvement of access to justice and disputes with international elements by determining minimum of common rules related to legal assistance in such cases.

In relation to the **Law on Amendments to the Safety at Work Law**, the following international acts and documents were taken into account:

In relation to the **Law on Labour Inspection**:

- ILO Convention No. 155 concerning Occupational Safety and Health and the Working Environment;
- ILO Convention No. 81 concerning Labour Inspection in Industry and Commerce;
- ILO Convention No. 129 concerning Labour Inspection in Agriculture.
- In drafting the **Law on Social Council**, the following international acts and documents were taken into account:
- Convention No. 144 concerning Tripartite Consultations (International Labour Standards from 1976);
- Recommendation No. 152 concerning Tripartite Consultations (Activities of the International Labour Organisation from 1976);
- Consultation Recommendation No. 133 (Industrial and National Levels from 1960);
- Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (1949);
- Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise (1948);

The following was also taken into account: conclusions of the „Western Balkans Civil Society Forum“ from the conference held on 27 and 28 March 2006 in Bruxelles and the opinion of European Economic and Social Committee on the topic of „Situation of civil society in the Western Balkans“ from 17 May 2006, as well as the Tripartite Agreement signed on 29 December 2006 by the Government of the Republic of Montenegro, Union of Employers of Montenegro and Confederation of Trade Unions of Montenegro.

In relation to amendments to the **Law on Strike**:

- Convention for the Protection of Human Rights and Fundamental Freedoms (Article 11);
- Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise;
- European Social Charter (revised) – Part I – paragraph 1 item 5;
- International Covenant on Economic, Social and Cultural Rights, Part III – Article 8 paragraph 1 item d.

In relation to drafting the **Law on Labour Fund**, the following international acts and other documents were taken into account:

- Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part – Article 79 and Article 101 paragraph 2 and 3;
- Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer;

- Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies;
- European Social Charter (revised) – Part I, Article 25 paragraph 1, indent 25;
- Appendix to the European Social Charter (revised), Part II, Article 25;
- Convention No. 158 concerning Termination of Employment at the Initiative of the Employer.

## **A. The Legal and Institutional Framework**

**1. (Ref to Q. 1.c): Please clarify if the labour law applies to civil servants and State employees and if yes in which situations. Please explain also the difference between the two categories.**

The Labour Law does apply to civil servants and state employees, as a general regulation, in terms of rights, obligations and responsibilities not prescribed otherwise by the Law on Civil Servants and State Employees or other regulations.

Related thereto, a civil servant or a state employee is entitled to a leave in accordance with general labour legislation (break during working hours, daily break, weekly break, and annual leave).

Civil servant's employment may be terminated on the basis of a dismissal by the head of the state authority, in accordance with the general labour legislation (Article 143 of the Labour Law), as well as by force of law and in cases prescribed by the Law on Civil Servants and State Employees.

Likewise, a civil servant or a state employee who was proclaimed redundant has the same rights and obligations as those employees the need for work of who was terminated due to technological, economic or restructuring changes in companies and other forms of economic organizations, determined by the general labour legislation (Article 92 to 96 of the Labour Law).

Law on Civil Servants and State Employees divides the employees to:

- civil servants performing administrative, professional and other affairs for realization of competences of the state authority and
- state employees performing administration, accounting-financial and ancillary-technical affairs ensuring quality performance of affairs from the competence of the state authority.

Employment in the state authority is established between the employee and the state which is represented by the official (head of the state authority). Head of the state authority makes a decision on employment, after conducted public or internal announcement. This means that the employment is established by a decision made by the head of the state authority (and not by act of signing the labour contract). Appointed persons – management staff (Secretary of the Ministry, Deputy Minister) also work in the state authority.

According to the Labour Law, the subjects of employment are employee and employer (company, other legal person or natural person). Employment is based on the labour contract, concluded by the employer and employee.

**2. (Ref to Q. 4): The reply states that employees of the army, police and public administration may not strike under certain conditions. What is the definition of "public administration" in this context? Does this include e.g. schools, hospitals, local administrations, etc?**

The Law on Strike prescribes that: for the purpose of protecting public interest the employees in the Army of Montenegro, police and public administration may not exercise the right to go on strike if that would threaten general interests of citizens, national security, safety of persons and property and operation of public authorities (Article 8-a of the Law on Amendments to the Law on Strike from 2008).

According to the Decree on public administration organisation and manner of work, public administration consists of the ministries and other state administration bodies: administrations, secretariats, offices and directorates. Accordingly, schools and hospitals, i.e. health and education institutions are not encompassed by restrictions in terms of the right to strike; however, in these institutions the strike participants are obliged to comply with the Decision on minimum work process while the strike is ongoing which must be adopted, as these institutions perform activities of public interest. Activities of public interest are activities performed by the employer in the field of electric power management, water management, traffic, postal and telecommunication services, informing (radio and television), communal activities (water production and supply, sanitation, production, distribution and supply of energy sources), fire protection, production of basic food products, health and veterinary protection, education, culture, social child care and social welfare). Employment is based on the labour contract concluded by the employer and employee.

**3. (Ref to Q. 12): What is the ratio of labour inspector and health and safety inspector per worker/employee? What is the proportion between the number of labour inspectors responsible for controlling working conditions (other than health and safety) and the number of the controlled employers/companies? How many controls take place in average month/year and which sanctions are foreseen? Which areas are found to be more problematic/which labour rules more violated?**

Currently, there are 186 000 employees in Montenegro and 11 Labour Inspectors for the field of safety at work. Therefore, one Labour Inspector for the field of safety at work is in charge of surveying 16 909 employees (apart from 11 Labour Inspectors for the field of safety at work, one, twelfth Inspector, is coordinating their work).

Currently, there are approximately 50 000 surveillance subjects performing their business activities in Montenegro, meaning that one Labour Inspector for the field of safety at work is in charge of performing surveillance at 4 545 surveillance subjects.

On average, within one month, a Labour Inspector performs 50 inspection controls, while a Labour Inspector for the field of safety at work performs 40. Apart from the obligation to instruct the employer to remove the irregularity, which serves as a preventive measure that Labour Inspectors and Labour Inspectors for the field of safety at work impose whenever they establish irregularities, Inspectors issue decisions ordering removal of irregularities, submit requests for instigating misdemeanour procedures, impose measures of temporary prohibition to work when they establish that health and safety of employees is endangered, impose on-the-spot fines and make statements on imposing on-the-spot fines, as a way of ensuring that the decisions will be implemented.

The field with most problems is construction industry, as it is risky by itself and the most common injuries at work are injuries due to falls from height. Since the majority of construction sites are temporary, other rights of employees are also frequently violated, so construction workers are often deprived of their right to annual holiday, right to 40-hour working week, right to a break during the

working time, right to a weekly break, right to compensation for overtime work, and other rights on the basis of their work.

It is obvious that there are violations of the Safety at Work Law, Labour Law, General Collective Agreement, and certain secondary legislation from the field of safety at work.

## **B. Employment and Employment Protection**

**4. (Ref to Q. 24, 26): Could you please explain how in the case of several trade unions in the same sector, the workers' representatives would be designated? Could you also explain how "workers' representatives" (other than trade-unions (s. Question 24) are designated?**

If there are several registered trade unions operating within a single employer, in the procedure of determining the employees the need for work of who was terminated (technological redundancy), the employer is obliged to immediately inform, in writing, all the trade unions thereof. If there are no trade unions registered with the employer, the obligation to notify employees is still valid for the employer, and the employer is obliged to notify all employees on the intention to conduct the procedure for determining technological redundancies, i.e. on the conducted procedure. In this case, the employees' representative shall be selected by the employees, without approval, i.e. compliance of the employer.

## **C. Conditions of Work and Pay**

**5. (Ref to Q. 39): Please specify the understanding of "force majeure" in the situations mentioned.**

Force Majeure, in this case, refers to: natural disasters (earthquake, flood, etc.), fire, explosion, ionizing radiation, epidemic, infection, and other situations that can endanger safety and health of people or cause higher material damage.

**6. (Ref to Q. 40): Please confirm that there are no specific rules regarding working time of seafarers and of persons working in the civil aviation or the rail sectors or inform on how these issues are regulated in the national legislation. How is the notion of working time defined under Montenegrin law?**

The Labour Law prescribes that „full working time equals 40 hours per working week.“ Full working time is determined for the working week and it equals 40 hours, and those employees working full working time are entitled to all the rights arising from employment in the full amount. Full working time is distributed within a working week to working days, with full respect of daily break (30 minutes break that cannot be used at the beginning or end of working hours) and weekly break of at least 24 hours within a working week.

Full working time of 40 hours in a working week may be organized in such a manner that work is performed either in standard or split schedule, in one or more shifts, evenly or in day and night shifts. Standard schedule refers to working continuously with a right to break of at least 30 minutes during the working time (break is considered as a part of the working time). Split schedule refers to working in two parts (morning and afternoon). Working time is realized as a single shift if all employees are working at the same time.

Working time is realized in several shifts if employees work at different times, but they work with the same assets for work and they can be divided into two, three or four shifts.

If an employee, due to duration of the work that he/she is performing, works longer than the usual daily working time, in order to completely perform the work in a sequence of works which are performed successively, with the right to correspondingly longer break, in such a manner that the overall weekly working time does not exceed 40 hours, this is considered as working time spent in shift.

Employees who are most frequently working in this working time regime (shift) are crews of trains, ships, airplanes, lighthouses, remote relays, hydro-meteorological stations, etc, which means that there are no special regulations on working time of seafarers and persons employed in the civil aviation sector or railways sector; instead, in this sector the working time is organized in shift, as described in the previous paragraph.

Employer is authorized to organize work in shift, make a decision on distribution of working time of employees, decision on re-distribution of working time; however, the employer is obliged to respect the rights of employees to daily and weekly break and annual holiday, as well as the right to switching shifts because an employee cannot continuously work nights shift longer than one working week.

Working time during the day is realized in the period from 6 am to 22 pm, and the working time during night is realized from 22 pm to 6 am of the next day.

### **7. (Ref to Q. 44): What is the legal basis for the protection of night workers?**

The legal basis for protection of night workers is contained in the Labour Law, Articles 56, 57, 105, 106 and 110, as follows:

“Work performed in the period from 10 pm to 6 am of the next day shall be considered night work.

Night work shall represent a special working condition.

Employee performing night work for minimum three hours of the daily working hours thereof, that is, employee performing night work for minimum one third of the full annual working hours thereof, shall have the right to special protection, in accordance with the regulations in the field of health and safety at work.

If the opinion of the responsible health authority is that the health state of the employee performing night work could deteriorate due to such work, the employer shall reassign that employee to an adequate day-time job.

Employer that organized work in shifts shall secure change of shifts so that the employee shall not work in night shifts continuously for a period longer than one working week.

Employer working in specific conditions shall regulate work in shifts and duty hours of the employees in accordance with the collective agreement with the employer. (1) An employed woman working in the industry and civil works sectors shall not be assigned to a night shift.

The prohibition referred to in paragraph 1 of this Article shall not apply to an employed woman engaged in a management position or performing activities regarding health, social and other protection.

Exceptionally from the provision of paragraph 1 of this Article, an employed woman may be assigned to a night shift, when it is necessary that the work interrupted by natural disasters is continued, i.e. to prevent damage to the raw materials or other material.

An employee below 18 years of age shall not be assigned to work longer than full time hours or to night shift.

Working hours shorter than full time hours may be determined for the employee referred to in paragraph 1 of this Article by the individual collective agreement (with the employer).

Exceptionally from the provision of paragraph 1 of this Article, an employee under 18 years of age may be assigned to night shift, when it is necessary that the work interrupted by natural disasters is continued, i.e. to prevent damage to the raw materials or other material.

An employed woman during her pregnancy and a woman having a child under three years old cannot work longer than full time hours or in night shift.

Exceptionally from paragraph 1 of this Article, an employed woman who has a child older than two years of age can work in night shift, only if she gives her written consent to such a work.

One of the parents of a child having severe development difficulties, as well as a single parent of a child under seven years of age may work longer than full time hours or in night shift only on the basis of a written consent.”

**8. (Ref to Q. 47): Please provide the legal basis for the measures described.**

The legal basis for described measures is in the Article 38 of the Labour Law:

Employer shall provide the employee with the possibility to undergo education, professional training and development when required so by the needs of the working process, introduction of the new manner of work organization, and especially in case of adoption and application of new methods in the organization and technology of work.

Employee shall undergo professional training and development for work, in accordance with the capacities thereof and the needs of the working process.

Cost of education, professional training and development shall be secured from the funds of the employer and from other sources, in accordance with the law and the collective agreement.

**9. (Ref to Q. 53): Concerning the working conditions of posted workers the replies only refer to rules regarding access to Montenegro's labour market. Please confirm that the national legislation does not include rules on the working conditions of posted workers.**

The Labour Law prescribes that provisions of the Law shall also apply on the employed foreign citizens and persons without citizenship who are working for the employer in the territory of Montenegro.

Therefore, there are no regulations prescribing lesser rights or less favourable working conditions for foreign citizens or persons without citizenship. So, a foreign citizen as well as a person without citizenship may be employed if he/she fulfils the general and special conditions determined by the Labour Law and conditions determined by the special law, such as: obtaining a working permit and a permit for temporary or permanent residence in Montenegro. In this case, these persons are entitled to all the rights arising from their employment as any citizen of Montenegro, until their employment is terminated.

**10. (Ref to Q. 55): Please confirm that there are no rules concerning employees' information and consultation at transnational level in line with the EU Directives on European Works Councils, European Company and European Cooperative Society or clarify the reply on these points and inform how these issues are regulated in the national legislation. Could you please provide some practical examples of such consultations?**

In terms of consultation and information sharing with representatives of the workers at the international level, the emphasis is put on activities related to the International Labour Organization (ILO). Namely, after gaining its independence in May 2006, Montenegro became a full member of the ILO on 14 July 2006, as the 179th state, and through this membership, Montenegro assumed all the rights and obligations arising from it. Related thereto, Montenegro also assumed the obligation to report about the application of ILO Conventions and Recommendations. Although Montenegro is a relatively new member of this UN organization, it applied, even in the past period, the practice of consultation and information sharing with its social partners. Applying the Convention No. 144 concerning Tripartite Consultations and respecting the ILO Constitution and Standing Rules, Montenegro is participating at the annual conference which is regularly held at least once a year in Geneva and where participation of tripartite delegations of the Member States is mandatory. The Government of Montenegro, i.e. the competent Ministry of Labour and Social Welfare coordinates its activities with social partners with a view to participation of the tripartite delegation at the annual conference and bears the participation costs for the national delegation within its mandatory structure as follows: two Government delegates and one delegate from the workers' and employer' s side, respectively.

Montenegro participated in work of this conference for the first time as an independent and internationally recognized state at the 96th conference in May-June 2007. National tripartite delegation was lead by the Minister of Health, Labour and Social Welfare. The importance of this conference from the Montenegrin perspective is in the fact that on this occasion Montenegro, by means of a succession, took over the ILO Conventions, and thus officially assumed the obligation to implement them. This refers to 68 Conventions the signatory to which was the former State Union of Serbia and Montenegro, and the succession instrument was submitted by the Minister to the Director-General of the ILO Mr. Juan Somavia, on 12 June 2007. Also, in consultation with social partners tripartite delegations for the 97th and 98th ILO annual conference were formed, so Montenegro participated in these conferences as well, and the Government of Montenegro covered the full costs for the delegation.

In terms of reporting obligations in accordance with obligations from Article 19 and 22 of the ILO Constitution and Article 5 of the Convention No. 144, the Government of Montenegro, i.e. the Ministry of Labour and Social Welfare also prepares reports and coordinates preparation with other Ministries and Sections the competence of which includes questions from the Questionnaire. So, it is the obligation of every Member State to report, in defined time intervals, on the situation in national legislation and practice with regard to the matter regulated by ratified and non-ratified Conventions, Recommendations and Protocols. In accordance with Article 23 item 2 of the ILO Constitution, reports on application of ratified and non-ratified ILO Conventions and Recommendations must be communicated to social partners for their opinion and comment, which is, once it is received, submitted to the International Labour Office.

Also, within preparations of the conference agenda and materials to be implemented in the work program, the Ministry of Labour and Social Welfare gives opinion about the questionnaires dealing with specific questions and areas suggesting whether there will be Conventions or Recommendations adopted at the conference on certain topics and what solutions are offered by these instruments.

Ministry of Labour and Social Welfare, also, informs, on a regular basis, the social partners about all international events such as thematic conferences, and delivers materials, documents, information, brochures, etc, adopted in international conferences, meetings, seminars and procedures.

As an annex to this answer, we present you the information that, on the basis of an initiative from the Confederation of Trade Unions of Montenegro and the consultations from the session of the Social Council, the issue of ratification of ILO Convention No. 183 concerning maternity protection has been raised, so the Ministry of Labour and Social Welfare has included confirmation of this international instrument in the Work Program of the Government for 2010, with a third quarter deadline.

Also, an initiative has been initiated, on the basis of an initiative from the Confederation of Trade Unions of Montenegro, for confirmation of ILO Convention No. 151 concerning labour relations (public administration), and on the basis of the above initiative a procedure has been initiated within the Government of Montenegro and it was submitted to the Ministry of Interior and Public Administration for further action.

**11. (Ref to Q. 62): Please provide some further information on the setting-up of the Agency for Alternative Resolution of Industrial Disputes. Has it already been established, staff, functions, etc?**

The Agency for Alternative Resolution of Industrial Disputes began its work on 10 February 2010, after it was registered in the Central Register of Commercial Court in Podgorica. Management Board and Director were appointed, and the procedure of training and selection of conciliators and arbitrators is currently ongoing.



## II. HEALTH AND SAFETY AT WORK

**Horizontal comment: If possible, please draw up a table, which consists of the list of EU Directives concerned and corresponding national legislative acts.**

### I A LIST OF DIRECTIVES FROM THE FIELD OF SAFETY AT WORK taken over from the Acquis

No.	CELEX	ENGLISH TITLE	MONTENEGRIN TITLE
1.	32001L0045	Directive 2001/45/EC of the European Parliament and of the Council of 27 June 2001 amending Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Text with EEA relevance)	Direktiva 2001/45/EC Evropskog Parlamenta i Savjeta od 27 Juna 2001 o unapređenju Direktive Savjeta 89/655/EEC u vezi minimuma zaštitnih i zdravstvenih zahtjeva za upotrebu radne opreme na radu (2. pojedinačna Direktiva u smislu člana 16(1) Direktive 89/391/EEC) (Tekst sa EEA povezanošću)
2.	32000L0054	Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) Deferred application by 12003TN13/07 Deferred application SLO till 31/12/2005	Direktiva 2000/54/EC Evropskog Parlamenta i Savjeta od 18 Septembra 2000 u vezi zaštite radnika od rizika izloženosti biološkim štetnostima na radu (7. pojedinačna direktiva u smislu člana 16(1) Direktive 89/391/EEC) odložena primjena do 12003TN13/07 odložena primjena u SLO do 31/12/2005
3.	32000L003	Commission Directive 2000/39/EC of 8 June 2000 establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work (Text with EEA relevance) Deferred application by 12003TN13/07 Deferred application SLO till 31/12/2005 Amended by 32006L0015 Amendment Annex from 01/03/2006	Direktiva Komisije 2000/39/EC od 8 Juna 2000 o ustanovljavanju prve liste graničnih vrijednosti izloženosti u vezi sa primjenom Direktive Savjeta 98/24/EC za zaštitu i zdravlje radnika od rizika hemijskih štetnosti na radu (Tekst sa EEA povezanošću) odložena primjena do 12003TN13/07 odložena primjena u SLO do 31/12/2005 izmijenjena 32006L0015 Amandmanskim Aneksom od 01/03/2006
4.	32003L0010	Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (Seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Direktiva 2003/10/EC Evropskog Parlamenta i Savjeta od 6 Februara 2003 u pogledu minimuma zdravstvenih i sigurnosnih zahtjeva u vezi sa izloženosti radnika povećanom riziku od fizičkih štetnosti (buka) (17. pojedinačna Direktiva u smislu člana 16(1) Direktive 89/391/EEC)
5.	31999L0092	Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) Corrected by 31999L0092R(01)	Direktiva 1999/92/EC Evropskog Parlamenta i Savjeta od 16 Decembra 1999 u pogledu minimuma zahtjeva za unapređenje zaštite i zdravlja na radu radnika koji su potencijalno izloženi riziku eksplozivne sredine (15. pojedinačna Direktiva u smislu člana 16(1) Direktive 89/391/EEC) izmijenjene od 31999L0092R(01)
6.	32003L0018	Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003 amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (Text with EEA relevance)	Direktive 2003/18/EC Evropskog Parlamenta i Savjeta od 27 Marta 2003 o unapređenju Direktive Savjeta 83/477/EEC u pogledu zaštite radnika od rizika izloženosti azbesta na radu (Tekst sa EEA povezanošću)
7.	32004L0037	Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or	Direktiva 2004/37/EC Evropskog Parlamenta i Savjeta od 29 Aprila 2004 u vezi sa zaštitom radnika na radu od rizika izloženosti kancerogenim i mutagenim materijama (6-ta

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		mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (codified version) (Text with EEA relevance) Corrected by 32004L0037R(01)	pojedinačna Direktiva u smislu člana 16(1) Direktiva 89/391/EEC (izmijenjena verzije) (Tekst sa EEA povezanošću) izmijenjena od 32004L0037R(01)
8.	52006PC0390	Proposal for a Directive of the European Parliament and of the Council amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation	Predlog Direktive Evropskog Parlamenta i Savjeta o unapređenju Direktive Savjeta 89/391/EEC, njenih pojedinačnih Direktiva i Direktiva Savjeta 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC sa osvrtom na pojednostavljenje i racionalizaciju izvještaja o praktičnoj primjeni
9.	52006PC0652	Proposal for a Directive of the European Parliament and of the Council concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Codified version)	Predlog Direktive Evropskog Parlamenta i Savjeta o unapređenju Direktive Savjeta u pogledu minimuma sigurnosnih i zdravstvenih zahtjeva za upotrebu radne opreme radnika na radu (2-ga pojedinačna Direktiva u smislu člana 16(1) Direktive 89/391/EEC) (izmijenjene verzija)
10.	52006PC0664	Proposal for a Directive of the European Parliament and of the Council on the protection of workers from the risks related to exposure to asbestos at work (Codified version)	Predlog Direktive Evropskog Parlamenta i Savjeta u pogledu zaštite radnika od rizika izloženosti azbestu na radu (izmijenjena verzija)
11.	31994L0033	Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work	Direktiva Savjeta 94/33/EC od 22 Juna 1994 u pogledu zaštite mladih ljudi na radu
12.	31983L0477	Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) Corrected by 31983L0477R(01) Corrected by 31983L0477R(02)	Direktiva Savjeta 83/477/EEC od 19 Septembra 1983 u vezi sa zaštitom radnika na radu od rizika izloženosti azbesta (2. pojedinačna Direktiva u vezi značenja člana 8 of Direktive 80/1107/EEC) izmijenjena 31983L0477R(01) izmijenjena 31983L0477R(02)
13.	31989L0391	Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work Corrected by 31989L0391R(01) Incorporated by 21994A0103(68) Amended by 32003R1882 Replacement Article 17 from 20/11/2003	Direktiva Savjeta 89/391/EEC od 12 Juna 1989 o uvođenju mjera za podsticanje poboljšanja zaštite i zdravlja radnika na radu ispravljena 31989L0391R(01) objedinjena 21994A0103(68) unaprijeđena 32003R1882 izmijenjen član 17 od 20/11/2003
14.	31989L0655	Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) Corrected by 31989L0655R(01) Incorporated by 21994A0103(68)	Direktiva Savjeta 89/655/EEC od 30 Novembra 1989 u pogledu minimuma sigurnosnih i zdravstvenih zahtjeva u vezi upotrebe radne opreme radnika na radu (2. pojedinačna Direktiva u vezi značenja člana 16 (1) Direktive 89/391/EEC) ispravljena 1989L0655R(01) objedinjena 21994A0103(68)
15.	31990L0269	Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) Corrected by 31990L0269R(01) Incorporated by 21994A0103(68)	Direktiva Savjeta 90/269/EEC od 29 Maja 1990 o minimumu zdravstvenih i sigurnosnih zahtjeva za ručni utovar tereta gdje postoji izražen rizik od povrede leđa radnika (4. pojedinačna Direktiva u smislu člana 16 (1) Direktive 89/391/EEC) ispravljena 31990L0269R(01) objedinjena 21994A0103(68)

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16.	31990L0270	Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) Corrected by 31990L0270R(01) Corrected by 31990L0270R(02) Incorporated by 21994A0103(68)	Direktiva Savjeta 90/270/EEC od 29. Maja 1990. o minimumu sigurnosnih i zdravstvenih zahtjeva za rad sa ekranima (5. pojedinačna Direktiva u smislu člana 16 (1) Direktive 89/391/EEC) ispravljena 31990L0270R(01) ispravljena 31990L0270R(02) objedinjena 21994A0103(68)
17.	31991L0322	Commission Directive 91/322/EEC of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work Deferred application SLO till 31/12/2005 Amended by 32006L0015 Amendment Annex from 01/03/2006	Direktiva Komisije 91/322/EEC od 29. Maja 1991. o ustanovljavanju graničnih vrijednosti u vezi primjene Direktive Savjeta 80/1107/EEC u vezi sa zaštitom radnika od rizika izloženosti hemijskim, fizičkim i biološkim štetnostima na radu odložena primjena do 12003TN13/07 odložena primjena SLO do 31/12/2005 unaprijeđena 32006L0015 amandmanskim aneksom od 01/03/2006
18.	31991L0382	Council Directive 91/382/EEC of 25 June 1991 amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) Incorporated by 21994A0103(68)	Direktiva Savjeta 91/382/EEC od 25. Juna 1991. unaprijeđena Direktiva 83/477/EEC o zaštiti radnika od rizika izloženosti azbesta na radu (2. pojedinačna Direktiva u smislu člana 8 Direktive 80/1107/EEC) objedinjena 21994A0103(68)
19.	31989L0654	Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) Corrected by 31989L0654R(01) Corrected by 31989L0654R(02) Incorporated by 21994A0103(68)	Direktiva Savjeta 89/654/EEC od 30. Novembra 1989. u pogledu minimuma sigurnosnih i zdravstvenih zahtjeva za radno mjesto (1. pojedinačna Direktiva u smislu člana 16 (1) Direktive 89/391/EEC) ispravljena 31989L0654R(01) ispravljena 31989L0654R(02) objedinjena 21994A0103(68)
20.	31992L0029	Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels	Direktiva Savjeta 92/29/EEC od 31. Marta 1992. o minimumu sigurnosnih i zdravstvenih zahtjeva za unapređenje medicinskih tretmana na brodovima unaprijeđena 32003R1882 zamijenjen član 8 od 20/11/2003
21.	31995L0063	Council Directive 95/63/EC of 5 December 1995 amending Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) Corrected by 31995L0063R(01) Corrected by 31995L0063R(02)	Direktiva Savjeta 95/63/EC od 5. Decembra 1995. dopunjena Direktiva 89/655/EEC u pogledu minimuma sigurnosnih i zdravstvenih zahtjeva za upotrebu radne opreme na radu (2. pojedinačna Direktiva u smislu člana 16 (1) Direktive 89/391/EEC) ispravljena 31995L0063R(01) ispravljena 31995L0063R(02)
22.	31993L0103	Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	Direktiva Savjeta 93/103/EC od 23. Novembra 1993. u pogledu minimuma sigurnosnih i zdravstvenih zahtjeva za rad ribarskim brodovima (13. pojedinačna Direktiva u smislu člana 16 (1) Direktive 89/391/EEC)
23.	31992L0085	Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	Direktiva Savjeta 92/85/EEC od 19. Oktobra 1992. o upoznavanju sa mjerama za podsticanje unapređenja zaštite i zdravlja na radu trudnica, roditelja i dojilja (10. pojedinačna Direktiva u smislu člana 16 (1) Direktive 89/391/EEC)

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24.	31992L0058	Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	Direktiva Savjeta 92/58/EEC od 24. Juna 1992 o minimumu zahtjeva za upotrebu sigurnosnih i/ili zdravstvenih znaka na radu (9 pojedinačna Direktiva u smislu člana 16 (1) Direktive 89/391/EEC)
25.	31992L0057	Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) Corrected by 31992L0057R(01) Corrected by 31992L0057R(02) Corrected by 31992L0057R(03)	Direktiva Savjeta 92/57/EEC od 24. Juna 1992 o primjeni minimuma sigurnosnih i zdravstvenih zahtjeva za privremena radilišta (8. pojedinačna Direktiva u smislu člana 16 (1) Direktive 89/391/EEC) ispravljena 31992L0057R(01) ispravljena 31992L0057R(02) ispravljena 31992L0057R(03)
26.	31989L0656	Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) Corrected by 31989L0656R(01) Incorporated by 21994A0103(68)	Direktiva Savjeta 89/656/EEC od 30. Novembra 1989 o minimumu zdravstvenih i sigurnosnih zahtjeva u pogledu upotrebe sredstava i opreme lične zaštite na radu (3. pojedinačna direktiva u smislu člana 16 (1) Direktive 89/391/EEC) izmijenjena od 31989L0656R(01) i objedinjena od 4A0103(68)
27.	31989L0686	Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment	Direktiva Savjeta 89/686/EEC od 21. Decembra o usklađivanju regulative zemalja članica u pogledu lične zaštitne opreme
28.	31993L0095	Council Directive 93/95/EEC of 29 October 1993 amending Directive 89/686/EEC on the approximation of the laws of the Member States relating to personal protective equipment (PPE)	Direktiva Savjeta 93/95/EEC od 29. Oktobra 1993 o unaprijeđenju Direktive Savjeta 89/686/EEC o usklađivanju regulative zemalja članica u pogledu lične zaštitne opreme
29.	31996L0058	Directive 96/58/EC of the European Parliament and the Council of 3 September 1996 amending Directive 89/686/EEC on the approximation of the laws of the Member States relating to personal protective equipment	Direktiva 96/58/EC Evropskog Parlamenta i Savjeta od 3. Septembra 1996 o unaprijeđenju Direktive Savjeta 89/686/EEC o usklađivanju regulative zemalja članica u pogledu lične zaštitne opreme
30.	32004L0040	Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) Corrected by 32004L0040R(01)	Direktiva 2004/40/EC Evropskog Parlamenta i Savjeta od 29. Aprila 2004 o minimumu zdravstvenih i sigurnosnih zahtjeva koji se odnose na izloženost zaposlenih rizicima koji potiču od povećanih fizičkih štetnosti (elektromagnetnih polja) (18. pojedinačna Direktiva u smislu člana 16(1) Direktive 89/391/EEC) ispravljena 32004L0040R(01)
31.	32006L0025	Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Direktiva 2006/25/EC Evropskog Parlamenta i Savjeta od 5. Aprila 2006 o minimumu zdravstvenih i sigurnosnih zahtjeva koji se odnose na izloženost zaposlenih rizicima koji potiču od povećanih fizičkih štetnosti (vještačka optička radijacija) (19. pojedinačna Direktiva u smislu člana 16(1) Direktive 89/391/EEC)
32.	31988L0610	Council Directive 88/610/EEC of 24 November 1988 amending Directive 82/501/EEC on the major-accident hazards of certain industrial activities Incorporated by 21994A0103(70)	Direktiva Vijeća 88/610/EEC od 24. novembra 1988 nadopunjena Direktivom 82/501/EEC o opasnosti od velikih nesreća u pojedinim industrijskim djelatnostima objedinjena od 21994A0103(70)

33.	32008L0046	Directive 2008/46/EC of the European Parliament and of the Council of 23 April 2008 amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	Direktiva 2008/46/EC Evropskog parlamenta i Vijeća od 23. aprila 2008 o izmjeni Direktive 2004/40/EC o minimumu zdravstvenih i sigurnosnih zahtjeva u vezi sa izloženosti radnika povećanom riziku od fizičkih štetnosti (elektromagnetna polja) (18. pojedinačna Direktiva u smislu člana 16 (1) Direktive 89/391/EEC)
34.	32003L0105	Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances	Direktiva 2003/105/EC Evropskog Parlamenta i Vijeća od 16. decembra 2003. kojom se izmjenjuje i dopunjuje Direktiva Vijeća 96/82/EC o kontroli opasnosti od velikih nesreća u koje su uključene opasne materije
35.	31992L0029	Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels Amended by 32003R1882 Replacement Article 8 from 20/11/2003	Direktiva Vijeća 92/29/EEC od 31. Marta 1992. o minimalnim sigurnosnim i zdravstvenim zahtjevima za poboljšanje ljekarske pomoći na brodovima unaprijeđena od 32003R1882 izmijenjen član 8 od 20/11/2003
36.	32006L0015	Commission Directive 2006/15/EC of 7 February 2006 establishing a second list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC (Text with EEA relevance)	Direktiva Komisije 2006/15/EZ od 7. februara 2006. kojom se utvrđuje drugi popis indikativnih graničnih vrijednosti izloženosti na radnom mjestu u sprovođenju Direktive Vijeća 98/24/EC i kojom se izmjenjuju i dopunjuju Direktive 91/322/EEC i 2000/39/EC

## II A LIST OF CORRESPONDING NATIONAL LEGAL ACTS FROM THE FIELD OF SAFETY AT WORK

Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04)

### Secondary legislation

- 1) Rulebook on manner and procedure of risk assessment at the workplace (Official Gazette of the Republic of Montenegro 43/07)
  - 2) Rulebook on the manner and procedure of training the employees for safe work (Official Gazette of the Republic of Montenegro 57/06)
  - 3) Rulebook on the procedure and deadlines for carrying out periodical inspections and control of the work equipment, personal protective equipment, and work conditions (Official Gazette of the Republic of Montenegro 71/05)
  - 4) Rulebook on taking professional exam for persons dealing with tasks of safety at work (Official Gazette of the Republic of Montenegro 67/05)
  - 5) Rulebook on the necessary conditions for legal or natural persons to carry out professional safety at work tasks and on the procedure for establishing fulfilment of these requirements (Official Gazette of the Republic of Montenegro 67/05)
  - 6) Rulebook on keeping records from the area of safety at work (Official Gazette of the Republic of Montenegro 67/05)
- Tables with records from the field of safety at work
- 7) Rulebook on the manner of keeping records on authorised organisations for performing the safety at work jobs (Official Gazette of the Republic of Montenegro 67/05)
  - 8) Rulebook on safety at work issues which need be regulated by employment contracts (Official Gazette of the Republic of Montenegro 67/05)
  - 9) Rulebook on contents of studies on organisation of construction sites (Official Gazette of the Republic of Montenegro 4/99)

- 10) Rulebook on contents and manner of issuing reports on injuries at work (Official Gazette of the Republic of Montenegro 18/93)
- 11) Rulebook on safety at work measures and norms concerning noise at working premises (Official Gazette of the Socialist Federal Republic of Yugoslavia 21/92)
- 12) Rulebook on technical regulations for cranes (Official Gazette of the Socialist Federal Republic of Yugoslavia 65/91)
- 13) Rulebook on measures and norms concerning safety at work with work equipment (Official Gazette of the Socialist Federal Republic of Yugoslavia 18/91)
- 14) Rulebook on safety at work during loading and unloading (Official Gazette of the Socialist Republic of Montenegro 13/88)
- 15) Rulebook on special safety measures at work on railways (Official Gazette of the Socialist Republic of Montenegro 11/88)
- 16) Rulebook on special safety measures for work in the mechanical processing and shaping of wood and similar materials (Official Gazette of the Socialist Republic of Montenegro 9/88)
- 17) Rulebook on special safety at work measures for constructions intended for work and auxiliary premises (Official Gazette of the Socialist Republic of Montenegro 27/87)
- Annex of the Rulebook on special safety at work measures for constructions intended for work and auxiliary premises
- 18) Rulebook on special safety measures for work in ferrous metallurgy (Official Gazette of the Socialist Republic of Montenegro 16/87)
- 19) Rulebook on special safety measures at work in production and processing of coloured metals (Official Gazette of the Socialist Republic of Montenegro 31/86)
- 20) Rulebook on special safety measures at work in forestry (Official Gazette of the Socialist Republic of Montenegro 16/86)
- 21) Rulebook on general safety at work measures from electrical hazards in constructions intended for work, in working premises and in work sites (Official Gazette of the Socialist Republic of Montenegro 6/86)
- 22) Rulebook on provisioning means, meals, and transportation of workers from the place of accommodation to the place of work and back (Official Gazette of the Socialist Republic of Montenegro 5/86)
- 23) Rulebook on the manner and procedure of carrying out initial and periodical specialist medical examinations of workers (Official Gazette of the Socialist Republic of Montenegro 25/80)
- 24) Rulebook on equipment and procedure for the provision of first aid and on organisation of industrial accident aid service (Official Gazette of the Socialist Federal Republic of Yugoslavia 21/71)
- 25) Rulebook on special safety at work measures in the processing and treatment of leather, fur and leather scraps (Official Gazette of the Socialist Federal Republic of Yugoslavia 17/70)
- 26) Rulebook on special safety at work measures in the manufacture and use of explosives and dynamite (Official Gazette of the Socialist Federal Republic of Yugoslavia 55/69)
- 27) Rulebook on means for personal safety at work and personal protective equipment (Official Gazette of the Socialist Federal Republic of Yugoslavia 35/69)
- 28) Rulebook on special safety at work measures during work in construction industry (Official Gazette of the Socialist Federal Republic of Yugoslavia 42/68 and 45/68), apart from Article 3
- 29) Rulebook on special safety at work measures in agriculture (Official Gazette of the Socialist Federal Republic of Yugoslavia 34/68)

- 30) Ordinance on the prohibition of absolving and cleaning metallic parts or other materials with fuel petrochemicals (Official Gazette of the Socialist Federal Republic of Yugoslavia 23/67)
- 31) Rulebook on safety at work measures during handling of explosives and mining in the mining industry (Official Gazette of the Socialist Federal Republic of Yugoslavia 9/67, 35/67 and 35/72)
- 32) Rulebook on special safety at work measures and on technical measures for acetylene generators and acetylene stations (Official Gazette of the Socialist Federal Republic of Yugoslavia 6/67, 29/67, 27/69 and 52/90)
- 33) Instruction on the manner of control of the implementation of safety at work regulations and on companies manufacturing for certain military needs (Official Gazette of the Socialist Federal Republic of Yugoslavia 23/66)
- 34) Instruction on the manner of control of the implementation of safety at work regulations in the interior affairs bodies and institutions (Official Gazette of the Socialist Federal Republic of Yugoslavia 66/65)
- 35) Rulebook on special safety measures at work in loading of cargo into and unloading from lorries (Official Gazette of the Socialist Federal Republic of Yugoslavia 55/65)
- 36) Rulebook on special safety measures at work in thermal processing of light metal alloys in liquid nitrates (Official Gazette of the Socialist Federal Republic of Yugoslavia 48/65)
- 37) Rulebook on hygienic and technical safety measures for work in transport works in harbours (Official Gazette of the Federal People's Republic of Yugoslavia 14/64)
- 38) Rulebook on hygienic and technical safety measures for work in diving operations (Official Gazette of the Federal People's Republic of Yugoslavia 36/58)
- 39) Rulebook on hygienic and technical safety measures for work in chemical technology processes (Official Gazette of the Federal People's Republic of Yugoslavia 55/50 - Annex No. 9)
- 40) Rulebook on hygienic and technical safety measures for work in quarries and brickyards, and in extraction of clay, sand and gravel (Official Gazette of the Federal People's Republic of Yugoslavia 69/48)
- 41) General Rulebook on hygiene and technical safety at work measures (Official Gazette of the Federal People's Republic of Yugoslavia 56/47)
- 42) Rulebook on hygienic and technical safety measures for work in graphic companies (Official Gazette of the Federal People's Republic of Yugoslavia 56/47)
- 43) Rulebook on hygienic and technical safety measures for work in hemp processing plants (Official Gazette of the Federal People's Republic of Yugoslavia 56/47 and 36/50)

Note: The overall transition process in Montenegro is, among other things, strategically aimed at harmonizing the occupational safety regulations with the international standards and other EU documents. The existing Safety at Work Law did not contain the legal basis for the process of harmonization with the EU Acquis and its implementation. The Ministry of Labour and Social Welfare proposed that the Law on Amendments to the Safety at Work Law is included in the Government's work program for 2009, and it is going through Parliamentary procedure.

Amendments to the Safety at Work Law are aimed primarily at harmonization with the Constitution of Montenegro as well as to creating a legal basis for adoption of secondary legislation through which more than thirty Directives from the field of safety at work would be implemented into the legal system of Montenegro.

Therefore, as opposed to regulations that were valid so far, some very important issues and measures from the field of safety at work will be prescribed through secondary legislation by the competent authorities.

Also, the amendments were aimed at eliminating observed imprecisions in the Safety at Work Law, removing gaps, and carrying out its legal and technical finalization and further adjustment to the EU Directives.

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 III TABLE CONTAINING A LIST OF RELEVANT EU DIRECTIVES AND CORRESPONDING NATIONAL LEGAL ACTS
 

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LAW			
No.	TITLE OF THE ACT	OFFICIAL GAZETTE	CELEX
1	Safety at Work Law	Republic of Montenegro 2004/79	31989L0391
SECONDARY LEGISLATION			
No.	TITLE OF THE ACT	OFFICIAL GAZETTE	CELEX
1	Rulebook on the manner and procedure of risk assessment at the workplace	Republic of Montenegro 2007/43	31989L0391
2	Rulebook on hygienic and technical safety measures for work in quarries and brickyards, and in extraction of clay, sand and gravel	Socialist Republic of Montenegro 1948/69	31998Y0724(02) 31996Y0509(01)
3	Rulebook on hygienic and technical safety measures for work in diving operations	Socialist Republic of Montenegro 1958/36	31989L0391
4	Rulebook on safety at work measures during handling of explosives and mining in the mining industry	Socialist Republic of Montenegro 1967/9	31996Y0509(01)
5	Rulebook on the manner of keeping records on authorised organisations for performing the safety at work jobs	Republic of Montenegro 2005/67	31989L0391
6	Rulebook on general measures and norms concerning safety at work with work tools and devices	Socialist Republic of Montenegro 1967/18	52006PC0652 31989L0655 31995L0063 32001L0045
7	Rulebook on special safety at work measures for constructions intended for work and auxiliary premises	Socialist Republic of Montenegro 1987/27	31989L0654



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8	Rulebook on safety at work issues which need be regulated by employment contracts	Republic of Montenegro 2005/67	31989L0391
9	Rulebook on taking professional exam for persons dealing with tasks of safety at work	Republic of Montenegro 2005/67	31989L0391
10	Rulebook on special safety at work measures in the processing and treatment of leather, fur and leather scraps	Socialist Republic of Montenegro 1970/47	31989L0391
11	Rulebook on special safety measures at work in production and processing of coloured metals	Socialist Republic of Montenegro 1986/31	31989L0391
12	Rulebook on special safety measures for work in ferrous metallurgy	Socialist Republic of Montenegro 1987/16	31989L0391
13	Rulebook on procedure and deadlines for carrying out periodical inspections and control of the work equipment, personal protective equipment, and work conditions	Republic of Montenegro 2005/71	31989L0656 32001L0045 52006PC0652 31989L0655 31995L0063
14	Rulebook on hygienic and technical safety measures for work in graphic companies	Socialist Republic of Montenegro 1947/56	31989L0391
15	Rulebook on hygienic and technical safety measures for work in hemp processing plants	Socialist Republic of Montenegro 1947/56	31989L0391
16	Rulebook on the necessary conditions for legal or natural persons to carry out professional safety at work tasks and on the procedure for establishing fulfilment of these requirements	Republic of Montenegro 2005/67	31989L0391

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17	Rulebook on keeping records from the area of safety at work	Republic of Montenegro 2005/67	31989L0391
18	Rulebook on special safety measures at work on railways	Socialist Republic of Montenegro 1988/11	32005L0047 32005L0047
19	Rulebook on special safety at work measures in the manufacture and use of explosives and dynamite	Socialist Republic of Montenegro 1969/55	31999L0092
20	Rulebook on special safety at work measures and on technical measures for acetylene generators and acetylene stations	Socialist Republic of Montenegro 1967/6	31999L0092
21	Rulebook on special safety measures for work in the mechanical processing and shaping of wood and similar materials	Socialist Republic of Montenegro 1988/9	32004D0905 32006D0704
22	Rulebook on safety at work in maintenance of motor vehicles and transportation by motor vehicles	Socialist Republic of Montenegro 1965/55	32006L0022 31980A0637
23	Rulebook on special safety measures at work in thermal processing of light metal alloys in liquid nitrates	Socialist Republic of Montenegro 1965/48	31989L0391
24	The Rulebook on safety at work during loading and unloading	Socialist Republic of Montenegro 1988/13	31990L0269
25	Rulebook on safety at work in construction industry	Socialist Republic of Montenegro 1968/42	31992L0057
26	Rulebook on safety at work in agriculture	Socialist Republic of Montenegro 1968/34	32000D0063
27	Rulebook on safety at work in forestry	Socialist Republic of Montenegro 1986/16	32006D0704
28	Rulebook on general safety at work measures from electrical hazards in	Socialist Republic of Montenegro 1986/6	31989L0391

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	structures intended for work, in working premises and in work sites		
29	Instruction on the manner of control of the implementation of safety at work regulations and on companies manufacturing for certain military needs	Socialist Republic of Montenegro 1966/23	31989L0391
30	Instruction on the manner of control of the implementation of safety at work regulations in the interior affairs bodies and institutions	Socialist Republic of Montenegro 1965/55	31989L0391
31	General Rulebook on hygiene and technical safety at work measures	Socialist Republic of Montenegro 1947/16	41989X1031
32	Rulebook on the manner and procedure of training the employees for safe work	Republic of Montenegro 2006/57	31989L0391
33	Rulebook on the manner and procedure of carrying out initial and periodical specialist medical examinations of workers	Socialist Republic of Montenegro 1980/25	31966H0464
34	Rulebook on provisioning means, meals, and transportation of workers from the place of accommodation to the place of work and back	Socialist Republic of Montenegro 1986/5	31989L0391
35	Rulebook on hygienic and technical safety measures for work in chemical technology processes	Socialist Republic of Montenegro 1950/55	31991L0322 32000L0039
36	Rulebook on hygienic and technical safety measures for work in transport works in	Socialist Republic of Montenegro 1964/14	31989L0391

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	harbours		
37	Ordinance on the prohibition of absolving and cleaning metallic parts or other materials with fuel petrochemicals	Socialist Republic of Montenegro 1967/23	31989L0391
38	Rulebook on equipment and procedure for the provision of first aid and on organisation of industrial accident aid service	Socialist Republic of Montenegro 1971/21	32006R0341
39	Rulebook on safety at work measures and norms concerning noise at working premises	Socialist Federal Republic of Yugoslavia 1992/21	32003L0010
40	Rulebook on contents of studies on organisation of construction sites	Republic of Montenegro 1999/4	31992L0057
41	Rulebook on contents and manner of issuing reports on injuries at work	Republic of Montenegro 1993/18	32006R0341 31988L0610
42	Rulebook on general measures and norms concerning safety at work while working with cranes	Socialist Republic of Montenegro 1969/30	31989L0391
43	Rulebook on means for personal safety at work and personal protective equipment	Socialist Federal Republic of Yugoslavia 1969/35	31989L0656 31989L0686 31993D0068 31993L0095 31996L0058

**B. By Community Directives**

**12. (Ref to Q. 64.b): The reply states that secondary legislation regulates health and safety matters in specific sectors "in more detail" (forestry, railways, agriculture etc.). Please provide complementary explanations about these "more detailed" provisions which are laid down in sector-specific acts in order to make an assessment whether the sector specific approach ensures the uniform level of protection in every sector regarding health and safety at work.**

Secondary legislation in certain areas (forestry, railways, agriculture etc.) prescribes special measures and norms of safety at work concerning persons performing certain jobs and special measures and norms of safety at work concerning work equipment that are used in performing these jobs. These regulations ensure a higher degree of safety at work only at those jobs where the risk to life and health of employees is higher.

**13. (Ref to Q. 64.l): Rights of workers' representatives deals inter alia with the rights of trade unions, therefore please indicate whether there is any link between trade union organisation rights and the rights of workers' representative with specific responsibility for health and safety at work laid down in Article 11 (5) of the Framework Directive.**

According to the Article 159 paragraph 3 of the Labour Law (Official Gazette of Montenegro 49/08), a representative of the trade union organization shall be entitled to be absent from work with wage compensation for the purpose of performing the activities organized by the trade union, in accordance with the collective agreement.

**14. (Ref to Q. 64.m): Please clarify whether or not workers have the right to appeal in accordance with Article 11 (6) of the Framework Directive as the reply states that employees have the right to "submit remarks" only.**

The employee is obliged to, in accordance to his/her knowledge, immediately inform the employer, in writing or verbally, through his/her representatives, about irregularities, failures, harms, hazards or other events that could endanger his/her health and safety at work or health and safety of other employees. If the employer, after receiving the notice, does not remove irregularities, risks, hazards or other occurrence within three days or if the employees think that appropriate safety at work measures were not implemented to remove the identified occurrences, they can request action of the Labour Inspectorate (Safety at Work Inspectorate) and inform thereof the professional person responsible for safety at work.

Employees have the right to refuse to work if:

- not previously informed about all hazards and harms, i.e. risks at work or if the employer failed to provide the prescribed medical examination;
- he/she is under direct life and health threat as a consequence of failing to implement all prescribed measures of safety at work place to which he/she was assigned, until such measures are implemented;
- the prescribed safety at work measures were not applied on the asset of work, which directly endangers safety and health at work.

When the employee refuses to work, he/she is obliged to address the employer in writing, for the purpose of undertaking the measures which, according to the opinion of the employee, have not been implemented. When the employee refuses to work and the employer believes that request of

the employee is not justified, the employer is obliged to immediately inform the Labour Inspectorate (Safety at Work Inspectorate) thereof.

**15. (Ref to Q. 64.r): As regards the administrative capacity of the Labour Inspectorate: it follows from the reply that there are 12 labour inspectors responsible for health and safety at work operating in the country, and that the following bodies exercise control functions in the area concerned, i.e. organise inspections regarding health and safety at work:**

**- Safety at Work Inspectorate**

Safety at Work Inspectors of the Ministry of Labour and Social Welfare supervise implementation of the Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) and 43 related by-laws (secondary legislation) applying to all employees working at the territory of Montenegro, for national and international legal and natural persons, government authorities i.e. local self-government bodies, and employees who are referred to work abroad if the legislation of the host country envisages less favourable safety at work measures than the ones established by this Law, as well as to all other persons who are involved in the process of work or present during the process of work and in work environment, if not otherwise regulated by a special law. The total number of these Inspectors is 12 - engineers of various technical professions.

**- Mining Inspectorate**

Article 15 of the Law on Mining (Official Gazette of Montenegro 65/08) prescribes that surveillance over the implementation of this Law and related regulations, technical regulations on safety at work, environmental protection and protection from fire and explosions during the exploitation of mineral resources is carried out by the Ministry competent for mining, in this case, the Ministry of Economy.

Mining Inspectorate has one Inspector – Chief Mining Inspector.

**- Port Authority**

Labour Inspectors do not carry out organization of inspection concerning health and safety at work on vessels; these tasks are performed by Inspectors for Navigation Safety who are carrying out tasks concerning safety at work exclusively on vessels (foreign and national), in accordance with maritime regulations and conventions of the International Maritime Organization.

**- Ministry of Interior and Public Administration**

Ministry of Interior and Public Administration does not perform tasks of safety at work and these tasks are not within their competence.

**Please clarify whether the said 12 labour inspectors operate under the authority of those four bodies and if yes, how many labour inspectors each of those bodies employs.**

**16. (Ref to Q. 64.r): The reply states that the number of labour inspectors responsible for health and safety at work matters is insufficient. Please explain whether there are concrete plans to increase that number and what is the target number.**

-Ministry of Labour and Social Welfare has no plans for increasing the number of Labour Inspectors for safety at work – Safety at Work Inspectors.

- At this moment the Ministry of Economy has no specific plans for increasing the number of Mining Inspectors.

- Rulebook on internal organization and job classification of the Ministry of Transport, Maritime Affairs and Telecommunications, adopted on 19 November 2009, provides for four positions for Inspectors for Navigation Safety, which is an increase by two positions, within the Department for Maritime and Railway Traffic and European Integrations, Section Port Authority Bar and Section Port Authority Kotor.

**17. (Ref to Q. 65.b): The reply states, that the law prescribes that the designer is obliged to integrate the prescribed safety at work measures. Please clarify to which law/provision this refers.**

This refers to the Article 7 of the Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04), and it is related to the Law on Construction of Structures and Spatial Planning (Official Gazette of Montenegro 51/08).

**18. (Ref to Q. 66): Work Equipment Directive (codified, No 2009/104/EC): It follows from the reply that the Work Equipment Directive is transposed by various sector- specific acts. Thus, please clarify whether every sector specific act includes all provisions laid down in the Work Equipment Directive and therefore ensures a uniform level of protection (see also follow-up question to question 64b above).**

Directive on work equipment was not transposed to the national legislation; instead, the existing secondary legislation prescribes norms for using the work equipment in various sectors. Related thereto, the National Program for Integration contains plans for adopting the Rulebook on minimum health and safety requirements concerning employees using the work equipment, through which the mentioned Directive would be transferred to the national legislation in its entirety.

**19. (Ref to Q. 80): Asbestos Directive 84/477/EEC, 91/382/EEC and 2003/18/EEC). Please clarify which national legislative act transposes the said Directives.**

Directive on asbestos was not transposed to the national legislation. Related thereto, the National Program for Integration contains plans for adopting the Rulebook on protection of employees from risks of exposure to asbestos at the work place, through which the mentioned Directive would be transposed to the national legislation in its entirety.

**20. (Ref to Q. 68, 73, 84): As concern those areas where there are no national legislative acts transposing the Union acquis, i.e. Display screen equipment (Directive 90/270/EEC), Fishing vessels (Directive 93/103/EC), Artificial Optical radiation (Directive 2006/25/EC), please indicate whether and when (regarding Directive 2006/25/EC) it is planned to adopt according national legislation.**

Ministry of Labour and Social Welfare planned, through the National Plan for Integration, adoption of the following by-laws (secondary legislation):

- Rulebook on implementation of measures of safety at work for employees working with display screen equipment
- Rulebook on minimum health and safety requirements at work on fishing vessels
- Rulebook on organization of first aid on board fishing vessels

Above mentioned Rulebooks will be adopted by the end of 2012.

Provisions of the Directive 2006/25/EC will be transposed into the Law on Protection from Non-ionizing Radiation and the related secondary legislation to be prepared by 2012.

### **C. Effective implementation of related acquis communautaire**

**21. (Ref to Q. 85): Please revisit this question on the assessment of certain financial costs of employers which entails the effective application and implementation of health and safety legislation. The information in the reply provided regarding the treatment of injuries does not relate to the question.**

There are no assessments on certain financial costs of employers concerning effective application and implementation of the health and safety at work legislation.



### **III. SOCIAL DIALOGUE**

#### **22. (Ref to Q. 87, 88):**

**- Regarding representativeness of trade unions: The response mentions the need to adopt a new law on trade unions' representativeness but it doesn't elaborate on its contents (nor does the response to question 88 in its second paragraph). Please explain which are the representativeness criteria for trade unions envisaged in the new draft law on Trade Union representativeness and in which phase of preparation/adoption the law stands?**

Pursuant to the Draft Bill on Trade Union Representativeness of trade union representativeness of trade union at any level is determined on the basis of general and special conditions stipulated by this law.

General conditions for determining the representativeness of trade union are: that it is listed in the Register, in accordance with this law, that it is independent of state bodies, employers and political parties and that it is financed mostly from the membership fee and other own sources.

Special condition for determining representativeness of trade union with employers, is considered the trade union that meets general conditions stipulated by this law, constituting minimum 20% of the employees of the total number of employees with the employer. Total number of employees with the employer is determined on the basis of confirmation, issued by the employer on the request of the concerned trade union.

Special condition for determining representativeness of trade union at the level of the branch of activity, group, or sub-group of activity, is considered the trade union which also meets certain conditions stipulated by this law and whose members are minimum 15% of employees of the total number of employees in the branch of activity, group, or sub-group of activity.

Special condition for determining representativeness of trade union for the territory of Montenegro, i.e. at the national level is considered the trade union that meets general conditions stipulated by this law and whose members are minimum five trade unions at the level of the branch of activity, group, or sub-group of activity entered into the register with the ministry and that the trade union comprises of minimum 10% of employees of the total number of employees in Montenegro.

Total number of employees at the sectoral as well at the national level, is determined on the basis of the data of the state administration body competent for statistics for the year prior to the year when the representativeness of trade union is determined.

The trade union whose representativeness is determined pursuant to this law is entitled to: collective negotiating and concluding of collective agreement at the relevant level, participation in solving collective labour disputes, participation in the work of tripartite and multipartite bodies at the relevant level as well as other rights, stipulated by special laws for the authorised organization of trade union.

However, if neither of the trade unions meets the requirements of representativeness pursuant to this law, trade unions may conclude an agreement on association, in order to meet the requirement of representativeness.

The Agenda of the Government for 2010, stipulates adoption of the Law on Trade Union Representativeness. In that regard the text of the Draft Bill on Trade Union Representativeness was prepared, which will be referred to Government procedure for consideration and determination within shortest possible period, after acquiring consents from the competent institutions and then submitted to the Parliament of Montenegro for adoption.

Two trade unions which are organized at the national level participated in preparation of the law: the Trade Union Confederation of Montenegro and the Confederation of Independent Trade Union of Montenegro, as well as the representative of the Montenegrin Employers' Federation, with

whom consent was reached on all solutions that are stipulated in the text of the Draft Bill on Trade Union Representativeness.

**- Regarding representativeness of employers' organisations, please explain which are the criteria for representativeness at branch level?**

Employers' federation, pursuant to the provision of article 161 of the Labour Law, is considered as representative if its members employ at least 25% employees in the economy of Montenegro and they participate in the social gross product of Montenegro with minimum 25%.

Employers' federations are obliged to apply with the Ministry of Labour and Social Welfare for registering. The method and procedure of registering employers' federations and detailed criteria for determining representativeness of employers' federations are stipulated by the Ministry of Labour and Social Welfare.

Pursuant to Article 12 of the Rulebook on the Method and Procedure of Registering Employers' Federations and detailed criteria for determining representativeness of authorized employers' federations criteria for determining representativeness are further elaborated by stipulating that an employers' federation is considered authorized if it is registered in the registry pursuant to this Rulebook, that the members of the federation have minimum 25% of employees in the economy of the Republic of Montenegro and they participate in the social gross product of the Republic with at least 25%, that they have a signed agreement on business cooperation with the authorized trade union organization, that the basic aim and activity is holding social dialogue and collective negotiation and that it is a member of international organization of employers, dealing with the issue of social dialogue at international or regional level (IOE or UNICE).

If it is determined in the procedure that two or more employers' federations meet the requests of representativeness stipulated by this rulebook, as an employers' federation authorised for social dialogue and collective negotiation, is considered such employers' federations whose members have higher percentage of employees in the economy of the Republic (article 13 of the Rulebook).

Pursuant to Article 161 paragraph 4 of the Labour Law it is stipulated that if neither of the employers' federations meets the requirements for representativeness, employers may make an agreement on participation and conclusion of collective agreement.

The Labour Law and the Rulebook on the Method and Procedure for Registering Employers' Federations and detailed criteria for determining representativeness of authorized employers' federations do not stipulate special criteria for determining representativeness of employers' federations at the branch level.

**- Please inform whether there are any plans to a) modify the current system whereby the registration of employers' organisations is regulated by the NGOs law and b) reconsider the thresholds for representativeness of employers' organisations.**

The program task of the Government of Montenegro, for 2010 does not stipulate changes relating to the method of registration of employers' organization and determining criteria for their representativeness but there is always, where appropriate, a possibility to submit the changes of the present regulations relating to these issues to the Government for consideration and determining. So far in the practice there were no problems in application of the regulations stipulating the method of registration and determining representativeness of employers' organizations.

**23. (Ref to Q. 88): Regarding the General Collective Agreement, the reply states that it was concluded in 2004 but amended afterwards. Please provide further information on the amendments.**

General Collective Agreement was concluded on 19th December 2003 and published in the »Official Gazette of Montenegro« 1/04.

The first change of the collective agreement was published in the »Official Gazette of Montenegro« 59/05, relating to the change in Article 68 paragraph 1 stipulating that the signatories of the collective agreement agree that within four years of the day of their conclusion, for resolving housing issues of the employees, the employer pays in to the gyro account of a special fund an amount of minimum 0,7% on gross salaries of employees. This change in the General Collective Agreement was concluded on 16th September 2005.

The next change relates to the decision of the Constitutional Court of Montenegro, published in the »Official Gazette of Montenegro« 24/06, determining that the provision of Article 68 of the General Collective Agreement is not in accordance with the Constitution of Montenegro and the law and ceases to be valid on the day of publishing the decision in the Official Gazette. Thus, the provision of the General Collective Agreement that was the subject of the change of the collective agreement is abolished by its previous change published in the Official Gazette 59/05.

**24. (Ref to Q. 89): The question is directed to bipartite dialogue but most of the reply refers to tripartite social dialogue. Please provide some more information how the government is promoting bipartite dialogue.**

Pursuant to Article 150 paragraphs 2 and 3 of the Labour Law bipartite social dialogue is held by concluding collective agreements in the branch of activity, group, or sub-group of activity, the following:

- in the field of economy – competent body of the representative employers' federation and the competent body of the representative trade union organization;
- for public enterprises and other public services whose founder is the state – representative trade union organization and the Government;
- for public institutions whose founder is the state – representative trade union organization and the Government, and for other public institutions - representative trade union organization and the founder;
- for state bodies and organizations and local government bodies – representative trade union organization and the Government;
- for political, trade union, sports and nongovernmental organizations – representative trade union organization and the competent body of the representative employers' federation;
- for foreign physical and legal persons (embassies, diplomatic-consular representative offices, representative offices of foreign companies and other) – representative trade union organization and the competent body of the representative employers' federation;
- for persons performing independent artistic or other cultural activity – representative trade union of artists and the state administration body competent for cultural affairs.

Collective agreement with employer is concluded by the competent body with the employer and the representative trade union organization.

Pursuant to Article 151 paragraph 3 of the Labour Law General and Branch Collective Agreements are registered with the Ministry of Labour and Social Welfare and published in the »Official Gazette of Montenegro«.

The method of publishing these collective agreements with the employer is regulated by that agreement.

On the basis of the Rulebook on Registration of the General and Branch Collective Agreements the Ministry has registered in the Registry of collective agreements the following 17 Sectoral collective agreements:

Branch collective agreement for road transport, registered on May 11, 2004

Branch collective agreement for the activity of tourism and hospitality of Montenegro, registered on May 11, 2004

Branch collective agreement for trade, registered on May 11, 2004

Branch collective agreement for banks, other financial organizations and insurance, registered on May 24, 2004

Branch collective agreement for maritime transport and port-reloading services, registered on May 24, 2004

Branch collective agreement for the activity of agriculture, food and tobacco industry and water supply, registered on May 27, 2004

Branch collective agreement for construction industry and construction material industry, registered on June 17, 2004

Branch collective agreement for energy industry, production, processing and traffic of coal, oil derivatives and gas, registered on June 22, 2004

Branch collective agreement for the activity of textile, leather, rubber, chemical and pharmaceutical industry, registered on June 22, 2004

Branch collective agreement for the activity of metallurgy, metal processing industry and production of machines, devices and means of transport, registered on July 26, 2004

Branch collective agreement for the activity of forestry, wood processing, paper production and processing, registered on July 28, 2004

Branch collective agreement for information, graphic and publishing activity, registered on December 01, 2004

Branch collective agreement for residential-utility activity, registered on January 14, 2005

Branch collective agreement for the field of education, registered on January 30, 2006

Branch collective agreement for health and social activity, registered on March 07, 2006

Branch collective agreement for the field of culture, registered on August 22, 2006

Branch collective agreement for pupils' and students' standard, registered on April 18 2007

The following amendments to branch collective agreements were entered into the Registry of collective agreements:

Branch collective agreement on amendment to the Branch collective agreement for the field of education, registered on February 02, 2007

Branch collective agreement on amendments to the Branch collective agreement for health and social activity, registered on September 25, 2007

Branch collective agreement on amendments to the Branch collective agreement for the field of education, registered on October 30, 2007

Branch collective agreement on amendments to the Branch collective agreement for the field of culture, registered on November 01, 2007

Branch collective agreement on amendments to the Branch collective agreement for pupils' and students' standard, registered on March 13, 2008

Branch collective agreement on amendments to the Branch collective agreement for health and social activity, registered on August 01, 2008

Branch collective agreement on amendments to the Branch collective agreement for banks, other financial organizations and insurance, registered on December 16, 2009

Collective agreements with employers are not registered with the Ministry of Labour and Social Welfare, therefore this Ministry does not have data on the number of concluded collective agreements.

The Government encourages bipartite social dialogue through activities and work of the Social Council.

**25. (Ref to Q. 89): Please provide some information as regards extension mechanisms for collective agreements.**

Collective agreement is applied directly, and it is always concluded in written form. And apart from the fact that collective agreement has the character of a general act, it is not adopted but concluded, and upon its conclusion it becomes a general act and it is applied to all employees. Namely, the General Collective Agreement is applied to all employees in Montenegro, except for employees in certain fields of activity for which a special law was adopted and applied to them as regulation "lex. Specialis". If that regulation does not regulate certain rights stipulated by the General Collective Agreement, the General Collective Agreement is applied to the employees regarding those rights.

Branch collective agreement is applied to all employees in the branch of activity, group, or sub-group of activity, even if the employees are not members of the sectoral trade union which concluded the collective agreement.

Collective agreement with an employer is applied to all employees with the employer. In the case where there are more trade union organizations organized with the employer the collective agreement is concluded by the representative trade union and it is applied to all employees with that employer.

Article 153 of the Labour Law determines a continued application of collective agreement with the employer, in case of restructuring of that employer. That means that in case of restructuring, or change of the employer until the conclusion of a new collective agreement the collective agreement that was applied prior to the mentioned changes will apply for the employees, for maximum one year.

Pursuant to Article 2 of the Labour Law collective agreement and labour contract can not contain provisions that give less rights to employee or that determine less favourable working conditions than the rights and conditions determined by the law.

Collective agreement and labour contract can determine broader scope of rights and more favourable working conditions than the rights and conditions determined by the Labour Law.

If certain provisions of the collective agreement stipulate less favourable working conditions than the conditions determined by the law, the provisions of the Labour Law are applied.

If certain provisions of the labour contract stipulate less favourable working conditions than the conditions determined by the Labour Law and the collective agreement they are void.

If collective agreement with the employer was not concluded, sectoral collective agreement for the relevant activity is directly applied, and if there is not a sectoral collective agreement general collective agreement is applied.

**26. (Ref to Q. 90): Please clarify whether tripartite social dialogue plays a part in defining activities/sectors that are excluded from the right to strike, such as services of general interest.**

Social dialogue on tripartite basis in labour legislation is present in all areas and the statement that there is "a sector excluded from the right to strike" is not proper. Employees in the Army Forces of Montenegro, police and employees in the state administration (employees in the Government, administration bodies, ministries and the Parliament of Montenegro) it is stipulated by the Law on Strike, that for protection of public interest they cannot organize strike, if in that way the general interests of citizens, national safety, safety of property and persons, as well as functioning of bodies of authority would be compromised, which means that strike in these fields is allowed, but safety of property and persons as well as national safety of the state cannot be compromised.

In public interest in the sense of the Law on Strike are also activities of special significance for defence and safety of Montenegro pursuant to a special law, affairs necessary for performance of obligations determined by international agreements, as well as activities whose suspension of work in the nature of business, pursuant to a special law, could compromise life and health of people or inflict large scale damage.

## **IV. EMPLOYMENT POLICY AND EUROPEAN SOCIAL FUND**

### **A. Employment Policy**

**27. Please provide more information as regards measures for vulnerable groups, including a short description of the actual measure.**

Persons who face difficulties in finding jobs are persons who, for different reasons, are not competitive at the labour market and who need additional support and special professional treatment for inclusion in labour.

The Employment Office of Montenegro determines the status of the person who faces difficulties in finding job by triage, i.e. by sorting according to the level of employability, i.e. the type of necessary professional treatment, with the aim of overcoming the obstacles and problems they have as fast as possible.

The following persons fall into the category of persons who face difficulties in finding jobs:

- persons with disabilities (with the status determined by a competent body),
- members of Roma, Ashkalia and Egyptian population (RAE),
- redundant employees,
- persons above the age of 50,
- persons without education and school drop-outs,
- persons with chronic illnesses,
- persons with mental disturbances,
- persons with mental disability,
- long term unemployed,
- addicts to psychoactive substances (drug addicts, alcohol addicts),
- persons in postpenal treatment,
- victims of criminal acts,
- single parents,
- persons with combined disorders.

At the end of 2009, in the records of the Employment Office there were 10,843 persons, for whom it was determined by triage that they fall into the category of persons who face difficulties in finding jobs, which comprises 35.94% of the total number of the unemployed (30,169).

The share of women in the total number of persons who face difficulties in finding jobs is 39.76%.

With the aim of increasing employment of all unemployed, including also persons who face difficulties in finding jobs, for whom it was determined that through certain measures they can be employed faster. The Employment Office is realizing a set of measures of active employment policy determined by the National Strategy of Employment and Human Resources 2007-2011, national action plans for employment, that, for the period of one year, determine measures and activities aimed at reaching goals defined by the National Strategy, as well as legal and other acts.

Measures that are continuously being realized are:

**1. Informing on the possibilities and conditions of employment**, realized by the Office through informative talks, interviews and informative–motivational seminars (workshops), for which it is qualified, since those are shorter programmes, with duration of two or three days

Informative talks aim at quality informing of the unemployed person on the rights and duties determined by the Law and other acts.

The aim of the interview is to identify the needs and limits of the unemployed person, and individual employment plan sets out activities in job seeking and entering programs of active employment policy.

Through informative–motivational seminars (workshops), persons who face difficulties in finding jobs are motivated to active approach to employment, acquiring skills of job seeking, determining aims and developing employment plans that are realistic and in accordance with their possibilities and competencies. Analyses show that these seminars encourage unemployed persons to seek employment actively, and also stimulate active participation in programmes of active employment policy.

**2. Professional orientation** is providing assistance to an unemployed person to view more objectively, to plan and achieve his/her professional carrier.

**3. Financing salaries for apprentices** (persons who enter labour relation for the first time)

**4. Support to self-employment** is financial and professional assistance obtained by an unemployed person who establishes one of forms of performing economic activity.

**5. Education and training of adults** relates to activities, that provide possibility to a person who seeks employment, to obtain through these programs qualification for the first occupation (I and II level of vocational qualification), to innovate knowledge within the same occupation and level of education (additional training), to obtain other occupation of the same or lower level of vocational training (retraining) and acquire key skills (IT skills, foreign languages and other).

**6. Public work** is work organized with the aim of employment with fixed duration in order to preserve and improve working capacities of persons who face difficulties in finding jobs, as well as acquiring certain public interest (social protection, education, environment protection, utility and other services). Public work is organized at national and local level.

**7. Subsidies for employment** of persons who face difficulties in finding jobs who enter into labour relation for open-ended period.

**8. Professional rehabilitation** of persons who face difficulties in finding jobs is realized with the aim of training these persons for work in the proper way, to keep their jobs and make progress.

**9. Awarding scholarships to an unemployed person** in accordance with the needs in the labour market (deficit staff).

**10. Preparation for seasonal employment** represents inclusion of unemployed persons in seasonal works in tourism, hospitality, agriculture, forestry, construction industry and other seasonal activities.

Pursuant to the determined plans, in 2008, 976 persons who face difficulties in finding jobs participated in the measures of active employment policy, and in 2009 **146** programs of education for adults and **104** national and local public works were realized, which included 1.183 persons who face difficulties in finding jobs, of which 246 persons with disabilities, and 937 (deaf, visually impaired, combined disabilities and other), who have lower working capacity, and who do not have the status of persons with disabilities and other persons from the category of persons who face difficulties in finding jobs, all persons engaged in public works are during the period of public works in labour relation, for a fixed duration period, of which 69 are persons with disabilities.

**Through application of contemporary technology of work with the unemployed in the Employment Office, in the process of triage two most threatened categories of persons who face difficulties in finding jobs were recognized, from the aspect of employability and employment, and those are: persons with disabilities and RAE population.**

**Obstacles, that affect the problem of employment of persons with disabilities, are mostly: health limitations (lower working capacity), undefined professional plan, inadequate or insufficient education, lack of working experience, insufficient self-confidence, lack of motivation for job seeking, stigmatization, difficulties in adapting and low level of social support, and regarding RAE population: lack of education and educational possibilities,**



**lack of identification documents, difficult economic and social situation due to which they are not in position to accept longer trainings, discrimination and rejection from the part of non-Roma and employers, life in insecure and unstandardized places of residence, lack of guarantees in the form of real-estate and endorsers for obtaining credits; etc.**

Having in mind the afore mentioned, and respecting the guidelines and directives from the European Union, there is a need for creation of specific measures, that need to be adjusted with possibilities and needs of persons, who belong to these two categories.

### **Persons with disabilities**

In the records of the Office, on 31.12.2009 there were 2,478 persons with disabilities, of which there were 791 or 31.92% of women, representing about 9% of the total number of unemployed on the same day.

Specific measures are realized for this category, adjusted to their possibilities and needs, such as:

Public work **»Sunny Workshop«** - project covering several years, realized in cooperation with social partners, for production of souvenirs, greeting cards, decorations and paper products, for the New Year and 8th March. In this public work, 50 to 80 persons join annually. In this way, participants develop ability, working and social skills and communication skills, and at the same time earn income on the basis of entering into labour relation for a fixed duration period.

**Financial stimulus for entrepreneurship for persons with disabilities**, through awarding credits for self-employment, under favourable terms, both regarding the amount of funds and the deadline for returning the funds. The contest was announced several times, with the note »for open-ended period«. Persons eligible to participate in the contest are persons with disabilities, from the registry of the Office, physical persons, entrepreneurs and legal persons, with the status of a small business organization, who are to employ persons with disabilities.

Credit is approved for maximum five working positions, in the amount of € 3.500, per each newly employed person with disability, with the deadline of returning funds of 5 years in six-month annuities. Interest rate amounts 3% at the annual level, and grace period is one year.

In the period from 2003 until December 2009 32 requests for awarding credits were approved, for employment of 44 persons with disabilities in the activities: craft services, agriculture, trade etc.

For persons interested in launching their own business, the Office organizes two programs: »Stimulating self-employment« and »Providing basic entrepreneurial knowledge«. In 2009 there was not any interest from persons with disabilities. The supposition is that poor financial situation of these persons, inability to put a mortgage on immovables and providing a guarantor for the return of credit additionally reduce the interest of persons with disabilities to use credit funds.

### **Pilot program »Implementation of the Law on Professional Rehabilitation and Employment of Persons with Disabilities in practice«**

With the aim of implementing the Law on Professional Rehabilitation and Employment of Persons with Disabilities, i.e. in order to create conditions for successful professional rehabilitation and increase in employment of persons with disabilities and their equal participation in the labour market, the realization of this program started at the end of 2009, in the duration of six months.

The program is realized in two parts: one represents inclusion in the process of professional rehabilitation of 32 unemployed persons with obstacles in employment – rehabilitants, while on the other side at the same time the initial training is conducted for 12 unemployed persons with higher degree of various profiles of occupations, necessary for work in professional rehabilitation in Montenegro.

Unemployed persons included in this pilot program, of which 16 are women, were included primarily in the module of estimation of remaining working capacity, in order to determine the status of a person with disability, after which certain measures and activities for their active

participation in the labour market were allocated (measures of active policy or inclusion in further process of professional rehabilitation).

**»Application of the Law on Professional Rehabilitation and Employment of Persons with Disabilities in Practice – blind and visually impaired persons«**

Seven blind and visually impaired persons were included in this program. The aim of this program, with the duration of two months, from the point of individual, is: overcoming blindness or visual impairment as communication and movement obstacle, reorganization and reorientation of life often the occurrence of the impairment, increase of possibility for possible later inclusion into programs of training, education and employment, acquiring basic social and life skills and recognizing own obstacles in employment.

**Program »Social Inclusion of Persons with Disabilities«**

In this program, with duration of eight months, 17 persons were included, for whom in the pilot program »Application of the Law on Professional Rehabilitation and Employment of Persons with Disabilities in Practice« it was determined that they have the remaining working capacity under 30%. The program was organized as public work, in which, through production of certain souvenirs (items in clay, souvenirs), the participants improve working skills, self-respect, assuming responsibility for shaping their own future and independent overcoming of difficulties.

**RAE population**

The Employment Office of Montenegro does not keep records on the unemployed persons by ethnic affiliation, but, for the needs of the project Decade of Roma Inclusion, a change was conducted in the application, which enabled browsing records on that basis, while declaring of unemployed persons on their ethnic affiliation is not mandatory, but strictly voluntary.

At the end of 2009, in the records of the Office there were 1,358 persons who declared as members of RAE population, of which women comprise 43.30%. Participation of this population in total unemployment is 4.50%.

**Public works** mainly relate to development of main roads, or at the local level cleaning and development of walking paths or development and afforestation of forests.

**Project “Roma Visible in the Labour Market”** from 2006 and 2007 is a research organized as national public work, and related to questioning members of RAE population with working capacity on their education status, interest in registering in the Employment Bureau, their motivation and potential for inclusion into programs of active employment policy, as well as gathering data on their identification documents. Research was conducted by 27 surveyors, of which 25 were persons of Roma nationality and who were in working engagement during the period of research. Sum results of the research represented the first data base on the number of Roma, who have working capacity, from which the selection of candidates for the projects, that followed after the mentioned research, was conducted.

**Project »Second Chance«** represents a program of integration of adults, through making literate and vocational training of 61 persons of Roma and Egyptian nationality from Podgorica and Nikšić, of 15 to 40 years of age, with duration of 18 months. Candidates finished successfully the program of functional literacy and passed final exams, after which they continued vocational training for occupations in the field of construction industry, hospitality and personal services. Most of these candidates received basic knowledge in IT skills and passed their driving exam for category B.

The result of this program is employment of: 11 persons in the utility sector, 10 in hospitality, construction industry, education and maintenance, as well as 8 persons in provision of services in their own community.

**Project »Reduction of vulnerability of domicile RAE population«** was realized by the Employment Office, in cooperation with UNDP, with the duration of 26 months, in three municipalities.

*The aim of the project was: improving the capacity of the Employment Office of Montenegro, improvement of services in the field of employment, through organizing and conducting training for domicile RAE population and support for development of entrepreneurial initiatives.*

The results of the project are: 75 persons successfully finished training for one of the qualifications for some of assisting occupations and 19 persons employed (7 after the finished training and 12 through awarded grants), comprising 25% of the total number of persons who participated in the project activities.

**28. Please provide an indication of the respective shares of men and women addressed by the measures.**

Measures of active employment policy are described in more detail in answer to question 27.

Representation of women in those measures comprises 57% at the annual level. Measures where the share of women is larger compared to other measures are: education for adults and public works. During 2009 the share of women in these measures was 65%. Women accept offered programs of education and training better and they are more ready to accept offered positions even if they are not in their field of work.

Regarding the specific measures, adjusted to possibilities and needs of persons with disabilities, the share of women is as follows:

- Public work "Sunny Workshop" - 53,8% at annual level;
- Financial support for entrepreneurship for persons with disabilities, through awarding credits for self-employment – 22,7% for the period from 2003 -2009;
- Pilot program »Application of the Law on Professional Rehabilitation and Employment of Persons with Disabilities in Practice« - 50%;
- »Application of the Law on Professional Rehabilitation and Employment of Persons with Disabilities in Practice – blind and visually impaired persons« - 15%;
- Program »Social Inclusion of Persons with Disabilities« - 50%.

Representation of women – members of RAE population in projects of active employment policy amounts 40% at annual level.

Regarding the specific measures intended for RAE population, share of women is as follows:

- Project "Roma Visible in the Labour Market" - 15%;
- Project »Second Chance« - 40%;
- Project »Reduction of Vulnerability of Domicile RAE Population« (training - 52%, employment 16%).

**29. The labour market mismatch is mentioned as a problem. Can you please provide an analysis of the scope of the problem and what is being done in this respect?**

Problems and difficulties in development during the 90s and great changes in sector priorities have made the situation in the national labour market more complex..

Instead of industry that was the main bearer of growth, development and employment, tourism and construction industry, together with trade and some other activities in the service sector, now are taking over that role.

The most prominent consequence of structural unemployment is **long-term unemployment** – waiting for employment longer than one year, percentage share of this category of unemployed persons in the total number of unemployed largely points out to the scope of this challenge. **At the end of 2009, according to data of the Employment Office, the share of long-term unemployed in the total number of persons in the records was 55.84% (16,845 persons, of total 30,169 unemployed). In the same period in 2008 this category of unemployed amounted 55.55%.**

**Structural unemployment**, occurring as the consequence of such developments is still the greatest challenge of Montenegrin labour market.

Discrepancy between supply and demand of labour force in the market is presented through **three forms**:

1. there is supply in certain occupations, but there is not enough demand for labour force of those profiles;
2. there is demand for labour force of certain profile, but there are not such occupations in the labour market;
3. there is a demand for labour force of certain profiles in the labour market as well as their supply, but it is difficult to fulfil vacancies with domicile work force.

**There are two reasons for the first form of discrepancy:**

1. Already mentioned change in the economy structure, through long lasting transition process, lead to the situation where workers who lost their jobs in industrial companies with existing occupations, could not find job fast in the newly established economy structure with domination of occupations in the field of tourism and hospitality, construction and other service activities. These are older unemployed persons, over 50 years of age and they comprise 30% in the total long-term unemployment, as well as long-term unemployed from 40-50 years of age, whose share in total number of long-term unemployed persons is 28.8%. Also, when engaging labour force, employers tended to employ younger persons, in the previously mentioned activities, rather than persons who lost their jobs due to transition processes.

2. Structural discrepancy was also partly caused by insufficient flexibility of the education system. Economy growth that is now dominantly based on tourism and hospitality, construction and services, creates working positions of narrow circle of specific occupations, and education system, specially high school vocational education and network of schools is not adjusted to the newly created situation in full. Also, the content of education and training is not sufficiently adjusted with the needs of small and medium enterprises that need labour force with significantly different knowledge and skills than the ones that classic industry workers need. The needs of the SME sector regarding the employment are directed towards greater flexibility, innovation, IT literacy, knowledge of foreign languages and better communication. That is the reason why young unemployed persons of 16-30 years of age also participate with 20% in the total number of long-term unemployed persons.

**Other form of discrepancy** is, when there is a demand in the labour market for labour force of certain profiles, and there is no adequate supply, although there are educational institutions that can produce those profiles. The reason for this is insufficient interest of younger population to educate for occupations that are demanded in the labour market. These are, thus, deficit occupations. This group includes scientists of certain profiles, engineers and doctors in certain specialties, pilots, and highly qualified labour force of certain specialties – eg. aviation mechanics and other. On the other side, despite the demand, occupations in lower levels of vocational qualification are also lacking specially in tourism and hospitality and construction industry.

In the labour market in Montenegro, in the form of supply or demand during the year there are about 1,250 occupations (about 45% refer to occupations of III and IV level of vocational qualification, and about 35% to occupations with university degree). However, with only about 20% of occupations of III and IV level of vocational qualification there are »surplus« (supply is higher than demand) or »deficits« (demand is higher than supply) of  $\pm 50$  persons, and with about 30% of occupations with university degree about deficits or surpluses of  $\pm 10$  persons, which in fact means

that proportions between the supply and demand should be viewed on the basis of 155 occupations that, regarded nominally, cover over 80% of developments in the labour market.

The analysed share of supply and demand by levels of vocational qualification and occupations with which the differences i.e. deficits or surpluses in proportions between supply and demand are the most prominent ones, point out to the following:

- Demand for unqualified and semi-qualified labour force is, viewed in total, in the period from 2004-2008 was for about 30% lower than the supply, while in 2009 it was for 46.2% higher than supply. During 2009 there were 24701 vacancies announced, which is 58.2% more compared to 2008. This is a consequence of determined legal obligation for employers to announce vacancies both in case of foreigners. The fact is that employers mostly announced the need for employment of unqualified workers – foreigners (agriculture and construction industry) – so that, regarding those workers, it is not realistic to compare to this year, in which there is an obligation to announce, with the previous one when that obligation did not exist.
- Significantly higher supply than demand within III level of vocational qualification exists with occupations: metal handler – lathe operator, locksmith – fitter, mechanical technician, auto-mechanic, electric mechanic, auto-electrician, tailor and garment manufacturer, hairdresser and typist.
- With some mentioned occupations, employment is above the expressed demand, and with some it is also significantly expressed (eg.: supply for occupation metal handler - lathe operator is annually about 900 persons, demand is about 50, while employment is about 350 persons; supply for occupation auto-mechanic is annually about 1,750, demand 170-200, and employment about 850-900; for occupation electric mechanic supply is about 800, demand 60-80, and employment 500-550; for occupation locksmith – fitter supply is about 1,400, demand about 400, and employment about 600; for occupation tailor- garment manufacturer, supply is about 800, demand about 80, and employment about 300 persons).
- Similarly to the mentioned proportions, although at a nominally lower level, is for the occupations: electrical fitter, auto-electrician, machinist, cook and also for typist.
- For textile workers there is also a present surplus, but also a low level of employment.
- For occupations: welder, road vehicle driver, construction machine handler, waiter, bartender and counter assistant, demand is larger than supply,
- For occupation of seller supply is similar to demand.
- For almost all occupations of IV level of vocational qualification supply is higher than demand. Those surpluses are specially expressed for occupations: agricultural technician, mechanic technician, electrical technician for power supply, electrical technician for electronics, chemical technician, commercial technician, tourism technician, economy technician, legal document technician, high school graduate and medical technician. Scope of employment for some mentioned occupations is above expressed demand. That is specially expressed for occupations: mechanical technician supply amounts annually about 2.200, demand about 250, and employment about 1.000 persons; commercial technician - supply is about 700, demand about 150, employment about 600 persons; economy technician - supply is about 2.200, demand about 1.250, employment about 1.200 persons; legal document technician - supply is about 350, demand about 30, employment about 250; high school graduate - supply is about 3.100, demand about 700, employment about 2.000 persons; agricultural technician - supply is about 400, demand about 20, and employment about 200 persons. And with occupations: electrical technician for power supply, electrical technician for electronics, chemical technology technician, medical technician, proportions between supply, demand and employment are similar to the listed ones but at a nominally lower level.

For occupations: marine transport technician, marine mechanical technician, laboratorist-biologist, textile technician, wood processing technician, culturology technician and international correspondent demand is significantly lower than supply and also employment of persons with those occupations.

For occupations: *sales technician and servicing technician* demand is significantly above supply,

For occupations with university degree higher deficits are present for occupations: veterinary, BSc in food technology, BSc in mechanics, BSc in electrotechnics for electronics, BSc in electrotechnics for IT technology, occupations in the field of construction, primary school teacher, kindergarten teacher, mathematics teacher, biology teacher, English language teacher, teacher for group of subjects in music, teacher for group of subjects in art, and medical occupations;

Higher surplus is present for occupations: BSc in metallurgy, BSc in water transport, bachelor in economy, bachelor in law, Serbian language teacher, sociology teacher, physical education teacher, technical education teacher, politicologist, biologist, etc.

From the stated summary of the proportion between supply and demand per individual occupation and level of educational qualification it can be concluded that the term »surplus« for some of them should be relative due to the scope of employment of persons with those occupations. As can be seen from the given examples employment for some of them is significantly higher than the shown demand for those occupations, i.e., employment comprises even up to 70% of the supply for those occupations. This shows that for those occupations there is a situation where they employ in positions for which their qualification is not required, i.e., a present exchange in employment, (e.g. employing high school graduates in administrative, economy, trade, service positions and similar, employing service workers in trade, and service positions, etc., employment of economists in trade or hospitality positions, etc.). it is also present for occupations: mechanic, machinist, metal handler, construction worker, wood processing handler, etc.

The scope of structural unemployment, especially regarding the first two forms of discrepancy of supply and demand, is possible to view also through the fact that Montenegro is, despite the existing number of unemployed persons, at the same time an »importer« of labour force. In the last two-three years, especially during the high economic growth, the number of engaged non-residents was from 30 to 60 thousand. In 2008 there were 57766 non-resident persons working. Due to the influence of the global economic crisis in 2009 that number was significantly reduced, so that the Employment Office issued 17 000 working licences for work and employment of foreigners. Thus, although demand, measured by the number of announced vacancies, is by 26.7% lower, employers were forced to employ foreigners, because it was not possible to employ somebody from the existing structure of the unemployed.

These developments are largely contributed by the seasonal character of employment.

Dominance of the listed sectors (tourism, construction industry and services) with significantly expressed seasonal oscillations produce a number of consequences for the labour market:

- During the season there is a great demand for labour force i.e. there is a significant need for seasonal labour force,
- In the off-season the demand for labour force – employment decreases, which had seasonal unemployment as a consequence.
- In the season there are great differences in the gender structure of demand for labour force – tourism, hospitality and trade employ more female labour force that is insufficiently mobile, and construction and agriculture male labour force, that is somewhat more mobile.

Also the economy structure where tourism, construction industry and services dominate, causes differences in supply and demand of labour force by regions. The highest number of working positions is created in developed municipalities (south and central part), and relatively low in underdeveloped municipalities in the north. On the other side, demographic situation is such that the supply of labour force in underdeveloped municipalities significantly exceeds demand, and in developed municipalities, particularly in coastal, it is the opposite. Due to such developments, in underdeveloped part of Montenegro there is a surplus of labour force and unemployment is higher, and in developed coastal municipalities there is a lack of labour force.

**The third form of discrepancy**, when available vacancies are difficult to fulfil although there is both demand and supply in the market for labour force of certain occupations, is caused, primarily by insufficient regional and professional mobility.

It is possible that the reasons for insufficient mobility are the amount of salary, inadequate accommodation, work in shifts and the need to cultivate their own land. Additional factor of limitation is the fact that a large number of vacancies is of seasonal character and that the season is quite short (2-3 months).

In Montenegro there is low willingness of the unemployed with a high level of education to accept jobs for which a lower level of education is envisaged. There is a small number of those who want additional education for the purpose of change of occupation within the same level of qualification for employment.

Employers' survey, research that the Employment Office conducts annually, starting from 2004, gives useful information regarding this form of discrepancy. To question »Have you had vacancies for which you could not employ anyone, a positive answer was given by 20% of surveyed employers. In 2008 that percentage was 30%.

Present deficits and surplus in the supply and demand of labour force, particularly expressed for certain occupations, imposed the need for realization of a number of programs with the aim of adjustment of those relations, i.e., adjustment of supply to the demand of labour force.

In that sense it is necessary to point out the importance of **the program of education and training** (courses and trainings, additional training, retraining, or specialization – in metal processing, crafts, agriculture, IT, foreign languages, hospitality-tourist occupations, maritime, etc.) realized according to the needs-requests of employers or expressed interest of the unemployed persons.

In this way, in the last several years, through the Employment Office, in average 60 types of these programs were realized annually for a known employer or for the labour market, which comprised 4,500-5,000 or about 15% of unemployed persons.

Establishing more favourable relations in the market was also significantly contributed by the realization of other programs of active employment policy. Thus:

- realization of **program of public works** in average includes about 1,500 unemployed persons annually;
- **program of co-financing employment of apprentices** covers 1,100-1,200 persons;
- **in the season** through the Office 6,000-7,000 persons are employed annually;
- through **program of stimulating micro and small entrepreneurship the so called Program of Self-employment** 9.818 programs were co-financed whose realization covers employment of 15,786 persons since 1999;
- **Program "Job for you"** realized in 13 less developed municipalities from 1st September 2008 included about 3550 unemployed persons.

Within the Employment Office the **centres for informing and professional counselling** (Podgorica, Bar, Herceg Novi), whose services provide information on planning career, on the opportunities for education in Montenegro, possibilities for retraining, additional training, courses and specialization, labour market and the possibilities for employment.

Process of professional informing included 466 clients. Process of professional counselling covered 355 clients. Professional selection for direct employment covered total of 196 unemployed persons. About 280 clients went through workshop activities, of which 150 unemployed and about 130 students.

There was continuous media presentation of the activities of centres.

During 2009 the Employment Office conducted two researches: the Employer survey 2009/10 and Survey on the labour market, qualification and education needs in tourism and hospitality – 2009. The research was conducted in cooperation with SNV Dutch development organization and British Council within the project "Skills in Practice".

The role of the system of education for the purpose of reducing structural unemployment is of great significance and in that view important activities were conducted and are being conducted:

1. The reform of the education system, starting from 2000 until now, through establishing strategic and legal framework and development of necessary institutions in continuity strives to make the education system as a whole more compatible with the needs of Montenegrin economy and labour market. "Book of Changes" adopted in 2001, two strategic plans of education reform (first for the period of 2003-2005 and the second for the period 2005-2009), the Strategy of Education of Adults for the period 2005-2015, the Strategy of development of high school professional education, the adopted laws for all forms of education and the Law on National Vocational Qualifications, activity on establishing the national framework of qualifications is conducted, the Centre for Vocational Education and the Examination centre were founded.

2. The Centre for Vocational Education has so far prepared 202 standards of occupations, 88 education programs for vocational schools, 64 programs for education of adults. Within the Eight festival of education of adults the following was organized: three seminars, nine round tables, six presentations and two focus groups. These activities were attended by 368 participants.

During 2009 the following activities were realized regarding the education of adults:

- The Ministry of Education and Science licensed 32 organizers of education for adults.
- Elementary education was acquired by 184 adult persons.
- Directorate for Small and Medium-Sized Enterprises organized nine cycles of education covering 334 participants (students' entrepreneurship, vocational training, project management, chance for young managers, access to EU funds etc.).
- Through various programs of education for the employees in state administration the Human Resources Management Authority included 2665 participants.

**30. (Ref to Q. 94): As regards the description of the labour market and the impact of the crisis please provide an update on the current situation and some forecast on expected future impact (e.g. existing impact on some sectors like the aluminium industry might translate into longer term effects, also considering the fact that further decrease of vacancies might ultimately affect the Montenegrin labour force after the first effects have been covered by the foreign workers).**

The economy of Montenegro could not avoid negative consequences of the global economic crisis. Developments in the labour market, starting from the third quarter of 2009, show that the crisis, considering also the usual seasonal oscillations, started affecting employment and unemployment more intensively, compared to the first half of the year.

The highest **registered employment**, according to the data of MONSTAT, was realized in August - 179 016 employed. Already in September that number declined to 176 936, and at the end of December last year the number of the employed was 169 859 persons. Thus the total decline compared to August was 9157 persons.

Viewed by sectors of activities, the highest reduction of the employed was in hotels and restaurants (4435), processing industry (1881), construction industry (758) and retail and wholesale (387). Certainly the highest part of the reduction of the number of employed in hotels and restaurants was affected by the end of the tourist season, which was also characteristic of the previous years when there was no crisis. The fact is, also, that the largest part of the reduction relates to foreign workers, but it is indisputable that the crisis affected the increase of that number and caused a sensible decline in the number of the employed particularly in processing industry.

At the end of September 2009 there were 27,769 **unemployed** persons in the registry of the Employment Office of Montenegro (there were 12,700 or 45.73% women), while at the beginning of March 2010 there were 32,358 unemployed (there were 14,439 or 44.62% women), which is 4,589 persons more or 16.52%.

The rate of registered unemployment at the end of September 2009 was 10.50%, at the end of 2009 11.42%, while at the beginning of March 2010 it reached the amount of 12.25%.



There are two reasons for these developments. One is the seasonal character of employment in the sector of tourism with the usual trend in the last 5-6 years. In the fourth quarter there is a gradual increase of unemployment, this is continued until the middle of the second quarter (the beginning of May), after which there is reduction in the number of the unemployed.

The second, more significant reason is the influence of global economic crisis. The careful announcement in the answer to question 94 "that crisis in the aluminium industry and, regarding that, great difficulties in operation of Aluminium Plant - KAP and related business organizations, can largely contribute to deterioration of the situation in the labour market", became a reality.

According to the registry of the Employment Office the following number applied for registering in this period: 500 workers from KAP and 150 from the Bauxite Mines. There was also a greater number of lay-offs in companies: Dairy Company (Mljekara) Podgorica (100 workers), Tobacco company Podgorica (100 workers), Newspaper-publishing company Pobjeda from Podgorica (100 workers).

Regarding the redundant employees, new applying of workers for registering with the Office is realistic from: the Bauxite Mines (537), KAP (484), Telekom (81), Railroad Infrastructure (35), Titeks Marketing LLC (25), which is a total of 1162 workers. If the number of redundant employees on the basis of social program of Steel Plant (Željezara) is added to this (the employer and the trade union of Željezara are negotiating the social program and the precise number of redundant employees is not determined yet), restructuring of the Port of Bar, Shipyard Bijela (Brodogradilište Bijela), and considering the redundant employees in municipal administration, in the optimistic option there could be additional 1500 workers. Therefore, it is realistic to expect that on this basis until the end of the year the pressure to the increase of unemployment will continue.

Apart from the large business subjects the crisis also affected the rest of the economy, which is particularly evident in the lower demand. The developments in the number of employment and demand for labour force as seen through the announced vacancies, point out to a much lower volume compared to the same period a year earlier. From 1<sup>st</sup> September 2009 to 1<sup>st</sup> March 2010 there were 13,015 announced vacancies, which is by 14,102 positions or 52% less than in the same period a year earlier (1<sup>st</sup> September 2008 to 1<sup>st</sup> March 2009 there were 27,117 announced vacancies). There are also great differences in employment. In the mentioned period through the Employment Office 6,643 persons were employed while in the same period a year earlier there were 7,826 persons more or 54% (1<sup>st</sup> September 2008 to 1<sup>st</sup> March 2009 there were 14,469 persons employed).

This all shows that unemployment will increase in the following period. With the start of the tourist season a stagnation of the growth in unemployment is expected, a small reduction during the full tourist season and again increase in the fourth quarter.

The reduction in unemployment can be affected by the announced construction of Bar – Boljare highway. According to the estimations there would be 5,000 workers engaged for the construction of the highway, which would largely influence the stopping of the growth in unemployment. From the domestic labour force there would be mostly unqualified labour force hired, then drivers of construction machines and unemployed persons of various construction occupations.

The crisis caused changes in the structure of demand for labour force. In 2009 the share of demand of unqualified and semi-qualified labour force in the total demand increased from the usual 25-30% to 52.5%. Demand for high school vocational education was reduced from 50-55% to 32.3%, and demand for higher education from 15% to 13.2% of total demand. There was a change regarding the type of labour status defined by the announced vacancies, since the labour status for open-ended period in the adverts was reduced from about 30% to 15.9%. Demands for seasonal employment increased from usual 15% to 34.4%.

Similar developments should also be expected in this year.

**Review of basic labour market indicators: for the period September 2009 – February 2010**

	MONTH
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## 19 Social policy and employment

## - Additional Questions -

R.no	Category	IX 2009	IX 2008	X 2009	X 2008	XI 2009	XI 2008	XII 2009	XII 2008	I 2010	I 2009	II 2010	II 2009
	1	2	3	4	5	6	7	8	9	10	11	12	13
1	Number of unemployed	27 769	28 530	28 932	28 963	29 753	28 960	30 169	28 394	31 113	29 256	32 385	29 715
2	Number of women	12 700	12 999	13 273	13 163	13 633	13 035	13 704	12 763	14 018	13 091	14 439	13 237
A	Women %	45.73	45.56	45.88	45.45	45.82	45.01	45.42	44.95	45.06	44.75	44.59	44.55
3	Rate of registered unemployment	10.50	10.79	10.94	10.96	11.26	10.96	11.42	10.74	11.77	11.07	12.25	11.24
4	Age of UP												
A	Over 50 years	10 622	11 274	10 862	11 260	11 019	11 273	11 249	11 231	11 439	11 385	11 802	11 449
B	Over 50 years (%)	38.25	39.52	37.54	38.88	37.03	38.93	37.29	39.55	36.77	38.92	36.44	38.53
C	Up to 25 years	4 274	3 445	4 690	3 646	5 006	3 709	5 133	4 413	5 111	3 725	5 334	3 906
D	Up to 25 years (%)	15.39	12.08	16.21	12.59	16.83	12.81	17.01	15.54	16.43	12.73	16.47	13.14
5	Seeking employment:												
A	- over 1 year	16 264	17 190	16 582	16 963	16 794	17 086	16 845	15 774	17 163	16 988	17 496	16 960
B	- over 1 year (%)	58.57	60.25	57.31	58.57	56.44	59.00	55.84	55.55	55.16	58.07	54.03	57.08
6	Newly registered												
A	-total:	3 492	4 132	3 955	4 383	3 537	3 286	3 735	3 483	2 856	3 133	3 677	3 597
B	-over 50 years	306	365	470	502	457	391	548	375	439	397	645	400
C	-with working service	1 847	1 926	2 347	2 398	2 115	1 696	2 374	1 685	2 015	1 652	2 421	1 817
D	-bankruptcy and liquidation	48	129	86	188	101	71	178	78	101	74	71	69
E	-redundant employees	145	113	172	181	228	191	264	131	420	277	636	201
F	-expiry of work with fixed duration	1 145	1 192	1 575	1 496	1 240	1 037	1 410	1 048	1 041	918	1 163	1 025
G	- without working service	1 645	2 206	1 608	1 985	1 424	1 590	1 361	1 798	841	1 481	1 256	1 780
7	Number of OSRM <sup>1</sup>												

<sup>1</sup> OSRM – announced vacancies through the Employment Office of Montenegro

## 19 Social policy and employment

### - Additional Questions -

A	- total	3 164	5 625	2 563	4 253	1 921	3 134	1 483	3 015	2 061	5 957	1 823	5 133
B	- for open-ended period	558	1510	557	1 365	461	912	326	750	374	641	259	912
C	- with fixed duration	2 606	4 115	2 006	2 888	1 460	2 222	1 157	2 265	1 687	5 316	1 564	4221
8	Number of employment <sup>2</sup>												
A	- total	1 557	3 323	1 654	3 018	1 120	2 242	927	2 216	787	1 480	598	2 190
B	- for open-ended period	284	889	209	833	223	551	181	616	212	351	100	471
C	- with fixed duration	1 273	2 434	1 445	2 185	897	1 691	746	1600	575	1 129	498	1 719
9	Number of the employed <sup>3</sup>	176 936	167 722	175 468	168 583	174 736	16 9079	169 859	169 160	172 301	169 305	- <sup>4</sup>	169 670

### **31. (Ref to Q. 95): Please provide a more in-depth description of the areas, functions and staff types concerned and foreseen in the near future in the Labour Market and Employment Department of the Ministry of Labour and Social Welfare.**

Function of the Division for the Labour Market and Employment is based on the classic principles of policy cycle management:

1. Analysis of the labour market – gathering and analyzing data and arguments for the purpose of defining directions of development of labour market policy.

2. Initiating, drafting and development of instruments:

- development of strategic documents (the Strategy on Employment, the Action Plan);
- development of legal regulations, secondary legislation, programs and projects;
- planning of financial funds and organizational (institutional) solutions.

3. Supervision over implementation of the mentioned instruments – through direct management of certain procedures (official interpretation of regulations, drafting solutions), supervision and directing the functioning of public service for employment, continuous analysis of the effects of regulations and programs.

4. Final („ex post“ assessment of strategies, plans of regulations of programs, preparing analysis, reports and information in the field of labour market and employment – in order to improve solutions that are to be adopted in the future.

Apart from that, participating in provision of horizontal communication regarding the influence of other sector policies to the labour market and employment. Issuing solutions on referring our workers to work in FR Germany pursuant to the international Agreement on detachment. Establish cooperation with the Employment Office of Montenegro, the Ministry of Education,

<sup>2</sup> Data on the number of employment for the period from the end of 2009 until this day can not be taken as precise because they have certain time dimension. Obligations of employers are to report to the Employment Office of Montenegro within 30 days on the employment of workers, so that there is a situation of showing lower number of employment than real

<sup>3</sup> According to the data of the Statistics Office of Montenegro – MONSTAT

<sup>4</sup> Data not published

nongovernmental organizations and other associations relevant for the labour markets and employment policy.

**Pursuant to the Rulebook on the Internal Organization and Systematization of work positions of the Ministry of Labour and Social Welfare the division is organized in the following way:**

The Division is run by the Deputy Minister, whose function is to initiate and propose politics of the labour market and employment, propose measures and action plans for its realization pursuant to the European Employment Strategy; to organize and coordinate work on performance of tasks from the scope of the sector; to monitor and control work of immediate executors and to be responsible for timely, legal and regular performance of works and to participate directly in performance of works that require special expertise and independence in work, to perform affairs as the High program officer in the Ministry, to provide efficient performance of affairs of programming EU projects within the ministries, to monitor preparations of drafting tender documentation and conducting the procedure of public procurements and contracting in cooperation with the Division for Financing and Contracting of the Ministry of Finance, the institution competent for implementation of projects financed from EU funds, to ensure monitoring of implementation of projects financed from EU funds, to perform the function of the risk manager in the Ministry, within the IPA.

**The Division consists of two departments:**

**Department for labour market and employment** conducts affairs relating to: preparation of drafts, i.e. draft bills from the field of employment and regulations relating to the basis of those laws; providing expert opinions regarding the application of those regulations; monitoring application of conventions in this field; promotion of the system of employment and solving the issue of unemployment; monitoring the financial position of the unemployed; cooperation with the Employment Office of Montenegro, nongovernmental organizations and other associations; preparation of analyses, reports and information from the field of labour market and employment and vocational education of adults.

**The Rulebook on Internal Organization and Systematization of Working Positions within this Division stipulates that this department has:**

1. **Senior adviser I** for labour market and employment - **vacancy**- Faculty of Law, 5 years of working experience, passed professional exam) who has a task to coordinate and organize the work of the department, to perform directly the most complex affairs, and particularly in preparation of regulations from the field of employment, preparation of analyses, information and expert opinions regarding the state and application of regulations in this field, to monitor and study the system of engagement, employment, unemployment in the labour market and solving financial position of unemployed persons, to establish direct cooperation with the Employment Office.

2. **Senior adviser I** for labour market and employment – who has a task to:

prepare programs and measures that affect supply and demand for labour force in the labour market, to study the influence of economic and social measures taken by the Government, relating to engagement, employment and financial position of unemployed persons, to participate in preparation and monitoring of realization of solutions from the field of protection of workers in the case of insolvency, to work on preparation of draft measures in NAPE relating to restructuring and entrepreneurship, to monitor implementation of these measures, to cooperate with the units of MLSW that deal with the issues of labour relations and social dialogue, to gather inputs and analyses of the proposed measures for NAPE relating to labour relations (relations of labour and capital, fiscal policy), to represent the Ministry in forums and work groups related to restructuring, promoting and improvement.

3. **Senior adviser II** – who has a task to: participate in preparation of programs and measures that affect development of supply and demand of labour force in the labour market, to coordinate research and analytic activities (gathering data, analyses, results of surveys, supervision of statistics, LFS - Labour Force Survey), to monitor the situation in the labour market, to prepare chapters relating to diagnosis in strategic documents, to study the influence of economic and social politics to engagement and employment, to participate in preparation of the chapter of NSE (National Strategy on Employment) on interaction of microeconomic policies and employment policies, to prepare reports and relevant statistics on projecting and using funds, to represent the Ministry in forums and work groups related to developments in the labour market and to prepare data for the labour market, to perform affairs of the officer in the Unit for Implementation of Programs that is in charge of implementing programs, to cooperate regularly with the Division for financing and contracting funds of EU assistance, the Ministry of Finance, as the institution competent for implementation of projects financed from the EU funds, to prepare tender documentation, to participate in tender procedure, in the process of negotiating, payments and reporting, to perform monitoring of implementation of contracts pursuant to the agreements signed with the body competent for the process of implementation, to prepare and regularly update the internal Manual on IPA procedures as the coordinator for the manual within the Ministry.

4. **Senior adviser II – vacancy** - for labour market and employment (Faculty of Law, 3 years of working experience, passed professional exam) who has a task to participate in preparation of regulations in the field of employment and measures relating to employment policy, to monitor implementation of active and passive employment measures and research the labour market, to monitor the work of the Employment Office of Montenegro, to prepare analyses, information and reports regarding the application of regulations in the field of employment, to monitor implementation of corresponding parts of NAPE, to represent the Ministry in forums and work groups related to active employment measures.

5. **Senior adviser II – vacancy** - for labour market and employment (Faculty of Law or Economy, 3 years of working experience, passed professional exam) who has a task to perform affairs relating to development and monitoring realization of program for vulnerable groups, to participate in preparation of regulations in the field of social inclusion and professional rehabilitation and training of persons with disabilities, to cooperate with units of MLSW that deal with social welfare, to prepare chapters of NAP relating to social inclusion and to monitor realization of these measures from NSE, to supervise gender perspectives of employment, to cooperate with the Division for Equal Treatment of men and women, to work on preparation of chapters of NAPE relating to gender issues and to monitor their implementation, to represent the Ministry in forums and work groups related to social inclusion and equal opportunities.

**Department for vocational education of adults** performs affairs relating to: preparation of drafts, i.e. draft bills in this field and regulations relating to the basis of these laws; monitoring realization of the reform in the field of vocational education and education for adults; issuing certificates on professional competence of certain level of qualification pursuant to EU guidelines in this field; cooperation with the Ministry of Education, nongovernmental organizations and other associations; preparation of analyses, reports and information in the field of vocational education of adults.

1. **Senior adviser I** for vocational education of adults who has a task to coordinate and organize the work of the Department, to prepare regulations in the field of vocational education of adults, i.e. the framework of national professional qualifications, to study the system of education of adults for the needs of the labour market, to prepare analyses, information and expert opinions regarding the standards of occupations and frameworks of national, professional qualifications, to monitor realization of education for adults for the needs of the labour market.

2. **Senior adviser III** for vocational education of adults (Faculty of Law, Economy, Electrical engineering or engineering, 1 year of working experience, passed professional exam) who has a task to cooperate with the Ministry of Education and Science in preparation of measures of NAPE relating to formal education, to analyze standards of occupations and national framework of qualifications, to participate in preparation of regulations and programs in the field of HRD in companies (labour force development), to monitor realization of those programs, to perform

analysis and to prepare proposals of programs of education for training, retraining, additional training, further education, specialisation of employed and unemployed persons, to represent the Ministry in forums relating to lifelong learning and education of adults.

**2. Senior adviser III – vacancy** - for vocational education of adults (Faculty of Law, Economy, Electro-technics or Machines, 1 year of working experience, passed professional exam) who has a task to monitor the system of education for adults in relation to the needs of the labour market to cooperate with the Ministry of Education and Science in preparation of measures of NAPE relating to formal education, to analyze standards of occupations, to participate in counselling interested persons, i.e. employers, on the procedure of acquiring professional qualification, i.e. the key skill, to participate in preparing measures of NAPE relating to the education of adults, their monitoring and implementation, to perform analysis and prepare proposals of education programs for training, retraining, additional training, further education, specialisation of employed and unemployed persons.

Having in mind the fact that in the following period the vacancies should be filled, the focus will be on the staff that apart from the so called generic skills have concrete knowledge and skills for:

- EU framework:
  - the European Employment Strategy;
  - European legislation in the field of employment;
  - ESF as the source of co-financing programs in the field of employment and development of human resources.
- Measures and instruments of the labour market:
  - measures in the labour market and their effects (special focus on social inclusion, disability, gender issues);
  - regulatory framework in this field;
  - international practice in implementing measures (examples of good practice)
- Data on the labour market and analysis:
  - sources and interpretation of data (including statistics);
  - planned predictions and projections;
  - quantitative and quality research

**32. (Ref to Q. 95): Please provide an update on the employment action plan for 2010-2011: Has it been adopted in September 2009 as been envisaged? Please provide a summary of the main content.**

The National Action Plan of Employment 2010-2011 was adopted on 3rd December 2009, by the Government of Montenegro.

The main foundations for preparation of the Action plan were:

1. The National Strategy of Employment and Development of Human Resources 2007-2011, which defined 3 priorities:

- increase in employment and reduction in unemployment;
- increase in productivity and quality of labour;
- strengthening social cohesion;

2. Realization of activities stipulated by the National Action Plan of Employment 2008-2009.

The level of realization of activities with the first priority was 84 %, with the second priority 70,5 %, and with the third priority 71 % activities, i.e. the total level of realization of activities was 78,9 %.

3. Measures of the Government of Montenegro for mitigating the consequences of the economic crisis.

The National Action Plan of Employment represents an operative work plan and contains the most important goals and activities of national employment policy in the period from 2010 to 2011.

The Plan determines the bearers, dynamics, means and activities for the mentioned period.

Successful realization of the planned tasks and activities requires full and active participation and coordination of all key institutions, and for those reasons, apart from the Ministry of Labour and Social Welfare the following institutions are included in preparation and implementation of the NAPE: the Ministry of Finance, the Ministry of Tourism, the Ministry of Economy, the Employment Office of Montenegro, the Directorate for Development of Small and Medium-Sized Enterprises, the Statistics Office, the Centre for Vocational Education, the Examination Centre and the Ministry of Human and Minority Rights Department for Gender Equality.

Activities are defined at the annual level, as well as the funds required for their realization.

For realization of activities stipulated by the plan for 2010 the necessary funds amount to EUR 26.6 million, while for realization of activities stipulated by the plan for 2011 the necessary funds amount to EUR 30.7 million.

**The most significant activities defined by the Action plan are:**

Within the first priority – increase in employment and reduction in unemployment, the activities that are defined relate to:

-further application of the legal regulations in the field of labour and protection at work through larger engagement of labour inspection;

-assistance for persons who seek employment through participation in active employment programs (realization of programs of training for a known employer, realization of programs of training for the labour market, realization of programs for stimulating employment for seasonal jobs, enabling employers to employ foreign workers for those working positions for which there is no supply);

- realization of programs of public works;
- programs of trainings, additional training and retraining;
- maintaining information-motivational workshops;
- realization of the Program of Employment for Apprentices, seasonal employment of students;
- founding new centres for professional informing and counselling;
- activities for stimulating entrepreneurship;

Within the second priority – increase in productivity and quality of work, defined activities relate to:

- forming the „system of insurance“ for cases of insolvency and restructuring in the field of employment that will be realized through establishing the Labour Fund, establishing higher cooperation of institutions (the Employment Office of Montenegro, employers and trade unions)
- promoting lifelong learning at the national level and among the adult population, through development of human resources in institutions that deal with development of education through continuous vocational additional education of employees with the aim of development of competencies and higher quality of work, analyzing the state of inclusion of population with working capacity from 16-65 years in the processes of education, to analyse results and prepare relevant recommendations.
- analyzing and promoting the system of education with the demands of the labour market, both formal and informal learning through researching the future needs for additional qualifications and additional skills and competencies with the employer, preparation of programs for development of key competencies of the employees;
- developing network of schools and other organizers of education and training of the young and adults in accordance with the demands of the labour market through professional and technical assistance in licensing and work for organizers of education who offer programs for qualifications for which the labour market expresses needs, through development and counselling work with providers of education in order to expand the program offer and

provide the quality of education and training, through gathering and analyzing data whether the educational supply is adequate to the needs of the labour market.

Within the third priority – strengthening social cohesion the activities defined are the ones relating to further harmonization of the national legislation with the EU legislation relating to equal opportunities for genders, stimulating entrepreneurship for women.

Activities for prevention of social exclusion are specially defined – positive measures/ activities for vulnerable groups through activities for persons with disabilities, the following:

- introduction of the new profile of expert advisor for professional rehabilitation, i.e. integration of persons who face difficulties in finding jobs, that will realize activities related to inclusion of those persons in rehabilitation programs;
- establishing the commission for rehabilitation at the central and regional level, that will assess working and other capacities of persons with obstacles in employment according to the standards and earmark measures and activities for their professional rehabilitation;
- preparation and realization of individual plans of professional rehabilitation of persons with disabilities;
- adopting programs for continuous education of expert staff for work in professional rehabilitation.

Activities relating to RAE population are also defined, the following:

- realization of the scheme for stimulating employment of members of ethnic groups;
- inclusion of vulnerable groups in regular forms of education at all levels;
- activities among vulnerable groups with the aim of stimulating participants for inclusion in the process of acquiring qualifications.

Within this priority the activities relating to prevention of poverty in the north are also defined, that reflect through development of projects aimed at the northern region, trainings on provision of stable and quality food supply through raising competitiveness of domestic producers and sustainable governing resources, expanding knowledge on good agricultural practice in order to preserve environment, as well as promotion of specific domestic products.

**33. (Ref to Q. 98): Please provide a description of the division of the budget in passive and active labour market measures and an indication of the share of GDP that is used for active labour market policies (AMLP).**

**REVIEW of spent funds for passive measures of employment policy per year( in 000 E)**

Passive employment measures	2008	2009	2010 *
Cash compensation for the unemployed	8 850.6	12 637.9	15 179.8
Share of passive measures in GDP	0.28	0.40	0.47
Share of passive measures in the Budget of Montenegro	0.62	0.82	1.06

**REVIEW of spent funds for active measures of employment policy and their structure( in 000 E)**

Active employment measures	2008	2009	2010 *
Co-financing salaries for apprentices	3 556.0	3 526.4	2 450.3
Trainings, retraining and other	4 887.0	4 824.9	6 049.6
Credits for self-employment	3 776.0	4 685.7	2 500.0



## 19 Social policy and employment

### - Additional Questions -

<b>TOTAL:</b>	<b>12 219.0</b>	<b>13 037.0</b>	<b>10 999.9</b>
Share of active measures in GDP	0.39	0.42	0.34
Share of active measures in the Budget of Montenegro	0.85	0.85	0.77

Active and passive measures of employment policy are realized through the Employment Office of Montenegro.

In 2008 for financing passive measures of employment policy (cash compensation) Euro 8,850.6 thousand was spent which makes 0.62 % of the Budget of Montenegro, i.e. 0.28 % GDP.

For financing measures of active employment policy €12,219.0 thousands was spent, which makes 0.39% GDP, i.e. 0,85% of the Budget of Montenegro, of which:

- for co-financing salaries of apprentices € 3,556.0 thousand, which makes 29,10% of total funds for active measures of employment policy;
- for trainings, retrainings, additional trainings, public works and other programs € 4,887.0 thousand, which makes 39,40% of total funds for active measures of employment policy;
- for credits for self-employment and stimulating entrepreneurship € 3,776.0 thousand, which makes
- 31.50% of total funds for active measures of employment policy.

In 2009 for financing passive measures of employment policy (cash compensation) Euro 12,637.9 thousand was spent which makes 0.82 % of the Budget of Montenegro, i.e. 0.4 % GDP.

For financing measures of active employment policy €13,037.0 thousand was spent, which makes 0,42% GDP, i.e. 0,85% of the planned Budget of Montenegro for 2009, of which:

- for co-financing salaries of apprentices € 3,526.4 thousand, which makes 27.05% of total funds for active measures of employment policy;
- for trainings, retrainings, additional trainings, public works and other programs € 4,824.9 thousand, which makes 37.00% of total funds for active measures of employment policy;
- for credits for self-employment and stimulating entrepreneurship € 4,685.7 thousand, which makes 35.95% of total funds for active measures of employment policy.

\*In 2010 for financing passive measures of employment policy (cash compensation) Euro 15,179.8 thousand was planned which makes 1.06 % of the Budget of Montenegro, i.e. 0.47 % of the planned GDP.

For financing measures of active employment policy €10,999.9 thousand was planned, which makes 0,34% of the planned GDP, i.e. 0.77% of the Budget of Montenegro, of which:

- for co-financing salaries of apprentices € 2,450.3 thousand, which makes 22.28% of total funds for active measures of employment policy;
- for trainings, retrainings, additional trainings, public works, professional rehabilitation and employment of persons with disabilities and other programs € 6,049.6 thousand, which makes 55.00% of total funds for active measures of employment policy;
- for credits for self-employment and stimulating entrepreneurship € 2.500.0 thousand which makes 22.72% of total funds for active measures of employment policy.

## B. European Social Fund (ESF)

**34. (Ref to Q. 101): Concerning programming capacity for social policy, the answers refer only to plans for future programming of IPA Components III and IV. Please provide also a description of how the current programming capacity for Montenegro's social policy is actually designed; which are the structures involved, the working procedures, etc.**

Regarding the current system of national programming of social policy in Montenegro, the main responsible institution is the Ministry of Labour and Social Welfare for social protection policies and pension-disability system, employment, labour relations. Regarding the health care system – the responsible institution is the Ministry of Health, rights of minority nations and gender equality – the Ministry of Human and Minority Rights, economic policy – the Ministry of Economy. These ministries together with institutions of lower hierarchical level: agencies, offices, centres, funds, institutes and other create and implement social policy in Montenegro. The assessment of success of the implemented policy is conducted by the Government of Montenegro, on the basis of the act Information that is submitted by the competent ministry once a year.

Organization, conducting and financing of the social protection system is regulated by a special set of laws.

- health insurance in accordance with the Law on Health Insurance (Official Gazette of the Republic of Montenegro 39/04,12/07,13/07)
- pension insurance in accordance with the Law on Pension and Disability Insurance (Official Gazette of the Republic of Montenegro 54/03, 39/04, 79/04, 47/07 and Official Gazette of Montenegro 79/08), and the Law on Voluntary Pension Funds (Official Gazette of the Republic of Montenegro 78/06)
- insurance in the case of occupational injury and occupational disease in accordance with the Law on Pension and Disability Insurance (Official Gazette of the Republic of Montenegro 54/03, 39/04, 79/04, 47/07 and Official Gazette of Montenegro 79/08), and the Law on Health Insurance (Official Gazette of the Republic of Montenegro 39/04, 12/07, 13/07),
- the right of disabled persons to professional rehabilitation and employment in accordance with the Law on Professional Rehabilitation and Employment of Disabled Persons (Official Gazette of the Republic of Montenegro 48/08)
- unemployment insurance in accordance with the Law on Employment (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07, 21/08),
- the right to veteran and disability protection in accordance with the Law on Veteran and Disability Protection (Official Gazette of the Republic of Montenegro 69/03 and 21/08),
- the right to social and child protection in accordance with the Law on Social and Child Welfare (Official Gazette of the Republic of Montenegro 78/05).

Secondary legislation adopted on the basis of these laws, regulate in more detail the conditions and the method of exercising specific rights.

### Ministry of Labour and Social Welfare

Competences of the Ministry of Labour and Social Welfare are prescribed by the Law on Public Administration (Official Gazette of the Republic of Montenegro 38/03 and Official Gazette of Montenegro 22/08) and the Decree on public administration organisation and manner of work.

The Ministry performs administrative and other affairs in the field of labour, labour market and employment, pension disability insurance and veteran disability protection, social and child welfare and other affairs within its competences.

### Social and child welfare

Social and child welfare is conducted by institutions of social and child welfare in accordance with the Law on Social and Child Welfare, as well as civil society organizations and other legal and physical persons.

According to the Law on Social and Child Welfare social and child welfare institutions are: centres for social work and institutions for placement of beneficiaries.

#### Employment Office

Activity of the Employment Office includes the field of employment, unemployment insurance, rights of unemployed persons and the conditions and procedure for their exercise, the method of providing funds and other significant issues for organised and productive employment in accordance with the Law on Employment, Employment Office Statute and other acts of the Office.

#### Pension and Disability Insurance Fund

Activity of the Fund includes implementation of pension and disability insurance, on the basis of the Law on Pension and Disability Insurance, Statute and other acts of the Fund.

#### Secretariats for Social Welfare of Local Governments

Activity of the Secretariat, apart from the affairs stipulated by the Law on Local Government, is also deciding on the rights from veteran disability protection and protection for war-disabled civilians and keeping records on the beneficiaries in accordance with the Law on Local Government, the Law on Veteran and Disability Protection and the Law on Public Administration.

#### Ministry of Health

Ministry of Health conducts administrative and other affairs related to health care and health insurance system, monitoring and promoting the health condition and health needs of the population. Organisation and scope of work of the Ministry of Health are stipulated by the Law on Public Administration and Decree on public administration organisation and manner of work..

#### Health Insurance Fund

Activities of the Fund include implementation of health insurance, which is stipulated by the Law on Health Insurance, Statute and other acts of the Fund.

#### Ministry of Finance

Ministry of Finance, apart from other affairs, performs the affairs related to: determining proposals for the current economy policy of Montenegro and monitoring its realisation; capital expenditure of the public sector; estimation of basic economic proportions and balances; banking system; preparing, planning, drawing up and enforcement of the budget, supervision as well as other affairs assigned to it by the Law on Public Administration and Decree on public administration organisation and manner of work.

Financing of the health, pension and unemployment insurance is conducted on the basis of the Law on Contributions for the Compulsory Social Insurance (Official Gazette of Montenegro 13/07 and 79/08), while the rights of disabled persons are financed on the basis of the Law on Professional Rehabilitation and Employment of Disabled Persons (Official Gazette of the Republic of Montenegro 48/08), through a special Fund whose working funds are provided partly from the state budget and partly on the basis of special employer contribution.

**35. (Ref to Q. 101.a): Also the reply to question 101.a, on "development plans and programming documents" refers only to what is intended to be put in place as concerns IPA components III and IV, and which documents at national level will be taken into account in that process. Please provide additional information about how Montenegro deals with the preparation of development plans and other programming documents which exist at the time being. The list of national documents provided shows that there are several plans and strategies already in place: the reply here should therefore present how these documents are actually put in place (which procedures of drafting, consultation and agreement are used to establish them).**

To the proposal from the ministry for certain sectors, the Government adopts plan documents – strategies, which define the goals and measures for certain period of several years. Prior to adoption, each ministry has also the duty to submit in the attachment to the Ministry of Finance the Fiscal Estimate of influence to the Budget, the document which estimates the funds necessary for implementation of the measures and reaching goals from the strategic documents.

On the grounds of already defined strategic documents, detailed action plans are developed for the period of one to two years, which are also adopted by the Government of Montenegro. National action plans also define more precisely the activities that are to be realized in the following period, with the responsible institutions and identified, necessary financial assets for those activities that are possible to be planned in advance.

In the process of programming documents all relevant stakeholders in Montenegro participate. Precisely, regarding social policy, through work of work groups created from representatives of relevant Government institutions, social partners, NGO sector, civil society and representatives of local governments, the draft document is prepared (see question 100.f, 96 i 111). Proposal of the draft document is then submitted to relevant institutions for opinion, after which it is published in public means of informing, and sometimes public discussions are organized, where all interested parties are invited to give their opinion and declare about the proposal of the document. The proposal of the draft document is also presented to representatives of the Social Council, if it is of interest to social partners. After the gathered and incorporated opinions, the proposal of the draft document is sent to the Government Commission for adopting.

Institution competent for the activities has the duty to monitor the implementation of activities and to report on the progress to the institution coordinating NAP, which annually reports to the Government on realization of activities. Also, for the needs of monitoring realization of planned activities, certain inter-sectorial bodies are established (councils, management boards) which meet regularly and discuss on the course of activities.

**36. (Ref to Q. 102): Again, the information provided on the "implementation capacity" of social programmes in Montenegro refers only about how the implementation is planned as concerns IPA Component IV. All the information on preparation, selection, appraisal, financial procedures, monitoring, evaluation and audit and financial control is related to the plans of the Montenegro authorities to put in place a system for the management and control of IPA funds, and more specifically for component IV. This information is indeed useful but please provide further information indicating how current social programmes and structures are implemented.**

For implementation of activities provided for in the plan documents, competence belongs to the system of institutions for certain areas of social policy.

For employment policy – apart from the Ministry of Labour and Social Welfare, the Division for the Labour Market and Employment, the Employment Office with its bureaus is competent for implementing active and passive employment policy in Montenegro (see question 96). Also, the

representatives of this institution participate actively in creating national employment policy, human resources development and other policies in Montenegro.

Social protection policy is implemented by the Ministry of Labour and Social Welfare through the system of centres for social work and institutions for placement of beneficiaries (135.a and 135.b).

Health care policy in Montenegro is implemented by the Ministry of Health through a system of health care institutions, the Health Care Fund of Montenegro and the Institute for Public Health of Montenegro (see question 135.a and 137.a).

Health care at the primary level is provided in health care centre, which provide health care through a selected doctor, centres and units for support. In Montenegro there are 18 health care centres which provide services of primary health care, and three health care centres have stationeries (Rožaje, Mojkovac and Ulcinj).

Health care at the secondary level is provided in six general and three special hospitals, as well as in the Clinical Centre of Montenegro, which also provides tertiary level services.

Pension-disability policy is implemented by the Ministry of Labour and Social Welfare through a system of institutions of the Pension and Disability Insurance Fund (see question 135.a and 135.c).

Gender equality office was founded at the session of the Government of Montenegro on 27th March 2003 and it functioned within the General Secretariat of the Government until April 2009. Now it is the Department for Gender Equality Affairs in the Ministry of Human and Minority Rights, which is competent for implementation of gender equality policies in Montenegro, monitoring of implementation of international conventions in this field, cooperation with the mechanisms for gender equality in the region, as well as cooperation with nongovernmental organizations.

**37. (Ref to Q. 103): Could you please indicate more clearly the link between IPA Component IV and the preparations for future ESF implementation? Could you underline more specifically how the structures, the principles for programming, management, monitoring, evaluation, audit and control etc. which will be used for IPA Component IV will closely relate to the tasks that Montenegro will have to deal with to implement ESF?**

IPA support serves to candidate countries and potential candidates for further management of structural funds (including the European Social Fund). Montenegrin Operative programs for human resources development will be the basis for preparation of the future Operative plan for human resources development which will be financed from the European Social Fund. According to that, Operative Structure of IV IPA component will represent roots of the future management structure and coordination bodies of the Operative program for human resources development within the ESF.

Within Component IV, the Operative Program will be conceived so that it facilitates creation of policy and prepares the country for implementation and management of cohesive policy of the Community, and specially the European Social Fund.

Priorities of the support, which will be defined within IV IPA component, will be in accordance with the following priorities (within Article 151 of IPA Implementation Regulation, Commission Regulation (EC) 718/2007 of 12th June 2007 implementing the Regulation of the Council (EC) 1085/2006 for forming Instrument for Pre-accession Assistance (IPA)):

- improvement of adjustability of workers, enterprises and entrepreneurs;
- improvement of access to employment and sustainable inclusion in the labour market;
- strengthening social inclusion and integration of persons with disability;
- promotion of partnerships, pacts and initiatives through coordinated acting with relevant stakeholders in the field of employment and inclusion in the labour market;
- support to activities that will improve and expand investment in human resources;
- strengthening institutional capacity and efficiency of relevant public institutions for provision

- of public services and partnerships;
- technical support for managing operative programs and preparation for future management of the European Structural Fund.

With modest support provided for in this IPA Component, the Operative program will particularly highlight strategic priorities and measures on the basis of which the capacities for efficient acting within ESF can later be “upgraded“ in the easiest way, when we have access to significant funds, naturally in accordance with additional rules for applying and managing.

Thus, the purpose of IPA program Components III and IV is to prepare in the best possible way the administrations of future beneficiary countries of ESF funds for management of instruments of cohesion policy of European Union. Regarding that, parallel with participation in pre-accession programs, Montenegrin authorities will actively prepare for the process of negotiation regarding “regional policy and coordination of structural instruments“.

Goals and obligations defined by Operative programs and Strategic coherent framework represent the most important step in implementation of IPA Components III and IV, since thus identified priorities will be monitored while programming and implementation. The process of preparation of the Operative Program for Human Resources Development corresponds to the task that Montenegro will later have when ESF funds will be available to it.

### **Coordination and consultation**

The Operative Program for Human Resources Development represents a unique instrument through which the support will be channelled within IV IPA Component. The Operative program is to be developed by an inter-sector work group, consisting of representatives of relevant state institutions. Strategic Coordinator should preside over the work group.

On the basis of IPA implementation regulation, Montenegro has established institutional system for IPA management and implementation. The following positions and bodies were established: the National IPA coordinator, the Strategic coordinator for III and IV component, the Authorised officer for accreditation, the National officer for accreditation, the National fund, the Audit Unit, the Operative Structure.

Excluding the Operative structure and the role of the Strategic coordinator, these bodies will perform tasks within all V IPA components, in accordance with the tasks stipulated by relevant articles of IPA implementation regulation. Such structure and mechanisms will also be used in preparation and implementation of ESF.

We will work on further:

- harmonization of the legal framework with the requests of the acquis regarding management of structural/cohesion funds, such as legislation in the field of finance and financial control, public procurements, competitiveness and state assistance, environment and antidiscrimination and other;
- establishing comprehensive, compact structure for coordination of IV IPA component and future structural and cohesion IPA financing;
- promotion of efficient process of programming, in accordance with macro- and microeconomic policies and budgetary plan priorities;
- promotion of administrative and implementation capacities of all relevant stakeholders in the process of management and use of structural and cohesion funds;
- preparation of structures for comprehensive and quality selection of projects financed from structural/cohesion funds;
- development of monitoring system, supported by IT system for data exchange regarding management and reporting on use of structural/cohesion funds;
- establishing capacity for estimation of using structural funds, on the basis of experience acquired during IPA programming;
- promotion of the system of financial management and control.

### **Operative structure**

Operative structure for development of human resources within IV IPA component will be guided by the Ministry of Labour and Social Welfare, with close cooperation of the Ministry of Education and Science, and the Chairman of the operative structure will, in accordance with Article 28.2 IPA implementation regulation, be responsible for the following:

- preparation of draft annual and multi-annual programs;
- monitoring implementation of program and work of sector committees for monitoring (in accordance with Article 59);
- preparation of sectoral annual and final reports on implementation (on the basis of Article 61(1)) and after their consideration at sectorial committees for monitoring, submitting to Commission, national IPA coordinator and National officer for verification;
- selection of activities that will be financed and approved in accordance with criteria and mechanisms of programming, and that they are in accordance with national rules and rules of the Community;
- and other affairs in accordance with IPA Implementation Regulation.

Operative structure will be composed of specific bodies pursuant to Article 31 IPA Implementation Regulation. These structures will provide „administrative and implementation structures“ relevant for using ESF funds.

## V. SOCIAL INCLUSION

### A. General

**38. (Ref to Q. 108.a): Please explain the methodology for the table on poverty indicators (p. 126).**

The main source of data for poverty analysis is the Survey of Household Spending (SHS) and it enables permanent monitoring of the changes in poverty because SHS is a regular annual research conducted by the Statistics Office of Montenegro (MONSTAT). It also enables MONSTAT and the Government of Montenegro to conduct poverty analysis independently according to their priorities.

1. The newly established poverty line used in this study is an absolute poverty line estimated following the key ingredients of the World Bank's methodology represented by Ravallion (1994). This poverty line is a national-specific line and can be used for various national poverty estimates and monitoring of changes in poverty over time. Five major elements underlie the methodology for deriving the poverty estimates presented in this study: (i) construction of the appropriate consumption aggregate from the HBS data sets, which are then used as the main welfare measures; (ii) adjustments for differences in household composition, (iii) adjustments for differences in prices faced by households; (iv) construction of the absolute poverty line based on data from the 2006 HBS, and finally (v) use of this poverty line in conjunction with welfare measures derived from the 2005 and 2006 HBS data sets to estimate the incidence, depth, and profile of poverty in the country.
2. The material well-being of the population is measured by household equivalent consumption. Preference of consumption over income is fairly common practice in poverty estimations carried out in developing countries.<sup>5</sup> The consumption aggregate provides a good measure of household well-being, and is calculated as the sum of household expenditures on various food and non-food items consumed in the current period. It also includes personal consumption of home-produced goods; estimated value of gifts received in kind; and imputed housing rents (i.e. the self-estimated rental value of the owner-occupied dwellings). Expenditures on the purchase of the large durable goods are not included in the consumption aggregate because they are not consistently related to the well-being of the households.
3. The modified OECD scale is adopted to adjust for differences in household size and composition and to calculate the household equivalent consumption. The modified OECD scale is chosen because of its simplicity and compliance with current Eurostat practice. The same scale prevails in many Europe-wide welfare studies. Accordingly, the equivalent size of household is calculated as the weighted sum of household members, where the first adult person in the household counts as 1 unit, any other adults counts as 0.5 units each, and each child under age of 14 counts as 0.3 units.
4. The household consumption is adjusted for differences in prices over time and across space. Specific price indexes are derived for each year and for three major regions in Montenegro (North, Central and South). Price changes over time are corrected by using the cost-of-living index, while regional price deflators are derived from price information collected by the HBS.

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<sup>5</sup> See Deaton and Zaidi (2002) for a discussion of some of the theoretical and practical reasons to consider when deciding between consumption or income to measure living standards, as well as for the various recommended steps to follow when constructing a consumption-based welfare measure from household survey data.



**The poverty line is constructed in accordance with the cost-of-basic-needs method and it consists of two major components: (a) the food poverty line (i.e. cost of the minimum food basket), and (b) a corresponding allowance for basic non-food goods.** Both components summed together give the total poverty line. The minimum food basket is chosen so as to satisfy basic nutritional requirements for the population in this part of the world, as suggested by the FAO (2004), while the composition of the minimum food basket reflects actual diet of the population. Nutritional norm of 2288 kcal/day/reference person is applied. The cost of the minimum food basket is calculated by multiplying the quantities from the minimum food basket with appropriate prices. The cost of the minimum food basket is estimated at €37.28 per month per nutritional equivalent adult, expressed in 2006 prices. Anchored at the cost of the minimum food basket, the total poverty line is estimated by a linear regression model, the same method that has been applied in other countries of the region (Luttmer; 2000; and Bogičević et al, 2003) as is well-accepted internationally. Application of this model to the 2006 HBS data gives us a **poverty line of €144.68 per equivalent adult per month.**

The poverty line calculated in such way is used for monitoring changes in poverty in Montenegro, but it is adjusted over time for the inflation compared to the base year 2006. When making poverty comparisons across the two years, it is crucial that (i) the same coverage of goods and services is applied when constructing the consumption aggregates, (ii) the same equivalence scale is applied to the various data sets, and, more broadly, that the (iii) data sets used (in this case, the HBS rounds) as well as estimation procedures followed are indeed comparable and consistent across the years under consideration.

**39. (Ref to Q. 110): Could you please explain whether the UNDP exclusion indicators and in particular the "Social Exclusion Index" and "Severe Exclusion" (table page 132) are used for your policy making? Do Montenegrin authorities recognize these indicators as relevant and accurate to describe the situation? Do they use them to define and monitor related policies and measures?**

**National Human Development Report (NHDR) – 2009** is the result of an open, intensive and comprehensive public discussion on the topic of social exclusion in Montenegro. NDHR was developed with the aim of supporting the Government and other interested parties in promoting social inclusion in Montenegro, by providing detailed analysis of social exclusion. Since this Report was published in October 2009, we cannot say that the mentioned indicators are already being used in creating policy, but they are considered relevant and useful for the future defining of measures and policies in the field of social protection. Also, having in mind that the official statistics – MONSTAT still does not calculate social exclusion indicators, apart from the ones relating to poverty, this data can serve as a „benchmark“ for future monitoring of the situation in this field.

**40. (Ref to Q. 109): Please explain how the groups listed as vulnerable were identified: are they identified on the basis of administrative registration and data (and if so, please indicate which ones)? If not, please explain on which basis they are identified as vulnerable? Please explain whether the vulnerable groups listed in the reply (people with disabilities, unemployed, elderly ('some of the elderly?'), the RAE, and the 'financially unprotected') represent all vulnerable groups in Montenegro or whether there are others (e.g. children, working poor and those affected by multiple disadvantages)**

The vulnerable groups listed in the answer to the question, are recognized in two ways. The first way is in accordance with the current legal regulations defining the rights in the fields of: social protection, health care, employment, pension and disability insurance, family legal protection and other. The second way relates to strategic documents determining the projects whose realization promotes the position of vulnerable groups such as: the Development and Poverty Reduction

Strategy (2003-2007); the National Plan of Action for Children (2004-2010); the National Program of Prevention of Unacceptable Behaviour of Children and Youth in Montenegro (2004-2006); the Strategy for Permanent Resolution of Issues of Refugees and Internally Displaced Persons in Montenegro (2005- 2008); the National Action Plan for the »Decade of Roma Inclusion 2005-2015« in the Republic of Montenegro; the Strategy for Reduction of Poverty and Social Exclusion (2007-2011); the Strategy for Improvement of the Situation of RAE Population in Montenegro (2008-2012); the Strategy of Development of the Social and Child Welfare System in Montenegro (2008-2012); the Strategy for Integration of Persons with Disabilities in Montenegro (2008-2016); the Action Plan of the Strategy for Integration of Persons with Disabilities in Montenegro (2008-2009); the Strategy for Inclusive Education in Montenegro (2008-2012); the National Strategic Response to Drugs (2008-2010); the Action Plan for Implementation of the National Strategic Response to Drugs (2008-2009).

Apart from the groups listed in the answer to questions, other vulnerable groups are also recognized, for which different policies are developed. Special attention is paid to protection of children in general, and particularly protection for: children with developmental disturbances, children without parental care, children in conflict with law, abused and neglected children. Detailed description of policies focused at protection of children is given in answer to question 96 in Chapter II.

Also, special attention is paid to protection of displaced persons from former Yugoslav republics and protection of internally displaced persons from Kosovo. Detailed description of policies aimed at protection of this category is given in answer to questions 107, 108, 109, 110 in Chapter I: Political Criteria – III Regional Issues and International Obligations – Return of refugees and displaced persons.

With the aim of comprehensive and permanent resolving of the status of displaced and internally displaced persons the Government of Montenegro adopted the Action Plan for Solving the Status of Displaced Persons from former Yugoslav republics and internally displaced persons from Kosovo that reside in Montenegro. In October 2009 the Government also formed the Coordination Board for monitoring the implementation of the Action Plan for Solving the Status of Displaced Persons from former Yugoslav republics and internally displaced persons from Kosovo that reside in Montenegro with the task to: manage, organize and coordinate activities of state administration bodies, state bodies and other competent institutions in implementing the Action Plan; to determine priorities, dynamics and deadlines of realization and to assess the achieved results in the implementation of the Action Plan; to submit the report with the preview of the situation, assessment and proposal of measures to the Government of Montenegro twice a year.

The Coordination Board established cooperation with UNHCR, regarding the application and implementation of the Action Plan.

At the moment 10 950 displaced persons from Kosovo reside in Montenegro, and on the basis of the Re-registering of Internally Displaced Persons from Kosovo in Montenegro which was conducted in the period from 14. 09. 2009 to 14. 11. 2009.

**B. People with disabilities**

**41. Two initiatives at EU level are currently under preparation to improve statistics related to people with disabilities (PwD): A Labour Force Survey ad-hoc module on employment of persons with disabilities, which is scheduled for 2011 and the European Survey on Disability and Social Participation (EDSIM), planned for 2012. Are you aware of these developments and whether and how are they reflected in your work and plans regarding the development of your statistics on PwD?**

The Government of Montenegro adopted the Strategy for Integration of Persons with Disabilities in Montenegro for the period from 2008 to 2016. Information on this document are given in answer to question 114 in Chapter 19.

Having in mind the fact that special Action plans, developed for the period of two years, determine closely the obligations that are to contribute to full integration of persons with disabilities, the new initiatives at the EU level will also be given full consideration, which will thus become a constituent part of the Action Plan and policy for persons with disabilities in general.

**42. According to information given in the replies under the "political criteria" chapter, Montenegro has signed and ratified the UN Convention on the Rights of People with Disabilities. The information provided indicates that several pieces of legislation are in line with the UN Convention. Please inform whether there are specific plans of action to take the necessary measures to comply with the whole UN convention.**

International documents that form the basis of the Strategy of Integration of Persons with Disabilities in Montenegro for the period from 2008 to 2016 are: UN Universal Declaration on Human Rights, the Standard OUN rules for Improvement of the situation of OSI, the Millennium Development Goals, the European Standard Charter (reviewed), the UN Convention on the Rights of the Child, the Declaration of the World Health Organization (WHO) on the responsibility of the member states of WHO for the health of peoples, the European policy and „The Health Goals for all in 21st Century“ (WHO), the Global Declaration on Education for all (Jomtien, 1990), the Recommendation of the European Union on Coherent Policy for Persons with Disability, the Action Plan of the Council of Europe for promotion of right and full participation in the society of persons with disabilities: Promotion of Quality of Life of OSI in Europe 2006-2015, UN Convention on the Rights of Persons with Disabilities 2006.

Action plans, which are done for the period of two years, are determined the priority activities that are to be implemented in all fields, in order to achieve harmonization with the whole UN Convention, and thus also reach full integration of persons with disabilities.

**43. (Ref to Q. 109): Please clarify the meaning of "protected housing for adults with disabilities" planned for the Municipality of Pljevlja.**

With the aim of developing protection of elder persons in the Municipality of Pljevlja, which implies improvement of social security of elder persons through development of integral, sustainable, efficient and available system of social protection that will improve social and financial position of elder persons in accordance with the Strategy of Development of Social Protection of Elderly Persons in Montenegro (2008-2012) and the Action Plan for development of social protection of elderly persons in the Municipality of Pljevlja for the period from 2008 to 2012, the Ministry of Health, Labour and Social Welfare and the Municipality of Pljevlja signed the Memorandum of Cooperation in development of protection of elderly persons in the Municipality of Pljevlja. The aim

of the Memorandum are joint and coordinated activities relating to establishment of an institution for placement of elderly persons, and in accordance with the strategic direction determined by the Action Plan for Development of Social Protection of Elderly Persons in the Municipality of Pljevlja for the period from 2008 to 2012. The institution for placement of elderly persons includes: residential placement of elderly persons, daily centre for elderly and adult persons and protected housing for adult persons with disabilities. Protected housing for adult persons with disabilities includes provided space which with its technical and functional organization has the conditions for permanent housing, of a small number of beneficiaries. The beneficiaries and the support services will participate in the functioning of such household depending on the preserved capacities of the beneficiaries and their needs, and the level of support will be defined with full participation of persons with disabilities who opt for this form of housing. This form of housing will provide open contact of beneficiaries with the environment in the Municipality.

Activities on development of the concept design for this type of facility are in progress.

**44. (Ref to Q. 123): Please provide further information as regards specific measures undertaken to motivate disabled persons capable of working to take up work and to avoid the so-called "benefit-trap".**

Informing and motivating for active job seeking, as a measure of active employment policy aims at informing all unemployed persons, through shorter programmes, with duration of two to three days, on the rights and obligations determined by law, to identifying the needs and limitations of the person, as well as motivating them for active approach to employment and acquiring job seeking skills.

Having in mind the obstacles that affect the problem of employment, specially for persons with disabilities the need aroused to create a specific measure, with longer duration, with the aim to motivate them for active job seeking.

Thus the program called „I will succeed“ is realized, aimed at increasing personal competencies of an unemployed person for successful inclusion in the labour market (recognizing obstacles in employment and accepting them, improvement of self-image, raising self-respect and self-confidence, being more open in communicating and relations with others; support to personal and professional development; promoting skills of objective listening and sympathy for others; learning how to seek job; learning how to present themselves to employers; learning how to write an application and CV; forming plans and goals that are realistic and stimulating for active participation in job seeking). The program is realized with duration of six months and consists of: informative and motivational workshop (one month) and professional assistance in active job seeking (five months).

Since it is a complex program, with duration of several months, it is conducted with two specialized organizations.

Since the realization of the program started at the end of 2008, in that year 43 persons who face difficulties in finding jobs were included, and in 2009 1064 of those persons were included, in 16 municipalities in Montenegro, 75 of those are work disabled persons, who were dismissed from work due to introduction of bankruptcy in business organizations or due to being declared a redundant employee. Other participants have obstacles (semi-deafness, visual impairment, health limitations, and combined impairments et.), with which there is a reduced working capacity, but they do not have the status of the person with disability, but it will be determined by the competent commission of the Employment Office of Montenegro, which will be formed in 2010.

**45. (Ref to Q. 124): Please provide additional information as regards the obligation of employers to provide reasonable accommodation for disabled employees.**

Answer to this question is included in answer to question 46 (referring to question 127) – cofinancing adjustment of working place and technical equipment for an employed person with disability.

**46. (Ref to Q. 127): The reply to the question does not address supported employment (i.e. measures to support PwD on the open labour market) but rather describes measures pertaining to vocational rehabilitation. Please provide related information on supported employment.**

The reply to the question does not address supported employment (i.e. measures to support persons with disabilities on the open labour market), but rather describes measures pertaining to vocational rehabilitation. Please provide related information on supported employment.

Regarding exercising the right to employment, the Law on Employment and secondary acts (since 2002), regulate this field in the identical way, both for persons without disabilities, and persons with disabilities. The exception is the measure, with which the employer is co financed for the adjustment of the working place and technical equipment for the employed person with disability, in the amount of 50 lowest costs of labour (currently €2500). So far 10 employers have been co financed, for employment of 10 persons with disabilities.

Employment of persons with disabilities with the support, pursuant to the Law on Professional Rehabilitation and Employment of Persons with Disabilities (applied since 23.05.2009), includes certain subsidies, providing professional assistance and monitoring persons with disabilities, with the aim of including efficiently in the working environment, keeping the employment and making progress; informing and counselling on the application of various technologies and techniques in learning and work and technical assistance, support, monitoring and assessment of working results of the person with disability, which is stated in answer to questions 123 and 124.

Since this is a very short period of application of the Law and the quota system, so far only one employer has addressed the Fund for Professional Rehabilitation and Employment of Persons with Disabilities, for exercising the right to subvention of salary for the employed person with disability, which was approved.

Greater effects of supported employment of persons with disabilities are expected in the following period.

**47. (Ref to Q. 114, 117, 118): Please provide some clarification on various bodies stated: are the Working Group in charge of the overseeing of the implementation of the Strategy for Inclusion of Persons with Disabilities (2008-2016) and its Action Plans (reply to Q.114) and the "National Council for taking care of people with disabilities" (mentioned in replies to Q. 117 and 118) the same body? If not, please provide clarification on the links between these two bodies.**

The Council for taking care of people with disabilities of the Government of Montenegro is a permanent Government body. The task of the Council is: protection and promotion of persons with disabilities in the field of social and child welfare, health care, education, training for work and employment and other fields of importance for the protection of rights and interests of persons with disabilities; initiating adoption of regulations referring to promotion of position of persons with disabilities; proposing measures relating to improvement of quality of life of these persons; informing the public on the rights, possibilities and needs of persons with disabilities with the aim of

removing prejudices and barriers relating to these persons; as well as exercising other rights of importance for the status of a person with disability. Regarding that the Council is the body that has higher competences than the Work group for performing affairs related to monitoring implementation of the Action plans of the Strategy for Integration of Persons with Disabilities, appointed by the Minister of Labour and Social Welfare, and comprised of state officers and representatives of NGO sector and who prepare reports on implementation of action plans.

**48. (Ref to Q. 115): The reply to Question 115 refers mainly to the Council of Europe Action Plan, whereas the question was directed towards the EU Disability Action Plan. Please complement the reply with relevant measures undertaken in relation to the EU Disability Action Plan, if existing.**

Strategy for integration of persons with disabilities in Montenegro, was adopted in November 2007, and as already pointed out in the previous answer, it refers not only to the UN Convention on the Rights of Persons with Disabilities, but also to the Action plan of the European Union, which aims at continuing the initiative for inclusion of persons with disabilities in all social flows.

In the mentioned document adopted by the Government of Montenegro, all key areas are specially highlighted /education, health care, social protection and pension and disability insurance, education, employment and professional rehabilitation, accessibility, culture, sport and recreation and organizations of persons with disabilities and civil society/, that need to be improved individually, with clearly defined bearers of works and deadlines. We point out that the Strategy is followed by action plans, which are adopted on two-year basis, and progress reports, according to envisaged measures and activities, are submitted to the Government for adoption each year.

It is important to point out once again that in the work group that is in charge of supervision of implementation of the Strategy for Integration of Persons with Disabilities, as well as creating Action plans, apart from the representatives of relevant state bodies and institutions, there are representatives of umbrella national organizations for persons with disabilities, which provides their full inclusion in all processes concerning them. Also in this way independent and objective monitoring is provided in all the mentioned areas. We try together to create policy, that is thus coordinated at the national level, and which will be in accordance both with the principles and aims of the action plan of the European Union.

As the EU Action Plan stipulates we also put accent, apart from promoting inclusive education, to employment and specially providing accessibility, both regarding removing architectural barriers, and in all areas, that could lead to discrimination of persons with disabilities in the broadest sense of the word. In the last two years we have been opening new services in the field of health and social protection that will ensure provision of services in a modern way, in the local community, thus closer to the beneficiary and balance the quality of services in all communities where they are provided.

Therefore through coordinated and planned activities the state is putting every effort to provide creation of the necessary conditions, that enable optimum development, timely direction and inclusion in the corresponding program of education, individual approach, preservation or improvement of physical, intellectual, emotional and social development, inclusion in the process of habilitation, rehabilitation; continuity of new programs and their organized connection, as close as possible to the place of residence, with provision of material support, which is in accordance with the budgetary possibilities.

**49. (Ref to Q. 116): Could you please elaborate on how the mainstreaming concept is concretely translated and provide examples as requested in the question.**

In all practices regarding persons with disabilities in Montenegro we comply with the rule „Nothing on persons with disabilities without persons with disabilities“. The representatives of persons with disabilities are full legal members of the Council for Care for Persons with Disabilities of the Government of Montenegro. Also the representatives of persons with disabilities are full legal members of the work group for performance of affairs relating to monitoring implementation of Action plans of the Strategy for Integration of Persons with Disabilities.

It is a rule that in preparing laws and secondary legislation acts that are of interest for life and work of persons with disabilities the representatives of persons with disabilities participate as equal members in creating various policies, which is stipulated under article 80 of the Law on State Administration (Official Gazette 38/03 and Official Gazette 22/08). Also, representatives of persons with disabilities are included in the work of the board of the Parliament of Montenegro, when discussing proposals of laws that affect this population. Participation of persons with disabilities is also active at the local level.

Concrete activities in this area are described in the Reports on Application of the Strategy for Persons with Disabilities for 2008 and 2009.

## **VI. SOCIAL PROTECTION**

### **C. Pensions**

**50. (Ref to Q. 140, 151): As regards the introduction of a mandatory funded pension scheme: Is the Montenegrin government readjusting its intentions given the experience of other countries of the region with mandatory funded pensions during the crisis?**

The reform of pension and disability insurance is aimed at financial stabilisation of this system and its harmonisation with economic conditions and unfavourable demographic trends. Due to such reasons the Law on Pension and Disability Insurance creates normative possibility for introduction of mandatory pension insurance on the basis of individual capitalised savings (Pillar II). If the Government decides to introduce the second pillar, i.e. mandatory pension insurance on the basis of individual capitalised savings, this form of pension insurance will be regulated by a separate law.

In introducing second pillar - mandatory pension insurance on the basis of individual capitalised savings, it should be taken into consideration, *inter alia*, the fact that by introduction of the second pillar in the existing pension fund the contribution rate will decrease significantly and thus inevitably cause additional deficit for whose covering it will be necessary to find adequate source of financing. Since the introduction of the second pillar and payment of a part of contributions on the personal account cause transitional cost which represent long-term cost of the state related to providing a decrease in the inflow in the first pillar, before introduction of the second pillar it is necessary to consider economic and social consequences of its introduction in detail.

Due to the effects of global economic crisis there has been a decrease of revenues from contributions in total revenues of Pension and Disability Insurance Fund, which caused additional costs of the state budget, i.e. an increase of expenditures for pension and disability insurance – as a part of public expenditure in GDP. Such situation is not in favour of the commitment to introduction of the second pillar, which means that the Government, regarding defining specific activities for introducing the second pillar - mandatory pension insurance on the basis of individual capitalised savings and dynamics for their implementation, will act only after adequate analysis of comparative legal experience of the countries which have introduced such systems and after considering economic and social consequences of its introduction. It is necessary to adjust this experience to our conditions and particularities.

If the Government decides to introduce the second pillar, before choosing the appropriate model which will entirely respond to our conditions and particularities, certain issues important for functioning of the system based on mandatory capitalised savings, such as age limit of the employees who will be included in a new system, the issue of the amount of the pension of these insured persons as well as issues which relate to administrating the system and managing the funds on the basis of capitalised savings, should be resolved.

**51. (Ref to Q. 141): Was the amount of minimum pension lowered in 2004? If yes, what was the drop in the value of the minimum pension?**

Pursuant to provisions of the regulations from pension and disability insurance which were applied until 31 December 2003, five groups of the lowest pensions were prescribed – depending on the type of pension, length of pension qualifying period of the insured person and the cause of the invalidity. The lowest pension was determined on the base consisting of:

- for the insured employee and the insured self-employed person – the average monthly net salary in Montenegro earned in the previous year;



- for the insured farmer – 50% of the average monthly net salary in Montenegro earned in the previous year.

The lowest amount of the pension determined on the stated base was:

I group: for the insured persons who acquired the right to old age pension on the basis of 40 years (man) or 35 years (woman) of pension qualifying period or to disability pension on the basis of disability caused by occupational injury or occupational disease, in the amount of 90% of the base;

II group – for the insured persons who acquired the right to pension (old age or disability) on the basis of 35 years (man) or 30 years (woman) of pension qualifying period, in the amount of 80% of the base;

III group – for the insured persons who acquired the right to pension (old age or disability) on the basis of 30 years (man) or 25 years (woman) of pension qualifying period, in the amount of 70% of the base;

IV group – for the insured persons who acquired the right to pension (old age or disability) on the basis of 25 years (man) or 20 years (woman) of pension qualifying period, in the amount of 60% of the base;

V group – for the insured persons who acquired the right to pension (old age or disability) on the basis of pension qualifying period shorter than 25 years (man) or 20 years (woman), in the amount of 55% of the base;

The lowest amount of the pension was indexed as pensions achieved in the current calendar year, according to trends of net salaries in Montenegro.

In the Law on Pension and Disability Insurance (Official Gazette of the Republic of Montenegro 54/03, 39/04, 79/04 and 47/07 and Official Gazette of Montenegro 79/08) which is applied since 1 January 2004 the practice of the lowest amount of pension is kept with significantly more restrictive approach compared to regulations which were applied until then. Pursuant to the mentioned law, the right to lowest pension has the insured person if his or her pension, acquired on the basis of personal coefficient (according to his or her salaries and insurance bases) is lower than the lowest pension guaranteed by law. Pursuant to the provision of Article 29 paragraph 6 of the stated law the lowest pension in the nominal amount, on the day when its application started (1 January 2004) was EUR 45 and this amount is indexed twice a year (from 1 January to 1 July) in the manner of indexing the pension value for one personal point.

On the day when the new Law on Pension and Disability Insurance started to be applied, 1 January 2004, the amounts of the lowest pensions of III, IV and V group for persons who acquired the right to pension as the insured farmers were transferred to the lowest nominal amount of the pension according to the provisions of this law, which for the first half-year of 2004 amounted to EUR 45, since the existing amounts (for III group – EUR 44,57; for IV group – EUR 38,20 and for V group - EUR 35,02) were lower than the lowest amount of the pension prescribed by the provisions of the new law.

However, although this new law stipulates the lowest pension in the amount lower than the lowest amount of the pension for I and II group pursuant to previous regulations, the provision of Article 193 paragraph 1 of the new Law on Pension and Disability Insurance prescribes that the beneficiaries who acquired the right to the lowest pension in accordance with regulations from pension and disability insurance which were applied before application of the new law, are provided with these rights after this date in the same scope and are indexed as pensions acquired pursuant to regulations of the new law. Therefore, to beneficiaries who acquired the right to the lowest pension in accordance with regulations applied until 31 December 2003, this right, as acquired, is provided even after cited date in the same amount, while further indexation of the lowest pensions is done in the same manner as indexation of pensions acquired in accordance with the new law.

Unlike the previous regulations, pursuant to the new law, regarding the right to the lowest pension the insured farmers are equalized with the insured employed persons and insured persons

engaged in individual business activity and there is no difference in the amount of the lowest pension which is in force for all three categories of the insured persons.

**52. (Ref to Q. 144): Please provide a comparison of the number of recipients of pension benefits and the number of people aged more than 60 (women) and 65 (men). If some people are not covered by the pension system (e.g. due to short contribution periods), are they eligible for social assistance?**

According to the last 2003 Montenegro population census the total number of men older than 65 is 31.984. The total number of women older than 60 is 58.016.

Since the total number of pensioners in Montenegro in 2009 was 95.774, it comes that the number of pensioners is higher 6.41% than the total number of people aged more than 60 (women) and 65 (men).

Mandatory pension and disability insurance on the basis of current financing covers the working population (the insured employed persons, insured persons engaged in individual business activity, and insured farmers). Therefore, mandatory pension and disability insurance covers every person fulfilling requirements prescribed by law, if he or she is employed, performs individual business or agricultural activity.

The right to old age pension acquires the insured person who cumulatively fulfils requirements regarding years of age and length of pension qualifying period and insurance period. Years of age and years of service, as a condition for acquiring the right to old age pension, are determined as the lower limit or minimum which must be fulfilled in each specific case. The right to old age pension upon fulfilling requirements of turning 65 (man) or 60 (woman) years of age and completing a pension qualifying period of at least 15 years is established for the purpose of protection of elderly insured persons with shorter period of service in accordance with the provisions of the Convention 102 of the International Labour Organisation on minimum social security standards.

The labour regulations prescribe upper age limit up to which an employed person may continue employment – 65 years of age, as well as the possibility that an employee who has turned 65 years of age but has not completed a pension qualifying period of at least 15 years may continue to work until this requirement is fulfilled.

Regulations from the field of employment regulate that an unemployed person has the right to the cash allowance if his/ her employment terminated without his or her consent and if he or she reports to the Employment Office within 30 days. Unemployed person having more than 25 years of insurance record has the right to the cash benefit until he/she becomes employed again or meets the conditions for acquiring the right to pension. Since these persons are insured for pension and disability insurance, during period of receiving cash benefit at the Employment Office, contributions are paid to them; this means that the time of receiving cash benefit is calculated in insurance record.

Within the meaning of the regulations from social and child welfare, the right to family cash benefit can be obtained by family, or a family member if

- 1) he/she is incapacitated for work;
- 2) he or she is capable for work, provided that he/she is:
  - a pregnant woman;
  - a single provider;
  - a parent maintaining an underage child or a child of legal age who is incapacitated for work and whose incapacity occurred before the age of 18;

- a person who has completed his education according to the adjusted educational programme with additional professional support or special educational programme;
- a child without parental care until obtaining permanent or fixed-term employment for a period longer than six months.

Right to family cash benefit is determined on the basis of income and property of all family members.

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## VII. ANTI-DISCRIMINATION AND EQUAL OPPORTUNITIES

**General comment:** in most replies to this part of the questionnaire, precise references to articles and number tend to be limited to some pieces of legislation only such as the Constitution or criminal law. Could you please systematically indicate all the concrete legislative provisions (numbers of articles) whatever the legislation concerned (e.g. questions 154, 159, 163, 164, 165, 167, 172, 178, etc).

**Reply: Ref. to Q. 159,** the principle of equal pay for equal work or work of equal value for men and women (employed) is prescribed by Article 15 paragraph 2 of the Labour Law, which defines the usage of terms such as employee and employer in masculine form as neutral forms for both men and women, which indicates equality of men and women in exercising their labour-based rights, as well as the right to equal pay for equal work or work of equal value. Therefore, the Article 77 of the law prescribes that an employee (both man and woman) has the right to appropriate salary which is determined in accordance with the law, collective agreement and employment contract. This implies that employees (men and women) are guaranteed equal pay for equal work or work of equal value with the employer. The work of equal value implies work which requires the same level of professional qualifications, same working capacity and liability for physical and intellectual work.

Also, Article 17 paragraph 2 and Article 18 of the Constitution of Montenegro prescribe that everyone is equal before the law, irrespective of any particularity or personal capacity and that the State guarantees equality of women and men and develops the policy of equal opportunities, whereas Articles 62 and 64 paragraph 1 stipulate that every person has the right to work and equal terms of employment and that employees are entitled to appropriate salary.

**Reply: Ref. to Q. 163,:** the provision of Article 108 of the Labour Law prescribes that an employer may not refuse to conclude employment contract with a pregnant woman and is not allowed to terminate employment contract because of the pregnancy or if she uses maternity leave.

**Reply: Ref. to Q. 164,** provisions of Articles 5 and 6 of the Labour Law prescribe prohibition of direct and indirect discrimination of persons seeking employment or employed persons on the basis of sex, birth, language, race, religion, skin colour, age, pregnancy, health condition or disability, nationality, marital status, family obligations, sex orientation, political or other belief, social background, financial status, membership in political or trade union organisations or other personal capacity (Article 5).

Under this law, direct discrimination is any action caused by any of the grounds referred to in Article 5 of this law on which a person seeking employment or an employed person is placed in a less favourable position compared to other persons in the same or similar situation.

Within the meaning of this law, indirect discrimination occurs when a specific provision, criterion or practice places or would place a person seeking employment or an employed person in a less favourable position compared to other persons, due to a specific capacity, status, commitment or belief (Article 6).

Article 8 paragraph 1 of the Constitution of Montenegro prohibits any direct and indirect discrimination on any grounds.

**Reply: Ref. to Q. 165,** the provision of Article 10 of the Labour Law prescribes that in the event of discrimination, within the meaning of the provisions of Articles 5-8 of this law, a person seeking employment or an employed person may initiate proceedings before the competent court, in accordance with the law. Therefore, the existence of discrimination, within the meaning of this law, an employed person or a person seeking employment may prove before the competent court. In indicated cases, the competent court decides on the amounts of compensation for damages, on the basis of the available evidence within its discretionary jurisdiction.

**Reply: Ref. to Q. 167**, the provisions of Articles 103, 104 and 105 of the Labour Law prescribe that an employed woman, an employee under the age of eighteen and employed disabled persons are entitled to special protection, in accordance with this law (Article 103 of the law).

An employed woman and an employee under the age of eighteen may not be assigned to a job which entails particularly heavy physical labour, work under ground or under water or work which could have detrimental effect and pose high risk to their health and life (Article 104 of the law).

An employed woman working in the field of industry and construction business may not be assigned to night work.

The prohibition referred to in paragraph 1 of this Article does not refer to an employed woman in management or performing duties of health care, social and other protection.

With the exception of the provision referred to in paragraph 1 of this Article, an employed woman may be assigned to night work when it is necessary to continue work interrupted due to some natural disaster or to prevent damage on raw materials and other material. (Article 105 of the law)

**Reply: Ref. to Q. 172**, the provisions of Articles 109 and 110 of the Labour Law prescribe that on the basis of the results and recommendation of the competent doctor, during the time of pregnancy and while breast-feeding, a woman may be temporarily assigned to other positions if that is in the best interest of protecting her or her child's health.

If an employer is in no position to reassign an employed woman referred to in paragraph 1 of this Article, within the meaning of paragraph 1 of this Article, an employed woman has the right to leave from work with a compensation of salary in accordance with collective agreement, which may not be less than the salary she would earn working.

An employed woman referred to in paragraph 1 of this Article during temporary assignment to other positions has the right to salary for the previous position. (Article 109 of the law)

An employed woman during pregnancy and a woman having a child under three years of age may not work longer than standard working hours or night shift.

With the exception of paragraph 1 of this Article, an employed woman having a child older than two years of age may work night shift only if she accepts it by written consent.

One of the parents having a child with developmental impairments, as well as a single parent having a child under seven years of age may work overtime or night shift only on the basis of his or her written consent. (Article 110 of the law)

**Reply: Ref. to Q. 178**, pursuant to Article 108 of the Labour Law an employer may not refuse to conclude employment contract with a pregnant woman and is not allowed to terminate employment contract because of the pregnancy or if she uses maternity leave. These circumstances do not influence the termination of employment of an employee who has concluded a fixed-term contract.

Exceptionally, pursuant to Article 39 of the Labour Law, duration of traineeship to an employee who has concluded a fixed-term contract as a trainee is prolonged in case of absence from work due to temporary incapacity for work according to the regulations on health care, health insurance and maternity leave.

In all other cases, the employment terminates upon the expiry of the period for which a fixed-term contract has been concluded, i.e. upon the expiry of the a fixed-term contract (Article 143 paragraph 1 item 3 of the Labour Law)

Therefore, employment established on the contract concluded on a fix-term basis with a pregnant woman or a woman using maternity leave, or if a woman becomes pregnant during being employed on a fix-term basis, is terminated upon the expiry of the period for which a fixed-term contract has been concluded, which means that termination of employment is not postponed.

## A. Anti-discrimination

### 53. Horizontal comment: Could you please provide us with information on jurisprudence on anti-discrimination (e.g. statistics with breakdown of cases).

Within the period 2005 – 2009 before the courts there were no criminal proceedings for the following criminal acts:

- violation of the right to use language and alphabet - Article 158 of the Criminal Code;
- violation of equality - Article 159 of the Criminal Code;
- violation of freedom of expression of national or ethnic affiliation - Article 160 of the Criminal Code.

Within the period 2005 – 2009 before the courts three charges were brought for the criminal act of violation of freedom of confession of religion and performance of religious rites referred to in Article 161 of the Criminal Code.

In one case one person was accused, convicted and fined in the amount of EUR 800.

In one case two persons were accused, one was sentenced to 30-day imprisonment, whereas a security measure of compulsory psychiatrist treatment out of institution was imposed on the other person.

The case is in the appellate proceeding.

In one case one person was accused for the criminal act referred to in Article 161 paragraph 2 in relation to paragraph 1 of the Criminal Code (preventing or restricting religion rites). In this case the proceeding is underway.

### 54. (Ref to Q. 153): Is there any legislation regarding discrimination on ground of age, as the Labour Law seems not to cover this?

The Constitution of Montenegro, as the supreme legal instrument of the national legislation, prohibits any direct and indirect discrimination on any grounds (Article 8). The same Article enables adoption of regulations and introduction of special measures aimed at creating conditions for achieving national, gender and overall equality and protection of persons who are placed in an unequal position on any grounds, and enables that such regulations and measures are not deemed discrimination (positive discrimination, affirmative action). These special measures have limited temporal effect i.e. they may be applied only until the achievement of the intended goals.

Article 17 of the Constitution guarantees equality of every person before law, regardless of any particularity or personal capacity, which is one of the supreme values of the constitutional order of Montenegro. The Constitution guarantees everyone the right to equal protection of their rights and freedoms (Article 19). Provoking or encouraging hatred or intolerance on any grounds is explicitly prohibited by the Constitution (Article 7).

Limited exercise of certain human rights and freedoms in time of a proclaimed state of war or emergency must not be introduced on the grounds of sex, nationality, race, religion, language, ethnic or social background, political or other belief, financial status or any other personal capacity (Article 25).

Article 50 of the Constitution defines that the competent court may prevent dissemination of information and ideas through the media only if that be necessary, *inter alia*, to prevent propagation of racial, national and religious hatred or discrimination. Also, the Constitution prohibits activities of political and other organisations whose activities are aimed at provoking national, racial, religious and other hatred and intolerance.

Apart from the Constitution and international treaties, national legislation contains a range of laws whose provisions prohibit discrimination, promote equality and identify anti-discrimination measures.

The Labour Law prohibits direct and indirect discrimination of persons seeking employment or employed persons on the basis of sex, birth, language, race, religion, skin colour, age, pregnancy, health condition or disability, nationality, marital status, family obligations, sex orientation, political or other belief, social background, financial status, membership in political or trade union organisations or other personal capacity (Article 5).

The law specifies these forms of discrimination. Direct discrimination is any treatment on any grounds that places a person seeking employment or an employed person in a less favourable position compared to other persons in the same or similar situation. Indirect discrimination, under this Law, occurs when a specific provision, criterion or practice places or would place a person seeking employment or an employee in a less favourable position compared to other persons, due to a specific capacity, status, commitment or belief (Article 6).

Such forms of discrimination are prohibited related to: terms of employment and selection of candidates for a specific job; working conditions and all rights stemming from employment; education, training and development; promotion; termination of employment contract. Pursuant to Article 10 of the Labour Law, in the event of discrimination a person seeking employment or an employed person may initiate proceedings before the competent court in accordance with the law.

**55. (Ref to Q. 154): Regarding the last paragraph on p. 222: What is a specific legal basis for a civil court action in discrimination cases? A number of provisions are referred to in the reply but what is the legal basis for other actions mentioned in the reply (e.g. in the field of education or health?)**

Article 186 of the Law on Civil Procedure prescribes that a civil action is initiated by filing a complaint (for judgement to perform a duty, adjudicative and constitutive)

Draft Law on Prohibition of Discrimination in Title III prescribes judicial protection. Article 21 prescribes that every person who thinks that he/she has been harmed by discriminatory action has the right to protection before court, in accordance with the law.

Complaint may be filed for such purposes: to determine that a defendant has taken discriminatory actions against a plaintiff, to prohibit the performance of the action threatening to cause discrimination, to prohibit repetition of discriminatory action, to claim compensation for damages in accordance with the law, as well as to make public the judgement ascertaining discrimination at the expense of a defendant, if discrimination has been done through media.

In cases when complaint is used to determine that a defendant has taken discriminatory actions against a plaintiff or to prohibit the performance of the action threatening to cause discrimination, complaint is requested in addition to the claims for protection of rights on which it is decided in the civil action if these claims are interrelated. In these cases complaint may be filed independently only if an act or action of discrimination did not result in loss or violation of some right. Also it is prescribed that acts and actions of discriminations committed by officials in judicial proceeding may be indicated only in legal remedies. The complaint may be filed within 60 days from the day of finding out about the committed discrimination.

Article 4 of the Law on Health Care, the Official Gazette of Montenegro 39/2004, prescribes equality of citizens in exercising the right to health care, regardless of their national affiliation, race, sex, age, language, religion, education, social background, financial status or any other personal capacity.

0,63 For an underage patient or a patient deprived of business capacity, complaint referred to in paragraph 1 of this Article is filed by his or her legal representative or guardian. Health institution is obliged to organise the work of a patients' rights protector. Director of the health institution

appoints patients' rights protector. Two or more health institutions performing health activity within specific territory may appoint common patients' rights protector.

Article 32 prescribes that a complaint is filed only verbally or in writing. Upon complaint of a patient director or patients' rights protector immediately or no later than three days from the day of filing the complaint determines all circumstances and relevant facts related to allegations stated in the complaint and informs complainant about that. A patient not satisfied with the report on the complaint may refer to the health inspection, in accordance with the law.

Article 33 of this law prescribes that health institution keeps evidence on filed complaints of the patients. Director of health institution submits to the Ministry of Health quarterly and annual report on filed complaints of the patients.

Pursuant to the General Law on Education, a director of the institution is responsible for legality of work of institutions from the field of education, one of his/her basic competences stipulated by law, inter alia, is to ensure equality of children and pupils in exercising the right to education.

Pursuant to Article 16 of the General Law on Education, inspection control over work of educational institutions, i.e. adherence to law and other regulations and general acts is conducted by educational inspection, whose competences are specified by the Law on Inspection, and specific obligations, as well as taking measures are prescribed by the Law on Educational Inspection.

Stated supervision educational inspection conducts in institutions from the field of pre-school, elementary and secondary education, education of persons with special needs, adult education, as well as in institutions of pupil and student standards – student hostels and institutions of higher education.

Regarding rights from the field of education, an educational inspector, inter alia, controls legality of enrolment, rights and obligations of children, pupils and course takers (adults); enrolment, rights and obligations, termination of status and expulsion of students, as well as other rights of children, pupils, students and persons employed in educational institutions.

If during supervision an educational inspector identifies illegality related to exercising stated rights, he or she issues decision on removing that illegality within specific deadline and this decision is obligatory for the institution. Failure to act in accordance with decision of educational inspector results in institution being convicted of a misdemeanour. Also, a party who thinks that decision of the inspector violates his or her right may lodge an appeal against that decision to the Ministry of Education. The party dissatisfied with decision of the Ministry of Education may file a complaint to initiate an administrative dispute before the Administrative Court of Montenegro, against decision of that court extraordinary legal remedy may be filed – request for protection of legality - to the Supreme Court of Montenegro.

Also, children, pupils, students and persons employed in educational institutions may file a complaint to the regular courts to request protection of other rights prescribed by law. Namely, it is the right of a child, pupil and student to the compensation of damages which happened while staying in the institution (hurting, etc), as well as the rights of persons employed in educational institutions to request before the regular court protection in cases when they believe that the institution has violated their labour-based and labour-originated right.

**56. (Ref to Q. 155): Please inform about the state of play regarding the draft Anti-discrimination Act?**

Prohibition of discrimination and equality before law, as well as equal legal protection are essentially significant for protection of human and minority rights. Equality and prohibition of unfair distinction are proclaimed by the Constitution and laws of Montenegro.



There is no special, general law dedicated to prohibition of discrimination in the legal system of Montenegro. Therefore, the Ministry of Human and Minority Rights formed Working Group to develop this draft law. Working Group consisted of representatives of the Ministry, reputable professors of the Montenegrin University and representatives of NGOs. Working Group finished development of the first draft Law on Protection against Discrimination.

On 26 May 2009 this draft law was sent to the offices of OESCE and the Council of Europe for the expert analysis. OESCE/ ODIHR and members of the Venice Commission, SE Pieter van Dijk and Latif Huseynov forwarded the comments on the first draft Law on Protection against Discrimination to the Ministry of Human and Minority Rights. In the Ministry of Human and Minority Rights, on 2 September 2009, members of the Working Group for drafting law had a meeting with a member of the Venice Commission Latif Huseynov and Caroline Martin, legal adviser. At the meeting draft law was reviewed, pursuant to the given comments. Also, on 12, 13 and 14 October the expert of Venice Commission Mr Latif Huseynov had working meetings with members of the Working Group for drafting this law to assess the harmonisation of provisions of the draft law with the EU standards.

On 3 December 2009 the Government of Montenegro adopted draft Law on Protection against Discrimination with the Programme of Public Debate. Public debate lasted from 5 December 2009 to 5 January 2010, draft law was printed as an insert to a daily "Pobjeda" and published on the website of the Ministry of Human and Minority Rights; round table discussions were organised in three Montenegrin municipalities (Bijelo Polje, Podgorica and Budva). Also, the draft Law was reviewed on the joint session of the Parliamentary Committees for human rights and freedoms and gender equality (18 December 2009). On 19 February 2010 in Podgorica, the Ministry of Human and Minority Rights, the Council of Europe and OESCE organised big round table discussion in which domestic and experts from abroad, representatives of political parties, government institutions and NGOs participated. In the agenda of the Government of Montenegro for 2010 the adoption of the proposal for the Law in the first half of the year is planned, after which it will be forwarded to the Parliament for passing.

**57. (Ref to Q. 156): Please provide further information on the rules applicable regarding compensation in discrimination cases. Is it possible to claim compensation for material loss as well as non-material/moral damage?**

Pursuant to Article 207 of the Criminal Procedure Code a party injured by commission of criminal act may submit a claim under property law. The claim under property law may consist of a request for the compensation of damages, return of an object or the annulment of a certain legal transaction.

In case of a verdict in the criminal proceeding, the Court may award the entire or partial claim to the injured party, and refer to a civil action for remainder if data established in the criminal proceedings provide reliable basis for entire or partial award of a submitted claim. If data established in the criminal proceedings furnish no reliable basis for award of the claim under property law, the injured party is referred to a civil action. (Article 212 of the Criminal Procedure Code)

In case of a verdict of acquittal, a verdict rejecting the charge or a ruling discontinuing the criminal proceedings, the injured party is directed to assert his or her claim under property law in civil proceedings - Article 212, paragraph 3 of the Criminal Procedure Code.

## **B. Equal treatment of women and men**

### **58. (Ref to Q. 162): The reply does not answer the question. What about the law related to other sectors than civil service and state employees?**

The Law on Civil Servants and State Employees (Official Gazette of the Republic of Montenegro 27/04 and 31/05) prescribes the manner of entering into employment in state bodies, while entering into employment in other sectors and economy is defined by the Labour Law.

The Labour Law does not define open job advertisements as obligatory manner of entering into employment, unlike the Law on Civil Servants and State Employees.

Pursuant to the Labour Law, depending on the need of the labour process, in his or her working environment, an employee may decide by himself/herself in which manner he or she will engage a specific type of staff for performing certain jobs from his or her scope of activities. This means that if an employer needs to employ new staff by open job advertisements he or she can do this on his/her own or by engaging Employment Office of Montenegro or some other institution dealing with job-finding. An employer may not state the sex of the person he or she wants to hire in vacancy advertisements.

Namely, Article 5 of the Labour Law prohibits direct and indirect discrimination of persons seeking employment on the basis of sex, birth, language, race, skin colour, age, or other personal capacity. In case of discrimination on any grounds referred to in Article 5 of the stated law, thereby on the grounds of sex, a person who thinks that he or she is discriminated may exercise protection against discrimination pursuant to Article 10 of the same law, before the competent court and may claim compensation for damages.

### **59. (Ref to Q. 166): What kind of sanctions can be applied by the Labour Inspectorate, mentioned in other parts as competent in the field of discrimination?**

The Labour Inspection performs supervision over implementation of laws and other regulations defining employment, safety at work, the right to strike and collective negotiation. When performing supervision in stated fields the Labour Inspection ascertains that a public interest has been violated, a significant public interest is adherence to law, it is obliged to instruct the subject of the supervision not obeying law to remove identified irregularities within the period of eight days. Upon expiry of the deadline for acting in accordance with given instructions, if instructions were not observed, the labour inspector is obliged to issue a decision ordering the subject of supervision to adjust his or her actions to the law within the period of new 8 days.

In case that decision of the labour inspector has not been enforced, he or she is obliged to ensure the enforcement of decision by issuing conclusion on punishment in the amount 500 – 5000 euro, until the enforcement of decision. Then, the labour inspector is authorised to initiate misdemeanour proceeding for misdemeanour defined by law against legal and responsible person and to impose mandatory sanction for violation defined by law.

Chapter of the Labour Law which relates to prohibition of discrimination on the grounds of terms of employment, working conditions and violation of the right stemming from employment (to education, training and development; promotion; termination of employment contract...) prescribes that a person who thinks that he or she has been discriminated on any grounds may initiate proceedings before the competent court in accordance with a special law.

**60. (Ref to Q. 170): What are the 'special regulations' mentioned in the answer (reference to concrete law)?**

Special laws regulating this field are:

The Law on Pension and Disability Insurance (the right to the survivor's pension for a spouse and underage children, children attending regular education and children incapacitated for work and earning whose incapacity occurred before the age of 15).

The Law on Health Care (the right to health care for a spouse, underage children, children attending regular education and children incapacitated for work and earning whose incapacity occurred before the age of 15, if they are not insured on other grounds).

**61. (Ref to Q. 174-178): Concerning maternity and parental leave:**

**- Please clarify which rules apply regarding remuneration during maternity leave.**

The Labour Law (Official Gazette of Montenegro 49/08) prescribes that during the time of pregnancy, delivery and child care an employed woman is entitled to maternity leave of 365 days counted from the day of child birth. The same law prescribes that a father of a child may use the right to maternity leave in case when a mother abandons a child, dies or due to other justified reasons is prevented from using that right (prison sentence, serious illness etc).

The Law on Social and Child Welfare (Official Gazette of the Republic of Montenegro 78/05) stipulates that during maternity leave an employee is entitled to compensation of salary. It is stipulated that the employee receives the compensation for the period of maternity leave with the employer in the amount which he/she would earn in the activities and tasks he/she is assigned to. The employee obtains the right to salary compensation in the full amount provided that previous to obtaining the right he/she has been employed for at least six months continuously. The employee who has been employed continuously for less than six months prior to obtaining the right is entitled to 70% of the amount of the salary compensation.

The employer can obtain a refund on the basis of the payment for salary compensation for maternity leave at the competent Social Welfare Centre. A legal person provided salary compensation from the public expenditure sector (state budget, municipality budget and extra-budgetary funds) is not reimbursed on the basis of the compensation for maternity leave.

Salary compensation for the employee performing entrepreneurial activity as a sole employee is determined in the amount of the base for which the taxes and contributions are paid and that right is exercised at the competent Social Welfare Centre.

The Law on Social and Child Welfare also stipulates the right to childbirth benefit for the person registered with the Employment Office and for a full-time student. The mentioned persons exercise the right to compensation in the monthly amount of €25, at the competent Social Welfare Centre until the child reaches 12 months of age.

**- Does parental leave (separate from maternity leave, which can be taken by the father) exist?**

Pursuant to Article 111 of the Labour an employed woman during the time of pregnancy, delivery and child care is entitled to maternity leave of 365 days counted from the day of child birth.

On the basis of the results of the competent health authority, an employed woman may start her leave due to delivery 45 days, and obligatory 28 days, prior to the time of delivery.

An employed woman may start working before the end of her maternity leave but not earlier than 45 days after the day of delivery.

If an employed woman starts to work before the end of her maternity leave, she has the right to use 60 minutes more than regular break during working hours for breast-feeding. In this case, an employed woman has no right to continue using maternity leave.

According to the Labour Law, the principle is that a mother of a child uses the right to maternity leave.

Exceptionally and under specific terms an employed father of a child may use this right. A father of a child may use the right to maternity leave or child care in case when a mother abandons a child, dies or due to other justified reasons is prevented from using that right (prison sentence, serious illness etc).

However, pursuant to Article 118 of the Labour Law one of the parents is entitled to absence from work without compensation of salary for the purpose of taking care of a child under three years of age. During absence from work an employee has the right to health care and pension and disability insurance, whereas other labour-based and labour-originated rights and obligations are suspended.

Pursuant to Article 113 of the Labour Law, upon expiry of maternity leave, one of the employed parents is entitled to work part-time until a child reaches the age of three, if the child needs additional care.

Also, the provision of Article 114 of the Labour Law prescribes that the right to work part-time is afforded to a parent, an adoptive parent or a person who is entrusted with a child with developmental impairments for custody and care by a competent authority, or a person providing care to a person with a severe disability, in accordance with a special regulation.

Working hours while using the right referred to in Articles 113 and 114 of the Labour Law are considered as full-time work for acquiring the labour-based and labour-originated rights.

Pursuant to Article 116 of the Labour Law, an adoptive parent of a child younger than eight years of age is entitled to the right to be absent from work for a year consecutively from the day of adoption of the child for the purpose of child care, with compensation of salary, in accordance with the law.

**- The reply to question 178, last sentence, states, that "Pregnancy or maternity leave does not influence the termination of employment of an employed woman who has concluded a fixed-term contract". Does this mean that the termination of employment is postponed?**

Pursuant to Article 108 of the Labour Law an employer may not refuse to conclude employment contract with a pregnant woman and is not allowed to terminate employment contract because of the pregnancy or if she uses maternity leave. These circumstances do not influence the termination of employment of an employee who has concluded a fixed-term contract.

Exceptionally, pursuant to Article 39 of the Labour Law, duration of traineeship to an employee who has concluded a fixed-term contract as a trainee is prolonged in case of absence from work due to temporary inability to work according to the regulations on health care, health insurance and maternity leave.

In all other cases, the employment terminates upon expiry of the period for which a fixed-term contract has been concluded, i.e. upon the expiry of the a fixed-term contract (Article 143 paragraph 1 item 3 of the Labour Law)

Therefore, employment established on the contract concluded on a fix-term basis with a pregnant woman or a woman using maternity leave, or if a woman becomes pregnant during being

employed on a fix-term basis, is terminated upon expiration of the period for which a fixed-term contract has been concluded, which means that termination of employment is not postponed.

**62. (Ref to Q. 179): Are there specific rules on burden of proof foreseen in the Draft Antidiscrimination Act?**

Draft Law on Prohibition of Discrimination in Title III prescribes judicial protection. Article 21 prescribes that every person who thinks that he or she has been harmed by discriminatory action has the right to protection before court, in accordance with the law.

Complaint may be filed for such purposes: to determine that a defendant has taken discriminatory actions against a plaintiff, to prohibit the performance of the action threatening to cause discrimination, to prohibit repetition of discriminatory action, to claim compensation for damages in accordance with the law, as well as to make public the judgement ascertaining discrimination at the expense of a defendant, if discrimination has been done through media.

In cases when complaint is used to determine that a defendant has taken discriminatory actions against a plaintiff or to prohibit the performance of the action threatening to cause discrimination, complaint is requested in addition to the claims for protection of rights on which it is decided in the civil action if these claims are interrelated. In these cases complaint may be filed independently only if an act or action of discrimination did not result in loss or violation of some right. Also it is prescribed that acts and actions of discriminations committed by officials in judicial proceeding may be indicated only in legal remedies. The complaint may be filed within 60 days from the day of finding out about the committed discrimination.

Concerning specific regulations on burden of proof, draft Law on Prohibition of Discrimination prescribes in Article 24 – burden of proof. Therefore, if a plaintiff makes probable that a defendant has committed an act of discrimination, the burden of proof that this act did not cause violation of equality in rights and before the law is transferred to a defendant. This concept of reversed burden of proof does not refer to misdemeanour and criminal proceedings.

As it is indicated in reply to question 179, specific procedural rules, depending on the matter being regulated, may be found in the Criminal Code and the Criminal Procedure Code.

**63. (Ref to Q. 182): Occupational social security schemes, according to Art. 2(1)(f) of Directive 2006/54/EC are "schemes whose purpose is to provide workers, whether employees or self-employed, in an undertaking or group of undertakings, area of economic activity, occupational sector or group of sectors with benefits intended to supplement the benefits provided by statutory social security schemes or to replace them, whether membership of such schemes is compulsory or optional". What are the legal provisions in place in Montenegro in that respect, if existing?**

The Labour Law of Montenegro does not recognise optional type of work without employment; therefore for the purpose of combating work in informal economy, since 2003 labour legislation of Montenegro regulates all forms of work engagement as employment. This means that all forms of work represent employment established by employment contract between an employee and an employer, on the grounds of which an employer is obliged to pay contributions for social security (pension insurance, health care and insurance against unemployment) and provide salary.

**64. (Ref to Q. 184): The answer refers only to pensions, what about other insurance products?**

The Law on Pension and Disability Insurance introduced as of 1 January 2004 a points-system for calculation of pensions. A points-system of pension calculation in combination with the increase in the number of years entering calculation from ten years to the entire working life ensures direct connection between the amount of wage of the insured i.e. the amount of paid contribution with the resulting pension.

Compared to the legal decisions which were applied until the end of 2003, the new formula establishes equal treatment of the insured, regardless of sex, so that each year of service is equally treated for both women and men.

## ***Annex***

### **1. Strategy for the Integration of Disadvantaged People in Montenegro / 2010 and 2011 Action Plan**



***Please double click to open the whole document***

### **2. Report on Implementation of the Action Plan for Implementation of the Strategy for the Integration of Disadvantaged People in Montenegro for 2009**



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