

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

19 Social policy and employment

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

Chapter 19: Social policy and employment

I. LABOUR LAW

A. The Legal and Institutional Framework

The legal framework

1. Does your labour law contain a definition of:

a) employed worker (employee)?

Under provisions of the Labour Law (Official Gazette of Montenegro 49/08) an employee is any natural person working for employer with rights and obligations arising from employment on the basis of the labour contract. Employee is obliged to: perform works for which he/she is engaged in a conscientious and responsible manner; observe the organisation of work and operations of employer as well as requirements and rules of employer regarding fulfilment of agreed and other obligations arising from employment; take care of and treat conscientiously the resources of work and material resources of employer; notify employer of significant circumstances that either have impact or might have impact on performance of works; notify employer of any type of potential threats to life and health of employees and occurrence of material damage; comply with the regulations on safety and health at work and cautiously perform work in a manner to protect his/her life and health and life and health of other persons; act in line with other obligations prescribed by the Code, collective agreement.

b) self-employed worker (self-employed person)?

Self-employed person performs any of independent activities, he/she does not have an employer which is why this concept is not prescribed by the Labour Law, however it is prescribed by several special regulations from the area of taxation, health and pension system as well as the Law on Contributions for Mandatory Social Insurance (Official Gazette of Montenegro 13/07 and 79/08). Special regulations prescribe how a self-employed person participates in formation of the gross revenue, pays charges to the state on the revenue that he/she generated and taxes and contributions for mandatory social insurance and in which time intervals.

c) civil servant/official?

Under provisions of the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08), civil servants and state employees are persons with university, college and high school degree who in the framework of their regular occupation perform works in public authorities that fall under the scope of competence of such authorities, i.e. they exercise public powers, including those who perform IT works, general and administrative works, planning, material-financial, accounting and similar works.

The range of public officials in Montenegro is prescribed by special regulations. The most important public officials are the President of Montenegro, Speaker, Deputy Speakers and Members of the Parliament of Montenegro, Prime Minister and members of the Government of Montenegro, President and judges of the Constitutional Court of Montenegro, Governor, Deputy Governor and Vice Governor of the Central Bank of Montenegro, Supreme Public Auditor and his/her deputies, Secretaries of the Parliament and the Government of Montenegro, Ministers and

Deputy Ministers, Secretaries of Ministries, civil servants, deputies and assistants in administrative organisations and fund (for privatisation, pension and disability insurance, health insurance), Chancellors and Vice Chancellors of the University of Montenegro and other public officials and civil servants appointed by the Government and the Parliament of Montenegro.

d) labour contract and status?

Employment starts with conclusion of the labour contract, whereas in public authorities and local government authorities it starts by issuance of a ruling on employment in the service.

The Labour Law prescribes basic contents of the labour contract as follows: title and head office of employer, employee's first and last name, place of permanent or temporary residence of the employee; unique citizen's number of the employee or personal identification number for a foreign citizen; type and level of the degree of vocational education of the employee, the education level and occupation; type and description of works to be performed by the employee; place of work; time period for which employment is concluded (fixed duration or open-ended); period of validity of the fixed duration labour contract; the beginning day of engagement; working time (full time, part time or reduced working time); the amount of base salary, the level of coefficient and elements for determination of work performance, compensation of salary, increased salary and other earnings of the employee; time limits for payment of the salary and other earnings to which employee is entitled; the manner of taking breaks during working time, daily or week leave, annual leave, holidays and other types of absence from work, in line with the Law and collective agreement.

Labour contract may also define other rights and obligations in line with the Law and collective agreement.

Relevant provisions of the Law and the collective agreement apply to those rights and obligations that are not defined by labour contract.

e) employer?

Definition of employer is prescribed by the Labour Law. Employer is a domestic or foreign, or branch of a foreign, legal person or natural person entering into labour contract with the employee.

Employer is required to: ensure that employee perform works pertaining to his/her position as defined in the labour contract; ensure working conditions for employee in line with the Law and other regulations and organise work for the purpose of safety and protection of life and health at work; pay out salary to the employee for the work performed in line with the Law, collective agreement and labour contract; notify employee of the working conditions, organisation of work, rules of employer regarding fulfilment of the agreed obligations at work and rights and obligations arising from the regulations on safety and protection of life and health at work; request opinion from the trade union or representatives of employees at the employer's where trade union has not been set up in cases prescribed by the Law; act in line with other obligations prescribed by the Law, collective agreement and labour contract; respect personality, protect privacy of employee and ensure protection of his/her personal data.

2. Does your labour law apply to other categories of employees, apart from persons in paid employment?

The Labour Law of Montenegro (Official Gazette of Montenegro 49/08) places each labour engagement within prescriptions of employment, except the engagement which is initiated by concluding the service agreement for performance of works outside activity of the employer which

is not of an employment nature. Provisions of the Labour Law, as a general regulation, also apply to relations that are not prescribed by special laws in certain areas from perspective of a special protection of an engaged person (practical training at the employer's, certain youth actions etc.).

3. Which categories of workers are not covered by the labour legislation? (e.g. part-time, fixed-term or temporary agency work)?

The Labour Law is applied according to the subsidiary principle to civil servants and state employees as well as to the employees in local government units for all the issues which have not been defined by the Law on Civil Servants and State Employees. Their labour and legal status is prescribed by a special law, the Law on Civil Servants and State Employees. The Labour Law prescribes institutes of concluding labour contract for part time work, fixed-duration labour contract as well as that on temporary and occasional works. All these types of work fall under the regime of employment and these employees are entitled to the same rights and obligations like employees employed under open-ended contracts in proportion to the time they spent at work.

4. Are workers in the public and private sectors treated differently?

The Labour Law does not envisage differences between employees in public and private sector, except for the employment of workers in public administration which is prescribed by a special law. Furthermore, 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.

5. Which aspects are covered by the Labour Code (i.e. primary legislation passed by Parliament) and which aspects are dealt with by ministerial regulatory action?

The Labour Law of Montenegro governs the following matters:

- basic provisions,
- requirements for conclusion of the labour contract,
- conclusion of labour contracts,
- types of labour contracts,
- announcement of open vacancies,
- education, vocational training and professional advancement,
- trainees,
- amendments to the agreed working conditions (annex),
- working time,
- holidays,
- absence from work,
- salaries, compensation of salary and other earnings,
- rights of employees in the event of the change of employer,
- termination of the need for the work of employees (redundancy),
- protection of women, youth and people with disability,
- protection of employees in the event of bankruptcy proceedings,
- protection of motherhood and rights of employees taking care of children,
- protection of employees at the employer's, before the competent court, competent inspectorate and alternative protection (before the mediator or reconciler),
- liability of employees for breaches of labour obligations,

- prohibition of competition,
- termination of employment,
- collective agreements,
- organisations of employees and employers,
- special types of labour contracts,
- monitoring,
- penal provisions,
- transitional and final provisions.

Regulations at the level of the ministry of labour govern the matters related to the following:

- registration of trade union organisations,
- registration of employers' organisations,
- setting up the Agency for Alternative Resolution of Industrial Disputes,
- issuance of labour card,
- registration of sectoral collective agreements,
- registration of organisations authorised to carry out safety at work,
- a set of other matters regarding exercise of the safety at work (11 rulebooks from this area have been adopted).

Specificities of employment in certain activities are prescribed by secondary legislation from within the scope of work of the line ministries.

6. What are the main sources of law: international, constitutional, legislation, regulation, collective agreements, custom/conventions, case law?

Main sources of labour law of the state of Montenegro are Constitution, ratified conventions of the International Labour Organization and other concluded and published international treaties, laws, Government decrees, rulebooks of the ministries, collective agreements, tripartite agreements that have been concluded, employers' rulebooks on the safety at work and labour contracts. Case law is not treated as the source of law, but the courts, in the process of making court decisions, are guided by the adopted positions of the courts of higher jurisdiction and the legal position of principle of the Supreme Court.

Basic sources of labour law in Montenegro are the Labour law and the general collective agreement which guarantee minimum legal protection to the employee. All employer's acts must be in conformity with them and if some provisions of the employer's collective agreement or another act of the employer prescribe working conditions which are less favourable than those prescribed by the Labour Law, the provisions of the Law shall apply.

7. Is there a hierarchy of norms in respect of these sources of law?

The hierarchy of sources of labour law is the following: Constitution of Montenegro, ratified conventions of the International Labour Organization and other international treaties, laws, General Collective Agreement, decrees of the Government of Montenegro, secondary legislation of the Ministry, sectoral collective agreements, employers' rulebooks for the area of safety at work and labour contracts.

8. Does the system provide for collective labour agreements to be extended to all workers in the sector and territory concerned (e.g. at regional or national level)?

If there is an interest of parties signatories to the collective agreement and on proposal of some of the parties signatories of the collective agreement, the application of that agreement may be extended to the parties which did not conclude it or who wish to accede it subsequently, with obtaining prior opinion of the trade union or workers' representatives to whom the collective agreement is being extended and it is done by amending it. On the basis of such agreement, the willingness of signatories of the collective agreement regarding its extended application to all employers and employees, especially with regard to the minimum pay, shall apply at all levels (national, within the branch of activity and at the level of employer).

9. At what levels are collective agreements generally concluded (national, industry-wide, company, plant)?

Under the Labour Law, collective agreement may be concluded as a: general, sectoral and employer's collective agreement.

General collective agreement is concluded for the territory of Montenegro (national level) and applies to all employees and employers, whereas sectoral collective agreements concluded for the branches of activity, groups or sub-groups of the activity apply to employees and employers in the branch, group or sub-group.

Employer's collective agreement applies to employees of that employer.

Rights and obligations arising from labour and on the basis of labour of persons who independently perform an artistic or other cultural activity are prescribed by the sectoral collective agreement.

10. Does your country's legal system apply a "concessionary" principle whereby a norm lower down the legal hierarchy may modify the content of a higher-ranking norm provided that the effect is favourable to workers?

The Labour Law of Montenegro defines mutual relation between the Law, collective agreement and labour contract in a way that collective agreement and labour contract may not contain provisions which grant fewer rights or prescribe working conditions that are less favourable than rights and requirements prescribed by the Law.

Collective agreement and labour contract may prescribe broader scope of rights and working conditions that are more favourable than rights and requirements prescribed by this Law.

If certain provisions of the collective agreement prescribe working conditions that are less favourable than conditions prescribed by the Law, provisions of the Law shall apply.

If certain provisions of the labour contract define working conditions that are less favourable than conditions prescribed by the Law and collective agreement they shall be considered null and void.

If the employer's collective agreement has not been concluded, the sectoral collective agreement for a specific activity shall apply and in the event of non-existence of a sectoral collective agreement the general collective agreement shall apply.

11. Which court or courts are competent to deal with industrial disputes?

The state of Montenegro does not have specialised labour courts. Basic courts decide in industrial disputes in the first instance, while high courts adjudicate in the second instance and the Supreme Court of Montenegro adjudicates in the last instance. Rights, obligations and responsibilities of civil servants and state employees in public administration and the local government are adjudicated in

an administrative act which is why protection of their rights is guaranteed before the Administrative Court of Montenegro.

12. Is there a labour inspectorate responsible for the monitoring of working conditions?

Within the Ministry of Labour and Social Welfare there is a labour inspectorate which monitors implementation of laws and other regulations governing employment relations, employment and safety at work. Conventions of the International Labour Organization number 81 and number 129 were ratified by our country.

13. Does your labour law contain provisions on the protection of workers' personal data?

Under the Labour Law of Montenegro (Official Gazette of Montenegro 49/08), personal data on employees may be collected, processed, used and delivered to other persons only if so prescribed by this Law or some other law or if so needed for the purpose of exercising rights and obligations arising from employment. Employer shall respect personality, protect privacy of employee and ensure protection of his/her personal data.

The institutional framework

14. In what way does the State intervene in social matters (e.g. procedure for drawing up norms; government institutions responsible; administrative institutions responsible for applying norms)?

The state of Montenegro guarantees in its Constitution the right to work and freedom of work, availability of every working position and responsibilities under equal conditions, right to a salary generated from work in the amount sufficient for free and dignified life and other fundamental rights arising from employment, including participation of employees in decision-making which is prescribed by the Law. The right of employees and members of their families to a social security and social insurance are prescribed by the Law and collective agreements, whereas rights pertaining to the baby delivery, motherhood and care for children are prescribed by the Law. Ratified conventions of the International Labour Organization and bilateral international treaties on social insurance constitute part of internal legal order and the take precedence over laws. The majority of draft laws, amendments to the laws are prepared by competent ministries and submitted to the Parliament by the Government. Under the Constitution of Montenegro, a Member of the Parliament is also entitled to propose the law, as well as six thousand voters through the Member of the Parliament in whom they vest the power.

The state intervenes in social matters in the following ways:

- by adoption of laws and other regulations in which it prescribes the minimum fundamental rights of employees, with the possibility to define these rights in more favourable terms for employees in other sources of law as well, furthermore it prescribes institutional framework for setting up and action of the trade unions and organisations of employers, conclusion of collective agreements, participation of employees in decision-making, strike, social partnership and the like, while in penal provisions it reinforces the obligation to comply with the law;
- by guaranteeing protection of rights before the court and monitoring the implementation of regulations by competent inspectorates, labour inspectorate, it ensures implementation of the conventions of International Labour Organization and other international treaties, laws

and other regulations, as well as autonomous sources of labour law;

- by negotiating with the trade unions in good faith and by conclusion of collective agreements it defines the working conditions in economy and beyond economy;
- by setting up and acting of public institutions such as: the Pension and Disability Fund of Montenegro, Health Insurance Fund of Montenegro, Employment Office of Montenegro in which employees exercise rights arising from the pension, disability and health insurance, as well as unemployment insurance. These types of insurance are mandatory for all employees, while all citizens of Montenegro exercise the majority of rights arising from health insurance.

B. Employment and Employment Protection

Recruitment

15. Are employers free to take on whatever workers they wish? Are there specific anti-discrimination provisions (racial ethnic origin, religion or belief, disability, age or sexual orientation)?

Under new labour legislation of Montenegro, employer does not have any restrictions in decision making during recruitment of a person needed for the operation process, but he/she is obliged to define in his/her act, prior to concluding the labour contract, the general and specific requirements to be met by a person becoming employed.

Exceptionally, under a special Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of Montenegro 49/08), an employer having from 20 to 50 employees is required to employ at least one person with disability, whereas the one having more than 50 employees is required to have the minimum of 5% of these persons compared to the total number of employees. Under provisions of the Labour Law (Official Gazette of Montenegro 49/08), direct and indirect discrimination of jobseekers and those already employed on grounds on sex, birth, language, race, religion, skin colour, age, pregnancy, health condition, i.e. disability, nationality, marital status, family obligations, sexual orientation, political or other belief, social background, possession of a property, membership in political and trade union organisations or some other personal attribute shall be prohibited.

Harassment and sexual harassment at work and in relation to work shall be prohibited.

Harassment, within the meaning of the Labour Law, is any unwanted conduct caused by some of the grounds referred to in this Law, including harassment via audio and video surveillance which aims at or represents breach of dignity of a jobseeker or employee and raises fear or creates hostile, humiliating or insulting environment.

Sexual harassment, within the meaning of this Law, is any unwanted verbal, non-verbal or physical conduct which aims at or represents breach of dignity of a jobseeker and employee in the sphere of sexual life, raises fear or creates hostile, humiliating, discomfoting, aggressive or insulting environment.

Employees may not suffer harmful consequences in the event of reporting or giving testimony on harassment and sexual harassment at work and in relation to work.

16. Does the State hold a monopoly over placement services for certain workers?

The state of Montenegro does not have such a monopoly. The Employment Office of Montenegro,

being a public institution in capacity of a legal person, keeps records on the unemployed, carries out preparation for employment and active employment policy, assists in finding the job in the country and abroad and ensures rights of these people during the period of unemployment. The mentioned activities, except for ensuring rights during the period of unemployment, may also be carried out by other legal and natural persons in the country provided that they have a permission of the ministry competent for labour affairs and that they meet staff, organisational and other requirements prescribed by secondary legislation of the minister competent for labour.

17. Has provision been made for protecting workers' private data?

Under the Labour Law (Official Gazette of Montenegro 49/08) and Law on Records in the Area of Labour (Official Gazette of the Republic of Montenegro 69/03), the employer is required to keep the records and maintain working file of the employee and therefore is obliged to respect personality, protect privacy of the employee and ensure protection of his/her personal data.

Please give details of the legislative or regulatory framework relating to the above three questions.

18. What legal forms are there governing employment relations (e.g. open-ended contracts; fixed-duration contracts; temporary work; part-time work; other forms)?

The Labour Law (Official Gazette of Montenegro 49/08) of the state of Montenegro prescribes that employment starts with conclusion of the labour contract. The labour contract is the expression of the agreed will between employer and employee and it is deemed concluded once both the employee and the employer have signed it.

The labour contract defines the following:

- open-ended work,
- fixed duration work,
- part-time work,
- work for performance of activities in the household,
- performance of works at home,
- performance of temporary and occasional works,
- additional work.

Employment of civil servants and state employees who perform works in public administration and local government units is prescribed by a special law, the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08) whereby employment of these employees starts with the issuance of a ruling.

19. Are these various relations subject to formal conditions (e.g. written contracts with certain compulsory clauses)?

The Labour Law (Official Gazette of Montenegro 49/08) prescribes that employment starts with conclusion of the labour contract and a special type of labour contract is concluded for each of the mentioned legal situations such as open-ended labour contract, fixed duration labour contract, part time labour contract, labour contract on working at home. The Labour Law defines the contents of

the labour contract which is mandatory, along with the statement that the labour contract may also define other rights and obligations in line with the Law and collective agreement.

20. Are employers required to provide their workers with information on their conditions of work? What kind of information has to be supplied? Does this also cover workers who are required to work in another country?

Under the Labour Law, the employer informs his/her employees and trade union organisation at least once a year on the following:

- results of operation;
- development plans and their impact on the position of employees, developments and changes in salary policy;
- measures for improvement of working conditions, safety and protection at work and other matters of relevance for financial and social position of employees.

Employer informs the trade union organisation on the following:

- measures of safety and protection at work;
- introduction of new technology and organisational changes;
- schedule of working time, night-time work and overtime work;
- adoption of the programmes on introduction of technological, economic and restructuring changes and programmes on the exercise of employees` rights whose work is no longer needed;
- time and manner of the payment of salaries.

Employer timely notifies and delivers acts to the trade union organisation with the purpose of attending the meetings of employer`s bodies at which initiatives and proposals put forward by the employer are subject to consideration. The representative of the trade union organisation is entitled to participate at the discussion before the competent employer`s bodies.

All provisions of the Labour Law also apply to employees who are required to work abroad by the employer headquartered in Montenegro, unless otherwise prescribed by a special law.

Employment protection

21. What legal provisions apply to the suspension of a labour contract for maternity and parental leave?

After expiry of the maternity leave one parent is entitled to take absence from work until the child is three years old. During the absence from work the employee is entitled to health and pension-disability insurance, while the other rights and obligations arising from labour and on the basis of labour shall be at a standstill. During absence from work for the purpose of exercising this right, employee is not entitled to the compensation of salary.

22. Does the legal system make provision for a system of compensation where a labour contract is suspended for economic reasons (e.g. supply difficulties)?

Under the Labour Law (Official Gazette of Montenegro 49/08), employer is required to make severance payment in the amount of minimum six average salaries in Montenegro to the employee

who has been made redundant whereby none of the rights envisaged in the programme on the exercise of rights of employees whose work is no longer needed have been ensured.

Employer is required to make the following severance payment to the employee with disability who has been made redundant whereby none of the rights envisaged in the programme on the exercise of rights have been ensured: in the amount of minimum 24 average salaries if the disability has been caused by injury outside the work or a disease; and in the amount of minimum 36 average salaries if the disability has been caused by occupational injury or occupational disease.

The salary that is taken for making the severance payment is the average salary in Montenegro, less taxes and contributions paid out from that salary which is generated in the month preceding the month in which employment of the employee has terminated.

The amount of severance payment for the employee with disability is determined on the basis of average income of employer if that is more favourable for him/her. Employee who has exercised the right to severance payment due to economic difficulties shall have his/her employment suspended, i.e. his/her labour contract terminated as on the day when the payment has been made.

23. Does the legal system include certain rights with regard to collective redundancies?

After the opinion has been obtained from the trade union, workers` representatives and Employment Office of Montenegro, employer is required to adopt the programme of measures for redundant employees which shall contain the following: the reasons for which the work of employees is no longer needed; criteria for identifying the employees whose work is no longer needed; total number of employees whose work is no longer needed; number, qualification structure of employees, age and insurance record of employees whose work is no longer needed and works they are performing;

Employment measures are the following: reallocation to the other positions with the same employer in line with the degree of vocational education of employee, with full or part-time working hours, reallocation to the other employer in line with the degree of vocational education of employee, with full or part-time working hours; vocational training, retraining or additional training for the work on the other position with the same or different employer and other measures in line with the collective agreement and labour contract.

Criteria related to adoption of the programme of measures for employment of redundant labour force may not be contradictory to the provisions of laws which prescribe prohibition of discrimination of employees and jobseekers.

The programme of measures for treatment of redundant employees is prepared by the competent body of employer or employer.

24. What is the definition of collective or economic redundancy/dismissal?

Under the Labour Law (Official Gazette of Montenegro 49/08), should the employer establish that due to technological, economic and restructuring changes in the period of 30 days the work of employees who are employed under open-ended contracts will no longer be needed, whereby the figure is minimum: 10 employees of the employer who has more than 20 and less than 100 employees under open-ended contracts; 10% of employees of the employer who has minimum 100 and maximum 300 employees under open-ended contracts; 30 employees of the employer who has more than 300 employees under open-ended contracts, he/she shall immediately notify in writing the trade union, workers` representatives and Employment Office of Montenegro thereof.

Notification, within the stated meaning, will be also delivered by employer who establishes that the work of minimum 20 employees will no longer be needed in the period of 90 days, irrespective of the total number of employees.

This notification contains the following: reasons why the work of the employees is no longer needed; number and category of employees who are employed under open-ended contracts; criteria for identifying the employees whose work is no longer needed; period in which measures for employment of redundant labour force will be applied and criteria for calculating the amount of severance payment.

Trade union, workers' representatives and Employment Office of Montenegro are required to submit their opinion on notification to the employer within eight days from the day of receipt of such notification.

25. Do workers' representatives have a right to be informed and consulted?

Should the employer establish that technological, economic and restructuring changes will cause termination of the need for work of employees who are employed under open-ended contracts he/she is required to submit written notification to the trade union, workers' representatives and Employment Office of Montenegro which should contain the following: reasons why the work of the employees is no longer needed; number and category of employees who are employed under open-ended contracts; criteria for identifying the employees whose work is no longer needed; period in which measures for employment of redundant labour force will be applied and criteria for calculating the amount of severance payment.

26. Who are the workers' representatives in such cases and in what way are they designated?

Trade union organisation may designate or select one representative of the trade union who will represent it. In the course of setting up, the trade union organisations adopt the statute which prescribes the method of selection of a trade union representative and his/her rights and obligations.

27. Under what conditions do they exercise these rights?

Conditions for the exercise of rights of a trade union representative are not prescribed, except for the obligation of the trade union organisation to notify employer about a designation of the trade union representative in order for the employer to be informed on an employee who has active legitimacy to represent that trade union organisation.

28. Do the public authorities have a role to play in the procedure (e.g. is there a requirement to give notice of planned redundancies to the public authorities to give them a certain time to seek solutions to the problems likely to be caused by such redundancy measures)?

Employer shall submit written notification to the Employment Office of Montenegro which delivers its opinion to the employer within eight days from the day of receipt of such notification.

29. Does the legal system include rights in respect of individual redundancy/dismissal?

Employment regulations do not prescribe difference in employees' rights depending on whether they are dismissed individually or as part of collective cutting down of labour force. Therefore, employees' rights are the same in the event of termination of labour contract individually and termination in collective dismissal. These are the right to the notice period and severance payment.

30. Does the system guarantee that labour contracts continue to apply where a firm changes hands?

New arrangement under the Labour Law (Official Gazette of Montenegro 49/08) prescribes that in the event of status change or change of hands, in line with the special law, the new employer takes over from the transferor the collective agreement and all labour contracts of employees which are effective as on the day of the change of hands.

Transferor is required to fully and accurately notify the new employer of the rights and obligations arising from collective agreement and labour contracts that are subject to transfer. This means that protection of employees includes provision of the same working conditions which they had with the transferor as defined in the collective agreement that is being transferred to the new employer.

31. What conditions apply in such cases?

Under provisions of the Labour Law, the transferor notifies in writing the employees whose labour contracts are being transferred about the transfer of the labour contract to the new employer.

If the employee refuses the transfer of the labour contract or fails to make his/her statement within five working days from the day of delivery of the notification, the transferor may terminate labour contract of the employee.

New employer applies collective agreement of the transferor for at least one year from the day of the change of hands, unless if prior to the expiration of that time limit the period for which collective agreement of the transferor was concluded expires and if new collective agreement is concluded with the new employer.

32. In such cases, does the system provide protection for dismissal? Are the transferor and the new employer required to inform and consult workers' representatives? Do these rights apply where the transferor is in the process of being declared bankrupt?

Protection from dismissal is guaranteed to the employee in these situations only if the employee timely makes his/her statement on accepting the transfer of the labour contract to another employer. In such cases employment continues in line with the Law, while dismissal by a new employer is governed by all legal provisions on reasons and procedure of dismissal as if the change of hands did not occur.

Under the Labour Law (Official Gazette of Montenegro 49/08), the transferor and the new employer shall prior to the change of hands notify the representative trade union at the employer's on the following: the date of the change of hands; reasons for the change of hands; legal, economic and social effects of the change of hands on the position of employees and measures for their mitigation.

Transferor and new employer shall prior to the change of hands and in cooperation with the representative trade union take measures aimed at mitigating socio-economic effects on the position of employees.

The mentioned rules do not apply if the former owner is in the bankruptcy proceedings.

For the first time in Montenegro the Labour Law defines protection of employees in the event of bankruptcy proceedings as a new institute which defines the right to the payment of outstanding claims by bankrupt employer to the employees who were employed on the day of initiation of the bankruptcy proceedings in the period in which rights provided by this Law are exercised.

Rights of employees in bankruptcy to claims are exercised on the basis of this Law, unless they have been paid out in line with the special Law on Business Organisations Insolvency (Official Gazette of Montenegro 62/08).

If the outstanding claims have been partially paid out in line with the special law, the employee is entitled to receive the difference up to the level of rights defined under this Law.

33. Does the legal system provide for unemployment benefit? Is such provision made in the labour law or in the social security law?

The right to unemployment insurance, that is the right to the cash benefit, is prescribed by the Employment Law (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07 and Official Gazette of Montenegro 21/08).

Under provisions of this law, the right to the cash benefit may be exercised by a beneficiary whose employment has been terminated without his/her request, consent or guilt within the meaning of the Labour Law (Official Gazette of Montenegro 49/08), if he/she was full time employed with one or more employers at least for 9 months without interruptions or for 12 months with interruptions over the last 18 months and if he/she gets registered with the Employment Office of Montenegro within 30 days from the day of termination of employment. Under the same conditions, the right to the cash benefit shall also be exercised by the beneficiary who ceased to operate entrepreneurial activity without his/her fault.

Article 54 of the Employment Law prescribes that right to the cash benefit pertains to an unemployed person for a period from 3 months to 12 months, proportionately to the time spent at work, with the exception that unemployed person having more than 25 years of insurance record has the right to the cash benefit until he/she becomes employed again, that is until some of the grounds for termination of the right to the cash benefit prescribed by the said law occur. During exercise of the right to the cash benefit, contributions for health and pension and disability insurance are paid for the unemployed person in line with the Law on Contributions for Mandatory Social Insurance (Official Gazette of Montenegro 13/07 and 79/08).

The unemployed person whom the Employment Office refers to the vocational training, retraining, additional training or specialisation and who does not receive cash benefit has the right to receive financial support during vocational advancement.

C. Conditions of Work and Pay

Conditions of work

34. What penalties can employers impose in cases of non-performance of work?

Under the Labour Law (Official Gazette of Montenegro 49/08), the employer may terminate the labour contract of the employee if there is a justified reason related to the working capacity of the employee, his/her conduct and needs of employer, that is if the employee refuses to work in the position in which he/she has been allocated or refuses to carry out working tasks contained in the labour contract. In such a case the employer shall prior to terminating the labour contract warn the employee in writing about the existence of reasons for termination of the labour contract and leave him/her the time limit of at least five working days from the day of delivery of warning to present opinion on the statements contained in the warning. Decision on termination of the labour contract shall be made by the competent body of employer or the employer issues a ruling. An employee who is dissatisfied with the ruling has the right to initiate dispute before the competent court in order to protect his/her rights within 15 days from the day of delivery of the ruling.

35. Does the legal system give workers certain basic rights, such as human dignity at work?

The Labour Law (Official Gazette of Montenegro 49/08) contains provisions on prohibition of harassment at work and in relation to work. Harassment, within the meaning of this law, is any unwanted conduct caused by either direct or indirect discrimination, as well as harassment via audio and video surveillance which aims at or represents breach of dignity of a jobseeker and employee and raises fear or creates hostile, humiliating or insulting environment.

Sexual harassment, within the meaning of this law, is any unwanted verbal, non-verbal or physical conduct which aims at or represents violation of dignity of a jobseeker and employee in the sphere of sexual life and raises fear or creates hostile, humiliating, discomforting, aggressive or insulting environment.

This Law also prescribes that employer is required to respect personality, protect privacy of employee and ensure protection of his/her personal data.

36. What is the minimum age for employment?

The minimum age for employment is 15 years.

37. From what age and under what conditions may children perform minor jobs?

Under the Labour Law (Official Gazette of Montenegro 49/08), a person younger than 15 years of age may not engage in employment.

38. What other steps have been taken to protect their physical and moral integrity?

Under the criminal legislation, the work of children below 15 years of age (due to the abuses of

various nature) is subject to sanctions.

39. Are there specific provisions concerning the number of hours that people of less than 18 years may work? If so, what do they specify?

Employees below 18 years of age may work full time for 40 hours per working week. The Labour Law (Official Gazette of Montenegro 49/08) also contains provisions on prohibition of overtime work and night time work of employees below 18 years of age, except in circumstances that result from *force majeure* when they are to prevent damage that might be caused to the employer.

40. Are there general arrangements concerning working time? What is the definition of working time? Are there specific rules for workers employed as seafarers, in the civil aviation or in the rail?

Full working time equals 40 hours per working week as it has been prescribed by the Labour Law (Official Gazette of Montenegro 49/08). Only exceptionally, if there has been an increase in the volume of work which may not be completed within the regular working time, may the working time of employee last longer than full working time (overtime work), but not longer than 10 hours per week and following written order issued by the employer.

Employee is required to work longer than full working time in the following cases:

- prevention of occurrence of direct threat to the safety and health of people or considerable material damage,
- natural disasters (earthquake, floods),
- fire, explosion, ionizing radiation,
- epidemics or diseases of considerable scope,
- pollution of water, foodstuffs,
- traffic accident or other type of accident,
- need to provide urgent medical intervention,
- need to carry out urgent veterinary intervention.

If overtime work has been introduced for one of the above listed reasons it may last until causes for which it has been introduced are eliminated.

Decision on the schedule of working time, rescheduling the working time, reduced working time and introduction of overtime work is made by the competent body of employer.

Rescheduling of working time may be carried out if so required by the nature of an activity, organisation of work, better utilisation of working resources, rational utilisation of working time and performance of certain works within prescribed time limits. This means that employers who are engaged in activities such as maritime transport, those working in civil aviation or in the rail have the possibility to define working time of their employees in the decision on rescheduling the working time in accordance with the cited quota, but they are obliged to ensure half an hour break for employees during daily work and at least 12 hours of continuous break between two consecutive working days.

Employer is required to schedule working time in a way that total working time of the employee on average does not exceed full working time at the annual level.

41. What is the maximum weekly working time?

Full working time in a working week equals 40 hours. As it has been explained in previous

response, only exceptionally may the working time be prolonged. The provision on duration of working time is defined in the labour contract with employer and may not be prescribed for the period longer than 40 hours per week.

42. What are the different ways of organising working time (e.g. annualisation; flexitime; overtime, etc.)?

The employee may conclude labour contract for full time or part time work. Reduced working time proportionate to the harmful effects exerted on health is introduced for jobs where it is impossible to protect the employee against harmful effects despite application of the safety at work measures, however it may not be shorter than 36 hours per week.

At request of the employer, the employee is required to work longer than full time (overtime work) in the event of urgent need, but not longer than 10 hours per week. The work longer than full time may not be imposed on the employee below 18 years of age and the same refers to a pregnant woman and woman who has a child below three years of age.

Full time and part time work may be scheduled in a way that working time lasts longer over one period of time and shorter than full time over another period of time provided that they do not exceed the average of full working time during the year.

43. What is the system of paid leave?

In each calendar year the employee is entitled to a minimum of 18 working days of annual leave as defined in the collective agreement and labour contract.

Employees below 18 years of age are entitled to a minimum of 24 working days of annual leave, employee with disability and employee with reduced working time due to engagement in considerably difficult, hard and harmful to health activities are entitled to a minimum of 30 working days of annual leave.

Employee is entitled to take absence from work and to receive the compensation of salary (paid leave); in the event of death of a member of close family he/she may take seven working days and in the event of getting married, baby delivery by a wife, serious illness of a member of close family, taking professional exam and in other cases he/she may take up to seven working days in line with the collective agreement.

44. What protection is there for night workers?

The work performed between 22:00 and 6:00 of the next day is considered a night time work.

Employee may not be engaged in night time work longer than one week.

Night work is prohibited to a woman employed in industry or civil construction, except if she is employed at the managing position or is engaged in health and social care, and also to the employee below 18 years of age.

Night time work represents a particular working condition and the employee working at night for at least three hours of his/her daily working time or works at night for one third of his/her annual working time is entitled to a special protection under regulations from the area of safety at work.

Employee working at night is entitled to an increased salary in line with collective agreement.

45. Do social partners have a role to play in implementing the various forms of organising working time?

The Labour Law (Official Gazette of Montenegro 49/08) prescribes that full time hours equal 40 hours per working week. The right of employees to rest during daily work (minimum 30 minute break), rest between two consecutive working days (12 hours) and a day of rest during a week (24 hours) is prescribed within the 40-hour work week, while restrictions are prescribed with regard to the night-time work, overtime work and work in rescheduled working time for protected categories of employees (employees below 18 years of age, women, pregnant women, parents of children below three years of age and single parent).

The role of social partners in the mentioned matters is of special importance in the procedure of adopting the Labour Law.

46. Does the system provide protection of workers with part-time or fixed-duration contracts and workers supplied by temporary employment agencies?

The Labour Law (Official Gazette of Montenegro 49/08) guarantees protection of employees with part time labour contracts, fixed duration contracts and persons engaged in temporary and occasional works. Therefore, the employee who entered into fixed duration labour contract, part time labour contract or that on temporary works has the same rights (in terms of protection as well), obligations and responsibilities at work like the employee who entered into open-ended labour contract proportionate to the time spent at work.

47. What protection is there in the event of major change in working conditions?

Major change in working conditions itself is not a justified reason for the termination of the labour contract. Employer is required to consult the trade union representatives on intention to introduce new technology as well as on changes in organisation and method of work. In the event of major changes in working conditions the employer shall ensure vocational training, additional training, retraining or professional advancement to the employee, but the employee shall also take part in these forms of training to work in new conditions in line with his/her capacities and needs of work. If the mentioned training was not possible the dismissal is allowed.

Pay

48. Is there a guaranteed minimum level of pay? Is this a statutory minimum or is it subject to collective agreement? How is pay determined? What are the relevant criteria?

Provisions of Articles 80 and 81 of the new Labour Law (Official Gazette of Montenegro 49/08) which has been in force since 2008 prescribe that employee shall have the right to the minimum pay for the standard performance and full working time or working time that equals full working time in conformity with the Law, collective agreement and labour contract.

The Labour Law provides the conception grounds of the notion of minimum pay, while the manner and procedure of its determination are prescribed by the general collective agreement.

The following is to be taken into consideration when determining the minimum pay: costs of living, developments in the average salary in Montenegro, existential and social needs of employees and their family, unemployment rates, unemployment developments in the labour market, productivity of work, profit rates in economy and general level of economic development in Montenegro.

The minimum pay is determined according to a working hour and it may not go below the minimum pay for the period preceding the period for which the pay is being determined.

The minimum pay according to economic circumstances in a specific branch of activity or at the employer's level may be determined in the higher amount than the amount prescribed by the general collective agreement.

49. In what way is the payment of wages and salaries guaranteed?

The Labour Law (Official Gazette of Montenegro 49/08) prescribes that the salary is paid out to the employee in time limits and in a manner prescribed by the collective agreement and labour contract at least once a month.

Regulations from the area of employment do not prohibit payment of daily and weekly salaries, but as a result of the lack of such tradition the payment of salaries in these time frames is not customary.

Employer presents accrual of the salary in gross amount from which the employee is to see all elements of the salary as follows: the period for which the salary is paid, contributions for social insurance, taxes payable from the salary and deductions from salary if they exist. Accrual of the salary is delivered to the employee during each payment.

Employer who failed to pay the salary on the due date or does not pay it in its entirety shall by the end of the month in which the payment is due deliver to the employee the accrual of the salary that he/she was to pay and such accrual has effect of a valid document in the event of the protection of rights before the competent court on grounds of unpaid salary.

50. Do workers enjoy a general privilege over the employers' goods and assets for payment of wages and salaries?

Decision on payment operations in the country (Official Gazette of the Republic of Montenegro 78/04, 6/05, 33/05) (Article 16) which is adopted by the Central Bank of Montenegro does not envisage a privilege during payment of salaries with regard to the other claims from employer, instead the orders for payment of claims are enforced according to the due date and chronology of receipt.

The Law on Business Organisations Insolvency (Official Gazette of Montenegro 62/08) (Article 86) prescribes that the claims regarding the unpaid gross salaries prior to filing the petition for bankruptcy (with the limitation of EUR 10 000 per employee) are placed in the class of priority claims for settlement from assets of the employer that is in bankruptcy proceedings.

51. Are there additional guarantees where the employer is insolvent? More particularly, does the system provide for the creation of special guarantee institutions to protect the claims of workers owed money because of the employers' insolvency? How do such institutions work and how are they managed?

Provisions of Article 97 through 101 of the Labour Law (Official Gazette of Montenegro 49/08) prescribe a new institute for protection of the employees and protection of persons who become jobless by *operation of law* as a result of initiation of the bankruptcy proceedings and have not enjoyed an adequate protection prior to adoption of this law. Therefore, the Labour Fund under Article 38 of the Employment Law (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07 and Official Gazette of Montenegro 21/08) for both, persons who become redundant and persons from the bankruptcy proceedings will have the nature of a guarantee institution that provides payment of claims towards the employee who was employed with the employer on the day of initiation of the bankruptcy proceedings as well as towards the person who was employed in the period for which the rights prescribed by law are exercised. It further means that in the event of initiation of bankruptcy proceedings the outstanding claims for work which have not been paid out under the Law on Business Organisations Insolvency (Official Gazette of Montenegro 62/08), whereby as a rule they are paid out from the bankruptcy estate are to be paid through the Labour Fund.

Having in mind the mentioned provisions and the fact that setting up the Labour Fund as a guarantee institution is the obligation arising from EU Council Directive 80/987/EEC relating to the protection of employees in the event of insolvency of their employer with amendments contained in EU Directive 2002/74/EC, the Government of Montenegro is taking actions to set up this institution so as to protect personal and unalienable rights of the employee related to the liabilities arising from outstanding claims from work. In connection with that, the draft version of the Law on Labour Fund has been prepared, whose adoption is expected in the beginning of 2010.

52. Are there schemes for worker participation in profits, shareholding, etc.?

The Laws do not prescribe either employees' share in the profit or *employees stock ownership*. There is no such an institute in our system. Employees are treated the same as all citizens and they are entitled to the same rights and obligations like all citizens and legal person in this regard, in line with the Securities Law (Official Gazette of the Republic of Montenegro 59/00, 10/01, 43/05, 28/06 and Official Gazette of Montenegro 53/09) and Business Organisations Law (Official Gazette of the Republic of Montenegro 6/02 and Official Gazette of Montenegro 17/07 i 80/08). Some countries introduced such institute at an early stage of ownership and management transformation of public property as an institute of labour solidarity (*employees stock ownership*), but not Montenegro.

Posting of workers

53. Are there any rules concerning workers posted in your country by their undertaking established in an EU Member State?

The Law on Employment and Work of Foreigners from 2008 (Official Gazette of Montenegro 22/08) prescribes conditions for a more flexible access of foreigners to the labour market in Montenegro.

Foreign undertaking which registered its organisational unit in Montenegro may temporarily post its employee to work in that organisational unit provided that the foreigner has been employed in that undertaking for at least one year.

Within the meaning of this law, the foreigners who may be posted are: chiefs, managers and specialists.

Work permit of the posted foreigner is issued for a one year period at the request of that organisational unit registered in Montenegro.

Exceptionally from prescribed rules, if the activities performed by the foreigner who has been sent may not be completed during the period for which the permit has been issued, the work permit may be extended for up to maximum two years.

Information and consultation of workers' representatives

54. Are there any rules concerning information and consultation of workers at undertaking or establishment level?

Under the Labour Law (Official Gazette of Montenegro 49/08), the employer is required to at least once a year inform the trade union organisation on the following: the results of operations; development plans and their impact on the position of employees, development and changes in salary policy and measures for improvement of the working conditions, safety and protection at work and other matters relevant for financial and social position of employees. Employer notifies the trade union on the following: safety and protection at work measures; introduction of new technology and organisational changes; schedule of working time, night-time work and overtime work; adoption of the programmes on introduction of technological, economic and restructuring changes and programmes, time and manner of salary payment.

Employer is required to timely notify and deliver acts to the trade union organisation for the purpose of attending the meetings of employer`s bodies at which initiatives and proposals put forward by employer are subject to consideration.

General collective agreement prescribes that employer should deliver invitations with materials to the trade union in order for the representatives of the trade union to attend meetings of relevant authorities or bodies at which its opinions, proposals, initiatives and requests are subject to consideration.

Employer delivers to the trade union representatives the information, newsletters and other data relevant for the work of trade union that is, for the exercise of the rights of employees and ensures that notice of the trade union is posted in the premises of employer which are designated for such purpose.

55. Are there any rules concerning information and consultation of workers at transnational level?

Convention no. 87 on trade union freedoms and protection of the trade union rights prescribes that trade union organisations may form associations at the national and international level. The Constitution of Montenegro prescribes that the ratified and published international treaties and generally accepted rules of international law constitute integral part of internal legal order, that they take precedence over the national legislation and that they are directly applied when they govern relations differently from domestic legislation. Since this matter is not prescribed by the national legislation the Convention mentioned above which is ratified by Montenegro and represents part of the legal order of Montenegro is directly applied.

D. Industrial Disputes

56. Is there a special court to deal with disputes under collective agreements?

No. There are no courts specialised in industrial disputes in the legal system of the state of Montenegro, instead industrial disputes are within the competence of regular courts. Basic courts adjudicate in the first instance, high courts in the second instance and the Supreme Court of Montenegro in the third instance. Rights, obligations and responsibilities of civil servants and state employees (employed in public administration and local government units) are adjudicated by an administrative act which is why judicial protection of rights of these employees is guaranteed before the Administrative Court of Montenegro. Accordingly, disputes arising from the application of the collective agreements are resolved before regular courts.

57. Is there a right to strike?

The right to strike is guaranteed by the Constitution of the state of Montenegro. Strike as a suspension of work organised by employees for the purpose of protecting their professional and economic interests is defined in the Strike Law (Official Gazette of the Republic of Montenegro 43/03, 61/04, 71/05 and Official Gazette of Montenegro 16/07 i 49/08). Organisation of strike and participation in strike under conditions prescribed by the Strike Law does not constitute violation of work obligation, it may not form grounds for instituting the proceedings on establishing disciplinary or material liability of the employee, removal of employee from work neither may it result in termination of employment of the employee.

58. How is the right to strike regulated?

The right to strike is regulated by the Strike Law (Official Gazette of the Republic of Montenegro 43/03, 61/04, 71/05 and Official Gazette of Montenegro 16/07 and 49/08). The strike may be organised in legal person, its branch and at the entrepreneur's or in the branch of activity or as a general strike. The strike may also be organised as a warning strike which may last one hour maximum. Decision on going on strike at the employer's is made by the competent body of the authorised trade union organisation or more than a half of employees of employer or its branch. Decision on going on strike in the branch of activity, that is decision on general strike and warning strike is made by a competent body of the authorised trade union organisation in Montenegro.

Decision on going on strike defines the following: employees' requirements, the beginning of strike, place of holding and the manner of conducting the strike and the strike committee that represents the interests of employees and conducts strike on their behalf. The strike committee is required to announce the strike by delivery of written decision on going on strike to the employer at least five days before the day set for the beginning of strike and 24 hours prior to the beginning of warning strike.

If the strike is manifested by gathering of employees, the place of gathering may not be the one outside business-operational premises or outside the range of business area of employees going on strike.

59. What restrictions are there on the right to strike in the private and public sectors?

The right to strike is a general right of all the employees in Montenegro, but restrictions to the right to strike in the Army of Montenegro, police and employees in public administration must be complied with. The Constitution of Montenegro, in Article 66, Paragraph 2 prescribes the following: "The right to strike may be restricted for the persons employed in the Army, the Police, public authorities and public service in order to protect public interest, in accordance with the law." Article 51 of the Law on Army of Montenegro (*lex specialis*) prescribes: "Persons employed in the army shall be prohibited to engage in trade union and political organisation and they shall not have the right to go on strike."

This restriction is defined in provisions of the Law on Amendments to the Law on Strike and it reads: "For the purpose of protecting the public interest, employees in the Army of Montenegro, police and public bodies may not organise strike if that would threaten general interests of citizens, national security, safety of persons and property and functioning of authorities."

Additionally, if the strike is organised in the activities of public interest there is a prescribed obligation of the strike participants to comply with the Decision on minimum work process while the strike is ongoing.

Activities of public interest are those of particular relevance for the defence and security of Montenegro, then works needed for fulfilment of obligations defined in international treaties and activities, whose suspension might, due to the nature of work in line with the special law, threaten the life and health of people or cause damage of large proportions.

In establishing the minimum work process the founder or employer is required to obtain an opinion from the authorised trade union organisation or from more than a half of employees in order to reach an agreement.

If the act on minimum work process and the manner of its provision is not passed in the agreement as described, the minimum work process and the manner of its provision will be established in the act of the founder or director or executive director of employer.

Employees who are obliged to work during the strike in order to ensure minimum work process are designated by the director or executive director and the strike committee at the latest five days before the beginning of strike.

60. Are lockouts allowed?

Lockout for participating in strike is not allowed in Montenegro, lockout is only allowed in line with the Labour Law (Official Gazette of Montenegro 49/08).

61. How are lockouts regulated?

Lockout for participating in strike is not allowed and therefore is not defined in regulations of the state of Montenegro.

62. Are there special methods for dealing with industrial disputes, e.g. conciliation, mediation and arbitration?

The Law on Alternative Resolution of Industrial Disputes (Official Gazette of Montenegro 16/07) prescribes the manner and procedure for alternative resolution of collective and individual industrial disputes and appointment of conciliators and mediators.

The Government of Montenegro passed the Decision on setting up the Agency for Alternative Resolution of Industrial Disputes (Official Gazette of Montenegro 69/08).

In line with the Decision, the setting up of the Agency for Alternative Resolution of Industrial Disputes is in the progress and its competence includes the appointment of conciliators and arbitrators and performance of all professional works related to the alternative resolution of industrial disputes.

II. HEALTH AND SAFETY AT WORK

A. General

63. Please give a general overview on the national policies and strategies and legislation in the field of health and safety at work.

The Constitution of Montenegro prescribes that "Employees are entitled to safety at work".

In Montenegro, in the area of safety at work the following is applied: Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04), as an umbrella law for this area, and ratified conventions of the International Labour Organisation.

Apart from the Safety at Work Law, secondary legislation adopted on the basis of the Law, as well as other technical regulations and standards, are also applied.

The existing Safety at Work Law does not contain a legal basis for the process of harmonisation and implementation with the European Union *acquis*, so adoption of the Law on Amendments to the Safety at Work Law is planned by the end of 2009.

The Law on Amendments to the Safety at Work Law is intended to create the legal basis for the Ministry of Labour and Social Welfare of Montenegro to harmonise the national legislation with the EU legislation and thus transpose the directives from the area of safety at work by adopting secondary legislation.

Monitoring the situation in the area of safety at work, which is carried out by the Inspectorate for Safety at Work, will also be defined.

In accordance with recommendations of the International Labour Organisation, for some offences, a possibility for imposing mandatory fines on the spot by the Inspector for Safety at Work shall also be provided for in the planned Law on Amendments to the Safety at Work Law.

According to the Work Programme of the Government of Montenegro, the Strategy for Improving Health and Safety at Work in Montenegro is planned to be adopted in 2010.

B. By Community Directives

64. Framework Directive (89/391/EEC)

a) Does your country have similar legislation in the field covered by the Framework Directive?

The Safety at Work Law is harmonised with the Framework Directive 89/391/EEC.

b) If several legislative acts exist in this area, could you describe how they are coordinated and how they supplement each other?

Apart from the Safety at Work Law there is also secondary legislation which regulates the matter from the Directive in more detail.

The secondary legislation, presenting supporting regulations to the Safety at Work Law, includes:

- Rulebook on the manner and procedure of risk assessment at the workplace (Official Gazette of the Republic of Montenegro 43/07);
- Rulebook on the manner and procedure of training the employees for safe work (Official Gazette of the Republic of Montenegro 57/06);
- Rulebook on the procedure and deadlines for carrying out periodical inspections and control of the means for work, means and equipment for personal safety at work, and work conditions (Official Gazette of the Republic of Montenegro 71/05);
- Rulebook on taking professional exam for persons dealing with tasks of safety at work (Official Gazette of the Republic of Montenegro 67/05);
- 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);
- Rulebook on keeping records from the area of safety at work (Official Gazette of the Republic of Montenegro 67/05);
- 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);
- Rulebook on safety at work issues which need be regulated by employment contracts (Official Gazette of the Republic of Montenegro 67/05);
- Rulebook on contents of studies on organisation of construction sites (Official Gazette of the Republic of Montenegro 4/99);
- Rulebook on contents and manner of issuing reports on injuries at work (Official Gazette of the Republic of Montenegro 18/93);
- Rulebook on safety at work measures and norms concerning noise at working premises (Official Gazette of the Socialist Federal Republic of Yugoslavia 21/92);
- Rulebook on technical regulations for cranes (Official Gazette of the Socialist Federal Republic of Yugoslavia 65/91);
- Rulebook on measures and norms concerning safety at work with work tools (Official Gazette of the Socialist Federal Republic of Yugoslavia 18/91);
- Rulebook on special safety measures at work on railways (Official Gazette of the Socialist Republic of Montenegro 11/88);
- Rulebook on safety at work during loading and unloading (Official Gazette of the Socialist Republic of Montenegro 13/88);
- 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);
- 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);
- Rulebook on special safety measures for work in ferrous metallurgy (Official Gazette of the Socialist Republic of Montenegro 16/87);
- Rulebook on special safety measures at work in production and processing of coloured metals (Official Gazette of the Socialist Republic of Montenegro 31/86);
- Rulebook on special safety measures at work in forestry (Official Gazette of the Socialist Republic of Montenegro 16/86);
- 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);

- 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);
- 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);
- 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);
- 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);
- 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);
- Rulebook on means for personal safety at work and personal protective equipment (Official Gazette of the Socialist Federal Republic of Yugoslavia 35/69);
- 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;
- Rulebook on special safety at work measures in agriculture (Official Gazette of the Socialist Federal Republic of Yugoslavia 34/68);
- 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);
- Rulebook on safety at work measures during handling of explosives and mining in the mining industry (Official Gazette of the Republic of Montenegro 9/68 and 35/72);
- 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);
- 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);
- Instruction on the manner of control of the implementation of safety at work regulations in the internal affairs bodies and institutions (Official Gazette of the Socialist Federal Republic of Yugoslavia 66/65);
- 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);
- 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);
- 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);
- Rulebook on hygienic and technical safety measures for work in diving operations (Official Gazette of the Federal People's Republic of Yugoslavia 36/58);
- 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 - Supplement No. 9);

- 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);
- General Rulebook on hygiene and technical safety at work measures (Official Gazette of the Federal People's Republic of Yugoslavia 56/47);
- Rulebook on hygienic and technical safety measures for work in graphic companies (Official Gazette of the Federal People's Republic of Yugoslavia 56/47);
- 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).

c) Is your legislation applicable to both the public and private sectors?

The Safety at Work Law equally refers to public and private sector. Provisions of the Law apply to all employees who work in the territory of Montenegro with national and international legal and natural persons, government authorities i.e. local self-government units, 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 the present Law, and 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 established by a special law.

d) How has national law taken up the principle of the employer's objective responsibility (Article 5)? Specifically, is it expressly stated that the workers' obligations do not affect the employer's responsibility? Are cases of force majeure provided for?

According to provisions of the Safety at Work Law, the employer is responsible for organisation and implementation of safety at work measures in all situations. Responsibility of employer is presumed in cases of lethal injuries at work, collective injuries at work, and severe injuries at work, as well as in the case of a dangerous occurrence that can jeopardize safety and health of employees. The employer can be acquitted only if it is proved that the incident occurred due to a fault of an employee, another person, or force majeure.

e) Are the obligations of employers laid down in the Framework Directive provided for in the national law? As regards workers, does the national law address workers' responsibility for occupational health and safety issues and if so, which are their obligations?

Obligations of employers laid down in the Framework Directive are provided for in provisions of the Safety at Work Law, in the section titled "Rights, Obligations and Responsibilities of Employer".

Employees can be brought to disciplinary and material responsibility in case of failing to observe defined safety at work measures and non-performing their duties related to safety at work provided for by this Law, Collective Agreement and Employer's General Act.

Employees have the right and obligation to learn about safety at work measures before starting to work at the workplace to which they are allocated, and to undertake training for their implementation.

Employees have the right and obligation to give proposals, suggestions and information to employers on the matters related to safety at work.

Employees who perform jobs with increased risk have the right and obligation to undertake medical examination which they are referred to by the employer in accordance with specific regulations on

healthcare.

The employee is obliged to:

- apply the prescribed safety at work measures while working, use purposefully means of work and personal safety at work means and equipment, cooperate with the employer and professional person in charge of safety at work to enable the implementation of the safety at work measures within activities he/she performs;
- 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 intervention of the Labour Inspectorate (Safety at Work Inspectorate) and inform thereof the professional person responsible for safety at work.

Employees must not start and perform work under the influence of alcohol or other addictive substances.

Employees are obliged to be subjected to control whether they are under the influence of alcohol or other addictive substances in the events and in the way defined by the Employer's Act, in accordance with regulations on traffic safety.

f) How does national law provide for taking into account the general principles of prevention that employers must apply when taking measures to protect the health and safety of workers (Article 6)?

Principles from the Article 6 of the Framework Directive 89/391/EEC assumed by the Safety at Work Law prescribe that: "Safety at work shall be ensured by applying modern technical, health (medical), ergonomic, social, organisational and other safety at work measures and means, by eliminating risks of injuries and damages to health or bringing them down to a prescribed extent in actions." Preventive measures are those measures undertaken or planned at all levels of work with the employer, with a view to prevention of injuries or damages to health and they are prescribed in more detail in the secondary legislation from the area of safety at work and other regulations.

g) Does national law provide for the assessment of risks to be set out in written form (Article 9)? Does national law provide for this document to be available to workers, their representatives and labour inspectors? How is this requirement included in national law and implemented in the undertaking?

Based upon organisation of work, work process, means for work, raw materials, and materials used in technological and work processes, and other elements which may cause a risk from occupational injury, damage to health or disease of an employee, the employer is obliged to prepare an Act on assessment of risk for all workplaces in accordance with the law, whereas the manner and procedure of assessment of risk at the workplace with the employer, together with the measures to prevent, eliminate or minimise the risks are provided for in the Rulebook on manner and procedure of assessment of risk at the workplace.

The employer is obliged to inform the employees or their representatives on the following:

- safety and health risks and protection and preventive measures and activities in relation to any workplace or job;

- first-aid measures in case of occupational injury, protection from fires and procedure of evacuation of employees in case of serious and imminent hazards, and on persons who are in charge of implementing such measures;
- rights in the field of occupational medicine, hygiene and ergonomics;
- health hazards at work;
- plans, measures and decisions that could have a harmful impact on the health of employees due to air pollution, noise, or vibrations at the work place.

The employer is obliged to adequately inform the employer whose employees he/she hired to work for him/her, on any grounds, about above-mentioned issues.

The employer is obliged to inform representatives of employees on the rights and obligations related to safety at work and thus enable them to have:

- insight into the list of occupational accidents which may occur if an employee is unable to work for longer than three working days;
- insight into reports on occupational accidents of his/her employees;
- access to assessment of safety at work hazards, including the hazards faced by groups of employees exposed to special risks, as well as on the decisions related to protection measures which need to be undertaken;
- access to decisions which resulted from protection and preventive measures of inspection and other bodies responsible for safety at work.

Monitoring of implementation of the Safety at Work Law, regulations adopted on the basis of the Law and technical and other measures relating to safety at work is carried out by the Ministry of Labour and Social Welfare, through Inspectorate for Safety at Work, if the law does not prescribe that other bodies are in charge of monitoring of implementation of these regulations in certain work activities, in case of which the inspectors for safety at work during the monitoring compare the real situation in the field of safety at work with employer with the assessment of risk from the Act on assessment of risk at work places. If they find that the assessment does not include all hazards and harms that employees are exposed to, the inspection has the right to order the employer to amend the Act on assessment of risks.

h) Article 9 states that the employer must keep a list of occupational accidents resulting in a worker being unfit for work for more than three working days and draw up reports on occupational accidents suffered by his workers.

The law prescribes that an employer is obliged to keep prescribed records on: injuries at work, work-related diseases and occupational diseases.

An employer is obliged to insure employees against injuries at work, occupational diseases and work-related diseases.

The premiums for the insurance are borne by the employer and they are determined depending on the level of risk from injuries or work-related diseases.

Conditions and procedures of insuring the employees against injuries at work, occupational diseases and work-related diseases are prescribed by a separate law.

The Rulebook on contents and manner of issuing reports on injuries at work prescribes that a report on occupational injury is issued by the company to the injured worker i.e. health institution where the injured worker has been examined within 24 hours from becoming aware of the injury. The report on occupational injury is issued in four copies. The report on occupational injury containing the data prescribed by this company Rulebook is submitted, within three days, to the Health Insurance Fund at which the worker exercises the rights defined by regulations on health insurance.

The Health Insurance Fund keeps two copies of report on occupational injury for its own purposes, and other copies are submitted to the company. The company submits one copy to the worker i.e. the injured worker's family.

The prescribed form for reporting the occupational injury is given in the appendix.

REPORT ON OCCUPATIONAL INJURY

HEALTH INSURANCE FUND

I DATA ON COMPANY

Questions		Answers	
1.	Person obliged to submit report (company or employer)	Full name of the company (for the employer name and surname)	
2.		Reg. No. of the contribution payer	
3.		Code of activity	
4.		Full address of the company (place, street and number, municipality, republic)	
II DATA ON INJURED PERSON			
5.	Name and surname of the worker		
6.	Unique Citizen Registration Number		
7.	Sex (male – female)		
8.	Date, month and year of birth		
9.		Street and number	
		Place, municipality	
		Republic	
10.		Place	
		Municipality	
		Republic	
11.	Occupation		
12.	Professional qualification		
13.	Professional education		
14.	Professional qualification necessary for performing the job at which the worker was		

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	injured	
III DATA ON JOB, TIME AND PLACE OF THE OCCUPATIONAL INJURY		
15.	Job assigned to the worker	
16.	Job that the worker was carrying out at the moment when occupational injury occurred	
17.	Years of service of the worker at job at which he was injured	
18.	Overall years of service of the worker calculated for pension	
19.	Did the worker already suffer an occupational injury and how many times	
20.	Did the worker already suffer an occupational injury and how many times	
21.	When did the accident happen	Date, month, year
22.		Day of the week
23.		Time during the day - hour (0-24)
24.		Working hour from start of work
25.		Name of the place, including the address, where the injury occurred
26.		Municipality
27.		Republic
28.		At his work place
29.		At another work place
30.		On the regular way from home to the place of work
31.		On the regular way from place of work to home
32.		On business trip
33.		Other
IV DATA ON OCCUPATIONAL INJURY AND MEASURES OF PROTECTION AT WORK		
34.	Total number of workers injured at work (incl. the injured person)	
35.	Total number of workers who died at the place of accident, or on the way to the health	

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	institution	
36.	Did a similar injury happen earlier at the same job – tasks	
37.	Source of the injury – material cause (international code)	
38.	Cause of the injury – manner in which the injury was suffered (international code)	
39.	A brief description of how the injury occurred	
40.	Did the worker work at the work place where special conditions of work are applied at the moment of the injury	
41.	Was the worker fulfilling all conditions for work at the work places where special conditions of work are applied	
42.	Was the worker subjected to previous and periodical medical examination	
43.	Was the worker trained for safe performance of the job at which an injury occurred	
44.	Was wearing personal protective equipment obligatory at the job at which the injury occurred	
45.	Was the personal protective equipment provided to the worker and did he/she use it	
46.	List the safety at work measures which were implemented at jobs at which the injury occurred	
V DATA ON THE EYEWITNESS		
47.	Name and surname	
48.	Full address of place of residence	
VI DATA ON DIRECTLY RESPONSIBLE WORKER		
49.	Name and surname	
50.	Full address of place of residence	
51.	Jobs and tasks the worker performs	

Date _____

Place _____

No. _____ in the company register

on injuries at work

of reports

Stamp Here

Signature of the responsible person

VII. REPORT OF THE PHYSICIAN WHO FIRST EXAMINED THE INJURED PERSON

52.	Name and address of the health institution where the injured worker was examined	
53.	Name and surname of the physician who examined the worker	
54.	Nature and localization of the injury - diagnosis	
55.	Outside cause of the injury per classification	
56.	Is the injury lethal (in the place of injury, or on the way towards the health institution)	
57.	Assessment of severity of the injury (minor – severe)	
58.	Did the injured person already have physical or mental handicaps and if so which ones	
59.	Other remarks of the physician (was the injured worker under influence of alcohol etc.)	

Date _____

Physician's signature

Place _____

Number of physician's journal _____ Stamp

Number in the book of records _____ Here

Health institution _____

According to the Safety at Work Law, the Health Insurance Fund and the Pension and Disability Fund are obliged to submit to the Ministry of Labour and Social Welfare all data on injuries at work, occupational diseases, work-related diseases and work-disabled persons, upon request and monthly, and for every calendar year, at the latest by 31 of January of the following year.

i) Are these obligations included in national law?

In accordance with the law, the employer is obliged to report in writing immediately, and within 24 hours from the incident at the latest, any lethal occupational injury, collective occupational injury, and severe occupational injury, as well as any other dangerous occurrence which could jeopardize safety and health of employees to the Labour Inspectorate (Safety at Work Inspectorate).

ii) With a view to the requirements put forward in EC Regulation 1338/2008 of 16 December 2008 on Community statistics on public health and safety at work, please answer the following questions:

(1) Have the following data been partially or completely gathered? Employer's economic activity; job, age and sex of the victim; type of injury and body part injured; geographic location, date and time of the accident.

Data on company: employer's economic activity is not gathered.

Data on employee: job, age and sex of the injured person are fully gathered.

Data on occupational injury: type of injury and body part injured, geographic location, date and time of accident are fully gathered.

(2) Have the following data been partially or completely gathered? Size of the undertaking; nationality of the victim; victim's employment situation; consequences of the accident – number of days lost, permanent incapacity or death resulting from the accident.

Data on company: size of the undertaking is not gathered.

Data on the employee: nationality of the victim is not gathered.

Data on the employee: data on injured person's employment situation are fully gathered.

Data on consequences of the accident: number of days lost, permanent incapacity or death resulting from the accident are not gathered.

(3) When a work-related accident occurs, are extra data collected on the causes and circumstances of the accident, such as: Type of place (e.g. building, field, road), type of work (e.g. maintenance), specific physical activity (e.g. repairing or transporting a tool), tools used for the specific activity (e.g. pliers, wheelbarrow), anomaly (e.g. broken fastener, tyre puncture, sideslipping), cause of the anomaly (e.g. grease, carpet in poor condition), contact – the way the injury occurred and what produced it (e.g. being burnt by acid, having a leg cut by a cable)?

When making investigation in cases of lethal, severe or collective occupational injury, the inspector for safety at work gathers the necessary data, and makes a log i.e. report on it. The mentioned log i.e. report is, upon request from judicial authorities, delivered to the relevant court for the purpose of further legal proceeding.

Data on job, time and place of occupational injury: additional data on cause of the accident and circumstances in which the accident occurred are gathered.

(4) Is there a list of officially recognised occupational diseases? (There is a European schedule of occupational diseases on this matter: Commission Recommendation of 19 September 2003 (2003/670/EC)).

The Rulebook on determining occupational diseases (Official Gazette of the Republic of Montenegro 66/04) establishes a list of occupational diseases, but there is no central database i.e. registry of occupational diseases.

(5) What data are you currently collecting? What extensions are planned?

At the moment no data on occupational diseases are being gathered. Development of a Registry of occupational diseases is planned.

i) How is the principle set out in Article 6(5) (no involvement of the workers in financial cost) included?

The law prescribes that measures relating to safety at work may not cause any costs to employees.

The compensation of salary for the period of temporary inability to work is set at a minimum of 70% of the remuneration basis. The compensation of salary for the period of temporary inability caused by an occupational injury or occupational disease is set at 100% of the remuneration basis.

j) Does national law address the measures that employers must take concerning fire-fighting, first aid and the evacuation of workers according to Article 8 of the Directive? How is the part of the Directive concerning serious, imminent and unavoidable danger addressed (Article 8 (3,4,5))?

The Safety at Work Law prescribes that the employer is obliged to determine the measures for providing first aid, extinguishing fires and evacuation of employees, depending on the type of work place and activities, as well as on the number of employees and the presence of other people. Liaison with the internal and external services must be secured for the purpose of implementing these measures, especially in the area of first aid, emergency medical assistance and suppressing fires. Fire protection is more closely defined in the regulations from the jurisdiction of the Ministry of Interior and Public Administration of Montenegro, which monitors it via the inspector for fire-protection.

It is prescribed that:

Employees may 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 are not applied on the means 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 have not been implemented, according to the opinion of the employee,

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.

According to the Safety at Work Law, the professional service, i.e. professional person for performing safety at work tasks proposes the measure prohibiting the work at the workplace or use of the means for work, in case when immediate danger to life or health of employees is identified, and employer and representative of employees is immediately informed thereof. In case when an employer allows further work, regardless of the undertaken measures, the professional person is obliged to inform the Labour Inspectorate (Safety at Work Inspectorate) thereof. In accordance to the same Article of the Safety at Work Law, the professional service, i.e. professional person for performing safety at work tasks also performs the following tasks: advising the employer on planning, selection and maintenance of means for work and personal safety at work means and equipment; advising the employer on equipping and arranging work places, taking into account conditions of the work environment; organising initial and periodical inspections of conditions in the work environment (chemical, physical and biological harms, microclimate and illumination); organising periodical inspections and control of means for work, electrical and other installations, proposing measures for improving the work conditions, especially at work places with higher risks;

at all jobs with the employer, monitoring application of safety at work measures and maintaining means for work and personal safety at work means and equipment in working order; providing instructions for safe work and controlling their application; monitoring the situation in relation to injuries at work and occupational diseases and work-related diseases, participating in determining their causes, and preparing reports for the employer with proposed measures; preparing and realising professional development of employees for safe work; direct cooperation and coordination of all issues from the field of safety at work with the authorised healthcare institution or authorised physician; keeping and managing records related to safety and health at work.

The Labour Law (Official Gazette of Montenegro 49/08), among other things, prescribes that an employee is entitled to wage compensation in the amount determined by the collective agreement and the employment contract during: refusal to work when prescribed safety at work measures have not been implemented; absence from work on the basis of previously agreed participation in work of employer's bodies and trade union bodies; for the duration of retraining, further training, and training for a different job and in other cases prescribed by law, collective agreement and employment contract.

The Law on Protection and Rescuing (Official Gazette of Montenegro 13/07) prescribes measures for protection and rescuing of population, material and cultural goods and environment from all types of risks defined by the National Strategy for Emergency Situations of the Republic of Montenegro.

With a view to efficient protection of population and material goods from potential risks, the state authorities, municipal authorities, business organisations, other legal persons, entrepreneurs and natural persons are obliged to provide the means for protection and rescuing and aid, as well as the persons trained for protection and rescuing in accordance with this Law (Article 7).

Measures of protection and rescuing are prescribed by provisions of this Law, and they include the following:

- evacuation;
- taking shelter;
- looking after victims and endangered population;
- radiological, chemical and biological protection;
- rescuing from ruins;
- protection and rescuing from floods;
- protection and rescuing from fire;
- protection from unexploded ordnance and explosives;
- first medical aid;
- protection and rescuing of animals and products of animal origin;
- protection and rescuing of plants and products of plant origin;
- search and rescue at sea;
- search and rescue of victims of accidents in civil air force;
- site sanitation;
- technical protection of persons, space and structures.

The Law on Protection and Rescuing provides for measures of protection and rescuing from fire implemented by the state authorities, municipal authorities, business organisations, other legal persons, entrepreneurs and natural persons who are obliged, under the conditions and in the manner prescribed by this law, to participate in extinguishing of fire and rescuing people and material goods jeopardized by the fire. They are also obliged to provide their tools, vehicles, technical and other necessary resources for extinguishing fire and rescuing people and material goods jeopardized by the fire.

It is also prescribed that business organisations, other legal persons and entrepreneurs are obliged to ensure that employees are acquainted, in accordance to specifically determined program, with the danger from fires related to jobs and tasks to which they are assigned, as well as with the measures and materials for extinguishing of fires, practical use of appliances, devices, equipment and materials for extinguishing fire and with material and other responsibility in case of failure to implement prescribed measures of fire protection.

Business organisations, other legal persons and entrepreneurs are obliged to establish, by means of a general act, measures to implement and improve protection from fire, designate a responsible person in charge of ensuring that measures of protection from fire are implemented and make sure that person is trained for successful performance of fire protection duties.

Exceptionally, business organisations, other legal persons and entrepreneurs may entrust another business organisation, entrepreneur or legal person with implementation of measures for protection from fire, providing that they are registered for that activity.

Business organisations, other legal persons and entrepreneurs are obliged, based on their own conditions and needs, and in accordance with the Law on Protection and Rescuing, by means of a general act, to determine specifically:

- measures of protection from fire for technological units where there is danger of fire, specifying the duties of each employee regarding the control and implementation of regulations from the field of protection from fire;
- way of carrying out the internal control of implementation of protection from fire, as well as the duties, responsibilities and authorisations of employees directly performing that control;
- procedure and way of introducing the employees, at the moment of their employment or assignment to a different work place, to the danger of fire related to that workplace, as well as the way of training and testing the knowledge of employees in handling the materials and equipment for extinguishing fire;
- rooms, premises and places in which it is forbidden to produce, use or transport open fire;
- type and quantity of equipment and materials for extinguishing fire, placement of equipment and materials and time of testing their functionality;
- tasks and responsibilities of management in relation to implementation of measures of protection from fire;
- responsibility of employees for non-compliance with prescribed measures of protection from fire and
- duties of employees in case of fire.

General act of a business organisation, other legal person and entrepreneur is approved by the Ministry of Interior and Public Administration.

k) How is the consultation and participation of workers and workers representatives provided for in Article 11 regulated?

The Safety at Work Law prescribes cooperation between the employer and employees i.e. their representatives in the procedure to determine their rights, obligations and responsibilities arising from the law.

The employer is obliged to consult the employees i.e. their representatives and trade union representatives and enable them to participate in all discussions related to all issues dealing with safety and protection at work, and especially those relating to:

- any measure that can negatively influence safety and health; appointing a professional person for carrying out activities related to protection and prevention of occupational risks, and appointing a person for implementation of measures of first aid, protection from fires and evacuation of employees;
- assessment of the danger to safety and health at work, measures of protection, lists of occupational accidents which may occur, and reports on accidents at work and in relation to work;
- hiring authorised legal and natural persons for the performance of safety at work tasks;
- planning and organising trainings and testing of competence in the field of safety at work.

The employer must enable representative of employees to submit his/her remarks related to safety at work to the Labour Inspector (Safety at Work Inspector) during the inspection.

I) How do you ensure that workers' representatives have the means required to accomplish their tasks (working time, etc., cf. Article 11(5) of the Directive)?

Professional service i.e. professional person nominated in writing by the employer to carry out the safety at work tasks is directly responsible to the employer.

The employer is obliged to enable all professional persons independent and autonomous performance of tasks in accordance with this law, as well as access to all necessary data.

The employer is obliged to provide specialisation for the professional service i.e. professional person employed.

The Labour Law prescribes the following:

- The employer shall enable the employees to freely exercise the trade union rights.
- The employer shall provide a trade union organisation with conditions for efficient performance of trade union activities that protect interests and rights of the employees, in accordance with the collective agreement.
- A representative of the trade union organisation shall be entitled to be absent from work with compensation of salary for the purpose of performing the activities organised by the trade union, in accordance with the collective agreement.
- The employer shall not be obliged to pay compensation of salary to a trade union representative whose absence from work is not in accordance with the collective agreement referred to in paragraph 3 of this Article.
- The employer shall be informed in writing about the absence of a member of trade union organisation in the cases referred to in paragraph 3 of this Article, minimum three days prior to the absence thereof.
- The collective agreement shall regulate conditions, manner and procedure for professionalizing the work of the trade union representative, in the interest of protecting trade union rights.

The Labour Law prescribes:

- The representative of the trade union organization and representative of employees, during the performance of trade union activities and six months upon termination of trade union activities, shall not be held accountable with respect to performance of trade union activities, declared as redundant, assigned to another job position with the same or other employer with respect to performance of trade union activities, or placed, in another manner, in a less favourable position, if he acts in accordance with the law and the collective agreement.
- The employer shall not place a representative of the trade union organisation or representative of employees in a more or less favourable position due to his membership in a trade union or his trade union activities.

The Safety at Work Law prescribes:

Professional service i.e. professional person nominated in writing by the employer to carry out the safety at work tasks is directly responsible to the employer.

The employer shall enable all professional persons independent and autonomous performance of tasks in accordance with this Law, as well as the access to all necessary data.

The employer shall provide the professional service i.e. professional person from paragraph 1 of this Article, employed for him/her, with a specialisation of knowledge.

Professional person professionally dealing with safety at work tasks and the organiser of the work process, shall, prior to being allocated to these jobs, be obliged to pass the professional exam, and will be subject to testing of knowledge every five years, subject to the type of activity.

The methodology and the way of taking the professional exam by the professional person working on safety at work tasks are prescribed by the Ministry of Labour and Social Welfare.

m) How is the right to appeal to the competent authorities set out in Article 11(6) granted to workers and their representatives?

The law prescribes that 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 are not applied on the means 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.

The employer is obliged to enable the employee to submit remarks related to safety at work to the Labour Inspector (Safety at Work Inspector) during the inspection, according to the Safety at Work Law.

n) Article 7. How does national legislation set out that all undertakings must:

i) designate one or more workers to carry out activities related to protection and prevention; or

According to the law, the employer is obliged to organise and perform professional tasks of safety at work depending on the organisation, nature and scope of the work process, the number of employees participating in the work process, the number of shifts, assessed risks and the number of units separated in terms of their location.

For the purpose of performing these tasks, the employer may:

- organise professional service for performing safety at work tasks;
- designate a professional person for performing safety at work tasks;
- hire a legal or a natural person for the performance of such tasks (accredited organisations /companies).

A professional person is a person that holds the prescribed education and has passed the professional exam for activities related to safety at work within the appropriate industry, designated in writing by the employer. Persons having university degree of technical or other appropriate

background and one year of work experience in the profession are allowed to take the professional exam. A professional service consists of several professional persons.

ii) if no competent personnel can be found within the undertaking, enlist competent external services or persons?

According to the law, the employer is obliged to organise and perform professional tasks of safety at work depending on the organisation, nature and scope of the work process, the number of employees participating in the work process, the number of shifts, assessed risks and the number of units separated in terms of their location. For this purpose, if unable to organise a professional service for performing safety at work tasks or to designate a professional person for performing safety at work tasks, the employer may hire a legal or a natural person for the performance of such tasks (accredited organisations/companies).

o) How does national law define the capabilities and aptitudes of the services and persons in charge of prevention and protection (Article 7)? How are the employers' capabilities and aptitudes verified if they take on this role themselves? Is prior authorisation required to set up external services?

A professional person is a person that holds the prescribed education and has passed the professional exam for activities related to safety at work within the appropriate activities, designated in writing by the employer.

According to the law, the professional service i.e. professional person designated in writing by the employer to perform safety at work tasks are directly responsible to the employer.

The employer is obliged to allow professional persons independent and autonomous performance of tasks in accordance with this law, as well as the access to all the necessary data.

The employer is obliged to provide further specialisation to the professional service i.e. professional persons employed.

The professional person who is engaged in professional performance of safety at work tasks and organises the work process, prior to assignment to such jobs, is obliged to pass a professional exam and be subjected to testing of knowledge every five years, subject to the type of activity.

The Rulebook on taking professional exam for persons performing safety at work tasks prepared by the Ministry of Labour and Social Welfare prescribes the methodology and the manner of taking the professional exam by a professional person working on safety at work tasks. The Rulebook prescribes that persons having university degree of technical or other appropriate background and one year of work experience in the profession are allowed to take the professional exam.

The Rulebook on conditions which must be met by a legal or natural person for performing professional safety at work tasks and on procedure of determining fulfilment of these conditions prescribes the requirements which must be met by a legal or natural person, in terms of personnel, organisation, technical and other conditions for obtaining accreditation of the Ministry of Labour and Social Welfare, for performing professional safety at work tasks, as well as the procedure for determining fulfilment of these requirements.

An employer may obtain an accreditation for performing professional safety at work tasks, for the following:

- review (evaluation) of technical documentation from the aspect of applicability of preventive measures of safety at work, technical regulations and standards, for the purpose of determining existence of safety of employees in the facilities for which the technical documentation was completed, for work processes which will be performed in them,
- training and testing the level of skills for safe work of employees,

- tasks from the Article 36 of the Safety at Work Law,
- preparation of acts on risks assessment, with a proposal of measures for elimination of risks,
- periodical inspections and control of means for work, means and equipment of personal safety at work,
- periodical inspections and control of electrical and other installations, and
- inspection of conditions of the work environment (physical, chemical and biological harms, illumination and microclimate).

The accreditation may be obtained for all or individual tasks. In order to obtain accreditation, the employer submits a request for obtaining accreditation to the Ministry of Labour and Social Welfare.

Together with the request, the employer submits the following:

- Certificate of Registration in the Commercial Court Central Registry,
- description of jobs for which the request is submitted,
- description of business premises, subsidiary premises, proof of ownership or lease,
- proof of ownership or lease of the technical-measuring equipment, records on technical-measuring equipment, proof on inspection of technical-measuring equipment which is owned or leased,
- employment contracts with professional persons and proof of their education, work experience and passed professional exam
- methodology and methods of inspection and control of the means for work and/or inspection of work environment, and/or risk assessment, and/or training employees for safe work.

A separate Commission of the Ministry of Labour and Social Welfare determines the conditions, on the spot, in terms of personnel, organisation, technical and other conditions for obtaining an accreditation for performing safety at work professional tasks that the employer wishes to perform.

p) When is the training of workers carried out (Article 12):

In accordance with the law, the employer is obliged to provide training for safe work of employees on employment, assignment to another job, introduction of new technology or new means for work, changes to the work process and re-assignment to work after more than one year of absence.

The employer is obliged to develop a programme of training of employees for safe work in accordance with the risk assessment at the workplace, and, if need be, make changes or renew its contents subject to the introduction of new work processes, new technologies and means for work.

The training is implemented according to the training programme during working hours, and the training costs are borne by the employer.

During the training, the employer is obliged to introduce employees to all types of risk on jobs to which they are assigned and to specific safety at work measures which are needed for elimination of the risk to life i.e. damage to health.

The employer who has employees of another employer performing work based on a contract is obliged to inform them about the safety at work measures. The employer provides theoretical and practical training to employees to perform work safely.

The employer tests the theoretical and practical skills of employees for safe work in the workplace.

Periodical testing of theoretical and practical skills for safe work of employees performing the jobs where, according to the Risk Assessment Act, there is a higher risk of injuries or damage to health is established by the employer through the training programme of employees for safe work.

The method and the procedure of training of employees for safe work is defined in more detail by the Rulebook on the manner and procedure of training of employees for safe work (Official Gazette

of the Republic of Montenegro 57/06), and the law prescribes that the employer is obliged to provide specialisation of knowledge to the professional service i.e. professional persons who are employed by the employer for safety at work tasks.

i) When they take up a post?

In accordance to the law, the employer is obliged to provide training for safe work of employees on taking up the post.

ii) When they are moved to another job?

In accordance with the law, the employer is obliged to provide training for safe work of employees on assignment to another job.

iii) When organisational changes affect the workstation?

In accordance with the law, the employer is obliged to provide training for safe work of employees at the moment of introduction of new technologies or new means for work, changes in the work process, and re-assignment to work after more than one year of absence.

q) Are there national provisions, which provide for the surveillance of workers' health (Article 14)?

According to provisions of the law, initial and periodical medical examinations of employees, as well as other measures for securing hygiene and health work conditions in the working environment are undertaken for the purpose of eliminating or reducing to the allowed extent the causes of diseases and health damage related to work, and especially in terms of hygiene, sanitary and other facilities.

The employer is obliged to provide medical examination of employees, and especially those employees assigned to posts i.e. jobs with special work conditions and in cases of re-assigning to work employees who were absent from work for longer than one year.

Type, manner, scope and deadlines for performing medical examinations, as well as the other conditions which must be met by the health institutions in terms of personnel, organisational, technical and other conditions, are prescribed by the Ministry in charge of health issues, together with the Ministry of Labour and Social Welfare. Periodical medical examinations of employees working in posts with special conditions of work are carried out every 6 or 12 months, in accordance with the Rulebook on manner and procedure of carrying out initial and periodical specialist medical examinations of workers.

According to provisions of the Labour Law

- Employment contract may be concluded by the person who fulfils general requirements stipulated by this Law and special requirements stipulated by the law, other regulations and the Act on Systematization.
- General requirements in the sense of paragraph 1 of this Article shall be as follows: the person must be minimum 15 years old and must have a generally good health condition.

- Person with disability that has the health capacity to work in specific jobs may sign an employment contract under the conditions and in the manner stipulated by this Law, unless regulated otherwise by some other law.

According to the Law on Health Care (Official Gazette of the Republic of Montenegro 39/04) specific health protection of employees includes:

- medical examinations for the purpose of determining capability for work;
- monitoring of health condition of employees;
- identification and assessment of health risks at work;
- general medical check-ups, initial, periodical and control medical examinations of employees with regard to their gender, age and working conditions, incidence of occupational diseases, injuries at work and chronic diseases;
- counselling on the issues of health, safety, hygiene at work, organisation and means of protection;
- medical examinations of employees which are mandatory for the purpose of protection from harmful factors of the living and working environment, protection of consumers i.e. users of services and other mandatory medical examinations;
- organising and administrating first aid and urgent interventions on the spot and in the work process;
- assessment of working conditions at particular jobs for the purpose of protection from occupational diseases;
- assessing needs and referring those workers who are exposed to health risks at work, as well as those chronically overtired and physically exhausted workers to health-preventive active rest and early rehabilitation and monitoring results of such rest and rehabilitation;
- health education of employees.

Contents of measures of the specific health protection are regulated in more detail by the Rulebook on contents of measures of the specific health protection of employees (Official Gazette of the Republic of Montenegro 80/04).

The Rulebook on type and scope of medical examinations of employees subject to health control and of carriers of infectious diseases (Official Gazette of the Socialist Republic of Montenegro 3/89) prescribes that medical examination of persons prior to their employment in the field of direct production and trade of foodstuffs or direct supply of drinking water include:

- medical examinations with a special emphasis on purulent and parasitic skin diseases;
- sampling and examination of faeces for *Salmonella* and *Shigella* and urine for *Salmonella*;
- sampling and examination of faeces for intestinal parasites: *Enterobius Vermicularis*, *Himenolepis Nana*, *Taenia Solium*, *Taenia saginata*, *Entamoebae Histoliticae* cysts, *Lambilliae Intestinalis* cysts; and
- X-ray of lungs.

r) Law enforcement (Article 4)

i) What is the system of monitoring and control of health and safety at work matters? Is there a single body responsible for the inspection of labour, or are various bodies responsible for different areas?

The Labour Inspectorate of Montenegro inspects only the situation related to labour relations and employment, whereas Safety at Work Inspectorate performs the inspection in the area of safety at work. Inspection teams of the Safety at Work Inspectorate consist of inspectors who are engineers of various technical professions (electrical engineering, mechanical engineering, metallurgy, safety at work, etc.). Labour Inspectorate and the Safety at Work Inspectorate function within the Department for Labour Relations of the Ministry of Labour and Social

Welfare. Apart from the Safety at Work Inspectorate, there is also a Mining Inspectorate which, according to the Law on Mining, performs inspections of the safety at work situation within the mining industry, i.e. during performance of jobs related to exploring and using mineral raw materials. The Port Authority performs certain tasks relating to safety at work in the area of river and sea traffic, and the Ministry of Interior and Public Administration is in charge of inspections in the area of protection from fires and mine clearance.

ii) In case there are different bodies responsible for controlling and supervising implementation of legislation on safety and health at work, how are their activities coordinated? In special cases, do they hold joint inspections? What are the main problems in coordinating the various bodies involved? What is the number of labour inspectors responsible for the surveillance of health and safety at work matters and what is the approximate number of employees in Montenegro?

Safety at work is supervised by 12 safety at work inspectors – engineers of diverse technical background, while the area of labour relations is supervised by 24 labour inspectors, who are of legal background.

The Government of Montenegro 2007 Action Plan envisaged strengthening of administrative capacities of the Inspectorate and establishment of Safety at Work Agency.

According to the MONSTAT 2008 report, the number of employed persons in Montenegro was 166 221. In line with the European Union standards, the need to increase the current number of safety at work inspectors by at least 4 has been identified.

The Safety at Work Inspectorate cooperates with the Mining Inspectorate, port authorities and the Ministry of Interior and Public Administration. Joint inspection control is carried out in accordance with the Decree on joint inspection control (Official Gazette of the Republic of Montenegro 48/03), whereas the issues from the jurisdictions of certain Inspectorates are resolved in such a way that inspectors are obliged to forward the file which is not in their jurisdiction to the relevant Inspectorate. In the area of safety at work, there are no cases of conflicts of jurisdiction in practice.

iii) As regards the powers the labour inspectors have to ensure that legislative measures are being applied: Can they apply legal penalties? If so, what kind (monetary and/or criminal and/or administrative)? Do they have discretionary power? How many injunctions are issued? When the inspectors detect a problem, how far do they pursue the matter? Do they send a letter? Does the undertaking respond? How do they follow up? What percentage of detected infringements lead to legal action being taken? What is done with the money from fines? Is some or all of this money allocated to a fund for health and safety at work?

Once he/she establishes irregularities in the implementation of safety at work regulations, the safety at work inspector undertakes the following measures:

- instructs the employer to remove irregularity within seven days;
- after the inspection control, if he/she enters in the minutes that irregularities have not been removed i.e. that the employer failed to observe the instruction, he/she orders, by means of a written order, that the irregularity be removed within a certain deadline (the employer is obliged, within three days from expiry of the individual deadlines for implementation of the measures, to inform the safety at work inspector in writing if the ordered measures have been implemented, in accordance with the provisions of the Law on Inspection Control (Official Gazette of the Republic of Montenegro 39/03);
- in cases of more serious irregularities which can endanger life and health of employees, which are prescribed by the law, a decision is issued forbidding further work of the entity

under inspection, by the time the irregularity that caused the prohibition to work is removed;

- after the inspection control, if the inspector enters in the minutes that irregularities listed in the written order have not been removed, he/she submits requests for instigating misdemeanour procedures with the division for misdemeanour procedures, proposes instigating criminal proceedings to the relevant court authorities, and the written order is administratively enforced through other persons, by means of a fine or direct coercion.

According to positive regulations, the Safety at Work Inspectorate has no discretionary rights, but must process all irregularities identified, when undertaking certain measures for such irregularities is prescribed by regulations.

The proportion between identified irregularities and undertaken measures is 1:1. Inspectors monitor enforcement of decisions they issued to the employers, and they participate in misdemeanour and criminal procedures before courts if they are required to do so. Money from fines is allocated to the Budget of Montenegro and there is no separate safety at work fund.

iv) How do you ensure that the labour inspectors are independent of the undertakings and organisations they inspect? Are the inspectors assigned to the same workplaces (i.e. must they inspect the same undertaking each year)?

The safety at work inspector is independent in carrying out inspection control, within the framework of rights and duties prescribed by law and other regulations. Inspectors carry out inspection control with a view to realisation and protection of public interest, as well as the interest of natural and legal persons when that is in line with the public interest. The procedure of inspection control is initiated and managed *ex officio*. Anyone can submit an initiative for instituting the procedure of inspection control. In some companies, inspection control is planned on the basis of the plan and programme prepared by the Safety at Work Chief Inspector. Inspectors are not obliged to inspect the same companies every year. According to the Law on General Administrative Procedure (Official Gazette of the Republic of Montenegro 60/03) an official deciding in administrative matters or performing certain actions in the procedure is exempted, if:

- he/she is a party, co-proxy, or co-tributary, witness, expert witness, attorney or legal agent of the party in the case in which the procedure is conducted;
- if his/her relationship to the party, his agent or attorney is direct blood kinship or side line kinship up to the fourth degree inclusive, or if he/she is spouse or common-law spouse or in in-law relationship up to the second degree inclusive, even if the matrimony or common-law marriage has ceased;
- if his/her relationship with the party, the agent or attorney of the party is one of guardianship, adoptive parent, adoptive child or foster parent;
- if he/she had participated in the conducting of the procedure or in the passing of the decision in the first instance procedure.

v) What rules govern the composition of the inspection team (are there one, two or more inspectors)? Are special cases provided for?

Safety at work inspectors carry out inspection control independently. In practice, in extraordinary cases the inspection control is carried out by two or more safety at work inspectors, most frequently in cases of lethal, collective or severe injuries at work, or in the occasions of inspection control of large companies or control of a specific type of activity.

vi) As regards work-related accidents: How are they declared to the Labour Inspectorate? Is the information centralised? How do you assess non-declaration? How does the system of insurance for work-related accidents function?

In accordance with the law, the employer is obliged to report in writing immediately, and at the latest 24 hours from the occurrence, to the Labour Inspectorate (Safety at Work Inspectorate) any lethal occupational injury, collective occupational injury, and severe occupational injury, as well as any other dangerous event that may endanger safety and health of employees.

In practice, the Safety at Work Inspectorate is most frequently informed by the police or relevant court authority. Non-reporting is most often present in practice because the employers are not aware of their legal obligations regarding the issue, or the physician who first examined the patient is not able to form an opinion on severeness of the occupational injury until more detailed medical tests are carried out.

The Health Insurance Fund and the Pension and Disability Fund are obliged to submit to the Ministry all data on injuries at work, occupational diseases, work-related diseases and work-disabled persons, upon request and monthly, and for every calendar year, at the latest by 31 of January of the following year.

An employer is obliged to insure employees against injuries at work, occupational diseases and work-related diseases. The premiums for the insurance are borne by the employer, and these are determined depending on the level of risk from injuries or work-related diseases. Conditions and procedures of insuring the employees against injuries at work, occupational diseases and work-related diseases are prescribed by a separate law.

The insurance system in case of injuries at work operates in the manner that costs are divided between the Health Insurance Fund and the Pension and Disability Insurance Fund.

vii) What do you consider to be the most serious problems in the field of inspection (e.g. lack of resources, lack of money for missions, weak penalties)?

The most significant problems in the work of inspection are the following:

- insufficient administrative capacity;
- lack of funds;
- lack of money for missions;
- weak penalties.

65. Workplaces (Directive 89/654/EEC)

a) What is the definition of 'Workplace' in your national legislation?

"Workplace" is a space intended for performing work, which is located within the employer's premises, and on temporary and mobile work sites, or buildings, devices, transportation means, etc., and includes all places where employees need to be or to come to them to perform their work and which are under direct or indirect control of the employer.

"Workplace with higher risk" is a workplace as established by the Act on risk assessment where, despite fully or partially applied measures in accordance with the present law such risks exist which may endanger the safety and health of employees.

b) Which are the pieces of legislation dealing with the characteristics of the 'workplace'?

The law prescribes that the designer is obliged to integrate the prescribed safety at work measures, while drafting technical documents, in accordance with the technological Terms of Reference, and that initial and periodical inspections of structures, technological processes, and means for work must be carried out, with a view to ensuring quality of performed works and work in accordance with the prescribed manner during the work process.

Characteristics of the workplace are, apart from the Safety at Work Law and the Law on Construction of Structures and Spatial Planning, more closely defined by the Rulebook on special safety at work measures for structures intended for work and auxiliary premises.

c) Do you plan to apply legislation identically in all locations (new, existing, old) or differently according to whether they existed at a certain date?

The Rulebook on special safety at work measures for structures intended for work and auxiliary premises will have to be amended, to bring it fully into compliance with the Directive provisions. Through adoption of secondary legislation (the Rulebook), the deadlines for harmonisation with the Directive provisions will be defined for existing structures and the deadline for the new structures will be eight days from entering of the Rulebook into force. Regarding the old structures in protected town centres, complete harmonisation was not required according to the existing Rulebook, and an exception was provided in terms of, for example, wall height. For old structures, if possible, a solution will be sought for access of disabled persons.

d) What approach has been decided on to include the minimum requirements set out in the Annex to this Directive (for example: outdoor workstations, the disabled)?

Regarding the minimum requirements set out in the Annex to the Directive, for work sites there are requirements defined by the Rulebook on provisioning of means, meals and transportation of workers from the place of residence to the place of work and back, which should also be harmonised with the provisions of the Directive.

The Law on Construction of Structures and Spatial Planning defines the "Conditions for access and movement of persons with limited mobility" in the following manner:

Construction of structures for public use is carried out in such a manner that unobstructed access, movement, stay, and work are enabled to persons with limited mobility.

Construction of residential and residential-business structures is carried out in such a manner that unobstructed access and movement in the common premises is enabled to persons with limited mobility.

Residential and residential-business structures with 10 and more apartments shall be constructed in such a manner that simple adaptation of structures is ensured, as well as at least one housing unit per every ten apartments for unobstructed access, movement, stay, and work of persons with limited mobility.

66. Work equipment (Directive 89/655/EEC as amended by Directives 95/63/EC and 2001/45/EC)

a) Are there provisions in place relating to the use of work equipment?

This area is regulated by the Safety at Work Law, and other regulations:

- Rulebook on procedure and deadlines for carrying out periodical inspections and control of the means for work, means and equipment for personal safety at work, and work conditions (Official Gazette of the Republic of Montenegro 71/05);
- Rulebook on safety at work measures and norms concerning noise at working premises (Official Gazette of the Socialist Federal Republic of Yugoslavia 21/92);
- Rulebook on technical regulations for cranes (Official Gazette of the Socialist Federal Republic of Yugoslavia 65/91);
- Rulebook on measures and norms concerning safety at work with work tools (Official Gazette of the Socialist Federal Republic of Yugoslavia 18/91);
- Rulebook on special safety measures at work on railways (Official Gazette of the Socialist Republic of Montenegro 11/88);
- Rulebook on safety at work during loading and unloading (Official Gazette of the Socialist Republic of Montenegro 13/88);
- 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);
- 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);
- Rulebook on special safety measures for work in ferrous metallurgy (Official Gazette of the Socialist Republic of Montenegro 16/87);
- Rulebook on special safety measures at work in production and processing of coloured metals (Official Gazette of the Socialist Republic of Montenegro 31/86);
- Rulebook on special safety measures at work in forestry (Official Gazette of the Socialist Republic of Montenegro 16/86);
- Rulebook on general safety at work measures from electrical hazards in structures intended for work, in working premises and in work sites (Official Gazette of the Socialist Republic of Montenegro 6/86);
- 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);
- 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);
- 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;
- Rulebook on special safety at work measures in agriculture (Official Gazette of the Socialist Federal Republic of Yugoslavia 34/68);
- 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);
- Rulebook on safety at work measures during handling of explosives and mining in the mining industry (Official Gazette of the Republic of Montenegro 9/68 and 35/72);
- 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);
- 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);
- 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);
- 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);
- 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 - Supplement No. 9);
- 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);
- General Rulebook on hygiene and technical safety at work measures (Official Gazette of the Federal People's Republic of Yugoslavia 56/47);
- Rulebook on hygienic and technical safety measures for work in graphic companies (Official Gazette of the Federal People's Republic of Yugoslavia 56/47);
- 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).

b) What is the scope of the term “work equipment” under the national provisions?

Work equipment/means for work refers to any plant, machine, installation, tool or other gear for work used in the work process.

c) How are the various legislative acts coordinated, if there is more than one?

There is the umbrella Safety at Work Law as well as the accompanying secondary legislation, regulating various aspects related to usage of the work equipment/means for work.

d) What approach has been or will be taken to include the rules on checking certain machines (those that are dangerous or subject to deterioration)?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that all machines be maintained in working condition. Initial and periodical inspections of structures, technological processes and means for work are carried out with a view to ensuring quality of executed works and work performed in a prescribed manner during the execution of the work process. Special attention is paid to the means for work with increased risk to life and health of employees (certain means for work), which, according to the Rulebook on procedure and deadlines for carrying out periodical inspections and examinations of means for work, means and equipment for personal safety at work, and conditions in the work environment (Official Gazette of the Republic of Montenegro 71/05), must be inspected and examined:

- before placing into operation,
- before placing into operation after accident (breakdown),
- after reconstruction,
- after a general overhaul,
- after relocating to different foundations or location and
- within three years from the initial inspection and examination (for example, cranes).

Inspections and examinations may be carried out by legal and natural persons accredited by the Ministry of Labour and Social Welfare for tasks of safety at work.

e) Do you already have a distinction or do you plan to distinguish between new equipment and equipment that is already in use?

With regard to control of inspection, when performing supervision at the employer's premises, no distinction is made between new equipment and the equipment which is already in use (old and new means for work) when safety at work is concerned, since both types of equipment have to be controlled and examined, when used for the first time after reconstruction or adaptation and periodically, by the authorised organisation for safety at work, which performs these tasks pursuant to a decision of the Ministry of Labour and Social Welfare.

It is necessary to plan a longer period for harmonisation with Directive provisions relating to the equipment that is already in use.

f) Is there a duty for inspection of work equipment (see Directive 95/63/EC) and is such an inspection system in place for the effective technical control of work equipment?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that design, construction of new and reconstruction of existing, use and maintenance of technological work processes with related facilities and equipment for work should ensure that employees perform their work safely, and chemical, physical and biological harms, microclimate and illumination in workplaces and supporting premises are adjusted to the prescribed measures and norms applicable to the activity which is performed in such workplaces and in such work premises. When the technological process is changed, the employer is obliged to adapt, the investment structure with supporting work equipment and installations to the new technological process, prior to start of operations. Initial and periodical inspections of structures, technological processes and means for work are carried out with a view to ensuring quality of executed works and work performed in a prescribed manner during the execution of the work process. Special attention is paid to means for work with increased risk to life and health of employees (certain means for work), which, according to the Rulebook on procedure and deadlines for carrying out periodical inspections and examinations of means for work, means and equipment for personal safety at work, and conditions in the work environment (Official Gazette of the Republic of Montenegro 71/05), must be inspected and examined:

- before placing into operation,
- before placing into operation after accident (breakdown),
- after reconstruction,
- after a general overhaul,
- after relocating to different foundations or location, and
- within three years from the initial inspection and examination (for example, cranes). Periodical inspections and examinations of other means for work (means for work which do not pose an increased risk to life and health of employees) are carried out in accordance with the manner and procedure determined by the producer's instructions, standards, technical regulations, safety at work regulations, and especially:
 - before placing into operation,
 - before placing into operation after accident (breakdown),
 - after reconstruction,
 - after a general overhaul,
 - after relocating to different foundations or location and
 - within five years from the initial inspection and examination.

Inspections and examinations may be carried out by legal and natural persons fulfilling prescribed conditions in terms of personnel, organization, technical and other conditions for obtaining accreditation for performing professional tasks of safety at work from the Ministry of Labour and Social Welfare.

g) Does your law provide for rules regarding the use of work equipment provided for a temporary work at a height (Directive 2001/45/EC)

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) does not prescribe any special rules in relation to use of means for work for temporary work at height. The same rules which are valid for the use of any other means for work are applied.

67. Personal Protective Equipment (Directive 89/656/EEC)

a) Is there legislation in place on personal protective equipment (PPE)?

Apart from the Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) there is also a Rulebook on means for personal safety at work and personal protective equipment (Official Gazette of Socialist Federal Republic of Yugoslavia 35/69), which is not fully harmonised with the Directive. It is very outdated and does not provide for the use of certain means and equipment for personal safety at work which are prescribed by the Directive. It also does not prescribe the jobs for which certain means and equipment for personal safety at work should be used.

b) Are there general rules on the use of PPE and on cases on situations where employers must provide PPE?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that design, production, and use of means and equipment for personal safety at work whose use eliminates risks or hazards which could not be removed through application of appropriate preventive measures be performed in a way and in accordance with the applied technological procedure.

When buying tools for work operated by mechanical engines, as well as the means and equipment for personal protection, the employer submits to the manufacturer the requirements related to safety at work which must be met by delivered tools, as well as the means and equipment for personal protection.

The employer is obliged to ensure that employees use the means for work and means and equipment for personal protection at work in accordance with their purpose and to apply the prescribed safety at work measures in the process of their use.

The employer is obliged to enable employees to use means for work and means and equipment for personal protection at work and dangerous substances, only if he/she holds the prescribed documentation in the language officially used in Montenegro, in which the manufacturer i.e. supplier outlined all safety-technical data important for assessing the risk of working with them, and if all safety at work measures, defined by the documentation, are ensured in accordance with safety at work regulations.

In exceptional cases, when the employer is not able to obtain the prescribed documentation, he/she may obtain it from the legal entity registered for such activities.

c) Does national law ensure no involvement of workers in financial costs for the provision, maintenance, repair and replacement of PPE?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that the measures related to safety at work may not induce any costs to the employees.

d) Is the general principle that PPE shall only be used as a last resort reflected in your national legislation?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that the design, production and the use of means and equipment for personal safety at work whose use eliminates the risks or hazards which could not be eliminated through application of appropriate preventive measures be performed in a way and in accordance with the applied technological procedure.

e) Is there assistance (information, etc.) on the choice of PPE?

The same as under b); the Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that when buying tools for work operated by mechanical engines, as well as the means and equipment for personal protection, the employer submit to the manufacturer the requirements related to safety at work which must be met by delivered tools, as well as the means and equipment for personal protection.

68. Display screen equipment (Directive 90/270/EEC)

a) Are there specific rules for the use of screen equipment?

There are no national regulations pertaining to this area.

b) If answer to (a) is yes: How is screen equipment defined?

There are no national regulations pertaining to this area.

c) If answer to (a) is yes: Which measures shall be taken by the employer under the legislation?

There are no national regulations pertaining to this area.

d) Do labour inspectors receive particular training in this regard?

There are no national regulations pertaining to this area.

69. Manual handling of loads (Directive 90/269/EEC)

a) Does the national legislation contain particular provisions regarding the prevention of accidents and injuries caused by manual handling of loads? If so, please give an overview on the key provisions.

The Rulebook on safety at work during loading and unloading (Official Gazette of the Socialist Republic of Montenegro 13/88) prescribes the safety at work measures for workers directly involved in loading into and unloading from road, rail, sea, inland waterway, and air means of transportation. This Rulebook also prescribes safety at work measures during loading and unloading of cargo in the work premises and areas outside them.

With regard to manual loading and unloading, the weight of the cargo may not exceed 25kg and the distance to which the cargo is carried may not exceed 80m, whereas the height of stacking up may not exceed 1.5 m. If the cargo is carried over inclined surfaces up to 25°, the distance to which the cargo is carried may not exceed 50m and the length of the inclination itself may not exceed 25m.

Exceptionally, manual transportation of cargo can be organised in such a way that one worker may carry cargo over 25kg, but not one exceeding 50kg.

During manual transportation of cylindrical cargo containers (barrels, rolls, bales etc.), specially designed devices for rolling of cargo that must safely rely on the transportation vehicle must be used for loading and unloading into transportation vehicle.

If the floor of the warehouse is not at the same level as the floor of the transportation vehicle, loading and unloading of cylindrical cargo containers may be carried out manually only if the weight of the cargo does not exceed 200 kg and if appropriate inclination has been provided for.

b) Does this activity make part of the (i) preventive actions of the labour inspectorate, and (ii) of the control activities of the labour inspectorate?

This activity makes part of both the preventive actions of the Inspectorate and the control activities of the Inspectorate.

70. Temporary or mobile constructions sites (Directive 92/57EEC)

a) Briefly describe your national legislation in this field.

There are many provisions in the Safety at Work Law which are the subject matter of this Directive, whereas the Rulebook on special safety at work measures in construction industry (Official Gazette of the Socialist Federal Republic of Yugoslavia 42/68 and 45/68), the Rulebook on contents of studies on organisation of construction sites (Official Gazette of the Republic of Montenegro 4/99), the Rulebook on general safety at work measures for protection from electrical hazards in structures intended for work, work premises and work locations (Official Gazette of the Socialist Republic of Montenegro 6/86), and the Rulebook on provisioning assets, foodstuffs, and transportation of workers from the place of residence to work and back (Official Gazette of the Socialist Republic of Montenegro 5/86), are partly harmonised with the provisions of this Directive. There are plans for adoption of a Decree on minimum requirements for safety and health at work temporary work sites, which will be harmonised with the abovementioned Directive.

b) Does the national legislation provides for the involvement and obligations of various persons – the client, the project supervisor, the coordinators for safety and health matters at the project preparation and execution stages?

The role of coordinators during the project design stages will be defined through adoption of the planned Decree on minimum requirements for health and safety at work for temporary work sites, whereas currently this area is covered by provisions of the Law on Spatial Development and Construction of Structures, which provides for issuing of licenses for design. The role of the coordinator during the performance of works will also be determined by the Decree, and it will include coordination of works in the sense that the works are to be carried out in such a way that health and safety of employees are not endangered. It will be possible to appoint as a coordinator a person having expert knowledge necessary for safe performance of works in construction sites and work sites i.e. a person who passed the professional exam in safety at work.

The professional exam in safety at work is taken at the Ministry of Labour and Social Welfare in accordance with provisions of the Rulebook on taking the professional exam for persons performing tasks of safety at work. This Rulebook, which prescribes the programme for the exam, obligation to prepare a written thesis, the way of taking the exam and issuing the appropriate certificate will be amended to include questions related to expert knowledge for safe performance.

c) Are there rules in place for sites where several undertakings are present at the same worksite, in particular as regards coordination of work?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that when two or more employers perform works at the same time, joint construction site or work location respectively, each of them shall organize the execution of works in such a way that employees of one employer, while executing works, do not endanger safety and health of employees of another employer.

The investor and employees who execute works shall, prior to commencement of works, conclude a Contract on organizing and implementing safety at work measures, as well as on mutual rights, obligations and responsibilities.

The Contract shall be, by default, submitted to the Labour Inspectorate (Safety at Work Inspectorate), not later than five days from commencement of the works.

The Safety at Work Law prescribes that the Employer who has employees of other employers performing work for him/her, on the basis of a Contract, or on some other basis, shall inform them about the safety at work measures, and the employer shall warn any person who, on any ground, is present in the work premises, the employer's environment or the construction site, of dangerous spots or health hazards occurring in the technological process, of safety measures which must be applied, and guide such person to the zones which are safe for moving in.

d) Is there a duty for the client or project supervisor to set up a safety and health plan?

The Safety at Work Law prescribes that when constructing a structure, the employer who executes the works is obliged to prepare a Detailed Study of construction site organisation in accordance with the act of the Ministry of Labour and Social Welfare. This act is the Rulebook on contents of detailed studies on construction site organisation (Official Gazette of the Republic of Montenegro 4/99). The Rulebook prescribes the contents of the Detailed Study of construction site organisation where construction, reconstruction, repair, or demolition of structures is performed. The documentation for planning of the construction site is prepared for organisation and technology of

execution of works, based on the project documentation, technical regulations, standards and safety at work regulations.

The construction site is prepared, used, maintained, and the object is built, reconstructed, and demolished with the implementation of safety at work measures according to the Detailed Study of construction site organisation, which has two parts:

- General detailed study on preparing, planning and using construction site together with access roads to the construction site;
- Special detailed study on special safety at work measures at places of work and movement of workers with increased risk from injuries or occupational diseases and damage to health of workers.

e) Does your legislation take into account self-employed workers working alongside with other undertakings?

The term self-employed worker is not precisely defined in the national legislation, but instead the term individual entrepreneur is used, in accordance to the Business Organisation Law (Official Gazette of the Republic of Montenegro 06/02).

- An individual entrepreneur is a natural person who engages in commerce for the purpose of making a profit, and who is not performing this activity as an agent or employee on behalf of another.
- For the purposes of this law, an individual who pursues an independent profession under special regulations shall be regarded as an individual entrepreneur, if so provided by such regulations.
- An individual entrepreneur is personally liable for all debts incurred to the full extent of his assets.
- Where an individual entrepreneur conducts business in any name other than his own name, he is required to register that trade name in a registration statement filed with the Central Registry of the Commercial Court in accordance with this law. If after submission of such registration statement, another trade name is used, the individual shall amend the registration statement to so indicate within 30 days of its first use.
- An individual entrepreneur must register with the Central Registry of the Commercial Court by submitting a registration statement in accordance with this law for statistical purposes. The individual entrepreneur shall receive a registration certificate. Such certificate is not a business license and shall have no legal effect in that sense.

f) Are there duties relating to the project planning and the project implementation phase?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that the designer who, in accordance with the Law on Spatial Planning and Construction of Structures (Official Gazette of Montenegro 51/08), designs the project documentation for new, reconstructed, or adapted structures, intended for work and auxiliary premises and structures, where the technological process is performed in the open, is obliged, in accordance with this law:

- to integrate the prescribed safety at work measures while drafting the technical documentation in accordance with the technological Terms of Reference;
- to develop the safety at work project for structures where technological processes will be performed, dangerous and harmful substances will be used, produced and/or stored, or the processes which imply occurrence and exposure of employees to occupational risks due to air pollution, noise, vibration, and mechanical hazards will be performed. This Project shall define risks and incorporate measures for removing such risks or bringing them down to permitted limits;

- the investor is obliged to obtain the review (assessment) from an accredited organisation-company that the technical documentation is developed in accordance with the safety at work legislation, technical regulations and standards, that the safety of employees is ensured in structures for which the technical documentation is developed and for the work process to be performed therein, i.e. that all requirements established by the technological Terms of Reference are fulfilled.

The documentation for planning the construction site is prepared for organisation and technology of execution of works, based on the project documentation, technical regulations, standards, and safety at work regulations.

The construction site is prepared, used, maintained, and the structure is built, reconstructed, and demolished with implementation of safety at work measures according to the Detailed Study of construction site organisation.

The duties related to stages of planning and implementation of projects are more closely defined by the Law on Spatial Planning and Construction of Structures.

g) Is there the duty for prior notice of works to the competent authorities for works of a larger extent?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that when two or more employers perform works at the same time on the same i.e. joint construction site or work site, each of them is obliged to organise the execution of works in such a way that employees of one employer, while executing works, do not endanger safety and health of employees of another employer.

The investor and all employers executing works are obliged, prior to commencement of works, to sign a contract on organising and implementing safety at work measures, as well as on mutual rights, obligations and responsibilities.

The contract must be, by default, submitted to the Labour Inspectorate (Safety at Work Inspectorate), not later than five days from commencement of the works.

The Safety at Work Law prescribes that the employer who has employees of other employers performing work for him/her, on the basis of a contract or on some other basis, is obliged to inform them about the safety at work measures, and to warn any person who, on any ground, is present in the work premises, the employer's environment or the construction site, of dangerous spots or health hazards occurring in the technological process, of safety measures which must be applied, and guide such person to the zones which are safe for movement.

The Rulebook on contents of elaborates on planning of construction sites prescribes that for construction sites outside settlements and with longer construction times - hydro-electric power plants, thermo-electric power plants, dams, highways, main railways (roads with accompanying structures, etc.), the contractor submits to the relevant inspectorate the General detailed study with the statement on starting date of the works, whereas the Special detailed study is kept at the construction site where it is available for consideration to inspectors during the execution of works.

For construction sites within settlements, where structures such as residential and commercial buildings, traffic and communal structures, etc. are being constructed, the Elaborate on planning of construction sites is developed as a single document and is submitted to the relevant labour inspection team together with the statement on starting date of the works.

h) How do you assess the administrative capacity of the labour inspectorate with regard to the construction sector?

The administrative capacities of the Labour Inspectorate (Safety at Work Inspectorate), in the

segment related to control of the situation in the area of safety at work in construction industry, are insufficient.

71. Safety and health signs at work (Directive 92/58/EEC)

a) Is there legislation on this issue?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that the employer is obliged to warn any person who, on any ground, is present in the work premises, the employer's environment or the construction site, of dangerous spots or health hazards occurring in the technological process, of safety measures which must be applied, and guide such person to the zones which are safe for movement.

There are plans for adoption of a Rulebook, harmonised with the provisions of the relevant Directive, which will define signs of danger, prohibitions and warnings, as well as their geometric shape, colour, pictograms, way in which they are to be used, etc.

72. Extractive industries: mineral-extracting industries through drilling (Directive 92/91/EEC) and surface and underground mineral-extracting industries (Directive 92/104/EEC)

a) Which extractive industries are covered by the scope of national legislation? (In other words, what are the definitions of mineral-extracting industries through drilling and underground mineral-extracting industries?)

The mining industry is regulated by the Law on Mining (Official Gazette of the Republic of Montenegro 65/08), whereas the production of oil and gas is separately regulated (a draft law has been completed). This law prescribes the conditions and manner of exploitation of mineral resources, mining measurements and mining plans, qualifications of workers managing technical jobs during exploitation, safety at work measures and environmental protection measures during the mining works as well as other issues important for exploitation of minerals.

Other than that, regulations on technical norms for the mining industry are also applied.

According to the Law on Mining, exploitation of minerals includes: extraction from beds, preparation, enrichment, refining and processing of minerals with a view to their use.

Within the mining industry, with regard to safety at work, provisions of the Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) that are harmonised with the Directive 89/391/EEC are applied, as well as the secondary legislation of the Safety at Work Law that apply to all areas including the mining industry.

Secondary legislation that directly applies to the mining industry are the Regulation on safety measures in handling explosives and blasting in mines, and the Regulation on hygienic and technical safety measures for work in quarries and brick factories and in the quarrying of clay, sand and gravel.

b) Has an adaptation period for old work-sites been planned?

The Law on Mining (Official Gazette of Montenegro 65/08) prescribes that after exploitation is completed, recovery and recultivation of the ground is performed, whereas the recovery and recultivation projects define the manner and deadlines for execution of works in more details.

Planned secondary legislation prescribes that an adaptation period may not be shorter than the one stated in the Directives, and it relates to: + 5 years for old boreholes and + 9 years for old mines.

c) Do workers receive health surveillance in the extractive industries (mines, quarries, etc) (Article 8 of the Directives)?

National legislation provides for employees' health surveillance in extractive industries.

Special surveillance of health condition of employees is carried out in accordance with the law which prescribes that initial and periodical medical examinations of employees, as well as other measures for ensuring hygienic and health work conditions in the working environment, are carried out with a view to eliminating or bringing down to allowed limits the causes of diseases and health hazards related to work, and especially related to hygiene, sanitary and other devices.

The employer is obliged to provide for the medical examination of employees, and especially those employees who are assigned to workplaces i.e. jobs with special conditions of work and in cases of re-assignment to work of employees who were absent from work for more than one year.

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes, in the part relating to accredited healthcare institutions, that:

The Ministry of Labour and Social Welfare shall, on the basis of a prior approval of the Ministry responsible for health-related issues, issue a legal entity registered in accordance with the law, providing it meets staffing, organizational, technical and other requirements, an authorisation to perform in particular the following:

- participating in the risk assessment at jobs and in the work environment while drafting the Risk Assessment Act;
- informing employees about health risks related to their work, and performing health-related training of employees;
- establishing and inspecting causes of occurrence of occupational diseases and work-related diseases;
- assessing and establishing special health requirements to be met by employees to perform specific activities at a workplace, within the work process or in order to use or operate specific work equipment;
- performing initial and periodical medical examinations of employees in accordance with safety at work regulations;
- issuing reports on medical examinations on the fulfilment of health-related requirements to work at the workplace with increased risk;
- implementing health protection of employees suffering from occupational diseases;
- organising the first aid, rescuing and evacuation in cases of injuries of employees or disasters;
- establishing causes of disability of employees at work and proposing measures for removing them, participating in the process of rehabilitation and providing advice in selecting other suitable jobs according to the remaining health abilities;
- proposing to the employer the measures for improving the health of employees, and especially the ones who are exposed to higher risks of injuries at work or damages to health;
- advising employers in selecting and testing new means of work and personal safety at work means and equipment from the aspect of health protection of employees;
- participating in the analysis of injuries at work, work-related diseases and occupational diseases and keeping appropriate records thereof;
- directly cooperating and coordinating the safety at work matters with the professional person for safety at work.

All the data gathered in relation to medical examinations of employees are confidential and under the supervision of an accredited healthcare institution or an accredited physician who keeps records of medical examinations.

The data may be disclosed to other parties only with a written agreement of the employee.

The report on medical examination of the employee in relation to health ability to perform specific tasks is submitted to the employer in the way so as not to disturb the principle of confidentiality of personal data.

It is prohibited to use the data gathered from medical examinations of employees for the purpose of discrimination of employees.

The jobs of the accredited healthcare institution may also be carried out by a physician, industrial medicine specialist authorised by the Minister, except for the tasks from the Item 5.

The relevant secondary legislation regulating these issues in more details includes the Rulebook on manner and procedure of initial and periodical specialist medical examinations of employees. Provisions of the Safety at Work Law and the above mentioned Rulebook are applied to all areas including the mining industry.

d) What legislation is or will be applicable to undertakings that extract by dredging? (Article 12 of Directive 92/104/EEC) (Sandpits, etc).

The legislation regulating the above mentioned area includes the Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04), Law on Mining (Official Gazette of Montenegro 65/08), and the Rulebook on hygienic and technical safety measures for work in quarries and brick factories and in the quarrying of clay, sand and gravel (Official Gazette of the Federal National Republic of Yugoslavia 69/48).

The national legislation is harmonised with EU Directives.

e) How does national law include the requirement that the employer responsible for the workplace (Article 3 of the Directives) must coordinate the implementation of all the measures concerning the safety and health of the workers and state, in his safety and health document, the aim of that coordination and the measures and procedures for implementing it?

Within the mining industry, with regard to safety at work, provisions of the Safety at Work Law that are harmonised with the Directive 89/391/EEC are applied. In accordance with the Safety at Work Law, the employer is obliged to coordinate implementation of all measures related to safety at work. Secondary legislation of the Safety at Work Law regulates all areas including the mining industry. One of the most significant by-laws is the Workplace Risk Assessment Regulation, because the assessment of risk is the most important document for assessing the situation in terms of safety at work and the implemented measures and norms related to safety at work. The Rulebook prescribes that employers are obliged to prepare a Risk Assessment Act in all areas in which there is a possibility of injuries at work, occupational diseases, work-related diseases, and disturbances in the work process which can cause harmful consequences to health and safety of employees. The Risk Assessment Act is based on determining possible types of risks and harm at the workplace and in the working environment, and based on which an assessment of risks from injuries and damages to health of employees is made.

f) Does national law require that the employer must have a safety and health document (Article 3(2) of the Directive)?

The Law on Mining (Official Gazette of Montenegro 65/08) prescribes that, for the purpose of protecting the life and health of employees, the concessionaire is obliged to regulate the safety of employees at work by a General Act, in accordance with the specific quality and hazards that may arise during the execution of the mining works, and to organise a safety at work service, which will control implementation of regulations and measures of safety at work.

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that any employer having more than 20 employees is obliged to regulate safety at work through a General Act and introduce the employees to it.

The employer is obliged to regulate the following in more detail, by a General Act in accordance to the Law: safety at work measures and the way in which they are implemented, and especially the rights, obligations and responsibilities of all employees, manner in which professional tasks of safety at work are executed, way of determining and checking the health condition of employees working on jobs with special work conditions and other employees, manner of training and checking the training of employees for safe work, using the means and equipment for personal safety and the personal protective equipment and other issues relevant for safety at work.

An employer having less than 20 employees is obliged to regulate safety at work through the employment contract.

The Safety at Work Law prescribes that the employer is obliged to adopt a Risk Assessment Act for all workplaces and to determine the manner and measures for eliminating the risks, and, in case of a new hazard and change of the level of risk in the work process, to change the Risk Assessment Act. Manner and procedure for risk assessment is more closely regulated by the Rulebook on manner and procedure of risk assessment at the workplace. The executive director or the entrepreneur is responsible for implementation.

g) Are there any special measures for SMEs?

All regulations are applied equally to small and large enterprises. There are no special measures for small and medium-sized enterprises. The existing legislation applies to all concessionaires equally.

73. Fishing vessels (Directive 93/103/EC)

a) Is there particular legislation in place for health and safety on board fishing vessels?

There is no particular legislation in place for health and safety on board fishing vessels.

b) To which type of vessel does this legislation apply?

There is no particular legislation in place for health and safety on board fishing vessels.

c) Are there rules in place for life saving equipment?

Life saving equipment which is being used by the fishing vessels is prescribed by the Technical Regulations of the Maritime Safety Department – Rules for Technical Control of Sea Ships, Section 18 – Means for Rescuing.

d) Does your legislation provide for regular inspections of fishing vessels (Article 3(2))? Which body is responsible for inspection? How would you assess the administrative capacity of the inspection bodies for the fishing sector in general?

The Maritime Safety Department has adopted the Rules for Statutory Certification of Vessels, the Section applying to fishing vessels.

The Maritime Safety Department, upon request, performs a regular technical inspection (survey), and based on it, issues certificates on readiness for navigation:

- fishing vessels made from wood - every year,
- fishing vessels made from metal – every two years.

Navigation Safety Inspectors perform inspections of ships and other vessels in terms of their capability for navigation, working order of their engines, devices, instruments, appliances and equipment according to the situation stated in the ship's documents, and inspection of ship's crew members in terms of their training and authorisations for carrying out certain jobs in accordance with the embarkation documents.

There are three inspectors working full working hours who are in charge of carrying out the inspection control in the area of sea fisheries. All inspectors are directly responsible to the main agricultural inspector who, apart from fisheries, also has responsibility for agricultural and phytosanitary inspections.

Sea Fisheries inspectors occasionally cooperate with the border maritime police and use their vessels for carrying out inspections at sea. Although this cooperation is generally good, especially when there are irregularities reported which need to be inspected, there is no regular patrolling of the border maritime police with fisheries inspectors and the inspectors rarely perform inspections at sea.

The Fisheries Inspectorate does not have adequate equipment for carrying out inspections at sea. Having in mind the limited use of border maritime police vessels for inspections of fishing activities, the fisheries Inspectorate above all needs a vessel equipped for inspection controls at sea, with all measuring instruments and devices for satellite or radar following and locating of fishing vessels.

Within the IPA 2009 Project "The Sustainable Management of Marine Fishery", which has been approved and whose implementation starts in 2010, the Ministry of Agriculture, Forestry and Water Management asked for technical assistance to inspectors with a view to strengthening the capacities for carrying out the duties of monitoring, surveillance and control as well as for carrying out standard operative procedures.

Within the future administration body in charge of fisheries (Fisheries Directorate) the plan is to form a Sector for control within which the administrative capacity shall be defined depending on actual needs. Detailed answers related to the fisheries Inspectorate are in the Chapter 13 (III Inspection and Control).

74. Medical treatment on board of fishing vessels (Directive 92/29/EEC)

a) Is there legislation covering the medical equipment of vessels?

The Decree on Boats (Official Gazette of the Republic of Montenegro 51/04 and Official Gazette of Montenegro 44/09), Article 33, prescribes the necessary contents of a first aid box, i.e. first aid kit on board a boat.

b) Is there at least one national centre providing workers with free medical advice by radio (Article 6)?

The Maritime Safety Department was established by the Decree on public administration organisation and manner of work (Official Gazette of Montenegro 59/09). It performs the administrative tasks related to: executing tasks of radio service at sea waterways for needs of the maritime traffic, gathering hydrographic, oceanographic and meteorological data and their transmission by radio. In that sense, if necessary, medical advice can, with participation of relevant medical service, be provided via this institution.

c) Which authority is responsible for the annual inspection (Article 7)?

The authority responsible for the annual inspection has not been defined.

d) Does national law provide for initial training and refresher courses on first aid (Article 5(3) and Annex V)? How is this done in practice?

The Rulebook on titles and certificates of competencies on seafarer's qualifications (Official Gazette of Montenegro 7/09) prescribes the requirements for acquiring the certificate of competency of basic safety on board ship – personal first aid (STCW A-VI/1), special certificate of competency for providing first medical aid on board ship (STCW VI/4-1) and a special certificate of competency for medical care on board ship (STCW VI/4-2). The abovementioned certificates of competency are issued for an indefinite period of time.

Training of seafarers, for the purpose of acquiring the certificates of competency, is carried out by three training centres: "AZALEA MARITIME" DOO from Bijela, Faculty of Maritime Studies, Kotor and "BMV Shipping Services – MARITIME TRAINING CENTRE, Bar.

The Decision on fulfilling the necessary requirements for carrying out training is issued by the Ministry of Transport, Maritime Affairs and Telecommunications.

The exams for acquiring the certificates of competence are taken by the seafarers before the examination board of the Bar Port Authority or Kotor Port Authority.

75. Chemical agents (Directive 98/24/EC as amended by Directives 2000/39/EC and 2006/15/EC)

a) Is there national legislation on the protection of workers from the risks related to chemical agents?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that safe performance of work of employees should be ensured, and chemical hazards at workplaces and in working and supporting premises harmonised with the prescribed measures and norms for the activity which is carried out at these workplaces and in these working premises.

The Rulebook on procedures and deadlines for carrying out periodical inspections and control of means for work, means and equipment for personal safety at work and conditions in the working environment prescribes that chemical hazards are the following: hazardous gases, fumes, fog, smokes, toxic dust and other hazardous agents in the air i.e. in the working environment, having chemical attributes.

Inspections of chemical hazards in the working environment are carried out by taking samples from the area up to 5 m from the source of the hazard i.e. near the employee which is closest to the source of hazard and on every 10 m from the place of previous sampling.

Inspections are carried out in conditions when all technological capacities are employed.

Inspections of chemical hazards are carried out within one year from:

- placing into operation,
- change of technological process,
- reconstruction of investment structure, i.e. heating, air-conditioning and ventilation devices,
- replacing technological capacities which are creating chemical hazards and
- within five years from initial inspections.

In the following period, the national legislation related to chemical agents will be harmonised with the provisions of Directive 98/24/EC, amended by Directives 2000/39/EC and 2006/15/EC.

b) To what extent does your legal system include the approach of replacement of hazardous chemical agents?

The national legislation prescribes that the employer is obliged to prepare a Risk Assessment Act for all workplaces and define the manner and measures for elimination of risks.

The Risk Assessment Act is based on determining possible types of risks and hazards at the workplace and in the work environment, based on which an assessment of risks from injuries and damages to health of employees is made.

The risk assessment defines risks, workplaces and employees under risk, assesses the level of risk, defines the manner, procedure and necessary measures for prevention, removing or decreasing the risks to the lowest possible extent.

c) Is there a total ban of the use of certain chemical substances?

The provision imposing a total ban on the use of certain chemical substances does not exist in the national legislation in the area of safety at work.

d) To what extent is risk assessment the employer's obligation?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that the employer is obliged to make a Risk Assessment Act, in accordance with the organisation of work, work process, means of work, raw materials and materials used in technological and work processes, as well as the other elements which can cause a risk from occupational injury, damage to health, or disease of the employee, for all workplaces, whereas the manner and procedure of risk assessment at the workplace with the employer, together with measures for prevention, removal or bringing down of risks to the lowest possible extent is prescribed by the Rulebook on manner and procedure of risk assessment at the workplace.

e) What prevention strategy has been or will be drawn up to protect workers' health, and what kind of measures will be taken to eliminate risk, or reduce it to a minimum (Article 5)?

The strategy places the emphasis on safety at work measures and norms, so that means for work which are being used enable safe work. Those employees working on the jobs where chemicals are used and where it is not possible to ensure appropriate work conditions are obliged to use appropriate means and equipment for personal safety and to undergo periodical health examinations.

f) To what extent is health surveillance a compulsory requirement for work with chemical agents (Article 10)?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that an employer is obliged to ensure health examination of employees, and especially those employees assigned to workplaces i.e. jobs with specific work conditions and in the event of reassignment to work of an employee who was absent from work for more than a year. The Rulebook on manner and procedure of initial and periodical specialist health examinations of employees (Official Gazette of the Socialist Republic of Montenegro 25/80) prescribes that employees working with dangerous substances undergo periodical health examinations every 12 months.

76. Explosive atmospheres (Directive 1999/92/EC)

a) Does legislation in your country specifically cover the risks arising from explosive atmospheres?

Within the safety at work area of the national legislation, there is a Rulebook on manner and procedure of risk assessment at the workplace (Official Gazette of the Republic of Montenegro 43/07) which covers the risks in accordance with the type of the hazard at the workplace, which can be related to various factors.

In the following period, the national legislation dealing with explosive atmospheres will be harmonised with the provisions of the Directive 1999/92/EC.

The national legislation covers the risks arising from explosive atmospheres through provisions of:

- The Law on Safety and Rescuing (Official Gazette of Montenegro 13/07), prescribing measures for safety and rescuing of population, material and cultural goods and environment from all types of risks defined by the National Strategy for Emergency Situations of the Republic of Montenegro;

- The Law on Transportation of Hazardous Substances (Official Gazette of Montenegro 05/08), prescribing common and specific safety measures for all or specific types of dangerous substances during transportation of these substances per traffic branches;
- The Law on Explosive Substances (Official Gazette of Montenegro 49/08), prescribing the conditions for production, trade, procurement, storage and use of explosive substances, with a view to protection of life, health and safety of people, animals and plants, environment and property;
- The Law on Explosive Substances, Flammable Liquids and Gases (Official Gazette of the Socialist Republic of Montenegro 44/76, 49/76, 34/86 and 11/88, which applies only with regard to the flammable liquids and gases, as the part relating to explosive substances ceased to be valid after adoption of the Law stated in the Item 3 of this Act), prescribing the preventive safety measures which shall be implemented during extraction, processing and decanting of flammable liquids and gases, construction of structures in which these substances are processed and stored, and handling and use of these substances.

b) In case it does cover such risks, which protection measures are provided for by national legislation?

The national legislation prescribes undertaking of protection measures during construction, reconstruction, and equipping of production and storage structures for explosive substances, in such a way that, through the procedure of issuing the approval for project documentation and an opinion on the location, implementation of these protection measures is checked. It is prescribed that in the hazardous areas i.e. areas endangered by the structures in which explosive substances are produced or stored, or in which flammable liquids and gases are poured or stored, construction of structures other than those serving to the protection of these structures will not be permitted. Also, it is prescribed that these structures need to be under permanent physical and technical protection, and that they must be equipped with systems, instruments, installations, devices, etc. serving to the protection of life, health and safety of people, animals and plants, environment and property.

In accordance with the JUS N.S8.007 and JUS N.S8.007/1 standards, endangered areas i.e. areas in which explosive mixtures are present or where it can be expected that they will appear, are classified as hazardous areas 0, 1 or 2 depending on frequency and duration of explosive mixtures.

Classification of hazardous areas

In order to correctly define the hazardous areas it is necessary to divide the location in which storage or pouring of flammable liquids or gases is carried out into three areas, depending on the level of risk from fire.

- Maximum hazard area (Area I);
- Increased hazard area (Area II);
- Hazardous area (Area III).

Parts of endangered area, depending on the frequency and duration of presence of explosive mixtures are divided into hazardous areas:

- Area 0– the area where explosive atmosphere is present constantly or over a longer period of time;
- Area 1 – the area where explosive atmosphere is likely to occur during standard operation;
- Area 2 – the area where explosive atmosphere is not likely to occur during standard operation, and if it occurs, it will last only a short period of time.

The hazardous areas for outbreak and spreading of fire and explosion are set according to a special methodology in accordance with technical regulations.

Legislation

With a view to covering the risks from explosive atmospheres, laws and technical regulations are applied.

THE LIST OF APPLIED LAWS AND TECHNICAL REGULATIONS

- The Law on Safety and Rescuing, (Official Gazette of Montenegro 13/07)
- The Law on Transportation of Hazardous Substances (Official Gazette of Montenegro 5/08)
- The Law on Explosive Substances (Official Gazette of Montenegro 49/08)
- The Law on Explosive Substances, Flammable Liquids and Gases (Official Gazette of the Republic of Montenegro 47/92) which prescribes that “Facilities for production, processing and storage of flammable liquids and gases (warehouses, storehouses and reservoirs, oil pipelines and gas pipelines, fuel supply stations for motor vehicles), can be constructed or installed only in such a manner that the risk from fire or explosion is not created to these or any other structures”.
- The Law on Spatial Development and Construction of Structures (Official Gazette of Montenegro 51/08)
- Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04)
- The Law on Environment (Official Gazette of the Republic of Montenegro 12/96)
- Rulebooks-technical regulations
- Regulation on the construction of fuel supply stations for motor vehicles and on the storage and pouring of fuel i.e. in accordance with the Technical Regulation on the construction of fuel supply stations for motor vehicles and on the storage and pouring of fuel (Official Gazette of the Socialist Federal Republic of Yugoslavia 23/71, 27/71) which is integral part of the Rulebook.
- Regulation on technical norms for devices and equipment using LPG (Official Gazette of the Socialist Federal Republic of Yugoslavia 7/84);
- Rulebook on technical norms for transportable closed pressure vessels, liquid and dissolved gasses under pressure (Official Gazette of the Socialist Federal Republic of Yugoslavia 25/80);
- Regulation on the storage of fuel oil (Official Gazette of the Socialist Federal Republic of Yugoslavia 45/67);
- Regulation on devices of personal protection at work and personal protection equipment (Official Gazette of the Socialist Federal Republic of Yugoslavia 35/69);
- Technical Regulations for special protection of electric plants from fire (Official Gazette of the Socialist Federal Republic of Yugoslavia 16/66, 58/72 and 24/75);
- Regulations on technical measures for operation and maintenance of electric plants (Official Gazette of the Socialist Federal Republic of Yugoslavia 13/78);
- Regulation on technical norms for protection from static electricity (Official Gazette of the Socialist Federal Republic of Yugoslavia 62/73);
- Regulation on the construction of devices for flammable liquids and on the storage and pouring of flammable liquids (Official Gazette of the Socialist Federal Republic of Yugoslavia 20/71 and 23/71);
- Regulation on construction of plants for LPG and on storing and pouring of LPG (Official Gazette of the Socialist Federal Republic of Yugoslavia 24/71 and 26/71);
- Regulation on technical norms for stable pressure vessels (Official Gazette of the Socialist Federal Republic of Yugoslavia 16/83)

Due to the practical need and lack of legislation defining conditions and manner of setting up mobile-container gas stations for LPG fuelled motor vehicles, up to 10 m³ of capacity, the following is adopted:

The Instruction on manner of setting up the mobile-container gas stations for LPG fuelled motor vehicles, up to 10 m³ of capacity.

Until relevant legislation is adopted, in accordance with the European norms, which will define the conditions and manner of setting up mobile-container gas stations for LPG fuelled motor vehicles, up to 10 m³ of capacity, which are filled on the spot, by means of direct connecting of the fuelling valve at the reservoir and the flexible pipeline from the petrol tanker, and their purpose is supplying the LPG fuelled motor vehicles, this Instruction will be applied.

- For setting up mobile-container gas stations for LPG fuelled motor vehicles, up to 10 m³ of capacity, in terms of meeting safety distances from surrounding structures, roads and permanent sources of flame, as well as in terms of defining the hazardous zones, solutions of Great Britain and Germany will be applied,
- defined by the following document: Code of practice 20:2001 – Automotive LPG Refuelling Facilities.

THE LIST OF APPLIED STANDARDS

JUS ISO 3941	Classification of fires
JUS N.S8.003	Electrical apparatus for explosive gas atmospheres – classification of flammable gases or vapours
JUS N.S8.007	Classification of hazardous areas with explosive atmospheres
JUS Z.C2.020	Portable and mobile fire extinguishers
JUS Z.C2.035	Portable and mobile dry powder fire extinguishers
JUS Z.C2.040	Portable and mobile carbon dioxide fire extinguishers
JUS U.J1.051	Fire protection in civil engineering Behaviour of building materials in fire
JUS U.J1.220	Fire protection – Symbols for design
JUS N.B4.801	Lightning-conductor installations – Selection of protection levels
JUS N.B2.702	Electrical installations of buildings – Voltage ranges
JUS N.B2.730	Electrical installations of buildings – General characteristics and classification
JUS N.B2.741	Low-voltage electrical installations Safety requirements Protection against electric shock
JUS N.B2.742	Electrical installations of buildings Safety requirements Protection against thermal effects
JUS N.B2.743	Electrical installations of buildings
JUS N.B2.751	Electrical installations of buildings Selection and erection of electrical equipment depending on the outside influences
JUS N.B2.752	Electrical installations of buildings Wiring systems

	Permanently allowed currents Earthing and protective conductors
JUS N.S8.090	Requirements for electrical installations and devices in hazardous areas with explosive atmospheres (except for mines)
JUS U.J1.030	Fire load
JUS U.J1.240	Level of fire resistance of structural elements
JUS B.H2.134	Liquefied petroleum gas
JUS M.Z2.250	Shape and measurements of reservoirs for transportation of LPG

77. Biological agents at work (Directive 2000/54/EC)

a) Is there specific legislation at national level?

There are no regulations harmonised with the Directive. The Rulebook on manner and procedure of carrying out initial and periodical specialist medical examinations of workers (Official Gazette of the Socialist Republic of Montenegro 25/80) prescribes that employees working on such jobs where they are exposed to biological hazards (bacteria, viruses, parasites and fungi) must undergo initial medical examinations and periodical medical examinations every 12 months.

Within the safety at work area of the national legislation, there is a Rulebook on manner and procedure of risk assessment at the workplace (Official Gazette of the Republic of Montenegro 43/07) which covers the risks in accordance to the type of the hazard at the workplace, and which can be related to various factors, including those related to biological hazards such as:

- presence of allergens;
- infections from manipulating biological factors;
- exposure to microorganisms, and
- other hazards.

b) Does your legislation provide for a classification of biological agents?

The Rulebook on procedure and deadlines for carrying out periodical inspections and control of the means for work, means and equipment for personal safety at work, and work conditions (Official Gazette of the Republic of Montenegro 71/05) prescribes that biological hazards are those hazards arising from work with viruses, bacteria, parasites, fungi, moulds, insects and other organic substances.

As there are no regulations on this issue, there is also no classification of biological substances in accordance to the Directive.

c) What general principles do you apply or intend to apply to:

i) risk assessment;

The Rulebook on manner and procedure of risk assessment at workplace (Official Gazette of the Republic of Montenegro 43/07) prescribes the manner and procedure of risk assessment at workplace with an employer, with measures for prevention, removing or reducing risks to the minimum.

ii) risk elimination;

The same answer as under i).

iii) risk reduction?

The Rulebook on manner and procedure of risk assessment at workplace (Official Gazette of the Republic of Montenegro 43/07) prescribes the manner and procedure of risk assessment at workplace with an employer, with measures for prevention, removing or reducing risks to the minimum.

d) Does your legislation include an obligation to replace dangerous substances by less dangerous?

The national legislation prescribes that an employer is obliged to make a Risk Assessment Act for all workplaces and to define a manner and measures for elimination of risks.

The Risk Assessment Act is based on establishing possible types of risks and hazards at the workplace and in the work environment, based on which an assessment of risks from injuries or damages to health of employees is made.

Risk assessment includes defining the hazards, workplaces and employees exposed to risk, assessing the level of risk, determining the manner, procedure and necessary measures for prevention, removing or reducing risks to the minimum.

e) Is there a notification system for the use of certain biological agents and a duty to notify accidents to a competent authority?

There is no notification system with regard to the use of certain biological agents.

f) To what extent does the legislation apply to activities with non-deliberate involvement of biological agents (e.g. food industry, agriculture, waste processing, etc.) and does the labour inspectorate also cover this aspect upon inspection visits to undertakings in these areas?

Activities with non-deliberate involvement of biological agents are included in the national legislation, but the Safety at Work Inspectorate does not cover this aspect during inspections of companies from this area.

g) Is there health surveillance?

The Rulebook on manner and procedure of carrying out initial and periodical specialist medical examinations of workers (Official Gazette of the Socialist Republic of Montenegro 25/80) prescribes that employees working on such jobs where they are exposed to biological hazards (bacteria, viruses, parasites and fungi) must undergo initial medical examinations and periodical medical examinations every 12 months.

78. Vibrations (Directive 2002/44/EC)

a) Is there specific legislation on protection from exposure to vibration in place?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that design, construction of new or reconstruction of existing, use and maintenance of technological work with related structures and equipment for work should ensure that work of employees is performed in a safe manner, and physical hazards at workplaces and in work and supporting premises should be adjusted to the prescribed measures and norms applicable to the activity which is performed in that workplaces and in that work premises.

The Rulebook on procedure and deadlines for carrying out periodical inspections and control of the means for work, means and equipment for personal safety at work, and work conditions (Official Gazette of the Republic of Montenegro 71/05) prescribes that vibrations are tested at the contact areas of technological capacities and working surfaces at which vibrations are created during work, and where employees are in direct contact with them.

Vibrations are tested within one year from:

- placing into operation,
- change of technological process,
- reconstruction of investment structure,
- replacement of technological capacities or parts at which vibrations are created, and
- within five years from the initial testing.

Within the safety at work area of the national legislation, there is a Rulebook on manner and procedure of risk assessment at the workplace (Official Gazette of the Republic of Montenegro 43/07) which covers the risks in accordance to the type of the hazard at the workplace, and which can be related to various factors, including those related to physical hazards – exposure to mechanical vibrations.

b) Which is the scope of this legislation?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that design, construction of new or reconstruction of existing, use and maintenance of technological work with related structures and equipment for work should ensure that work of employees is performed in a safe manner, and physical hazards at workplaces and in work and supporting premises should be adjusted to the prescribed measures and norms applicable to the activity which is performed in that workplaces and in that work premises.

The Rulebook on procedure and deadlines for carrying out periodical inspections and control of the means for work, means and equipment for personal safety at work, and work conditions (Official Gazette of the Republic of Montenegro 71/05) prescribes that vibrations are tested at the contact areas of technological capacities and working surfaces at which vibrations are created during work, and where employees are in direct contact with them.

Vibrations are tested within one year from:

- placing into operation,
- change of technological process,
- reconstruction of investment structure,
- replacement of technological capacities or parts at which vibrations are created, and
- within five years from the initial testing.

Within the safety at work area of the national legislation, there is a Rulebook on manner and procedure of risk assessment at the workplace (Official Gazette of the Republic of Montenegro 43/07) which covers the risks in accordance to the type of the hazard at the workplace, and which can be related to various factors, including those related to physical hazards – exposure to mechanical vibrations.

c) Does your legislation set up exposure limit and action values, and if yes, which ones?

In the following period, the national legislation relating to vibrations will be harmonised with the Directive 2002/44/EC.

No exposure limits and action values for vibrations have been defined.

79. Indicative limit values of chemical, physical and biological agents at work (Directives 91/322/EEC and 2000/39/EC)

a) Is there currently a list of chemical substances for which exposure limit values have already been set? If so, how many substances are on the list? Are the limits indicative or binding?

Currently, a list of chemical substances for which exposure limits have been defined does not exist.

80. Asbestos (Directive 83/477/EEC as amended by Directives 91/382/EEC and 2003/18/EC)

a) Are products containing asbestos currently sold and processed?

Asbestos cement products (boards and pipes) are still being used, but they are not sold any longer.

b) What is the definition of the term "asbestos" in the national law (Article 2)?

Asbestos belongs to a category of dangerous and hazardous substances which includes explosive, flammable, oxidizing, poisonous, repulsive, contagious, corrosive, cancerogenous, and radioactive substances, as defined by standards and other regulations, and which are produced, used or stored in the work process, as well as the materials containing these substances which can be hazardous to life and health of employees.

c) What is the limit value for exposure of workers (Article 8) (EU 0.1 fibres/cm³ as an eight-hour time-weighted average)?

There are no regulations in place defining the limit values for asbestos.

d) What method do you use to collect airborne fibres?

For taking samples, making analysis and assessing results of measuring, the AIA method is being used (a membrane filter method).

e) Is applying asbestos by means of spraying prohibited (Article 5)?

The Law on Ratification of the International Labour Organization Convention No. 162, concerning Safety in the Use of Asbestos (Official Gazette of SFRY – International Agreements 4/89) is applied, which prohibits spraying of all forms of asbestos.

f) What authority is responsible for administering the notification system (Article 4)?

Professional persons for safety at work i.e. representatives of employees have access to all documents relating to safety at work. With regard to important changes in use of asbestos, the employer has no obligation to notify authorities thereof.

g) Is there a register of recognised cases of mesothelioma?

There is no specific register of mesothelioma cases in Montenegro.

h) Do you require a complete plan of work to be drawn up before any demolition work is begun and what is the content of such plans (Article 12)?

In case of construction, reconstruction, repair, or demolition of structures, the employer who executes the works is obliged to prepare a Detailed study on construction site organisation.

81. Noise (Directive 2003/10/EC)

a) Does the national legislation specifically cover risks from noise at work?

Within the safety at work area of the national legislation, there is a Rulebook on manner and procedure of risk assessment at the workplace (Official Gazette of the Republic of Montenegro 43/07) which covers the risks in accordance to the type of the hazard at the workplace, and which can be related to various factors, including those related to physical hazards – exposure to noise.

Apart from provisions of the Safety at Work Law and the Rulebook on manner and procedure of risk assessment at the workplace, the Rulebook on measures and norms of protection from noise at work in the work premises (Official Gazette of the Socialist Federal Republic of Yugoslavia 21/92), is also applied. In the following period, this Rulebook will be harmonised with the EU Directives related to noise.

b) Have you set a daily noise-exposure value for workers? If so, what is it?

The Rulebook on measures and norms of protection from noise at work in the work premises (Official Gazette of the Socialist Federal Republic of Yugoslavia 21/92) prescribes the following:

ALLOWED NOISE LEVELS WITH REGARD TO THE TYPE OF ACTIVITY

No.	Type of Activity	Allowed noise level at the workplace in dB (A)		
		a	b	v
1	2	3	4	5
1	Physical labour with which does not require mental efforts and sensing the environment by hearing	85	85	80
2	Physical labour aimed at accuracy and concentration at work; occasional observation and control of the environment by hearing; driving transportation vehicles	80	75	70
3	Labour performed under frequent speech commands and acoustic signals			
	Labour which requires permanent observation of the environment by hearing			
	Predominantly mental labour, but routine	75	70	60
4	Predominantly mental labour requiring concentration at work, but routine	70	65	55
5	Mental labour aimed at controlling the work of group of people performing predominantly physical labour	-	60	50
	Labour requiring concentration at work or direct communication by speech or via telephones			
6	Mental labour aimed at controlling the work of group of people performing predominantly mental labour			
	Labour requiring concentration at work. Direct communication by speech or via telephones			
	Labour exclusively related to communication via communication devices (telephone and others.)	-	55	45
7	Mental labour requiring high concentration at work, paying no attention to environment. Precise psychomotor skills or communicating with a group of people	-	-	40
8	Mental labour. As preparing concepts. Labour with big responsibility. Communicating with a view to agree upon something with a group of people	-	-	35

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9	Concert and theatre halls	-	-	30
	a – stands for the noise created by the tools for work or work devices operated or attended by workers			
	b – stands for the noise created by the tools for work or work devices not operated and not attended by workers			
	v - stands for the noise created by non-production sources (ventilation or air condition devices. Neighbouring organization. Street traffic, etc.).			

ALLOWED NOISE LEVELS WITH REGARD TO DIRECT COMMUNICATION BY SPEECH

dB (A)	Distance in meters	
	Normal conversation	Loud conversation
45	7	14
50	4	8
55	2.2	4.5
60	1.3	2.5
65	0.7	1.4
70	0.4	0.8
75	0.2	0.4
80	0.1	0.2
85	0.1	0.1
90		0.1

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ALLOWED NOISE LEVELS WITH REGARD TO DIRECT COMMUNICATION BY MEANS OF COMMUNICATION

Criteria in dB(A)	Possibility of communication by phone, etc.
55	satisfactory
65	a little aggravated
70	aggravated
above 75	unsatisfactory

THE VALUE OF SOUND PRESSURE LEVEL IN OCTAVE BANDS

Octave sound pressure levels N - curves									
N	31.5	Hz 63	125	250	500	1 000	2 000	4 000	8 000
0	55.4	35.5	22.0	12.0	4.8	0	-3.5	-6.1	-8.0
5	55.8	39.4	26.3	16.6	9.7	5	+1.6	-1.0	-2.8
10	62.2	43.4	30.7	21.3	14.5	10	6.6	+4.2	+2.3
15	65.6	47.3	35.0	25.9	19.4	15	11.7	9.3	7.4
20	69.0	51.3	39.4	30.6	24.3	20	16.8	14.4	12.6
25	72.4	55.2	43.7	35.2	19.2	25	21.9	19.5	17.7
30	75.8	59.2	48.1	39.9	34.0	30	26.9	24.7	22.9
35	79.2	63.1	52.4	44.5	38.9	35	32.0	29.8	28.0
40	82.6	67.1	56.8	49.2	43.8	40	37.1	34.9	33.2
45	86.0	71.0	61.1	53.6	48.6	45	42.2	40.0	38.3
50	89.4	75.0	65.5	58.5	53.5	50	47.2	45.2	43.5
55	92.9	78.9	69.8	63.1	58.4	55	52.3	50.3	48.6

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60	96.3	82.9	74.2	67.8	63.2	60	57.4	55.4	53.8
65	99.7	86.8	78.5	72.4	68.1	65	62.5	60.5	58.9
70	103.1	90.8	82.9	77.1	73.0	70	67.5	65.7	64.1
75	106.5	94.7	87.2	81.7	77.9	75	72.6	70.8	69.2
80	109.9	98.7	91.6	86.4	82.7	80	77.7	75.9	74.4
85	113.3	102.6	95.9	91.0	87.6	85	82.8	81.0	79.5
90	116.7	106.6	100.3	95.7	92.5	90	87.8	86.2	84.7
95	120.1	110.5	104.6	100.3	97.3	95	92.9	91.3	89.8
100	123.5	114.5	109.0	105.0	102.2	100	98.0	96.4	95.0
105	126.9	118.4	113.3	109.6	107.1	105	103.1	101.5	100.1
110	130.3	122.4	117.7	114.3	111.9	110	108.1	106.7	105.3
115	130.7	126.3	122.0	118.9	116.8	115	113.2	111.8	110.4
120	137.1	130.3	126.4	123.6	121.7	120	118.3	116.9	115.6
125	140.5	134.2	130.7	128.2	126.6	125	123.4	122.0	120.7
130	143.9	138.2	135.1	132.9	131.4	130	128.4	127.2	125.9

ALLOWED TIME OF EXPOSURE TO NOISE WITH REGARD TO LEVEL OF NOISE DURATION

Daily exposure in hours	Noise level in dB (A)
8	85
6	87
4	90
3	92

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2	95
1 1/2	97
1	100
1/2	105
1/4	110
1/8	115*
* Permanent or periodical exposure to noise over 115 dB (A) is not allowed.	

ALLOWED TIME OF EXPOSURE TO NOISE

	Sound pressure level in dB (A)						
Min/day	125 Hz	250	500	1 000	2 000	4 000	8 000 Hz
480	98	91	87	83	81	80.5	82.5
240	110	100	93	87	85	83	90
120	120	109	101	94.5	90	88	96
60		120	110	102	95	94	102
30			119	109	102	99.5	109
15			128	117	108	105	115
7				121	112	109.5	120
3				126	117	114	125
Curves are at minimum at 3500 Hz and the values are 0.5 dB smaller than those in column 4000 Hz							

ALLOWED LEVELS OF IMPULS OR IMPACT NOISE

Noise level in dB	Allowed number of impulses or impacts during the day
140	100
130	1 000

Sound pressure peak level in decibels: re 20 µPa

c) Does current legislation set exposure action levels on noise? If so, what is the action value? If not, do you intend to set one?

The Rulebook on measures and norms of protection from noise at work in the work premises (Official Gazette of the Socialist Federal Republic of Yugoslavia 21/92) establishes the following action value: $L_{EX, 8h} = 85$ dB (A).

This action value should be adjusted in accordance with the Directive 2003/10/EEC, where the action value is set as: $L_{EX, 8h} = 80$ dB (A).

d) Do you already have or plan to set a threshold (ceiling) limit value for noise? If so, what is this value?

The maximum allowed limit value for noise is 85 dB. No permanent or occasional exposure to noise over 115 dB is allowed.

e) Do you have a framework of preventive measures including health surveillance to effectively protect workers against noise? If so, how are these measures related to the limit values?

The Rulebook on procedure and conditions for carrying out initial and periodical medical examinations of workers (Official Gazette of the Socialist Republic of Montenegro 25/80) prescribes that the employees working at such jobs where they are exposed to increased noise are obliged to undergo the initial and the periodical medical examinations every 12 months. If the limit values are exceeded, and this could not have been prevented by implementation of appropriate preventive measures, the prevention is carried out in a manner and in accordance with the applied technological procedure or, eventually, through use of means and equipment for personal safety at work.

f) Are labour inspectors trained in regard to this physical agent and are they actively advising employers and workers on this risk?

Safety at Work Inspectors are trained in regard to this physical agent but additional professional development is necessary.

82. Vibrations (Directive 2002/44/EC)

a) Is there specific legislation on protection from exposure to vibration in place?

The answer is contained in the answer to Question 78 (a).

b) What is the scope of this legislation?

The answer is contained in the answer to Question 78 (b).

c) Does your legislation set up exposure limit and action values, and if yes, which ones?

The answer is contained in the answer to Question 78 (c).

83. Carcinogens (Directive 2004/37/EC)

Carcinogens belong to a category of **dangerous and hazardous** substances which includes explosive, flammable, oxidizing, poisonous, repulsive, contagious, corrosive, cancerogenous, and radioactive substances, as defined by standards and other regulations, and which are produced, used or stored in the work process, as well as the materials containing these substances which can be hazardous to life and health of employees.

a) Does your country have legislation in the field covered by the Directive?

There are no regulations harmonised with the provisions of the Directive. Within the safety at work area of the national legislation, there is a Rulebook on manner and procedure of risk assessment at the workplace Rulebook on measures and norms of protection from noise at work in the work premises (Official Gazette of the Republic of Montenegro 43/07) which covers the risks in accordance to the type of the hazard at the workplace, which can be related to various factors including the dangerous substances.

This area is regulated by the Law on Ratification of the International Labour Organization Convention No. 139 on prevention and control of occupational risks caused by carcinogenous substances and agents, and the Law on Transportation of Dangerous Substances (Official Gazette of Montenegro 5/08). Adoption of the Rulebook on safety at work and protection of employees from the risks of exposure to carcinogens or mutagens, which will be completely harmonised with EU Directives, is planned.

There is also a JUS standard: ZO.B.001 JUS which refers to maximum allowed concentrations of hazardous substances in the work environment.

b) Do you use the Community classification or a different classification to define substances as carcinogens?

According to the Rulebook on methods and requirements for collecting, preserving, record keeping, storage, treatment and disposal of radioactive waste (Official Gazette of the Federal

Republic of Yugoslavia 9/99), based on the quantity and characteristics of radioactive isotopes, radioactive wastes are classified into the following categories:

- Category I radioactive wastes (LILW-SL), containing short-lived radioactive isotopes (< 30 years), of lower and medium activity level, releasing thermal power of less than 2 kW/m³. Concentration of long-lived alpha emitting radionuclides for this category of radioactive wastes is limited to 4000 Bq/g in individual packages of radioactive waste, i.e. to an overall average of 400 Bq/g;
- Category I radioactive wastes (LILW-LL) - containing short-lived radioactive isotopes (> 30 years), of lower and medium activity level, releasing thermal power of less than 2kW/m³. Concentration of long-lived alpha emitting radionuclides for this category of radioactive wastes exceeds the values of maximum concentration of long-lived alpha emitting radionuclides for Category I of radioactive wastes;
- Category I radioactive wastes (HLW) – Radioactive wastes of high activity level, where concentration of long-lived alpha emitting radionuclides exceeds the maximum values for Category I radioactive wastes, releasing thermal power of more than 2 KW/m³, and for which cooling is necessary.

c) Does the law oblige carcinogens to be replaced by less dangerous substances?

The Safety at Work Law (Official Gazette of the Republic of Montenegro 79/04) prescribes that the employer is obliged to provide employees the means for work, personal safety at work means and equipment and dangerous substances to be used only if he/she holds the prescribed documentation in the language officially used in Montenegro, in which the manufacturer or supplier outlined all safety-technical data which are important for assessing the risk of working with them, and after making sure that all safety at work measures, which are defined by documentation, are ensured in accordance with safety at work regulations.

d) Are there provisions on health surveillance prior to taking up duty and in regular intervals?

Health surveillance of employees working with chemical substances, and especially of those employees working with carcinogens, is obligatory. This includes initial, as well as the periodical medical examinations which are carried out every 12 months.

e) Are medical records kept? For how long and by whom?

The Regulation on medical documentation, records and reports of healthcare institutions (Official Gazette of the Socialist Federal Republic of Yugoslavia 50/65) prescribes that all medical documentation kept prior to the moment of entering into force of this Regulation, as well as the medical documentation kept on the basis of this Regulation, must be kept by the healthcare institutions as documents of permanent value.

f) Does your legislation provide for limit values on benzene, vinyl chloride monomer and hardwood dusts and are they similar to the EC values?

There are no limit values on benzene, vinyl chloride monomer and hardwood dusts which are adjusted to provisions of the Directive.

84. Artificial optical radiation (Directive 2006/25/EC)

Provisions of the Directive 2006/25/EC will be transposed into the Law on Protection from Non-Ionizing Radiation.

a) Is there specific legislation covering protection from risks regarding the exposure to artificial optical radiation?

There is no adequate legislation covering protection from risks regarding the exposure to artificial optical radiation in Montenegro. Drafting is planned of the Law on Protection from Non-Ionizing Radiation that the Provisions of the Directive 2006/25/EC will be transposed into.

b) In case there is such legislation, does it lay down exposure limit values for non-coherent radiation, other than that emitted by natural sources of optical radiation (Article 3(1)) ?

There is no adequate legislation covering protection from risks regarding the exposure to artificial optical radiation in Montenegro, so accordingly, exposure limit values for non-coherent radiation have not been defined.

c) Are there any obligations imposed on employers to take measures to prevent the exposure exceeding the limit values?

Obligations of employers to take measures to prevent exceeding the limit values of the exposure to optical radiation have not been defined in Montenegro.

Conditions and measures of protection of health of people and the environment from hazardous impact of optical radiation, i.e. non-ionizing radiation during the use of sources of non-ionizing radiation, will be regulated in more detail in the Law on Protection from Non-Ionizing Radiation which is being planned.

C. Effective implementation of related *acquis communautaire*

Certain Community Directives in the area concerned require employers to take specific preventative and protective measures, to make available to workers specific work equipment to ensure workers' protection and to make substantial changes in workplaces (that includes requirements laid down, for instance, in Directive 89/655/EEC concerning the minimum health and safety requirements for the use of work equipment by works at work, Directive 98/24/EC on the protection of health and safety of workers from the risks related to chemical agents at work, Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise), Directive 2003/18/EC amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work, Directive 2006/25/EC on the minimum health and safety requirements regarding the exposure of risks arising from physical agents (artificial optical radiation) and others).

85. As putting into place these measures entails certain financial costs, national authorities are invited to comment on the issue whether an impact assessment was carried out (or is planned to be carried out) as regards socio-economic implications of the implementation of the Community Directives and whether there are measures envisaged to assist employers in order to ensure effective implementation of the Directives concerned.

1. Assessment of the total costs of providing health and safety at work in Montenegro

No separate contribution rate has been provided for in Montenegro for covering the costs of providing health and safety at work. Also, the costs for exercising rights of employees from this area have not been separately accounted for. Therefore, we can only assess the costs on the basis of basic statistical data and assessment of values of certain types of rights based on the data of competent funds. As for the internal employer's costs, there are no statistical data for those measures, so assessments are very rough.

Means for covering the measures related to providing of health and safety at work and for the treatment of injuries at work and occupational diseases represent:

- means of the Pension and Disability Insurance Fund of Montenegro
- means of the Health Insurance Fund of Montenegro
- means of employers

From the employer's aspect, the costs of providing health and safety at work may be assessed on the basis of the following items:

- internal employer's costs
- external employer's costs (paying contributions for covering the costs carried forward, on the principle of solidarity, to the health and disability insurance) and
- lost revenues due to premature disability or death, which can be assessed from both aspects, that of the employer and the one from the national aspect.

No analysis or assessments of employers' internal costs have been carried out in Montenegro so far. Based on the insight into a recorded situation of a small sample, which was made during the process of preparing the acts on risk assessment, the assessed internal costs to the Montenegrin employers in 2008 were 0.4% of the GDP.

Costs to the employers in 2008, on the basis of compensations of salaries during the employees' inability to work up to 30 days due to treatments of injuries at work and occupational diseases, are assessed on the basis of lost days and the average compensation in the amount, provided for by the Health Insurance Fund of Montenegro.

2. Assessment of influence of Community Directives

Legislation was a traditional instrument that was used by Montenegro with a view to improvement of the level of health and safety at work. The legislator's attention predominantly focused on technical safety and less on health at work. Once the Community Directives are implemented in this area, we expect social and organisational elements to be introduced in this area. This should result in lower incidence of injuries and work related diseases. Regulations and their introduction will remain a significant tool for the state but it will be necessary to get familiar with and to observe the inventions, technical and social development in the Community, with regard to the subject area. It has been assessed that the majority of regulations are outdated. Among other things, it will be necessary to exclude the technical details from them and to make them more flexible. The regulations should, above all, define the goals in the area of health and safety at work. The regulations will be coherent and related to regulations from other areas.

The Safety at Work Inspectorate will remain a tool which will be used by the state for the purpose of raising the level of health and safety at work. The Inspectorate will particularly focus on activities in which there is a greater risk to health of employees and its work will be increasingly based on prepared risk assessments. The Inspectorate will correlate its work with professional workers associations (engineers, industrial medicine specialists, etc.) and organizations of social partners

with a view to correlate, in the most cost-effective manner, with professional workers and accredited physicians at the employers' level (especially for small and medium-sized enterprises).

Montenegro will match the attention provided by the EU countries through public awareness-raising campaigns on specific risks to health of employees. The campaigns will primarily focus on certain industries and will be implemented together with organisations of social partners. Campaigns proved to be very useful in the EU in the past.

Montenegro intends to develop financial incentives for employers to invest in health and safety at work, by increasing the differences in insurance premiums, tax reliefs and by subsidising risk assessments at the employers' level.

Montenegro will, in accordance with the development of certification in the EU, develop certification as a method for raising the level of health and safety at work. On one side, this means certification of products (machines, equipment and chemical products), and on the other side it means certification of professional services in the area of health and safety at work. The state will ensure that certification also defines the knowledge which professionals in the area of health and safety at work (engineers, industrial medicine specialists, etc.) are required to possess. The state will not carry out certification via its institutions; it will only determine which institutions or organisations in the state will be accredited for issuing certificates.

In the coming years, Montenegro will focus its strategy on education and professional development of various categories of workers and employees in the area of health and safety at work, jobs with special risks, trainees, engineers, physicians and trainers in the area of health and safety at work. Training will focus on specific target groups in the future.

Conditions in the labour market also influence the health and safety at work. Apart from the new types of work (flexible work, etc.), a significant challenge in the following period will also be workforce ageing. The work will have to be adapted to the, on average, ageing workers, so that they will not have to retire to inactivity. Also, prepared special strategies for employment of young people will present a challenge. The most endangered categories of workers, which will have to be assisted by the state in the area of health and safety at work in the future, are self-employed, younger workers, older workers, trainees and those employed in atypical forms of work.

In the following period, we expect that our priorities will be the following strains and hazards at the workplace: stress, chemical substances (especially dangerous-mutagenic substances), manual handling of load, asbestos, noise, electromagnetic radiation, vibrations, safety of machines, repetitive motions and new types of work. New types of work are significant especially because workers who change jobs more frequently are the most endangered workers, and at the same time they are the least trained for safe work.

From the above mentioned rough assessment the following general observation can be made:

On the basis of present situation and necessary measures in the following mid-term period, the costs of health and safety at work would be 2.3 % - 2.5 % of GDP, and after three years they should realistically decline and stabilise at 1.5% - 1.8% of Montenegrin GDP.

III. SOCIAL DIALOGUE

86. What are the social dialogue mechanisms in your country? What is their legal basis?

Numerous mechanisms of social dialogue are put in place in Montenegro.

Legal basis and institutional framework for the exercise and development of social dialogue is put in place by implementation of the Convention no. 144 on Tripartite Consultation (international labour standards from 1976), Recommendation no. 152 on Tripartite Consultation (ILO activities from 1976), Recommendation no. 133 on bargaining (at the level of economy and national level from 1960), Convention no. 98 concerning the Rights to Organise and to Bargain Collectively from 1949, Convention no. 87 on Freedom of Association and Protection of the Rights to Organise from 1948, Constitution of Montenegro, Labour Code, Law on Social Council.

Social dialogue is exercised during bargaining and conclusion of collective agreements (general, sectoral and employer`s collective agreement).

Collective agreements are signed at the national level (general collective agreement), at the level of the branch, group or sub-group of activity (sectoral collective agreement) and at the level of employer (employer`s collective agreement).

Legal basis for conclusion of the collective agreements arises from the provisions contained in the Labour Code. General collective agreement is concluded on tripartite basis and it applies to all employees and employers at the national level.

Tripartite dialogue is also exercised in certain sectoral collective agreements for public enterprises, public institutions and other public services not founded by the state.

In addition to the tripartite, the bipartite social dialogue is also exercised between social partners by bargaining and conclusion of sectoral collective agreements and employer`s collective agreements.

Social dialogue on tripartite basis takes place in the Social Council.

Within the reform of labour legislation the Parliament of Montenegro adopted the Law on Social Council in December 2007.

Adoption of this law ensured cooperation and participation of local partners in development of social dialogue (on tripartite or bipartite basis) for the purpose of exchange of experiences and ideas at the local, national and international level.

Under Article 13 of the Law on Social Council, new Social Council was set up in June 2008 comprising of: 11 representatives of the Government, 11 representatives of authorised trade union organisations of Montenegro and 11 representatives of authorised employers` federation in Montenegro.

Representatives in the Council are appointed and removed by social partners in line with their act.

Social Council meets regularly and at its sessions it considers matters of relevance for ensuring economic and social position of employees and employers as well as their living and working conditions, development of the dialogue culture, encouragement to alternative dispute resolution of individual and collective industrial disputes and other matters concerning economic and social position of employees and employers.

The aforementioned legal bases and legal institutions that have been set up ensure the quality of social dialogue in Montenegro.

87. What are the trade unions and employers' organisations recognised at national level or at regional or branch levels? Is a list available with their names, dates of creation and coverage? How are these organisations entitled to recognition as social partners' organisations (criteria set out by law, code of labour, etc)?

Trade union organisations acquire the status of a legal person on the day of their registration with the registry of the trade union organisations which is kept by the Ministry of Labour and Social Welfare. The registry of trade union organisations contains data on the title of the trade union organisation, date of registration, person authorised to represent that trade union organisation and area in which it is going to act.

The Labour Code (Official Gazette of Montenegro 49/08) prescribes that within the meaning of this Code the representative trade union organisation is the trade union organisation with the greatest number of members which is registered as such with the Ministry of Labour and Social Welfare.

The Trade Union Confederation of Montenegro is recognised as an authorised trade union organisation at the national level. At the time of adoption of the Labour Code (in August 2008) and conclusion of the General Collective Agreement (2004) and in the period of adoption of the Law on Social Council (2007), there was in legal terms only one trade union at the national level - the Trade Union Confederation of Montenegro. In November 2008 another trade union was registered at the national level - the Confederation of Independent Trade Union of Montenegro. Within the reform of labour legislation regarding freedom to association and due to existence of trade union pluralism at the national level which appeared in Montenegro for the first time in November 2008 there emerged the need to adopt the Law on Trade Union Representativeness which needs to prescribe the requirements, the manner and the procedure for determining representativeness of the trade union at all levels in the social dialogue sphere as follows: at the level of employer, local government for one or more local units, branches of activity, group or sub-group of activity and at the level of Montenegro.

Employers' federations are founded and registered under the Law on Non-Governmental Organisations (Official Gazette of Montenegro 11/07) and secondary legislation arising from that law.

Montenegrin Employers' Federation is a representative association of employers whose representativeness is determined in the procedure for determining representation in line with the criteria prescribed by the Labour Code and secondary legislation of the ministry. Within the meaning of the Labour Code, the Employers' Federation will be considered representative if its members employ at least 25% of employees in the economy of Montenegro and account for at least 25% in the gross domestic product of Montenegro.

Employers' federations are required to register with the Ministry of Labour and Social Welfare for the purpose of keeping the records. The manner and the procedure for keeping the records on employers and detailed criteria for establishing representativeness of employers' federations are prescribed by the Ministry. If none of employers' federations meet the representation requirements employers may enter into agreement on participation and conclusion of collective agreements.

88. Is there a tripartite process and how is it functioning? Where does the dialogue take place, what is the rationale for consultation/negotiation? What are the trade unions and employer organisations that participate in this tripartite process, and what are the main criteria for their participation? What are the main areas covered by tripartite consultations? Have there been tripartite national agreements concluded over the past few years? Do they represent an important feature of labour and social regulation in the country? Are there any plans to modify or develop tripartite bodies in the future?

Tripartite process in Montenegro is put in place and operates through the mechanisms of social dialogue and partnership as it has been described in responses above.

The basic criteria for participation of the trade unions in tripartite dialogue are defined by the Labour Code (Official Gazette of Montenegro 49/08) which prescribes that a representative trade union organisation within the meaning of this law is the trade union organisation with the greatest number of members and which is registered as such with the Ministry of Labour and Social Welfare. Representativeness of the trade union will be defined in the new Law on Trade Union Representativeness (its adoption is in progress) which will prescribe the manner and procedure for determining representativeness of trade unions at all levels.

The Labour Code prescribes that general collective agreement is concluded on a tripartite basis and applies to all employees and employers at the national level. General collective agreement defines rights, obligations and responsibilities arising from labour, the procedure for conclusion of the agreement, mutual relations between participants in their conclusion and other matters of relevance for the employee and employer.

The general collective agreement in Montenegro was concluded in 2004 by social partners – Trade Union Confederation of Montenegro, as the authorised trade union organisation of Montenegro, Montenegrin Employers` Federation as a representative association of employers and the Government of Montenegro.

There is a tripartite dialogue between certain sectoral collective agreements for public enterprises, public institutions and other public services not founded by the state.

All the concluded collective agreements (general, sectoral and employer's collective agreement) contain the provision which prescribes setting up of a commission composed of signatories of the collective agreement, that is, social partners who monitor application (implementation) of these agreements. Work at the national level through tripartite working groups resulted in completion of approximation of a whole set of regulations from the area of labour legislation which gave rise to a satisfactory level of social dialogue and created consensus between all social partners at the time of adoption of the Law on Alternative Resolution of Industrial Disputes (2007), Law on Social Council (2007), Labour Code (2008) and Law on Amendments to the Law on Strike (2008).

Social dialogue on tripartite basis takes place in the Social Council as well.

Social dialogue at both, tripartite and bipartite level is satisfactory (social dialogue is being continuously developed through seminars, round tables etc.).

Main areas covered by tripartite consultations are prescribed by the Labour Code, Law on Social Council and Law on Alternative Resolution of Industrial Disputes:

- development and improvement of collective bargaining;
- consideration and assessment of the impact of economic policy and measures for its implementation on: social development and stability of policies regarding employment, salaries and prices, competition and productivity, privatisation and other structural adjustments;
- consideration and assessment of the condition in the area of: protection of working surroundings and living environment, education and vocational training, health and social care and safety, demographic developments and their impact on economic and social conditions;
- giving opinion on draft laws and proposals of laws and other regulations of relevance for economic and social position of employees and employers;
- monitoring implementation of laws from the area of labour and social care and proposing measures for improvement;
- monitoring the process of alternative resolution of industrial disputes carried out by the Agency for Alternative Resolution of Industrial Disputes.

89. What is the state of development of autonomous bipartite social dialogue? How are the social partners structured at the intermediary levels of collective bargaining (sectoral and branch levels)? At what levels are collective agreements signed mostly? Can you supply information about the coverage by collective agreements?

Social dialogue on bipartite basis refers to the conclusion of sectoral agreements in a branch of activity, group, or sub-group of activity in the area of economy and also outside economy.

Collective agreements are signed at the national level (general collective agreement), at the level of the branch, group or sub-group of activity (sectoral collective agreement) and at the level of employer (employer`s collective agreement).

General collective agreement in Montenegro is entered into by social partners - authorised trade union organisation of Montenegro, representative association of employers of Montenegro and the Government of Montenegro.

According to the records from the registry of collective agreements the total of 17 sectoral collective agreements has been concluded.

Sectoral collective agreements are signed between the trade union of activities/branches and association of employers in the area of: tourism and hospitality, trade, agriculture, food and tobacco industry, transport and telecommunication, metal industry, textile, leather, shoes and chemical industry, financial organisations, information and graphics, energy, forestry, and between sectoral trade unions and competent ministries (Government in the role of employer) in the areas of education and science, health and social care, culture and communal industry.

Bipartite social dialogue at the micro level, employees and management in individual enterprises largely depend on the level of organisation of the trade union organisation and interest of the very management itself.

It may be concluded that this is an upward trend, i.e. that the coverage with general collective agreement is 100%, while the coverage with sectoral and collective employer`s collective agreements is around 70%.

90. Have there been important strikes in recent years? On which matters?

There have been several strikes in Montenegro over the previous years. Decisions on going on strike were predominantly taken by bodies of the authorised trade union organisation. Requests put forward by employees going on strike referred to the following:

- conclusion of employer`s collective agreements,
- definition of social programmes in collective agreements,
- employee pay increase,
- termination of the sale and purchase agreements (in privatised enterprises),
- payment of outstanding salaries and annual leave allowances,
- payment of outstanding contributions for mandatory forms of social insurance, and
- improvement of the working conditions.

91. What is the state of social dialogue in public administration and state enterprises? Are collective agreements signed in sectors such as education, health etc.? What is the situation with regard to trade union recognition and signature of collective agreements in state enterprises?

Social dialogue is exercised by conclusion of sectoral collective agreements for public enterprises, public institutions and other public services founded by the state.

The Labour Code (Official Gazette of Montenegro 49/08) prescribes legal basis for conclusion of sectoral collective agreement for public enterprises and other public services, public institutions founded by the state, public bodies and organisations and local government bodies, concluded by a representative trade union organisation and the Government of Montenegro.

Depending on the specificity of an activity, the sectoral collective agreements have been concluded in the area of education, pupil and student standard, health and social activity etc.

Sectoral collective agreement that would apply to civil servants and state employees employed in public administration and local government units has not been concluded so far.

The rights of employees in public administration and local government are prescribed by the Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08) and Law on Salaries of Civil Servants and State Employees (Official Gazette of the Republic of Montenegro 27/04 and Official Gazette of Montenegro 17/07 and 27/08). As to the labour rights and labour based rights that have not been prescribed by these laws, relevant provisions of the Labour Code and general collective agreement apply to the employees in public administration.

Public enterprises and other public services and public institutions founded by the state concluded relevant collective agreements after bargaining between the trade union and the Government.

92. Is there collective bargaining or involvement of workers at enterprise level? What forms of workers' participation have been developed at enterprise level (participation in decision-making, information/consultation, financial participation etc.)?

Social dialogue at enterprise level depends on the target of individual trade unions, their organisation, interest of the employer and operational condition of the enterprise. On the basis of the Conventions of the International Labour Organization (no. 87 and 98) mentioned above, the Constitution of Montenegro, Labour Code, employees have the right to organise themselves in trade union, while in relations with employers the trade unions may protect interests of employees who are members of their trade unions and conclude collective agreements with the employer.

Additionally, under the Labour Code and general collective agreement the employees have the right to information, consultation and consideration of their opinions, proposals and initiatives.

In fact, the Labour Code prescribes obligation of the employer to inform the trade union organisation at least once a year on the following: results of operation; development plans and their impact on the position of employees, developments and changes in the salary policy; measures for improvement of the working conditions, safety and protection at work and other matters of relevance for financial and social position of employees.

Employer is required to notify the trade union organisation of the following: safety and protection at work measures; introduction of new technology and organisational changes; schedule of working time, night-time work and overtime work; adoption of the programme on introduction of technological, economic and restructuring changes and programmes and time and manner of the payment of salary.

Employer is also required to timely notify and deliver acts to the trade union organisation for the purpose of attending the meetings of employer's bodies at which initiatives and proposals put forward by employer are subject to consideration.

General collective agreement prescribes that employer should deliver invitations with materials to the

trade union for the purpose of participation of the trade union representatives at the sessions of relevant authorities, that is, bodies at which its opinions, proposals, initiatives and requirements are subject to consideration.

Employer also submits to the trade union representatives the information, newsletters and other data of relevance for the work of trade union and exercise of the rights of employees and ensures that the notice of the trade union is posted in the premises of employer which are designated for such purpose.

93. How are social partners currently involved in the EU integration process? Is there any tripartite committee for this purpose? What role do social partners play in different preparatory activities/discussions in the framework of integration?

Representatives of social partners are involved in giving remarks, opinions and suggestions in the process of approximation of Montenegrin legislation with the EU legislation and in all the matters concerning integration process by attending seminars, education events and participating in working groups and bodies of the former Secretariat for European Integration, now the Ministry for European Integration.

The Social Council participates in this area through the Section for International Relations and EU Accession of Montenegro.

The Montenegrin Employers` Federation (MEF) has been involved in EU integration process through the vertical link with employers` organisations at the European and global level.

As regards membership in employers` associations, since 2005 the Employers` Federation has been a full member of the International Organisation of Employers, a global employers` network headquartered in Geneva.

Since June 2007 Montenegrin Employers` Federation (MEF) has been admitted to the membership in the *BusinessEurope*, employers` organisation of European Union headquartered in Brussels in the capacity of a member observer.

Since 2007 MEF has been member of the UEAPME (European Association of Small and Medium-Sized Enterprises).

MEF is one of the founders of CEPOJAR, Adriatic Region Employers` Centre headquartered in Zagreb which was set up in 2008 as a regional employers` organisation that includes all the countries of the Western Balkans.

As regards tripartite perspective, a Section for European Integration has been set up in the Social Council in which MEF has its representatives.

Additionally, as part of its activities MEF actively participates in resolving numerous matters regarding EU accession. In the course of its activities on promotion of small and medium-sized enterprises, entrepreneurship, entrepreneurial learning, MEF actively participates in transposing the standards contained in the European Charter for Small and Medium-Sized Enterprises and Small Business Act.

In the course of its engagement in the working groups for development of laws, MEF actively promotes transposing of the provisions contained in *Acquis Communautaire* into our legislation.

MEF had the status of a representative employers` organisation since 2005 which it acquired under the Labour Code and Rulebook on representativeness of employers` organisations.

The Law and the Rulebook as a secondary piece of legislation lay down requirements for the representativeness of employers` organisations which among other things prescribe that members of an organisation wishing to acquire the status of a representative one must account for at least 25% in GDP and employ at least 25% of employees in economy sector. MEF has acquired the status of a representative employers` organisation in August 2005 after having met multiple requirements that were prescribed.

The Trade Union Confederation of Montenegro is a member of the Pan European Regional Council – PERC, on the basis of its membership in the International Trade Union Confederation - ITUC. Additionally, in the accession process, the Trade Union Confederation has the capacity of an associated member of the European Trade Union Confederation - ETUC and its accession is soon expected.

Since the Trade Union Confederation of Montenegro consists of 22 trade unions of sectoral activities, some of the members acquired membership as follows:

- Metalworkers` Trade Union of Montenegro is a member of the European Federation of Metalworkers - EMF
- Trade Union of Agriculture, Tobacco and Food Industry of Montenegro is a newly admitted member of the European Federation of Food, Agriculture and Tourism - EFFAT
- Trade Union of Tourism and Hospitality of Montenegro is newly admitted member of the European Federation of Food, Agriculture and Tourism - EFFAT
- Energy Trade Union of Montenegro is a member of the European Federation of Public Service Unions – EPSU
- Trade Union of Communal Services of Montenegro is a member of the European Federation of Public Service Unions – EPSU
- Trade Union of Administration and Judiciary of Montenegro is a member of the European Federation of Public Service Unions – EPSU.

IV. EMPLOYMENT POLICY AND EUROPEAN SOCIAL FUND

A. Employment Policy

94. What is your overall view of the labour market situation in your country and the main issues/challenges?

Transition changes that gave rise to the change in the structure of economy exerted crucial influence on trends and conditions in the labour market of Montenegro. Transition recession which was exacerbated in our conditions by developments in the neighbouring countries gave rise to the loss of market, lagging behind in technical and technological development, financial exhaustion of enterprises resulting in shutting down operations of enterprises, drop in employment and increase in unemployment.

Decrease in the share of industry and increase in the share of services sector in GDP gave rise to the lack of demand for the occupations in industry, longer period of waiting for employment, that is, long-term unemployment with typical features of structural unemployment.

Such processes were mainly present in underdeveloped part of Montenegro (the North) where labour-intensive economic activities used to be focused whereby the loss of jobs occurred creating differences between the regions in the levels of employment and unemployment.

Migrations from underdeveloped regions to the more developed ones also had multiple impact on structural changes in the labour market.

Stabilisation of macro-economic environment together with the initiation of the process of approximation with the EU standards enabled greater economic freedoms, openness of the system, liberalisation of economic developments, which has contributed over the last 5-6 years to a greater economic growth, development and encouragement of entrepreneurship, investment growth and therefore positive developments emerged in the market after several years long stagnation.

The main characteristics of developments in the labour market are the following:

- decrease and stagnation of employment over the period 1990-2003 and employment growth after this period, therefore according to the MONSTAT data at the end of 2008 there were 169 190 of the employed which equals employment level from 1990. In June 2009 the figure amounted to 178 839 of the employed;
- there occurred a change in employment by sectors in this period. In 1989 the majority of employees worked in industry (33% of registered employment in Montenegro), whereas 12% were employed in the area of trade. Until 2008 the figure in the area of industry got reduced to 20%, while that in the area of trade got increased to 19% of total registered employees,
- in the period following 2004 a correlation was established between GDP growth and increase in the number of employees;
- according to the records of the Employment Office, an intensive employment dynamics has developed over the last several years: from 15 250 persons in 2004 to 40 575 in 2008;
- there has been continued reduction of unemployment as of 2003. At the end of 2008 records of the Employment Office showed 28 394 or 62.8% less unemployed compared to 2002 (76 293). In mid 2009 there were 27 011 unemployed registered in records of the Employment Office.
- registered unemployment rate at the end of 2002 amounted to 28.1%, at the end of 2008. it was 10.8% and in mid 2009 it equalled 10.3%.
- long-term unemployment is still high and at the end of 2008 it amounted to 55.5%, but compared to 2004 it got considerably reduced (70.3%).

- the share of the young below 25 years of age within the total number of registered unemployed has reduced from 26.6% in 2004 to 15.5% in 2008, while the share of elderly above 50 years of age has increased from 9.9% to 35.5%.
- the share of female population in the total registered unemployment has been reduced from 52.4% in 2004 to 44.9% in 2008.

In broad terms, Global Economic Crisis has mainly affected aluminium industry, metal industry and construction industry in Montenegro. Crisis in the construction industry affected the sale of real estate. Additionally, estimates reveal that the crisis will also affect tourism sector. In our case, the most evident consequences of crisis are those in the Aluminium Plant - Podgorica (Kombinat aluminijuma Podgorica - KAP) and its associated companies and also considerably in the Steel Plant Nikšić (Željezara Nikšić). As regards tourism and having in mind that the peak tourist season began in July, it would be inappropriate to project outcomes in terms of employment since this sector has for many years now engaged non-residents rather than domestic labour force to broadly meet its seasonal needs. The crisis in construction industry mainly affected apartment building which might be partially compensated by engaging our construction capacities for sub-contracting in the construction of Podgorica-Mateševo highway.

The Developments in the labour market in Montenegro indicate that it has so far been more flexible in reacting to the crisis compared to the markets in the neighbouring countries. Economic crisis did affect and is still affecting operations of a considerable number of employees, however this has not so far resulted in mass layoffs of employees and reduction of employment. One must thereby have in mind the fact that the crisis in aluminum industry and consequently considerable difficulties in operations of KAP and its associated companies may largely contribute to exacerbation of the condition in the labour market.

These developments in the labour market have so far been influenced by the consistent package of Government anti-cyclic measures and the fact that employers have so far first cut employment of the non-resident labour force since the number of work permits issued to the foreigners in the first half of this year is reduced by three times fewer than the number of non-residents who were working in the same period last year.

The condition and the existing trends in the labour market also indicate the main challenges and problems to be resolved in this market in the time to come, which may be focused on the following:

- Unemployment reduction trend resulted in change of the structure of the unemployed. If the long-term unemployment accounts for 55.5% of unemployment, if 30.4% is above 50 years of age, if 37% have more than 20 years of service and if 26.8% of the unemployed are either unqualified or semi-qualified – then all that has the nature of structural unemployment resulting from the processes of transition in the previous period. All of them are mainly persons who face difficulties in finding jobs and whose employment requires investments of considerably more funds through the active employment policy measures.
- Demographic developments reveal the birth rate drop, a decrease in the number of population below 15 years of age and an increase in the number of population above 65 years of age which will affect the labour market from the long-term perspective similarly to the EU countries (aging of population, decrease in labour force etc.).
- Additionally, employees and employers still lack interest in lifelong learning and training, that is, long-term investment in development of human capital.
- Existing regional differences in employment and unemployment point at the need of continued and intensified measures that will result in reconciliation of these differences.
- Supply of education still fails to adequately respond to the labour market requirements and challenges, there is still a discrepancy between the labour force supply and the demand in the labour market which imposes the need to continuously work on enhancing the quality of labour force supply in Montenegro.

The National Strategy for Employment and Human Resources Development for the Period 2007-2011 is basically a response to the mentioned challenges and problems and its proposed measures and activities seek to resolve them.

95. Please describe the institutional framework for employment policies in your country (main policy documents, main objectives of employment policies/strategies).

The most important document that defined the strategic goals and placed the employment policy among the top priorities of the Government policy is Agenda of Economic Reforms 2002-2007. The Agenda contained recommendations for significant improvements in labour legislation framework, development of institutions, more intensive focus on active labour market policies, support to entrepreneurship, more favourable fiscal environment, reform of education system. Implementation of these measures in the period subject to observation produced good effects: the number of the registered unemployed persons got reduced from over 80 000 in 2000 down to 28 394 at the end of the last year.

In the framework of improvement of the institutional framework and employment policy it is necessary to underline a considerable contribution of the project entitled the Reform of Labour Market and Development of Labour Force in Montenegro funded by EU and implemented by the European Agency for Reconstruction from the end of 2006 until September 2008. The implementation of the project meant support to the reform and upgrade of the Montenegrin labour market and employment policies, including wider context of human resources as a part of a broader package of EU support to the Montenegrin economic and social reform. Or more specifically, implementation contributed to development of a critical mass of knowledge on EU employment policy, advancement of staff in the Ministry of Labour and Social Welfare to define labour market and employment policies through the coordination with the Employment Office, social partners and other relevant Government departments.

One of the crucial goals of the project was to improve the skills and capacities of staff in the Ministry and other institutions competent for labour market and employment. During the implementation of the project, the staff got prepared in their daily work with experts, trainings, study visits and the like to independently participate in the development of the strategic documents, the use of information and data on labour market and employment, in the familiarising with the process of managing projects development whereby their experience was enriched with much more knowledge and many more skills.

The Ministry of Labour and Social Welfare developed a project entitled the Reform of Market and Development of Labour Force II (IPA-2008/09) together with ETF, the representatives of the relevant organisations and institutions, social partners and the NGOs. The project identified three important priorities: further administrative capacities building at the labour market and employment institutions, development of local partnerships for administration of active employment measures and vocational training and counselling. The implementation of this project will largely contribute to the completion of the process of reform of labour market in Montenegro.

The key document defining employment policy in medium-term is the National Strategy for Employment and Human Resources Development for the Period 2007-2011 and related National Action Plan for Employment for the Period 2008-2009.

Both documents were prepared (with the assistance of experts engaged in the project the Reform of Labour Market and Development of Labour Force in Montenegro) by an interministerial working group - the Strategy in 2007 and the Action Plan at the beginning of 2008. Therefore, a considerable share of generally accepted measures and activities was incorporated in the activities' plans of bodies, institutes and institutions as entities being responsible for their implementation in 2008-2009. This predominantly concerns planning of: active policy measures of the Employment Office, adoption of legal acts of the Ministry of Labour and Social Welfare, Ministry of Education and Science and activities of the Directorate for Development of Small and Medium-Sized Enterprises.

Interministerial working group composed of representatives of the Ministry of Labour and Social Welfare (coordinator), Ministry of Education and Science, Ministry of Economy, Ministry of Finance, Employment Office of Montenegro, MONSTAT and Directorate for Development of Small and

Medium-Sized Enterprises undertook development of the National Action Plan for Employment for the Period 2010-2011 in April this year and it is going to be completed by the end of September. Social partners will be consulted during the work on this document and the Social Council will consider its draft form. Since the majority of members of the working group have already been engaged in development of the existing National Strategy and National Action Plan under the project the Reform of Labour Market and Development of Labour Force in Montenegro mentioned above, that is going to be quite a useful experience for work on this document.

The need to build capacities of the Ministry of Labour and Social Welfare regarding labour and employment policies was identified during the implementation of the project mentioned above and the Labour Market and Employment Department was set up at the end of 2006 under the new organisational structure of the Ministry which was assessed as positive and was also supported by the expert team, that began implementing the project at the end of 2006.

National Action Plan for Employment envisages activities whose implementation contributes to further building of administrative capacities:

- further development of the skills in the field of managing the cycle of policies (including evaluation/assessment) and the knowledge of innovative tools for employment improvement;
- empowerment of legal function with a view to adoption of European legislation;
- advancement of the unit for adult education to play a more active role in the implementation of the programmes for development of human resources and labour force and
- increase in the number of staff employed in the policy unit - for coordination and monitoring tasks and preparations for the EU integration and research and analysis of the labour market.

The National Strategy for Employment and Human Resources Development for the Period 2007-2011 defines goals of employment policy through three priorities:

Priority I: Boost Employment and Reduce Unemployment

Encouraging employers to open more new jobs. Adequate balance between flexibility, productivity and safety

Reducing long-term unemployment

Lower unemployment rate among the young

Encouragement of entrepreneurship

Extending the working age

Building labour market institutions and encouraging employment partnerships

Priority II: Increasing productivity and labour quality

Support to the process of further economic restructuring

Improvement of skills of labour force

Harmonisation of the supply of education with the needs in the labour market

Priority III: Strengthening Social Cohesion

Improving/promoting employment of women

Prevention of social exclusion of threatened/vulnerable groups

Prevention of poverty in the north of Montenegro

Since the set goals represent the integrated approach to the employment policies, the institutional framework for both, the definition and the implementation of the policy implies the involvement of the Ministry of Economy, Ministry of Education and Science, Ministry of Finance, Ministry of Agriculture, Directorate for Development of Small and Medium-Sized Enterprises, Development

Fund and Centre for Vocational Education, in addition to involvement of the Ministry of Labour and Social Welfare and Employment Office of Montenegro.

This is so because the measures and the activities for the implementation of the employment policy are reflected in the goals and measures contained in the strategic documents of the institutions mentioned above.

96. Does a public employment service (employment office) exist? If yes, what is its legal status and how is it organised? What are the main tasks/functions of the public employment service? What is its relationship with the Ministry of Labour? What are its resources and its staff?

The Employment Office is defined in the Employment Law (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07 and Official Gazette of Montenegro 21/08) as a public service in the capacity of a legal person. The Office is run by the Managing Board and a Director. The managing Board of the Office is composed of 9 members as follows: a President and 3 members appointed by the Government of Montenegro, 2 members appointed by the authorised trade union organisation, 2 members appointed by the Employers` Federation and 1 member from among the employees at the Office who is appointed by the director of the Office. The work and the operation of the Office is run by the director of the Office.

Structure of the Employment Office is defined in the Statute of the Office and the Rulebook on internal organisation and job descriptions.

The Employment Office performs its activity within the Central Service, the employment bureaus and the offices. Central Service is located in Podgorica and is composed of 5 departments and one operational unit as follows: cabinet of Director, Employment Department (with 7 bureaus and 14 offices), Department for Research, Development and Supplying Loans for Self-Employment, Legal and General Affairs Department, Economic Department, IT Department, local unit entitled Human Resources Centre.

Organisational units are defined according to the type, affiliation and scope of activities, mutual functional relationship, effectiveness and efficiency of activities and the location of performance of activities.

Functions of the Office are the following:

- research into certain phenomena in the labour force market and other areas affecting employment and unemployment either directly or indirectly;
- assistance in finding the job;
- counselling and informing employers and the unemployed about employment opportunities;
- keeping prescribed records from the employment area;
- ensuring insurance rights on the basis of unemployment;
- organisation of training and education of the unemployed ;
- organisation of training and employment of persons with disabilities;
- vocational guidance, informing and counselling of professional staff and development of methods for professional guidance;
- preparation of analytical, planning and information grounds for proposing and defining employment policy;
- preparation and administration of the measures of active employment policy;
- engagement of the unemployed person in the public works programme;

- adjustment of the information system to changes in the labour force market and informing the public;
- studying development of occupations and nomenclature of occupations;
- awarding scholarships in line with this law;
- other matters prescribed by law and acts of the Office.

The Ministry of Labour and Social Welfare, under Decree public administration organization and manner of work (Official Gazette of the Republic of Montenegro 54/04) administers and supervises the legality and purposefulness of the work of the Employment Office. The Ministry of Labour together with the Employment Office monitors and improves employment policy, employment sustainability, improvement of legal system and regulations in the draft law and proposal of the law stage.

The Employment Office has 346 employees of which 53% account for those with university education.

97. Please describe the implementation of employment programmes and measures: legislative framework, responsible bodies, ways of financing, monitoring, follow-up etc.

The unemployment problem in Montenegro reached its peak in mid 2000 when the records of the unemployed showed 86 163 registered persons, while unemployment rate amounted to 32.7% which resulted in considerable programming focus of the Government of Montenegro on this area and its resolving.

To that end, the Agenda of Economic Reforms 2002-2007 envisaged four main initiatives: improvement of labour regulations, measures for opening new jobs and incentive for transfer from illegal into legal employment, removal of administrative business barriers and employment and adoption of the national employment strategy in Montenegro

Regarding the implementation of these initiatives from the perspective of administration of the programmes and measures, it is particularly important to underline the adoption of the new Employment Law (2002) and adoption of the Programme for Legalising the Existing and Opening New Jobs.

By giving priority to the active employment policy measures the Employment Law defines a broad range of such measures and prescribes basic conditions and manners of their administration which are more precisely defined in secondary legislation and separate programmes.

The Programme for Legalising the Existing and Opening New Jobs adopted by the Government in April 2003 also represented the implementation of the initiative contained in the Agenda through an integrated approach to resolving unemployment issues in Montenegro. Basically, the programme had two logical segments: opening new jobs through demand for labour force resulting from the economic growth and secondly boosting employment by cutting down illegal labour.

The programme contained 16 individual projects (the programme for continued encouragement of employment and entrepreneurship, employment of trainees, public works, etc.) and five sectoral projects (for employment in the area of agriculture, tourism, construction industry etc.). Implementation of the programmes was run centrally by the programme Steering Committee headed by the Prime Minister, while the operational coordination took place through the coordinating board headed by the Deputy Prime Minister for economic policy and development of economy.

The programme was financed from privatisation proceeds, budget funds, funds of the Employment Office, funds of the Development Fund and donations. The implementation of this programme through tax relief for the newly employed produced good results - around 40 000 newly registered employees and drop in the registered unemployment rate to 12.7% at the end of 2006.

On the proposal put forward by the Ministry of Health and Social Welfare and Employment Office, in April 2007 the Government adopted the National Strategy for Employment 2007-2010 which was, during the implementation of the project entitled the Reform of Labour Market and Development of Labour Force, innovated to become the National Strategy for Employment and Human Resources Development for the Period 2007-2011 and the related National Action Plan for Employment for the period 2008-2009.

National Action Plan defines the measures to be administered in the framework of priorities set by the Strategy and the objectives to be reached for that purpose. The majority of them are active employment policy measures that are being administered in various forms through the Employment Office (more details are contained in the framework of the question 98 of this Chapter).

Funds for administration of the defined active labour market policy measures are allocated from the general and designated revenues of the budget of Montenegro.

Organisation of the administration of active employment policy measures is carried out within the Employment Office. Actions and procedures to be conducted to that end are defined in the Rulebook on preparation for employment (Official Gazette of Montenegro 52/02, 1/04 and 29/09) and Rulebook on assistance in finding employment (Official Gazette of Montenegro 52/02).

In administrative and technical terms, the procedure of implementation of certain programmes is conducted: through choice and selection of the unemployed who are involved in certain programmes administered by professional associates in the regional employment offices and through selection of contractors for certain programmes which is carried out by relevant commissions on the basis of open calls.

Implementation of certain programmes is monitored in both, the stage of choice and selection of applicants in regional employment bureaus and in the stage of implementation of programmes from the perspective of defined dynamics and quality.

Supervision of administration of certain measures and adoption of relevant decisions is carried out by the Steering Committee of the Office which informs the competent ministry and the Government through relevant reports.

All the measures that are administered are followed up by IT support with adequate programme applications which enable a quick insight in the dynamics and the degree of their administration.

98. How do labour market policy delivery systems function? What are the registration rates of the unemployed? What is the registration share of men and women? What is the role of the official information services? What are the active labour market measures in place? What is the share of unemployed addressed by these measures? How is your active labour market policy funded?

Labour market policies are mainly administered by the Employment Office as it has been mentioned in the previous response. The activity of the Employment Office is prescribed by the Employment Law (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07 and Official Gazette of Montenegro 21/08) which is basically focused on rights and obligations of the unemployed and the rights of employers in the labour market, that is: informing on employment opportunities and conditions in the country and abroad, assistance in finding jobs, insurance in the event of unemployment, vocational orientation; implementation of active employment policy programmes and measures.

To put it simply, systems for implementation of labour market policies, as set in the mentioned legal framework, operate through the work with the unemployed and employers from the perspective of exercising rights and obligations, as well as through the established technology and quality of work of employees at the Office.

Work with the unemployed follows the new work technology that has been implemented since 2002. Improvements envisaged by this technology enable the following:

- application of new tools for higher quality evaluation of knowledge and skills of the unemployed which are required by the labour market;
- model of a more active approach of the unemployed in terms of self-evaluation of the working, professional and personal capacities (with the expert support coming from the employees at the Office);
- more active taking of responsibility of an unemployed person for his/her employment;
- higher quality selection of unemployed candidates to meet employer`s needs;
- employment plans for each unemployed person;
- higher quality preparation of persons facing difficulties in finding employment (workshops for the unemployed, involvement in vocational education and training programmes);

Work with employers has the following forms:

- announcing the needs, that is, open vacancies;
- assistance in finding the staff that meets needs of employers;
- involvement of employers in trainings and education of the unemployed;
- continued surveys that include employers about the scope and structure of necessary staff.

Website of the Office contains the service for uploading personal business presentation for all those seeking or offering the job, whether they are registered with the records of the Office or not. This employment service enables quick exchange of information between employers and job seekers through internet whereby the Office naturally plays a moderator role.

Vacancies announced on the website of the Office are classified according to the branches, that is, groups of occupations (areas of work). There is also the possibility of customised search for the purpose of finding a specific occupation.

Data on the position, the place and the type of work, working time, requirements of the position are displayed (the minimum salary, experience, specific knowledge) as well as the name and contact phone of the employer.

Additionally, the Office developed the service *My SMS Job* based on generally accepted short message service as a quick and relatively cheap way to share information. The service is at disposal of those seeking and those offering the job. SMS centre is fully automatised and ensures that information from employment area are at disposal to all the interested ones 24 hours a day.

The basic task of information services is to inform users of services: employers, jobseekers, employees and school youth. Information services are free of charge and available anonymously.

Informing is one of key services in employment that contributes to higher level of employability of the jobseeker and also contributes to meeting staff needs of employers by employing adequate jobseekers. Information on employers, open vacancies, occupations, schools and other educational institutions, rights and obligations of the unemployed, education and training opportunities and protection under labour legislation etc. are available to users. The role of services is to allow in one place the access to information that were difficult to obtain or were dispersed in various locations.

The most common way of informing all users of services is self-informing via electronic media, as well as individual and group informing depending on the target group for which information are intended. Professionals and expert teams who have a thorough insight in the condition and developments in the labour market are engaged in informing.

Introduction of new work technology imposed the need to systematically educate employees at the Office in terms of acquiring knowledge and skills needed for the use of such technology predominantly in terms of working with the unemployed. Additionally, 60 unemployed university graduates (trainers) received training for delivery of information and motivation seminars (workshops) to the long-term unemployed.

Data on unemployment in Montenegro are kept and obtained from two sources, that is measurement methods. The first one is based on the labour force survey conducted quarterly by the Statistical Office of Montenegro (MONSTAT) on the basis of household samples and the second one is that on registered unemployment conducted by the Employment Office of Montenegro.

As on 31 December 2008 there were 28 394 unemployed persons registered in records of the Employment Office which is 30 989 or 52.2% less, compared to the end of 2004 when there were 59 383 unemployed persons in the records.

Registered Unemployment

No.	Year	Number of the Unemployed Persons		Share of women in total unemployment in %
		Total	Women	
1	2	3	4	5
1	2000	73 685	48 304	59.6
2	2001	74 838	48 445	60.6
3	2002	74 253	46 208	60.6
4	2003	70 565	39 265	57.2
5	2004	59 383	31 142	52.4
6	2005	49 314	23 534	47.7
7	2006	39 409	17 988	45.6
8	2007	32 041	14 267	44.5
9	2008	28 394	12 767	44.9

in the period 2000 – 2008

As on 31 December 2008 women accounted for 44.9% (12 767) of the total unemployed, while at the end 2004 the figure equalled 52.4%.

The most important measures taken through the Employment Office in the framework of active employment policy are the following:

Education and Training Programmes implemented through:

- vocational training of persons with elementary school degree to perform works for which lower degree of vocational education is sufficient;
- additional training, that is update of knowledge within the same occupation;
- retraining, that is education and training for another occupation of the same or higher degree of vocational education;
- specialisation or practical training within the same degree of vocational education;
- creating conditions for employment of persons with disabilities;
- financing the tuition fee of persons preparing for scarce occupations.

The scope and structure of participants in the Education and Training Programmes are defined on the basis of the following:

- presented and considered needs of employers;
- analysis of vocational structure of jobseekers and their needs for education;
- existing and expected needs of the labour market in terms of employment of new workers;
- available funds.

Trainings are delivered under programmes that cover contents defined by knowledge standards for certain occupations.

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Activities on preparation for employment of persons registered in the records of the Employment Office take two directions: preparation for a known employer (for employment needs, on the basis of specific employer`s requirements) and preparation for the labour market (aiming to improve the quality of supply in the labour market so as to meet the existing and timely respond to new market requirements).

Number of participants in the Education and Training Programme

No.	Occupations and Key Skills	Year - number of participants in the programme					Total
		2004	2005	2006	2007	2008	
1	2	3	4	5	6	7	8
1	I for known employer	380	427	654	667	897	3 025
2	II for labour market	1 695	714	1 196	1 244	754	5 603
3	Group of occupations	810	1 141	1 850	1 911	1 651	7 363
4	Agricultural food processing	185	77	79	96	165	602
5	Timber industry	-	111	303	113	314	841
6	Construction industry	99	18	225	389	259	990
7	Metal and electric processing	-	141	65	199	220	625
8	Tourism and hospitality	436	658	672	563	148	2 477
9	Service activities	41	88	336	254	240	959
10	Other	49	48	170	297	305	869
11	Key skills	1 265	2 360	2 425	3,020	3,192	12 262
12	IT classes	833	1 409	1 464	1,593	1,698	6 997
13	Foreign languages classes	222	497	609	884	811	3 023
14	Lessons for drivers	100	340	342	466	453	1 701
15	Other key skills	110	114	10	77	230	541
16	Total number of participants	2 075	3 501	4 275	4 931	4 843	19 625
17	Average number of the unemployed	67 347	55 494	44 863	35 397	29 964	-
18	% of share	3.1	6.3	9.5	13.9	16.2	-

Age and Gender Structure of Participants in the Education and Training Programmes

No		Until 24 years of age		From 25 to 44 years of age		Over 45 years of age		Total	Women
		Total	Women	Total	Women	Total	Women		
1	2	3	4	5	6	7	8	9	10
2	2004	851	391	622	411	602	361	2 075	1 163

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3	2005	1 540	708	1 856	1 218	105	70	3 501	1 996
4	2006	1 713	792	2 205	1 396	357	132	4 275	2 320
5	2007	1 871	831	2 697	1 655	363	203	4 931	2 689
6	2008	1 616	796	2 679	1 561	548	295	4 843	2 652
7	Total	7 591	3 518	10 059	6 241	1 975	1 061	19 625	10 820

Employment of Trainees

Employment of young people without work experience who completed their regular education and who are getting employed in their degree of vocational education for the first time has been encouraged for quite some time now (since 1992) under the Programme for Employment of Trainees.

From 2006 until 2008 employment of 3 860 trainees was co-funded, of which 711 are high school graduates (18.42%) and 2 564 are university graduates (66.42%).

Co-Financing Employment of Trainees through the Employment Office

	Year	Degree of Vocational Education			Total
		IV	VI	VII	
No.	1	2	3	4	5
1	2006	386	238	915	1 539
2	2007	253	214	715	1 182
3	2008	72	133	934	1 139
4	Total:	711	585	2 564	3 860

Public Works

Open unemployment is also mitigated by carrying out public works (local and national) that are organised for the purpose of implementing the social care, educational, cultural, communal and environmental programmes grounded on socially beneficial, non-profit work. Public works programmes encourage opening of new jobs and increase in working potentials, levels of knowledge and skills of the unemployed and at the same time they support development of local governments.

Public Works

No.	Public Works	Year - Number of Participants					Total
		2004	2005	2006	2007	2008	
1	2	3	4	5	6	7	8
1	Local public works	64	354	491	600	907	2 416
2	National public works	721	846	405	393	362	2 727
3	Total number of participants	785	1 200	896	993	1 269	5 143

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4	Average number of the unemployed	67 347	55 494	44 863	35 397	29 964	-
5	% of share	1.2	2.2	2.0	2.8	4.2	-

Age and Gender Structure of Participants in the Public Works Programme

No.		Until 24 Years of Age		From 25 to 44 Years of Age		Over 45 Years of Age		Total	Women
		Total	Women	Total	Women	Total	Women		
1	2	3	4	5	6	7	8	9	10
2	2004	184	11	403	98	198	68	785	177
3	2005	200	28	668	250	332	96	1 200	374
4	2006	214	21	545	174	137	41	896	236
5	2007	234	31	529	179	230	56	993	266
6	2008	252	36	704	267	340	97	1 296	400
7	Total:	1 084	127	2 849	968	1 237	358	5 170	1 453

Seasonal Employment

Measures and activities of the Office aim to employ as many seasonal workers as possible and to effectuate with the employer the most favourable conditions of their employment: better salaries, bridging of service periods, accommodation conditions and food, paid costs of transportation etc.

In 2006, there were 6 780 workers employed in seasonal works, in 2007 there were 9 283 and in 2008 there were 7 105, with the majority working in tourism and hospitality (around 60%) and trade (around 17%).

Seasonal Employment

Activity Year	Tourism Hospitality and	Construction Industry	Agriculture	Trade	Other activities	Total	
No	1	2	3	4	5	6	7
1		4 726	182	183	831	858	6 780
2	2007	5 420	485	211	1 707	1 460	9 283
3	2008	3 834	216	26	1 502	1 527	7 105
4	Total:	13 980	883	420	4 040	3 845	23 168

Loans for self-employment and stimulation of entrepreneurship

Development of small and medium-sized enterprises has been financially stimulated through the Employment Office of Montenegro since 1991 under four programmes implemented in the period 1991 – 1998 and since 1999 under the Programme for Continuous Stimulation of Employment and Entrepreneurship in Montenegro innovated in mid-2008 in sense of favorable lending conditions.

The following can apply for the loans foreseen by this programme:

- the unemployed persons registered in the records of the Employment Office who are obliged to register as individual agricultural producers, entrepreneurs or legal persons as soon as they have been approved the loan;
- small enterprises and
- entrepreneurs who are registered in accordance with the Law on Business Organisations (Official Gazette of the Republic of Montenegro 6/02 and Official Gazette of Montenegro 17/07 and 80/08).

Since 1999 the total of 9 782 loans in the amount of EUR 50.5 million were approved which enabled creation of 15 786 new jobs, while in the period from 2006 until 2008 the total of 3 507 loans in the amount of EUR 18.3 million were approved which enabled creation of 5 493 new jobs.

The Programme for the Long-Term Unemployed

Since more than 30% of persons who face difficulties in finding the job are registered with the Employment Office of Montenegro, the need for the programmes and activities aimed at inclusion of this category of the unemployed into the labour market emerged. The Programme for the Long-Term Unemployed is implemented through information-motivation seminars (workshops) for the purpose of a more active and a more efficient inclusion of these persons in job searching. For implementation of this Programme 60 unemployed persons with university degree (trainers) were trained.

Implementation of this project started in October 2008 and 40 seminars were delivered including 505 unemployed persons.

The Programme *A Chance for Young Managers*

In cooperation with the Directorate for Development of Small and Medium Enterprises, the Employment Office implements a Programme *A Chance for Young Managers* with the purpose of providing the young managers with a high level of knowledge and skills which they did not acquire in the course of regular education. The training consists of two parts. The first part is conducted through application of dynamical and modern forms of interactive lectures in which the trainees get acquainted with the basics of management, project management, marketing, PR and business communication, with joint exercises, simulations and workshops included.

The second part of the Programme consists of practical work exercised for the period of two to three months with a specific employer with the purpose of acquainting the Programme participants with the manner of functioning of that specific company. The Programme participants are paid remuneration for their work in that period.

Implementation of this Programme started in July 2008 and included 55 university graduates.

The Programme *A Job for You*

Having in mind economic underdevelopment of the northern region of Montenegro and the fact that a considerable number of workers was laid off due to transformation of companies, that is, their bankruptcy and liquidation, which led to a difficult social and financial position of these people, the Government of Montenegro in the mid-2008 adopted the State Aid and Support Programme entitled Stimulation of Employment in Montenegro – with the Focus on the Northern Region and Vulnerable Categories of Population, including the municipalities of Nikšić and Cetinje.

Purpose of this Programme is to achieve faster development of underdeveloped municipalities based first of all on stimulation of entrepreneurship so that these municipalities can profile as soon as possible as business-friendly environments and to achieve multiplied effects in terms of increase of the number of small and medium-sized enterprises, increased employment and reduction of unemployment, increase of living standard of all the citizens which would consequently reflect on a more balanced regional development of Montenegro.

The following are in charge of implementation of this Programme: the Employment Office of Montenegro, the Development Fund of Montenegro and the Directorate for Development of Small and Medium-Sized Enterprises which have embarked on implementation of the above mentioned Programme under the slogan *A Job for You*.

The following results were accomplished by implementation of the above mentioned Programme in the period from 1 September 2008 until 30 June 2009:

Through the Employment Office, in implementation of 6 programmes 3 002 persons got employment and EUR 8.2 million were allocated for these purposes.

Through the Directorate for Development of Small and Medium-Sized Enterprises, in implementation of 3 programmes, 322 new jobs were opened and EUR 4.3 million were allocated for these purposes.

Through the Development Fund on Montenegro, 36 investment projects were financed whose estimated value was EUR 25.36 million (participation of the Fund was EUR 5.4 million), and whose

implementation will ensure engagement of 224 workers and keeping the present number of employees.

Implementation of the above mentioned programmes through the Employment Office, the Development Fund of Montenegro and the Directorate for Small and Medium-Sized Enterprises enabled employment of 3 548 persons and EUR 18.0 million were allocated for these purposes.

Generally speaking, active employment policy programmes **in 2005 included 12.3% of registered the unemployed persons, 26.0% in 2006 and 29.8% in 2008.**

The training programmes only included 6.4% of the registered unemployed persons in 2005, 9.9% in 2006 and 16.2% in 2008.

Implementation of the active labour market policy measures is **financed** from:

General revenues of the Budget of Montenegro and

Designated revenues which consist of:

- revenues from contributions for insurance in the event of unemployment;
- revenues from sale of financial and non-financial assets;
- revenues from repayment of loans for stimulation of entrepreneurship;
- other revenues.

The Programme for Employment of Trainees with university degree is financed from general revenues, while other programmes of active employment policy are financed from designated revenues.

Funds spent on active measures of employment policy over the last three years and the structure of revenues which these measures were financed from (in 000€)

		2006	%	2007	%	2008	%
1	General revenues	2 286.3	14.90	1 737.2	16.91	3 133.7	25.65
2	Designated revenues	13 051.6	85.10	8 532.9	83.09	9 085.3	74.35
3	Total	15 337.9	100.00	10 270.1	100.00	12 219.0	100.00

B. European Social Fund (ESF)

rThere is no social fund that would correspond with or is similar to the European Social Fund (ESF).

99. Do you have a Social Fund equivalent or similar to the European Social Fund (ESF)?

There is no social fund that would correspond with or is similar to the European Social Fund (ESF).

100. What is the administrative set-up for dealing with this policy?

Social policy is defined and implemented by the Government of Montenegro. The basic goal of this policy is improvement of the economic and social position of the most vulnerable categories of population. The priorities are: creation of conditions for reduction and eradication of poverty particularly through creation of stimulating conditions for increasing economic growth and development, higher employment rate, quality of education and health care.

a) Ministries, administrations involved;

The following are included in the implementation of the social policy: the Ministry of Labour and Social Welfare, Ministry of Health, Ministry of Economic Development, Ministry of Finance, Ministry of Education and Science, Health Insurance Fund, Pension and Disability Insurance Fund, Employment Office of Montenegro, Directorate for Development of Small and Medium-Sized Enterprises, Development Fund of Montenegro and other services under a direct competence of the ministries.

b) Inter-ministerial co-ordination;

The ministries coordinate in several ways: through permanent government commissions, at intersectoral meetings, through functioning of working groups for design or implementation of the social policy. The significant instrument for successful coordination are the action plans for implementation of the most important strategies from the social policy area.

c) Vocational education and training systems;

Education and training of the unemployed registered in the records of the Employment Office of Montenegro is a relevant active policy measure contained in the National Strategy for Employment and Human Resources Development for 2007-2011 and in the Employment Law (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07 and Official Gazette of Montenegro 21/08), Law on Education of Adults (Official Gazette of the Republic of Montenegro 64/02 i 49/07) and the Law on National Professional Qualifications (Official Gazette of Montenegro 80/08 i 14/09). This measure is implemented in accordance with the Rulebook on preparation for employment (Official Gazette of the Republic of Montenegro 52/02 and 1/04 and Official Gazette of Montenegro 27/09).

Education programmes for adults (retraining, additional training, vocational training) are implemented in line with the verified programmes on the basis of vocational standards developed by the Vocational Education Centre (in accordance with the Law on Education of Adults) where the trainees are being issued a public certificate in accordance with the Law on National Vocational Qualifications. Provider of education must be licensed for training and the Employment Office engages trainers through the tender.

Preparation for employment includes: vocational training programmes for occupations, preparation programmes for the known employer, for labour market and programmes for gaining specific knowledge. The scope and the structure of trainees are determined on the basis of: the assessed and expressed needs of employers, the analysis of the professional structure of the unemployed and their educational needs, the experiences in implementation of preparation programmes in the previous year and the available funds.

In 2007, the training programmes for 4 931 trainees were organised. Out of these, trainings were organised for 667 persons for the known employer. The programme for preparation for the labour market included 4 246 participants out of which 1 244 were trained for occupations, and 3 020 persons were trained to gain specific knowledge.

In 2008 the training process included 4 843 persons out of which 897 persons were trained for the known employer and 3 946 for labour market.

The majority of trainees were trained for occupations in the area of tourism and hospitality, construction industry and services and the trainees gained specific knowledge predominantly in informatics and foreign languages.

Following the new NAP recommendations, the Employment Office started preparations with two employers in the northern region of Montenegro for training employees in a form of the so-called early interventions for prevention of unemployment.

d) Public employment services;

Activity of the Employment Office of Montenegro is prescribed by the Employment Law (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07 and Official Gazette of Montenegro 21/08) which among other things prescribes social protection of the unemployed.

The Law prescribes mandatory insurance in the event of unemployment for all employees. This insurance is based and provided on the principle of solidarity and includes:

- right to the cash benefit of the insurance beneficiary whose employment ceased to exist within the meaning of the Labour Code without his/her request, consent or guilt, who had a full-time employment with one or more employers for a period of at least 9 months with no interruptions or 12 months with interruptions in the last 18 months (hereinafter: insurance record) if he/she registers with the Employment Office within the period of 30 days as of the day of termination of his/her employment;
- right to the cash allowance of the unemployed person whom the Employment Office has referred to vocational training, retraining, additional training or specialisation if he/she is not receiving any cash benefit;
- right to health insurance of the unemployed who are registered in the records of the Employment Office provided that they may not exercise the above mentioned right as the insurance beneficiary's family members within the meaning of regulations on health care and health insurance;
- right of the unemployed to moving-house allowances arising from commencement of employment in another city, and
- right of the unemployed person to one-off cash allowance if he/she is being provided employment through the Employment Office or in another way out of his/her place of permanent residence.

Conditions for exercising the rights and the amount of one-off cash allowance are prescribed by internal act of the Employment Office.

e) Co-ordination with European Employment Service (EES) and social inclusion process;

The Employment Office of Montenegro has not yet established official coordination with the European Employment Service. However, owing to the professional contacts and cooperation with the national employment services of the European Union member states (Slovenia, Latvia, Romania, Bulgaria) it is familiar with work of the European Employment Service to a certain extent. It participates in the work of the World Association of Public Employment Services (WAPES) and also contributes to a better acquainting with the work of the above mentioned institution.

f) Participation of other authorities/partners (partnership)?

NGOs and social partners increasingly participate in promotion and accomplishment of public interests and promotion of the overall position of civil society and accomplishment of their labour and social rights predominantly by their inclusion in development of laws and strategic documents of the Government and by inclusion in work of the Government bodies. For instance, NGOs and

social partners have either prepared or participated in preparation of several laws and strategic documents in the area of social welfare such as: the Development and Poverty Reduction Strategy, the Strategy for Development of the Social and Child Protection System, the Strategy for Development of the Social Protection of the Elderly, the Strategy for Inclusion of Persons with Disabilities, the White Book for Human Resources Development in Montenegro until 2017, the National Strategy for Employment and Human Resources Development in Montenegro and its Action Plan, the Strategy for Improvement of Mental Health, the Strategy for Preservation and Enhancement of Reproductive Health, the National Strategy for Tobacco Control, the National HIV/AIDS Strategy, the National Drug Strategy, the National Youth Action Plan in Montenegro etc. and they participate in teams that monitor implementation of strategic documents.

Projects in the area of social policy of Montenegro were developed and implemented together with social partners, NGOs and representatives of local government under the CARDS Programmes and many other international programmes and such trend of cooperation has continued with development and implementation of the projects under IPA Programmes.

In accordance with the document entitled Basis of Cooperation of the Government of the Republic of Montenegro with NGOs of May 2006 and the Strategy of Cooperation with NGOs with the Action Plan for its implementation, the Office for Cooperation with NGOs was established for the purpose of providing cooperation and support.

Adoption of the Law on Social Council (Official Gazette of Montenegro 16/07) provided efficient and significant social dialogue, increasing capacity of social partners, raising awareness on social dialogue in the society and joint resolution of existing social problems and situations.

Under Article 13 of this Law, the Social Council was established consisting of: 11 representatives of the Government, 11 representatives of the authorised trade unions organisations of Montenegro and 11 representatives of authorised employers' federation in Montenegro which holds sessions regularly and whose work results are transparent and available to the public.

101. How is the programming capacity conceived?

Under Article 23 of IPA Implementing Regulation, the strategic coordinator is, among other things, responsible for the development of the Strategic Coherence Framework.

Under Article 28 of IPA Implementing Regulation adequate operating structure is competent for the preparation of adequate programming document.

Under Decision no. 05 - 511 of 2 October 2009 Mr. Aleksandar Drljević, Assistant Minister for European Integration was appointed a strategic coordinator.

The Draft Action Plan for IPA Components III and IV envisages that one operating program is prepared for each IPA Component respectively and that the programming process will be organised through adequate working groups headed by the strategic coordinator as follows:

- working group for the Strategic Coherence Framework;
- working groups for Operating Programs (for each OP respectively);

The task of the working group for the Strategic Coherence Framework is to analyse draft Strategic Coherence Frameworks, give suggestions, recommendations, provide support to the activities during the process of preparation of the above mentioned document and supervise and coordinate preparation of Operating Programs for IPA Components for the components: regional development and human resources development.

Tasks of working groups for Operating Programmes is to prepare Operating Programmes, analyse compliance of the draft Operating Programs with the draft Strategic Coherence Framework, harmonise the Operating Program with priorities defined in the national strategies adopted by the Government and priorities defined in European Partnership and Multi-Annual Indicative Planning Document.

Working groups will consist of adequate public institutions relevant for IPA Components III and IV. Representatives of other competent bodies and organisations and representatives of organisations of civil society will take part in the work of the above mentioned working groups in professional and advisory role as needed.

a) Establishment of development plans and programming documents;

Programming of IPA Component IV (human resources development) entails preparation of multi-annual programming documents: the Strategic Coherence Framework and Operating Program for Human Resources Development. It is expected that the above mentioned documents cover the period 2011 – 2013. According to the draft Action Plan for IPA Components III and IV it is foreseen that the Strategic Coherence Framework will be prepared until December 2010, while the Operating Program will be prepared until April 2011.

The Strategic Coherence Framework represents an umbrella strategic document which defines priorities within IPA Component III (regional development) and IV (human resources development), in the area of infrastructural investments in the protection of environment and traffic, development of economy and competitiveness, employment, social policy, education and necessary technical assistance. Priorities are developed in more details on the level of sectoral documents, that is, Operating Programs which among other things define priorities, measures and adequate projects.

While developing these documents the Strategic EU Framework will be taken into account (Lisbon Strategy, Multi-Annual Indicative Planning Document (MIPD), IPA Implementing Regulation and the like), as well as national strategic documents in the area of employment, social policy and education such as:

EDUCATION

Strategy for Scientific-Research Activities (2008-2016), Strategy for Inclusive Education in Montenegro, Action Plan for Integration of Development in Educational System for the period 2007-2009, Strategic Plan of Education Reform for the period 2005-2009 and the Book of Changes 2001.

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The Strategy for the Prevention of Poverty and Social Exclusion, Strategy for Development of the Social and Child Protection System in Montenegro for the period 2008-2009, Strategy for Development of the Social Protection of the Elderly 2008 - 2012, Strategy for Integration of Persons with Disabilities in Montenegro for the period 2008-2016, National Strategy for Employment and Human Resources Development for the period 2007-2011, National Employment Action Plan for the period 2008-2009, Strategy for Development of Pension-Disability System in Montenegro, National Strategy for Permanent Solution of the Status of Refugees and Internally Displaced Persons in Montenegro, National Program to Prevent Unacceptable Behaviour of Children and Youth in Montenegro and the Strategy for Improvement of Status of RAE Population in Montenegro 2008-2012.

The process of development of the above mentioned documents will be organised through adequate inter-ministerial working groups with participation of relevant partners from civil society.

b) Implications of structural funds principles: additionality, partnership, co-financing?

Co-financing or, in other words, the principle of additionality entails that a part of investment in relevant goals comes from the domestic sources, that is, that EU is co-financing investment of the beneficiary country. The idea of such an approach is to prevent that financial resources from European funds simply become an exchange for domestic investments which would undermine the principal purpose of these funds – the accelerated development through increased investments.

Co-financing will be provided from the programming process by clearly marking the funds from domestic sources in Operating Programs. The relevant legal acts also need to be adopted in the following period which will enable undisturbed operation of co-financing.

For Montenegro, the partnership implies the cooperation of all social partners (central and local government, civil society, private sector) in preparation and implementation of the strategic documents and projects. At this moment, the institutionalised mechanism of partnership cooperation between the Government and social partners operates through the Office for Cooperation with the Civil Sector. In the following period this cooperation should be improved in regard to IPA funds, while the mechanism that will enable an easy conducting of permanent and timely consultations between the state institutions and civil society organisations should be created.

102. How is the implementing capacity conceived?

Under Article 28 of IPA Implementing Regulation, an adequate Operating Structure is responsible for management and implementation of a relevant programming document.

With regard to Article 151 of IPA Implementing Regulation which defines the areas covered by IPA Component IV, at this point it can be concluded that the Operating Structure will consist of the Ministry of Labour and Social Welfare and the Ministry of Education and Science. Additionally, having in mind the competences of the above mentioned ministries it is expected that the Ministry of Labour and Social Welfare will be running the Operating Structure. On the other hand, the final composition of the Operating Structure depends on the priorities and measures to be defined in the following period when it will be determined whether any other institution will be a part of the Operating Structure.

In addition, the draft Action Plan for IPA Components III and IV envisages that CFCU will also be the implementing body for IPA Component IV.

All detailed activities, roles and responsibilities of Operating Structures will be prescribed in more details by special agreements to be prepared and signed by the National Authorising Officer (NAO) and Managers of Operating Structures and by the bodies which make the Operating Structure and it will also be prescribed in relevant manuals.

a) Preparation, selection, appraisal;

Preparation, selection and appraisal of projects will be organised through the working group for the Operating Programme for Human Resources Development. Thereby the work will be based on the following principles:

- complementarity between the identified projects with the strategic framework of EU and Montenegro;
- focusing on key priority areas;
- coordination between IPA components and the programmes of other donors;
- readiness of the projects and project documentation for efficient implementation in accordance with the rule N+3.

During development of the Operating Programme for human resources development and the very preparation, selection and appraisal of projects, consultations with relevant partners will be organised and *ex-ante* evaluation of Operating Programmes will be conducted (see item d).

b) Financial procedures;

In cooperation of relevant institutions headed by the National Authorising Officer (NAO), adequate manuals for financial management in accordance with the requirements of IPA Implementing Regulation will be prepared which will among other things prescribe the following:

- system of bank accounts;
- flow of funds from the European Commission to the National Fund;
- flow of funds from the National Fund to the Implementing Body (CFCU);
- sources and the system of co-financing;
- payment of funds to the contractor or end-user;
- return of funds to the European Commission.

c) Monitoring;

In the following period the Government of Montenegro will set up relevant monitoring bodies and prepare relevant manuals that will provide operational execution of the monitoring functions.

Under Article 28 of IPA Implementing Regulation, the Operating Structure is responsible for "monitoring programme implementation and guiding the work of the sectoral monitoring committee as defined in Article 59 by preparation and providing of documents necessary for monitoring the quality of implementation of the programmes." Apart from that, Article 59 of IPA Implementing Regulation requires setting up of the sectoral monitoring committee. Accordingly, the Government of Montenegro will set up the Committee for Human Resources Development that will provide support and reporting to the IPA Monitoring Committee.

Additionally, implementation of the Operating Programme is also monitored from the aspect of the overall IPA Programme under Article 58 of IPA Implementing Regulation by the IPA Monitoring Committee that will "satisfy itself as to the overall effectiveness, quality and coherence of the implementation of all programmes and operations towards meeting the objectives set out in the financing agreements as well as in the multi-annual indicative planning documents."

In line with Article 28 of IPA Implementing Regulation, the Government of Montenegro will put in place an adequate data management information system.

The monitoring system will be organised on both, programme and project levels. Data will be collected on the level of the project and on the level of priorities and measures within the Operating Programme.

d) Evaluation;

Under Article 57 of IPA Implementing Regulation, evaluation can be carried out before (*ex ante*), during (*interim*) and after (*ex post*) implementation of the programme. The aim of the evaluations is to increase the quality, effectiveness and consistency of the European Union assistance, the relevant strategies and the implementation of the programmes.

All types of evaluation to be organised in relation to the Operating Programme for Human Resources will be carried out by experts or bodies that are functionally independent from IPA institutions.

In accordance with the draft Action Plan for IPA III and IV components, *ex-ante* evaluation of the Operating Programme for Human Resources is envisaged in order to improve the quality of programming and at the same time to assess justifiability of allocation of funds within the Operating Programme.

Under Article 57 of IPA Implementing Regulation, at least one *interim* evaluation will be conducted during the implementation of the programme. Results of the evaluation will be taken into account during the following cycle of programming and implementation. Results of evaluation will be considered by the Monitoring Committee for the Human Resources Development Programme. Depending on the findings, the Monitoring Committee can propose to the Operating Structure to carry out the audit of the Operating Programme in order to harmonise the Operating Programme with the programme objectives so as to improve its management or financial management.

In the course of evaluations, the employees in the Operating Structure will closely cooperate with the relevant services of the European Commission.

e) Audit and financial control?

In a close cooperation with the National Authorising Officer (NAO), the system of internal control will be based on the following principles:

- written manuals and rulebooks;
- clear distribution of competences;
- four eye principle;
- the policy of rotation of employees;
- risk assessment;
- implementation of comprehensive prevention and control measures;
- mutual exchange of information;
- constant monitoring and auditing of the internal control system including self-evaluation;
- through auditing activities.

The internal control of the Ministry of Labour and Social Welfare is conducted by the Internal Audit Unit. The Law on the Public Internal Financial Control System which the Parliament of Montenegro adopted at the end of 2008 prescribes the system of financial management and control as well as internal audit in public sector. Provisions of this Law apply to beneficiaries of the funds of the Budget of Montenegro, budget of municipalities, public funds, independent regulatory bodies, joint-stock companies and other legal persons in which the state or municipalities have majority shares. All the above mentioned entities are obliged to establish the system of internal controls (financial management and control and internal audit) in accordance with provisions of this Law. Internal Audit Unit is in organisational and functional sense independent from other organisational units of the entity and it submits the reports on individual audits it has carried out to the manager of the entity.

Key bodies included in the system of external audit of IPA funds are:

- the Audit Authority;
- the State Audit Institution of Montenegro;
- the European Commission, including the European Anti-Fraud Office;
- the European Court of Auditors.

The preliminary proposal is to position the Audit Authority, which is responsible for verification of effectiveness of the management and control system as well as for the reliability of financial data submitted to the European Commission, within the State Audit Institution.

103. How do you intend to prepare for future ESF implementation using IPA component IV for Human Resources Development?

The European Social Fund (ESF) sets out to improve employment and job opportunities in the European Union. Interventions occur in the framework of the goals of convergence and regional competitiveness and employment. ESF supports activities in the areas of employment, gender

equality, social integration and fight against discrimination in employment and strengthening human capital by the reform of education system and establishing the network of educational institutions.

Similarity between the structural funds and the cohesion fund, available only to the member states, and IPA Instruments is reflected in the correspondence of the goals, principles and manners of funds management.

By the application of the Strategic Coherence Framework and Operating Programme for Human Resources Development and the introduction of a decentralised system of EU funds management, we can see that IPA funds are used not only for implementation of the projects, but instead through the application of the above mentioned goals, principles and manners of funds management, the potential member states are being prepared for the membership in the European Union and the use of the European Social Fund.

V. SOCIAL INCLUSION

A. General

Evaluation of current data situation and structures

104. Is there an official national definition of absolute and/or relative poverty and/or social exclusion? What is the national absolute/relative poverty line? How is it defined? Which equivalence scale is used?

The concept of "social exclusion" was first defined in the Strategy for Fighting Poverty and Social Exclusion, which was adopted in July 2007 and which represents an updated version of the Development and Poverty Reduction Strategy from 2003. Social exclusion combines financial and socio-psychological aspects of living standard and is defined as inability to access the systems of social welfare, education, health care and culture that leads to marginalisation and limited social participation of vulnerable groups of population.

With the drafting of the National Human Development Report in 2009¹, the definition of social exclusion was expanded and aligned with the terminology and practice of the European Union. This document defines social inclusion as "a process which ensures that those at risk of poverty and social exclusion gain the opportunities and resources necessary to participate fully in economic, social and cultural life and to enjoy a standard of living and well-being that is considered normal in the society in which they live. It ensures that they have greater increased participation in decision making which affects their lives and their access to their fundamental rights".

Absolute poverty line is defined as total consumption below the cost of the minimal consumer basket for a standard household, and the line of economic vulnerability is set at 50% above the poverty line.² Absolute poverty line in Montenegro in 2007 was €150.76 per adult equivalent, approximately €6 higher than in 2006.³

Poverty line is calculated according to the "cost of basic needs" method and includes two main components: (a) food poverty line (i.e. minimal consumer basket cost), and (b) relevant costs for the purchase of basic non-food products. Together, the two components give the total poverty line. Minimal food basket is designed to meet the basic nutritional requirements of the population living in this part of the world, according to FAO suggestion (2004), while the contents of the minimal food basket reflect the actual nutrition structure of the population. The nutritionist norm of 2 288 kcal/per day per reference person is applied. The price of the minimal food basket is calculated by multiplying the quantities from the minimal food basket with respective prices. The price of the minimal food basket is estimated at €37.28 per month per nutritionist adult equivalent, using 2006 prices, and €38.84 for 2007⁴. Based on the cost of the minimal food basket, total poverty line was assessed using the linear regression model; the same model was used in other countries in the region (Luttmer, 2000; Bogićević et al, 2003) and is internationally accepted. Application of this model to Household Consumption Survey (HCS) data for 2006 gives the poverty line of €144.68 per adult equivalent per month.⁵

¹ National Human Development Report, 2009, UNDP, October 2009

² Development and Poverty Reduction Strategy, November 2003

³ Poverty in Montenegro in 2007, MONSTAT, May 2009

⁴ 2006 poverty line increased by the 4.2% increase in costs of life in 2007 in order to obtain the absolute poverty line for 2007, which currently equals €150.76 per adult equivalent.

⁵ Total poverty line is based on equivalent consumption calculated using the modified OECD scale.

Modified OECD scale was used to adjust total consumption to disparities in household size and composition, which is to calculate the equivalent household consumption. Modified OECD scale was selected for its simplicity and compliance with the current Eurostat practice. The same scale is applied in the majority of studies across Europe. Consequently, equivalent household size is calculated as weighted total number of household members, where the first adult member of the household counts as 1 unit, other adult members as 0.5 unit respectively and each child under the age of 14 as 0.3 unit.

105. Provide data on the following indicators – where possible: 2009 social inclusion indicators of the Social Protection Committee of the European Union: http://ec.europa.eu/employment_social/spsi/common_indicators_en.htm) and explain the source for the income data and the methodology used where appropriate.

National Statistical Office of Montenegro – MONSTAT does not calculate specific social inclusion indicators. However, some indicators are calculated individually, for the purposes of monitoring and planning specific policies. Below, we have presented available social inclusion indicators taken from the Analysis of well-being in Montenegro using Household Consumption Survey data, 2008, MONSTAT; Population Census, 2003, MONSTAT, and National Human Development Report, 2009 (UNDP).

The 2009 National Human Development Report (NHDR) provided Laeken social inclusion indicators for the first time; we have highlighted the ones that match the 2009 Social Inclusion Indicators of the EU Social Protection Committee:

Indicator	Definition	Montenegro		EU 27	EU 25	EU 15	Croatia	
		Data disaggregation		Data disaggregation	Data disaggregation	Data disaggregation	Data disaggregation	
1. Poverty risk rate + threshold illustrative value	Threshold (in €)	162		n.a	697.33	n.a	n.a.	
2. Poverty risk exposure rate (in %)	Share of persons aged 0+ with equivalised available income lower than 60% of median equivalised available income at the national level* Source: UNDP/ISSP survey on social exclusion *Median equivalised available income is defined as total available household income divided by	Total	24.3	16	16	17	Total	17.4
		0-17	25	19	19	19	0-15	15.4
							16-24	15
							25-49	11.7
		18-64	23.8	15	15	14	50-64	16.9
		65+	27.3	19	19	20	65+	29
		Male	23.4	15	15	15	15.9	
Female	24.9	17	17	17	18.7			

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	""equivalent value" to take into account household size and composition, and is assigned to each household member (including children). Equalisation is obtained based on modified OECD scale.					
3. Relative median poverty risk gap	Difference between median equivalised income of a person aged 0 + that is below the poverty risk exposure threshold and the threshold itself, presented as percentage of poverty risk exposure threshold. Source: UNDP/ISSP survey on social exclusion	48.3	22	22	22	n.a.

Source: NHDR

4. Long-term unemployment rate is calculated by the Statistical Office of Montenegro - MONSTAT:

Montenegro	2004	2005	2006	2007	2008
1. Long-term unemployment rate, male and female	27.7	30.3	29.6	19.4	16.8
	23.6	26.2	29.1	18.1	15.9
	33.0	35.5	30.1	20.9	17.9

Source: MONSTAT

5. Persons living in households with no employed members	Number of people living in households where no members are employed presented as a share of all persons in the same age group. This indicator should be analysed in the context of indicator no. 8: households with no employed members by main household types. Source: UNDP/ISSP survey on social	Total	26.4	9.4	9.3	9.2	8.4
		0-17	28.1	9.4	9.3	9.2	8.4
		18-59	23.4	9.3	9.2	9	11.3
		Male (18+)	27.6	8.2	8.2	8	10.2

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	exclusion	Female (18+)	28.7	10.3	10.2	10.1	12.4
6. Young people dropping out of school	Share of persons aged 18 to 24 with only lower secondary education (highest education or training level 0, 1 or 2 according to the International Standard for Classification in Education from 1997 – ISCED 97) who did not obtain education or training in the four weeks prior to the survey. Source: UNDP/ISSP survey on social exclusion	Male	15.5	17.2	17.1	19.2	n.a
		Female	9.2	13.2	12.8	14.5	n.a.

Source: NHDR

The paper Analysis of well-being in Montenegro using Household Consumption Survey data, developed by the Statistical Office of Montenegro, provides the following social inclusion indicators:

7. Poverty risk by household type, 2007

Household size	Poverty rate	Relative poverty risk	Share of the poor	Share of total population
One person	6.5%	0.81	4.6%	5.8%
Two persons	3.4%	0.43	5.1%	12.3%
Three persons	3.8%	0.48	6.2%	13.2%
Four persons	8.7%	1.09	26.5%	24.5%
Five persons	7.0%	0.88	19.4%	22.4%
Six persons	7.1%	0.89	11.4%	13.0%
Seven and more	24.2%	3.03	26.7%	8.9%

Note: Relative poverty risk is calculated as subgroup poverty rate divided by the national poverty rate.

Source: Team assessment using 2007 HCS data.

8. Poverty risk according to household labour intensity – this data is not available at the Statistical Office of Montenegro.

9. Poverty according to activity status, 2007

	Poverty rate	Relative poverty risk	Share of the poor	Share of total population
Under 15	11.0%	1.38	22.2%	16.2%
Employed	2.3%	0.29	7.7%	26.7%

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Own business	7.5%	0.94	4.3%	4.6%
Unemployed	15.6%	1.95	25.7%	13.3%
Retired	6.5%	0.81	16.0%	19.8%
Other inactive persons	10.0%	1.25	24.1%	19.4%

Note: Relative poverty risk is calculated as subgroup poverty rate divided by the national poverty rate.

Source: Team assessment using 2007 HCS data.

10. Poverty risk by housing status – no data are available at the Statistical Office of Montenegro.

11. Dispersion around poverty risk threshold – no data are available at the Statistical Office of Montenegro.

12. Persons with low level of education

The Government of Montenegro adopted the Strategy for Establishing the National Qualifications Framework in Montenegro 2008-2010, which identifies the measures and activities that need to be implemented in the forthcoming period to establish the National Qualifications Framework. The strategy envisages development of Montenegrin Qualifications Framework that will be aligned with the European Qualifications Framework. Montenegro is still not fully implementing the ISCED classifications in education. The 2003 population census provided the following data:

Population aged 15 and above shown by age, gender, and education and literacy, the 2003 Census.

		Total	No education and 1-3 grades of primary school		4-7 grades of primary school	Primary education
			Total	Illiterate		
Montenegro	Total	492 684	28 041	12 290	40 655	113 085
	Male	239 322	6 549	1 849	13 127	50 671
	Female	253 362	21 492	10 441	27 528	62 414
25-34	Total	86 516	924	421	1 127	13 557
	Male	42 921	418	168	470	6 241
	Female	43 595	506	253	657	7 316
35-54	Total	170 812	2 622	1 192	6 790	32 623
	Male	85 268	971	373	1 382	13 484
	Female	85 544	1 651	819	5 408	19 139
55-64	Total	57 304	2 510	1 036	11 358	14 169
	Male	26 564	443	152	2 816	5 441
	Female	30 740	2 067	884	8 542	8 728
65 and above	Total	74 160	17 509	8 712	19 401	13 627

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	Male	31 984	2 591	832	7 625	5 373
	Female	42 176	14 918	7 880	11 776	8 254
25-64	Total	314 632	6 056	2 649	19 275	60 349
	Male	154 753	1 832	693	4 668	25 166
	Female	159 879	4 224	1 956	14 607	35 183

Source: MONSTAT

13. Low rate of students' reading literacy – no data are available at the Statistical Office of Montenegro.

106. In how far do you consider these indicators to be relevant for the description of the current and future situation of poverty and social exclusion in your country?

Since the development of the Development and Poverty Reduction Strategy for Montenegro in 2003, Montenegro started calculating the poverty indicators, Millennium Development Goals indicators, followed by calculation of various social exclusion indicators. These indicators serve to monitor poverty and social exclusion and provide a basis for the development of specific policies.

We believe that calculation, by the national statistics institution, of social exclusion indicators promoted by the EU Social Protection Committee would considerably contribute to better quality in monitoring social inclusion and planning future policies.

107. Is income or/and expenditure used for measuring monetary poverty?

The financial situation of the population is measured by population consumption. Favouring consumption over income is a common practice in assessing poverty in developing countries.⁶ Consumption aggregates provide a sound measure of household financial situation, calculated as the sum of household expenditures for various food and other products consumed during the given period of time. Total consumption also includes: personal consumption of homemade products; estimated value of in-kind gifts, and imputed rent (i.e. self-assessed potential income from leasing the home that the family is currently living in). The costs of purchasing large durable goods are not included in the total consumption, since there is no consistent link with the household financial situation.

108. In addition, what would you consider as the most meaningful and/or in the public debate most frequently used:

⁶ See Deaton and Zaidi (2002) for a discussion on some theoretical and practical reasons to be considered when deciding whether to measure living standard using consumption or income, as well as recommended steps when developing living standard measures based on consumption from household survey data.

a) non-monetary indicators for poverty and social exclusion;

To date, public debates have mainly dealt with monetary poverty indicators, and research on the phenomenon of social exclusion began only recently. Some of the non-monetary indicators have been calculated, but subsequently rarely commented upon in public. MONSTAT 2006 report Analysis of well-being in Montenegro using the Household Consumption Survey data includes the following non-monetary indicators:

Poverty indicators, 2006

	Poor	Non-poor	Total
Less than 10 m ² per person	36.0%	9.4%	12.4%
More than two persons per room	57.2%	24.8%	28.5%
No telephone (landline)	53.3%	20.1%	23.8%
No indoor bathroom	18.6%	6.3%	7.7%
No access to sewage	18.4%	5.3%	6.8%
No running water	7.3%	2.8%	3.3%
No refrigerator	3.8%	0.2%	0.7%
No washing machine	42.5%	11.4%	14.9%
More than 5 km distance from a GP	20.2%	11.6%	12.6%
More than 10 km distance from hospital	44.2%	27.1%	29.0%
More than 5 km distance from primary school	9.3%	5.8%	6.2%
More than 10 km distance from secondary school	22.9%	15.2%	16.1%

Source: Team assessment using 2006 HCS.

These indicators were not calculated for the 2007 survey.

b) administrative data sources.

Administrative sources of data are most frequently used in public debates. Such data is provided by the public institutions that keep records from the scope of their competences. Administrative data provides information on beneficiaries of various forms of social welfare, in line with the Law on Social and Child Welfare, pensioners, unemployed etc. More detailed information is provided in the answer to the Question 139.

Such administrative records are used to design various forms of assistance to the socially vulnerable categories of citizens, such as: electricity subsidies, free textbooks, one-time cash allowances etc.

109. Identify vulnerable groups for your country and present data/estimates about their size (e.g. disabled, unemployed, those in the informal sector/subsistence agriculture, ethnic/cultural communities (please specify), families, children and young people, women, elderly, single parent families etc.) and describe the underlying processes that cause vulnerability. What are the policy responses with regard to the individual groups?

Vulnerable groups in Montenegro are the following:

Persons financially unprotected

An individual or a family, that is a person in the state of social need that is unable to work and without means to meet the basic needs and cannot obtain such means through his/her own work, income from property or otherwise, is entitled to the benefit stemming from the right to financial provision for the family, which is a fundamental right in the social welfare system.

The conditions for the exercise of the right to financial provision for the family and the amount of the benefit are defined by the Law on Social and Child Welfare.

More detailed information is provided in the answer to the Question 137 (j).

People with disabilities

All information related to these persons is contained in the chapter People with Disabilities.

Unemployed persons

All information related to these persons is contained in the answer to the Question 98.

Elderly persons

According to the 2003 Montenegro population census, out of the total population of 620 145, the share of those older than 60 was 103 393 or 16.67%, while the share of the elderly, that is older than 65, was 74 160 or 11.96%. Compared to the previous period, this showed a trend of increase in the number of elderly persons, which further implies a number of problems in the field of social welfare, health care and pension and disability insurance.

Montenegro has a strong patriarchal-traditional attitude towards the elderly, characterised by a reserved and negative attitude to placement into institutions; most elderly people live with their families and only a small number is accommodated elsewhere.

However, as shown in the survey of the Centre for Democracy and Human Rights, a more modern attitude is being developed, less burdened by the traditional concepts and generated by the rising number of the elderly, the need for a quality and complete life for the elderly, small number of beneficiaries covered by various forms and services of social welfare, undeveloped network of services and forms of social welfare for the elderly, and insufficient number of service providers. All this indicates a gap between the need for social welfare and care for the elderly and the level of development of the existing system and its practical implementation. Most rights pertaining to social welfare are exercised using the existing network of social welfare institutions (social welfare centres, institutions for placement of adults – disabled and elderly persons, and institutions for placement of persons with special needs). In addition, diverse forms of extra-institutional social welfare for the elderly are entirely undeveloped or provided insufficient systematic support, especially in rural areas.

Aiming at better socio-economic and social development and efficient involvement in the European integration process, the Government of Montenegro has adopted major strategy papers concerning social welfare and social inclusion, including the Strategy for Fighting Poverty and Social Exclusion, Strategy for Development of Social and Child Welfare and Strategy for Development of Social Welfare for the Elderly. The Strategy for Development of Social Welfare for the Elderly is a document that specifies the main goals and defines the most important directions and tasks in the policy to develop social welfare for the elderly in Montenegro for the period 2008-2012. The Strategy for Development of Social Welfare for the Elderly is the basis for the reform and development of social welfare for the elderly and for the adoption of all legislation and secondary

legislation and other decisions of national and local authorities and decisions and activities of individual service providers.

By adopting the abovementioned strategy papers, Montenegro has defined the main principles underlying further development and reform of the social welfare system:

- decentralisation and dispersion of social welfare functions, responsibilities, finance and practice;
- strengthening citizens' personal responsibility for their own social and economic security and strengthening family responsibility for the security and protection of its members;
- providing a pluralism of activities, forms, methods and service providers in the domain of social welfare for the elderly;
- competitiveness of services and incorporation of market criteria in the financing of these services, establishment of partnerships and networking of diverse social actors, especially at municipal level.

In addition to these principles, the reform of social welfare for the elderly in Montenegro should endorse the following principles defined by the European Union in fighting social exclusion and developing the planning in this area:

- that social policy measures are more efficient when they are developed and provided in the immediate environment of the beneficiaries they are intended for;
- that social welfare measures and services must be provided to the elderly in a comprehensive manner, observing and acknowledging the integral needs of the beneficiaries;
- that social welfare services for the elderly must be open, accessible, flexible, affordable, and must respond to the needs of the beneficiaries by improving their quality of life, that they must be effective, timely and cost-efficient and provided without excessive bureaucratisation;
- that measures of social welfare for the elderly must develop intra-generational and inter-generational cooperation, responsibility and solidarity, improve integration of the elderly in their natural environment, strengthen their activity and existing social network;
- that provision of social welfare services is based on high ethical principles and moral norms and consistent respect for human dignity and other fundamental human rights and freedoms through implementation of equality principle and non-acceptance of discrimination and neglect of the elderly on any grounds;
- that defining the social welfare system for the elderly be a right and duty of the state and that local communities, but also the broadest range of other actors in the given field, have duties and tasks in its development and implementation;
- that cooperation and partnership be ensured, on these grounds, between authorities, private sector and civil society organisations, and
- that responsibility of the elderly person, his/her family, health funds, budgets at all levels and other sources be ensured in financing these services.

Endorsing and implementing these principles of development of social welfare for the elderly in Montenegro will build a system of integral social welfare for the elderly that places in the forefront better protection of the poorest, development of an optimum network of services in the community and provision of a functional link between social welfare and health care.

An integral part of the Strategy for Development of Social Welfare for the Elderly is the Action Plan for its implementation. Local governments will elaborate the activities at the municipal level in their respective action plans.

Activities to implement the Strategy for Development of Social Welfare for the Elderly are currently underway.

The Municipality of Pljevlja has developed the Action Plan for development of social welfare for the elderly. Memorandum of Cooperation in development of social welfare for the elderly in the Municipality of Pljevlja has been signed, for the purpose of joint implementation of activities to build institutions for placement of the elderly, which will include: residential accommodation for the elderly, day centre for the elderly and adults, and protected housing for adults with disabilities.

Financing the Action Plan for the Municipality of Pljevlja requires funds from international donors, national budget, municipal budget, Health Insurance Fund, Pension and Disability Insurance Fund and beneficiaries that is their relatives.

"Grabovac" Home for the Elderly operates in Risan, recently adding a section for palliative care. The home has a capacity to accommodate 310 beneficiaries.

Final activities related to establishing a home for the elderly in Bijelo Polje are underway, with a capacity to accommodate around 300 beneficiaries.

The project "Home Help" is being implemented in cooperation with the Employment Office and local governments. In the form of a partnership, the project is implemented in 16 Montenegrin municipalities: Podgorica, Nikšić, Berane, Pljevlja, Bijelo Polje, Herceg Novi, Bar, Kotor, Tivat, Budva, Ulcinj, Danilovgrad, Cetinje, Rožaje, Plav and Kolašin.

The project employs 170 elderly assistants in 16 municipalities; they take care of more than 1 200 elderly persons, which exceeds the capacity of the Home for the Elderly in Risan by almost four times. This involves a model of domestic help to the elderly, primarily physical care and socio-psychological support, all aimed at better quality of life in old age. Montenegro is one of the European countries with a high aging index. The number of persons older than 65 is 80 046, which constitutes around 11.9% of the total population. In 2008, the project was financed by the Employment Office of Montenegro and the municipalities. Funds for 2009 are envisaged to come from the national level - the Employment Office, Ministry of Health, Labour and Social Welfare, Pension and Disability Insurance Fund - and the municipalities, on a 50-50 basis.

Roma – RAE Population

For the purpose of implementing the Strategy to Improve the Situation of RAE Population in Montenegro, in October 2008 the Statistical Office of Montenegro carried out a survey to set up a database of RAE in Montenegro. The survey was conducted in cooperation with the National Roma Council and the NGO Coalition "Roma Circle". It included 11 001 persons, 9 943 of them situated in Montenegro and the rest situated abroad.

Low economic power, low level of education, very low number of employed persons, inadequate housing conditions, social rejection with residues of ethnic stereotypes and prejudice, lack of integration in the lifestyle of modern societies, frequent change of place of residence, and the lifestyle of Roma – these are some of the causes of the difficult position of Roma in the society.

The Government of Montenegro initiated a response to these problems already after the regional conference "Roma in the Enlarged Europe", following which Montenegro joined the project "Decade of Roma Inclusion 2005-2015". In January 2005 the Government of Montenegro adopted the *Action Plan for the Implementation of the Decade*, with the intention to break the vicious circle of poverty and exclusion of Roma from social life of Montenegro with the projects contained in it. The Action Plan is a framework for the activities directed towards full integration of Roma in the Montenegrin society, without any indications of assimilation process. This document is fully compatible with the strategic papers adopted by the Government, contributing to a whole. Here, we primarily have in mind the Development and Poverty Reduction Strategy, Economic Reform Agenda, Strategy for lasting solution to the issue of refugees and internally displaced persons and National Action Plan for Children.

Since the Action Plan had a limited scope and no source or amount of funds were specified for its implementation, the Government of Montenegro, at the session held on 8 November, 2007, adopted the Strategy to Improve the Situation of RAE Population in Montenegro 2008-2012, proposed by the Ministry for Protection of Human and Minority Rights. The Strategy contains a set of specific measures and activities for the forthcoming four years – of legal, political, economic, social, urban-communal, educational nature, related to culture and information, health etc – together with their implementers, timelines and financial costs. Besides the main goals and intentions to be accomplished by its implementation, the Strategy defines the areas of action, priority tasks, methods of implementation, period of validity, evaluation mechanisms etc. The priority areas of action identified are: development of a database on RAE population; resolving the legal status of RAE population (registration and resolving the issue of personal documents); education; preservation of culture and tradition; employment and rights stemming from

employment; health and health care; social and child welfare; improved housing conditions, and participation in public and political life. In each of the given areas, particular emphasis is placed on gender equality.

In 2008, in addition to the funds allocated to improve the situation of Roma by individual ministries, the Government allocated €400 000. The amount of € 600 000 has been allocated for the purpose of implementing the programs and projects from the Strategy in 2009. The Government decision of 20 December, 2007 established a Commission for monitoring the implementation of the Strategy. The Commission is composed of representatives of line ministries involved in the implementation of the Strategy, at the level of assistant ministers, (Ministry for Protection of Human and Minority Rights, Ministry of Education and Science, Ministry of Culture, Sports and Media, Ministry of Interior and Public Administration, Ministry of Health, Labour and Social Welfare), representative of the Secretariat for European Integration, representative of the Refugee Care and Support Office, National Coordinator for implementation of the Action Plan for the "Decade of Roma Inclusion 2005-2015" and representative of Roma NGOs. The Commission coordinates the activities concerning implementation of the Strategy, monitors project implementation, evaluates the results achieved and proposes measures to eliminate the shortcomings identified, and reports to the Government of Montenegro on its activities.

110. Territorial disparities: Describe social exclusion in terms of urban/rural and of regional factors. Describe the regional distribution of ethnic/cultural communities.

There are no official data on social exclusion in urban/rural communities. The data calculated by MONSTAT refer to the poverty of urban and rural population.

In 2007, poverty was reduced in both urban and rural areas. Poverty rate in urban areas in 2007 was 5.5%, compared to 7.4% in 2006, so there was a reduction by 1.9 percentage points (Table 1). Poverty rate in rural areas was the highest in 2006 (17.6%) and slightly lower in 2005 (16.5%). Compared to 2006, poverty rate in rural areas in 2007 was lower by as much as 5.6 percentage points and equalled 12.0%.

Notwithstanding the improved situation, rural population is much more at risk of poverty than urban population. Poverty rate is more than double in rural areas. Depth and severity of poverty are greater in rural areas, although significant improvement in this regard was recorded in 2007.

Table 1: Poverty by area, 2005-2007 (%)

	Poverty rate			Poverty gap			Poverty severity		
	2005	2006	2007	2005	2006	2007	2005	2006	2007
Urban areas	8.1	7.4	5.5	1.4	1.3	1.2	0.5	0.4	0.4
Rural areas	16.5	17.6	12.0	3.2	2.9	1.8	0.9	0.8	0.5

Source: Team assessment using 2005-2007 HCS data.

Gini coefficient shows a particularly high increase in disparities in rural areas in 2007 (Table 2), as this coefficient rose from 22.4% to 25.3%. Increase in disparities was recorded also in urban areas in 2007, but it was slightly less, as Gini coefficient rose from 23.9% to 24.8%. Unlike in 2005 and 2006, Gini coefficient in 2007 was higher in rural than in urban areas; this shows once again the rapid increase in disparities in the rural area of Montenegro.

Table 2: Gini coefficient in urban and rural areas, 2005-2007.⁷

	2005	2006	2007
Urban areas	26.3%	23.9%	24.8%
Rural areas	23.4%	22.4%	25.3%

Source: Team assessment using 2005-2007 HCS data.

Overview by regions shows that the largest share of socially excluded households are situated in the northern region, where 5.9% households are deprived in the sense of income, health care services, and capacity to meet their obligations. Data for the southern region indicate that only 1.0% of households can be considered socially excluded, while in the central region (the largest) 3.2% of households are socially excluded.

Inadequate access to health care services and insufficient income are the biggest obstacles for the households from the northern region. The biggest problem in the southern region is insufficient income, while in the central region it is indebtedness.

Key indicators of exclusion / social vulnerability of households

	Low income (in poverty)	Inadequate access to health care services	Indebtedness	Socially excluded
	% out of total number			
Montenegro	24.3	29.7	30.1	3.5
Northern region	25.1	42.4	29.2	5.9
Southern region	20.0	24.9	12.0	1.0
Central region	24.8	23.9	41.1	3.2
Podgorica	23.9	23.7	38.9	3.3

The figure for the social exclusion index⁸ for socially vulnerable groups confirms their status of being excluded from the society (presence of multiple vulnerability, in addition to financial poverty).

Individual exclusion is defined as individuals faced with poverty who are deprived of employment (unemployed or with insecure employment⁹) and education. In addition, if such individuals are members of households that are considered to be socially excluded, they are considered to be exposed to severe exclusion.

⁷ Gini coefficient is calculated for equivalent consumption using the modified OECD scale. The unit observed is a person.

⁸ Social Exclusion Index – SEI is a non-weighted index showing the percentage of households faced with the following three concurrent limitations:

- Low income (in poverty) — households with equivalent income below poverty threshold (60% of median equivalent household income).
- Indebtedness — households facing problems servicing their obligations, that is unpaid utility bills, loan instalments or other outstanding debt.
- Inadequate access to health care services — households that stated “distance from doctor/hospital” as a problem in accessing health care services.

⁹ Insecure employment refers to individuals with jobs, who are however not registered.

19 Social policy and employment

In Montenegro, 9.2% of individuals are socially excluded, while 1.3% of individuals are exposed to severe exclusion. The categories where individuals face most deprivation are: income, access to health care services, and education. The individuals faced with multiple deprivation, but not poverty, constitute 1.3% of the total number.

Exclusion indicators by regions

	North	South	Central	Montenegro
	% of total number			
Deprived of employment	11.4	4.4	8.3	8.3
Insecure employment	8.2	12.3	6.6	8.6
Deprived of education	16.1	10.8	14.5	14.2
Low income (in poverty)	26.1	19.9	25.4	24.3
Social exclusion index (SEI)	10.2	7.8	9.2	9.2
Severe exclusion	2.4	0.2	1.0	1.3

Source: National Human Development Report 2009, UNDP, October 2009.

Considered by regions, most individuals exposed to exclusion live in the northern region (10.2%), while 7.8% live in the southern and 9.2% in the central region. Taking into account the households that these individuals belong to, 2.4% of the excluded individuals come from socially vulnerable households from the northern region or are exposed to severe exclusion. The situation is much better in the southern and central regions, with 0.2% and 1.0% of individuals exposed to severe exclusion respectively.

A number of strategy papers identify RAE population as the only and highly vulnerable ethnic group. Table 5 shows distribution of RAE population by regions.

Distribution of RAE population by regions

Region	RAE population	%
North	1 192	12.4
Centre	6 847	71.0
South	1 596	16.6
Total	9 635	100.0

111. Describe the organisational structure of institutions involved in these policies, the role of social service providers, NGOs, advocacy groups, the co-ordination among the institutions and the coverage of their activities. Which are the financing authorities and mechanisms?

The institutions dealing with this policy include ministries and institutions, such as the following: Ministry of Labour and Social Welfare, Ministry of Health, Ministry of Finance, Ministry of Education and Science, Ministry of Economy, Ministry of Human and Minority Rights, Employment Office of Montenegro, Pension and Disability Insurance Fund, Health Insurance Fund, Social Welfare Centres and social and child welfare institutions, Red Cross of Montenegro etc.

Competences of individual ministries are stipulated by the Law on State Administration (Official Gazette of the Republic of Montenegro 38/03 and Official Gazette of Montenegro 22/08) and Decree on public administration organization and manner of work (Official Gazette of the Republic

of Montenegro 54/04, 78/04, 6/05, 61/05, 6/06, 32/06, 42/06, 56/06, 60/60, 72/06, 6/07, 25/07, 32/07, 35/07 and Official Gazette of Montenegro 6/08, 16/08, 26/08, 43/08, 68/08, 4/09, 14/09). Funds for the operation of national authorities and institutions are provided from the national budget and contributions (Pension and Disability Insurance Fund and Health Insurance Fund).

The Law on State Administration defines the obligation of ministries and other administration bodies to ensure cooperation with NGOs, which is implemented in particular: in the procedure of drafting laws that regulate the manner of exercising human freedoms and rights; their participation in the working groups on issues of common interest and their regulation; organisation of joint public debates and other forms of joint activities and information on the work programmes and reports on the performance of authorities.

The Law on the Red Cross of Montenegro (Official Gazette of the Republic of Montenegro 28/06) stipulates that the Red Cross of Montenegro is an independent and voluntary relief organisation, operating on the basis of the principles and mission of the International Red Cross and Red Crescent, enjoying special protection and assistance of the state for the performance of functions of public interest, for the purpose of which it is provided with the funds from the national and local government budgets.

The Law on Non-Governmental Organisations (Official Gazette of the Republic of Montenegro 27/99, 09/02, 39/02 and Official Gazette of Montenegro 11/07) regulates the procedures for establishment, registration, operation, networking and termination of operation of non-governmental organisations, as well as the method of financing. The NGOs concerned with the protection of at-risk groups (people with disabilities, children, youth, women, elderly and incapacitated persons, Roma, victims of violence, associations of parents of children with disabilities etc.), working with the Government and the for-profit sector, have been recognised as the third sector and have a very important role in the society. As independent organisations, NGOs develop the democratic qualities of the society through their engagement, the services that they provide and support that they give to individuals and various social groups, especially through their involvement in raising the awareness of citizens and fostering their participation in decision-making on public policies.

NGOs concerned with different socially sensitive categories of population secure funding for their programmes and projects in line with the Law on Non-Governmental Organisations, Law on the Games of Chance (Official Gazette of the Republic of Montenegro 52/04 and Official Gazette of Montenegro 13/07), Decree on the criteria for identification of beneficiaries and method of distribution of the share of revenues from games of chance (Official Gazette of the Republic of Montenegro 52/04 and 13/07), and from other sources.

The Law on the Games of Chance prescribes that organisation of games of chance is an activity of public interest and that the public interest is realised particularly for the purpose of securing the funds to meet the needs in the field of social-humanitarian activities, protection of mental health, programmatic activities of youth, and other purposes set by the law. The law also prescribes that 60% of the funds obtained from concession fees on the games of chance be used to finance the plans and programmes of organisations concerned with social welfare and humanitarian work, problems and needs of people with disabilities and others in line with the law. Out of the 60% allocated, a minimum of 75% is used to finance the plans and programmes of NGOs.

The Decree on the criteria for identification of beneficiaries and method of distribution of the share of revenues from games of chance sets the criteria for determining the beneficiaries and the method of distribution of the share of revenues from the games of chance. Revenues from the games of chance are distributed by the following areas: 5% for social welfare and humanitarian work; 40% for meeting the needs of people with disabilities; 20% for advancement of sports; 10% for culture and technical culture; 5% for extra-institutional education of children and youth; 20% contribution to the fight against drugs and all forms of addiction. Revenues from the games of chance are distributed annually, following a public call issued by the Commission for distribution of revenues from games of chance. The commission is appointed by the Government, and has a chair and 12 members. It is composed of representatives of the Ministry of Health, Ministry of Labour and Social Welfare, Ministry of Culture, Sports and Media, Ministry of Education and Science, NGOs and experts. Revenues from the games of chance are distributed to A category

programmes of up to €15 000.00 and B category programmes over €15 000.00, with a maximum that may not exceed 30% of the total allocated sum for the given area. B category programmes may not be allocated more than 50% of the revenues from the games of chance.

The Decree stipulates that the minimum amount allocated to an organisation participating in the call may not be lower than 60% of the total amount requested for the programme.

The Parliament of Montenegro distributes funds to finance NGOs in line with the Law on NGOs. The amount of € 350 000 was allocated in 2009.

The Government distributes funds in line with the Law on the Games of Chance, by means of the Government Decree on the criteria for identification of beneficiaries and method of distribution of the share of revenues from the games of chance. The amount of € 3 400 000.00 was allocated in 2009.

Individual ministries also provide funds for implementation of diverse programmes that contribute to social inclusion, by means of issuing public calls that are open for the NGO sector. For example, the Ministry of Culture, Sports and Media allocated € 496 450.00 in 2009 to co-finance culture and art programmes, € 3 800 000.00 to co-finance sports activities, and € 95 000.00 to co-finance youth programmes. The Ministry of Human and Minority Rights allocated € 600 00.00 in 2009 to finance programmes for social integration of RAE population.

Municipalities allocate funds in line with the Decision on distribution of funds to NGOs. The total amount allocated by all municipalities in 2008 was € 860 764.66.

Evaluation of future challenges

112.What are the main challenges for combating poverty and for promoting social inclusion in your society? How do you assess the impact of the financial and economic crisis on the vulnerable groups?

Poverty rate was significantly reduced in Montenegro in 2007, due to the country's economic recovery; depth and severity of poverty were reduced as well. Poverty reduction occurred in both rural and urban areas. However, poverty rate in rural areas is more than double compared to that in the urban areas, and there are large regional disparities in the occurrence of poverty.

The current system of social welfare in Montenegro is undergoing intense reforms and the Government of Montenegro has adopted a number of strategy papers: Development and Poverty Reduction Strategy (2003-2007); National Action Plan for Children (2004-2010); National Programme for prevention of intolerable behaviour of children and youth in Montenegro (2004-2006); Strategy for Lasting Solution to the Issue of Refugees and Internally Displaced Persons in Montenegro (2005-2008); National Action Plan for the "Decade of Roma Inclusion 2005-2015" in the Republic of Montenegro; Strategy for Fighting Poverty and Social Exclusion (2007-2011); Strategy to Improve the Situation of RAE Population in Montenegro (2008-2012); Strategy for Development of Social and Child Welfare in Montenegro (2008-2012); Strategy for Development of Social Welfare for the Elderly in Montenegro (2008- 2012); Strategy for Integration of People with Disabilities in Montenegro (2008-2016); Action Plan for the Strategy for Integration of People with Disabilities in Montenegro (2008-2009); Strategy for Inclusive Education in Montenegro (2008-2012); National Strategic Response to Drugs (2008-2012); Action Plan for the Implementation of the National Strategic Response to Drugs (2008-2009), in order to reform the system in line with the best EU practices and the best interest of beneficiaries of social welfare rights. Chief underlying principles for these papers are: decentralisation, deinstitutionalisation and development of diverse local services oriented towards protection of vulnerable categories of citizens. Likewise, more attention will be devoted to better targeting the groups that require direct assistance of the state and creating special programmes based on that.

Although considerable resources are allocated for social transfers from the Budget of Montenegro (in 2007, 25% of the total Budget was allocated for social transfers), the social welfare system

does not have the capacity to finance new services on the local level, which has a direct impact on the position of vulnerable groups. Bearing this in mind, the Ministry of Labour and Social Welfare applied for the funds under IPA 2010 with the project Social Inclusion (reform of social welfare system and inclusive education), to be implemented in cooperation with the Ministry of Education and Science, UNDP and UNICEF. The European Commission has approved € 3 000 000.00 for this purpose.

Major challenges in fighting poverty and promoting social inclusion in the upcoming period will be mitigating the impact of global economic crisis on the poor and socially excluded groups in order to avoid the risk of a large share of population that is currently oscillating above the poverty line, "relative poverty", falling below the poverty line, the number of socially excluded individuals and groups increasing, and regional disparities decreasing. In order to protect the most vulnerable categories of citizens against the effects of global economic crisis, the Government of Montenegro decided to consider payment of social transfers as a priority, so as to ensure regular payment of social entitlements. Global economic crisis is not expected to have impact on the current beneficiaries of social welfare rights, but new groups are possible to emerge out of the workers in companies affected by the economic crisis. Based on the fact that education and employment are the key elements in reducing poverty and social exclusion, in the forthcoming period special attention will be given to training and employment programmes. More detailed information on employment policies are provided in the answer to Question 95 in this Chapter.

113. Are there any expected impacts of reforms in other areas of social protection (pension, health, employment) on social exclusion and poverty? Are there any plans to e.g. extend coverage or e.g. reduce the benefit level of the social protection system?

The adopted strategic papers concerning social inclusion of vulnerable categories of citizens (the poor, children with disabilities, people with disabilities, the elderly, Roma) promoted decentralisation of the social welfare system and development of local services. That will enable more citizens to meet their needs in the least restrictive environment i.e. in the community in which they live.

The amount of cash benefits based on the rights pertaining to social and child welfare is stipulated by the Law on Social and Child Welfare; a higher amount may be determined upon obtaining the opinion from the Ministry of Finance.

Reform of the pension system, as a segment of the overall systemic reforms, has had a positive effect on the economic trends, primarily in the area of employment, reducing informal economy, increasing fiscal discipline through regular payment of public revenues, as prerequisite for full economic and social progress.

A key issue in the system of pension and disability insurance that has an impact on maintaining and safeguarding the real value of pensions is the method of pension adjustment.

Prescription of the new method of pension adjustment as of 1 January 2004 aims to contribute to a better financial sustainability of the pension system and to a more realistic link between the increase of pensions and economic capacity of the state for such increase. Thus, there are no plans to cut the benefits pertaining to pension and disability insurance; instead, the standard of pensioners is expected to improve with the rise on the standard of the employed.

The method for pension adjustment which has a direct impact on the pension amount and therefore on the financial situation of pensioners, is being constantly analysed in order to upgrade the system with measures that will provide its financial sustainability.

Introduction of voluntary pension insurance created the conditions for persons who are not insured on the grounds of employment or individual business activity to be covered by insurance; thus, citizens are provided with the opportunity to secure additional income in old age and augment the sum invested. Further reform will develop different pension insurance schemes, which will lead to a better coverage with pension insurance and reduction of poverty.

National Strategy for Employment and Human Resources Development 2007-2011 identified the following objectives in strengthening social cohesion: enhancement/promotion of employment of women; prevention of social exclusion of vulnerable groups and prevention of poverty in the northern region of Montenegro.

Health care reform will provide better access to rights, enhance the quality of service provision, with particular emphasis on vulnerable groups.

Implementation of strategy papers on diminishing regional disparities will certainly contribute to reducing poverty and social exclusion.

B. People with disabilities

Institutional and operational aspects

114. Has your government adopted any national policy document containing main principles of national disability policy? Is there any corresponding Action Plan (stating out the way how the actions described in the policy document will be implemented). Is there a specific coordination body overseeing the implementation of the national disability policy?

In 2007, the Government of Montenegro adopted the Strategy for Integration of People with Disabilities 2008-2016. This document was an outcome of the partnership between the government institutions, the non-governmental sector concerned with protection of people with disabilities and the international organisations concerned with this area. The Strategy addresses health care, social welfare and pension and disability insurance, education, vocational training and employment, accessibility, culture, sports and recreation, and the position of civil society organisations of people with disabilities. The Strategy envisages the measures and activities to be implemented in the given period of time in order to align the position of people with disabilities in Montenegro with the European standards and the standards prescribed by the UN Convention on the Rights of Persons with Disabilities.

The Strategy envisages adoption of action plans every two years; in line with that, the Government adopted the first Action Plan for 2008 and 2009, which defined the priority activities to be implemented in all the areas mentioned, integrating disability into all sectors by means of coherent policies and coordination of activities.

The Ministry of Health, Labour and Social Welfare set up the Working Group for performance of functions concerning monitoring the implementation of action plans for the Strategy for Integration of People with Disabilities in Montenegro. The Working Group consists of representatives of all relevant ministries, state institutions and several national NGOs dealing with people with disabilities. The Working Group is tasked with monitoring the implementation of the activities from the Action Plan and Strategy, developing the annual report on the implementation of the planned measures and reporting to the Government of Montenegro and to the general public on this matter.

115. Have the EU Disability Action Plan been taken into account when drafting and designing the national disability policy? If yes, can you highlight any concrete measures where the EU Disability Action Plan have been of help or inspired policy makers to develop certain actions?

The Council of Europe Action Plan is one of the documents that the Strategy for Integration of People with Disabilities in Montenegro, adopted in November 2007, relies on. The state of Montenegro has endorsed the principle that the policy concerning people with disabilities should be managed and coordinated on the national level. We started from evaluation of existing policies and priority fundamental principles against the EU Disability Action Plan and the UN Convention on the Rights of Persons with Disabilities, in order to identify the areas where progress is needed and the specific activities that need to be implemented. Based on that, the Strategy was developed, aimed at gradual harmonisation with the recommendations and priority principles of the Disability Action Plan, within the scope of financial resources available to the state. Montenegrin Strategy, like the Council of Europe Disability Action Plan, covers a broad range that includes all key segments of life of people with disabilities.

It is important to mention that, in March 2009, the Ministry of Health, Labour and Social Welfare delivered to the Council of Europe responses to the CAHPAH questionnaire on the implementation of the activities from the EU Disability Action Plan, that is Questionnaire on the promotion and implementation of the Council of Europe Disability Action Plan 2006-2015 (Recommendation Rec(2006)5).

116. Does your national disability policy operate on the basis of the mainstreaming concept? If yes, can you give any examples of where and how the mainstreaming approach was used and worked successfully? How do you ensure the application and implementation of the mainstreaming concept across various policy areas?

Montenegro has endorsed the social disability model that underlines that the barriers prevent a full integration of people with disabilities into the society. These barriers must be removed, and this is addressed in the Strategy for Integration of People with Disabilities in Montenegro. This paper has a big impact on development of new policies and legislation that regulate the rights of people with disabilities. Accessibility and mobility are now reflected in equal rights and freedom of movement and the right to involvement in social environment. It is essential to ensure removal of both technical and legal barriers for the purpose of more a effective participation of people with disabilities in the society. Removal of barriers will enable their empowerment, which will help them to fully develop their potentials.

It is important to mention that the Strategy and Action Plan envisage mandatory consultations of ministries and local governments with the organisation of people with disabilities when developing policies and regulations concerning people with disabilities.

117. Do you have some kind of regional bodies dealing with disability (regional disability councils) or are disability issues administered and dealt with only at national, centralized level?

In addition to the national Council for taking care of people with disabilities, local councils for taking care of people with disabilities were established over the past two years in the following municipalities: Podgorica, Herceg Novi, Kotor, Bar, Berane, Bijelo Polje, Cetinje and Danilovgrad. Along with the local government representatives, all councils include the representatives of the local organisations of people with disabilities.

118. In most EU member states, national disability councils (comprising NGOs, organisations representing disabled persons, disability experts, civil servants and other stakeholders) have been established. Have similar bodies been established in your state? If yes, are these bodies actively involved in the decision making process related to disabled people? If no, does the government in your country have any plans to contribute to the creation of such bodies?

The Government of Montenegro established the Council for taking care of people with disabilities, composed of the following members: Minister of Labour and Social Welfare, Minister of Health, Minister of Finance, Minister of Education and Science, Minister of Justice, Minister of Spatial Planning and Environmental Protection, director of the Employment Office of Montenegro and representatives of three non-governmental organisations concerned with protection of people with disabilities.

The Council is tasked with:

- protecting and promoting the rights of people with disabilities in the field of social and child welfare, health care, education, vocational training and employment and other fields of relevance for the protection of rights and interests of people with disabilities;
- initiating adoption of the regulations concerning improvement of situation of people with disabilities;
- proposing measures concerning improvement of the quality of life of people with disabilities;
- public information on the rights, opportunities and needs of people with disabilities with the aim of eliminating prejudice and barriers related to these persons;
- exercising other rights of relevance for the status of people with disabilities.

Legislation

119. Is the protection of disabled persons as a specific segment of vulnerable population provided for in the constitution or does a specific “disability law” exist in your legislation? Does the Labour Law in your country explicitly prohibit discrimination in hiring and employment on the basis disability?

There is a number of laws and secondary legislation concerning treatment of people with disabilities and the principle of non-discrimination. In line with the constitutional provisions, this principle has been implemented in all legal provisions.

The following laws regulate this area:

- Law on Health Care (Official Gazette of the Republic of Montenegro 39/04);
- Law on Health Insurance (Official Gazette of the Republic of Montenegro 39/04);
- Law on Protection of Mentally Ill Persons (Official Gazette of the Republic of Montenegro 32/05);
- Rulebook on the method and procedure for exercising the right to medical-technical aids (Official Gazette of the Republic of Montenegro 74/06 and Official Gazette of Montenegro 28/08);
- Law on Social and Child Welfare (Official Gazette of the Republic of Montenegro 78/05);
- Law on Travel Discount for People with Disabilities (Official Gazette of the Republic of Montenegro 80/08);
- Law on Mobility of Blind Persons Assisted by Guide Dog (Official Gazette of Montenegro 18/08);
- Law on Ratification of the United Nations Convention on the Rights of Persons with Disabilities with the Optional Protocol (Official Gazette of Montenegro, international agreements, 2/09);

- Law on Veteran and Disability Protection (Official Gazette of the Republic of Montenegro 69/03 and 21/08);
- Law on Pension and Disability Insurance (Official Gazette of the Republic of Montenegro 54/03, 39/04, 47/07 and Official Gazette of Montenegro 79/08);
- General Law on Education (Official Gazette of the Republic of Montenegro 64/02, 31/05 and 49/07);
- Law on Pre-School Education (Official Gazette of the Republic of Montenegro 64/02 and 49/07);
- Law on Primary Education (Official Gazette of the Republic of Montenegro 64/02 and 49/07);
- Law on High School (Official Gazette of the Republic of Montenegro 64/02 and 49/07);
- Law on Vocational Education (Official Gazette of the Republic of Montenegro 64/02 and 49/07);
- Law on Education of Children with Special Needs (Official Gazette of the Republic of Montenegro 80/04);
- Rulebook on the criteria to determine the form and degree of deficiency, impediment and disorder of children and youth with special needs and the method for inclusion in educational programmes (Official Gazette of the Republic of Montenegro 23/06);
- Labour Law (Official Gazette of the Republic of Montenegro 49/08);
- Law on Employment (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07, 21/080 and Official Gazette of Montenegro 49/08);
- Law on Vocational Training and Employment of People with Disabilities (Official Gazette of Montenegro 49/08);
- Law on Construction (Official Gazette of Montenegro 51/08);
- Rulebook on providing access to buildings for persons with reduced mobility (Official Gazette of Montenegro 10/09)
- Rulebook on preparation for employment (Official Gazette of the Republic of Montenegro 52/02, 1/04, 27/09).

120. Variations in terminology and definitions of disability used in different sectors of law and policy can lead to inconsistent application of the law and sometimes even result in denial of benefits. To what extent do you consider the definitions you use in your legislation uniform and coherent? Could you briefly describe the different definitions of disability legislation in your country operates with?

The Strategy for Integration of People with Disabilities in Montenegro specifies that people with disabilities are: persons with congenital or acquired reduced physical, sensory, intellectual or emotional capacity who, due to social and other obstacles, have no or limited opportunity to get involved in the activities of the society on the same level as others, regardless of whether they are able to perform such activities with the aid of technical devices or support services. This is the definition that all new regulations concerning people with disabilities should endorse.

A series of regulations that were adopted in the past and that regulate the criteria for exercising compensatory rights and benefits provide more specific definitions. Thus the Law on Pension and Disability Insurance defines disability as complete or partial loss of 75% of working ability due to health changes caused by occupational injury, occupational disease, injury outside work or illness impossible to be eliminated by treatment or medical rehabilitation (Article 30).

Law on Social and Child Welfare of Montenegro defines the beneficiaries of personal disability benefit as persons that incurred inability for independent life and work before reaching the age of 18 (Article 23), and beneficiaries of caregiver's allowance as persons with severe physical, mental and sensory impediment in need of constant care and assistance of another person in order to fulfil basic living needs (Article 24.)

The Strategy for Inclusive Education in Montenegro proposes new terms in this area related to children: 'children with special educational needs' instead of the currently used term 'children with special needs'. This category includes: children with disabilities - children with physical, mental and sensory impediment and children with combined impediments, and children with developmental disorders: children with behavioural disorders, severe chronic illness, children with lasting illness and other children with learning difficulties and other difficulties caused by emotional, social, linguistic and cultural deprivation.

Data and statistics

121. The lack of reliable statistical information is a serious obstacle to effective policy-making in the disability area. Has a centralised data collections system, containing the relevant data, been developed in your country? Which are the main sources of disability related information and how do you ensure that the collection of these sensitive data is not violating the provisions on personal data security?

There is no centralised system for collecting statistical data on people with disabilities in Montenegro.

The authorities and institutions that provide some forms of services to people with disabilities keep records of their beneficiaries. Thus, for example, the Pension and Disability Insurance Fund has records on 25 482 beneficiaries of disability pension. National employment service has records on 2 536 people with disabilities (1 960 disabled workers and 576 categorised persons), recorded according to all the features of their way to employment, registered as unemployed with this service. The Pension and Disability Insurance Fund has data on 1 569 beneficiaries of the right to caregiver's allowance. The Ministry of Labour and Social Welfare has records on 6 307 beneficiaries of the right to the assistance allowance under the Law on Social and Child Welfare, as well as 1 465 beneficiaries of personal disability benefit. The regulations on veteran and disability protection note 5 731 beneficiaries (data relevant for June 2009).

The Ministry of Labour and Social Welfare has data on the beneficiaries of homes for long-term placement of people with disabilities, while the Ministry of Education and Science has data on students attending special schools and special classes of regular schools and data on students with disabilities attending regular schools.

During 2008, the working group that included representatives of the Ministry of Health, Labour and Social Welfare, MONSTAT, Association of Blind Persons of Montenegro, Association of Paraplegics of Montenegro and Alliance of Associations of Parents of Children with Disabilities, designed a list of questions related to people with disabilities that will be included in the pilot population census. We wish to highlight that international experience and recommendations of European experts were used in drafting the set of questions, in order to obtain data which are as adequate as possible and comparable with other countries of the world. Following the interpretation of the data obtained, which will be collected in this manner for the first time in our country, the questionnaire is intended to be standardised and used in all the subsequent censuses.

Pensions and Benefits

122. In most of the EU countries, social protection available to people with disabilities includes right to health and pension insurance, the right to employment and occupational rehabilitation, child allowances and social welfare rights. Could you briefly describe which different forms of social protection are available for disabled persons in your country?

According to the Law on Social and Child Welfare (Official Gazette of the Republic of Montenegro 78/05), people with disabilities are entitled to:

- family cash benefit;
- personal disability benefit;
- caregiver's allowance;
- placement into institution;
- placement in another family;
- assistance in professional rehabilitation and vocational training;
- health care;
- funeral cost coverage;
- one-time cash allowance;
- newborn allowance;
- child benefit;
- childbirth benefit;
- salary compensation for half-time work;
- child leisure and recreation.

According to the Law on Travel Discount for People with Disabilities (Official Gazette of Montenegro 80/08), such person is entitled to travel discount in road and rail transport on the territory of Montenegro. A person accompanying a person with disability is also entitled to travel discount.

The Law on Mobility of Blind Persons Assisted by Guide Dogs (Official Gazette of Montenegro 18/08) envisages the right of a blind person to use public transport vehicles with a guide dog and have free access to public places.

According to the Law on Veteran and Disability Protection (Official Gazette of the Republic of Montenegro 69/03 and Official Gazette of Montenegro 21/08), veterans, families of killed soldiers, disabled veterans, civilian disabled in war and members of their families are granted rights in the case of:

- disability or physical injury in the course of performing military and other duties for the purpose of national defence and security;
- death in the course of performing military and other duties in war for the purpose of national defence and security;
- death in the course of performing military and other duties in peacetime for the purpose of preserving the sovereignty, territory, independence, and constitutional order of Montenegro;
- disability or physical injury of civilian population in war and post-war period caused by leftover war material;
- death of the beneficiary of the right.

According to the Law on Pension and Disability Insurance (Official Gazette of the Republic of Montenegro 54/03, 39/04, 47/07 and Official Gazette of Montenegro 79/08), employees with complete or partial loss of 75% of working ability caused by health changes due to occupational injury, occupational disease, injury outside work or illness impossible to be eliminated by treatment or medical rehabilitation (Article 30) are entitled to disability pension.

According to the Law on Professional Rehabilitation and Employment of People with Disabilities (Official Gazette of Montenegro 49/08), these persons exercise the right to professional rehabilitation and employment in the manner and under the conditions stipulated by law, in

compliance with international conventions. Professional rehabilitation and employment of persons with disabilities take place on the open labour market and under special terms.

The Law on Employment prescribes the cash benefit for the duration of temporary work disability, determined by the regulations on health care and health insurance, for the duration of disability and at the latest by the deadline set in the regulations, when the unemployed person is forwarded for disability assessment.

The Law on Health Care (Official Gazette of the Republic of Montenegro 39/04) envisages, as priority measures health care for veterans, disabled veterans, civilians disabled in war, their family members and beneficiaries of the right to veterans' cash benefit and beneficiaries of social welfare rights, in line with special regulations, as well as health care of persons with physical and mental handicaps.

According to the Law on Health Insurance (Official Gazette of the Republic of Montenegro 39/04), veterans, disabled veterans, civilians disabled in war, their family members and recipients of veterans' cash benefit are entitled to health insurance unless they are otherwise insured.

The Law on the Protection of Mentally Ill Persons (Official Gazette of the Republic of Montenegro 32/05) regulates the method of providing protection and exercise of rights of mentally ill persons, organisation and implementation of protection, and creation of conditions for implementation of measures to protect these persons from discrimination.

The Rulebook on the method and procedure for the exercise of the right to medical-technical aids (Official Gazette of the Republic of Montenegro 74/06 and Official Gazette of Montenegro 28/08), determines the indications for medical-technical aids, standards concerning the materials for their manufacturing, timelines for their use, and requirements for manufacturing new aids prior to the end-date for their use and other issues of relevance for the exercise of the right to aids.

123.Social benefit system can sometimes have de-motivating effects in the sense that a disabled person who is able to work still chooses to go on social benefits instead of working. Different means can be applied to boost the efficiency of the system and to prevent a situation like this. Could you briefly describe what measures you have taken in order to increase flexibility of the system and stimulate disabled person capable of working to take up work?

The Law on Professional Rehabilitation and Employment of People with Disabilities (Official Gazette of Montenegro 49/08) serves as the legal grounds for the comprehensive regulation of an area as complex as the area of professional rehabilitation and employment of people with disabilities, for the first time.

The Law on Professional Rehabilitation and Employment of People with Disabilities came into force in 2008, and secondary legislation was adopted in August 2009 (Rulebook on the conditions and manner of exercise of the right to professional rehabilitation; Rulebook on more detailed conditions, criteria, and standards for implementation of professional rehabilitation measures and activities; Rulebook on the conditions and criteria for determining remaining work ability and possibility of employment; Rulebook on more detailed conditions and manner of exercising the right to wage subsidy for people with disabilities, and Rulebook on the conditions to be fulfilled by the institution for professional rehabilitation, work centre and protected facilities).

The key goal of the law and secondary legislation is to facilitate increased employment of people with disabilities and their equal participation in the labour market, along with removal of barriers and creation of equal opportunities.

The provisions from the given law regulate the manner and procedure for people with disabilities to exercise the right to professional rehabilitation, measures and incentive for their employment, method of financing and other issues of relevance for professional rehabilitation and employment of people with disabilities. People with disabilities exercise the right to professional rehabilitation and employment in the manner and under the terms stipulated by this law, collective bargaining

agreements, ratified and published international agreements and generally accepted rules of international law. The same law stipulates that a person whose remaining work capacity and possibility of employment have not been assessed by the competent authority may initiate the procedure for assessment of the remaining work capacity with the competent commission of the Employment Office of Montenegro, all for the purpose of enhancing the efficiency of the system for employing people with disabilities.

Professional rehabilitation under this law includes the measures and activities implemented with the aim to adequately train people with disabilities for work, keeping their jobs and advancing or changing their career.

Professional rehabilitation measures and activities are as follows:

- professional information, counselling and assessment of professional abilities, for the purpose of selecting occupation, training programme and employment;
- implementation of procedures to assess working ability and skills;
- psychosocial and motivational support and assistance in referral to appropriate rehabilitation programmes;
- implementation of appropriate vocational training programmes and insertion in the labour market, that is keeping employment;
- adjusting the workplace for people with disabilities;
- professional assistance and monitoring of people with disabilities for the purpose of efficient integration in the work environment, keeping employment and advancing;
- analysis of the labour market, possibility of employment and work involvement for people with disabilities;
- assessment of the possibility to carry out, develop and upgrade professional rehabilitation programmes;
- vocational training, further training and retraining and programmes for maintaining and upgrading occupational and social skills and abilities for the purpose of preparation for employment;
- information and counselling on the application of diverse work and learning technologies and techniques;
- information and support concerning sources of finance;
- technical assistance, support, monitoring and assessment of performance of people with disabilities etc.

Professional rehabilitation of people with disabilities is organised and carried out by the institution for professional rehabilitation, special school or another legal person that meets the requirements for performing professional rehabilitation measures and activities.

The Law on Professional Rehabilitation and Employment of People with Disabilities contains provisions stipulating that a person with disability may be hired under general or special terms. A person with disability is hired under general terms in the open labour market; under special terms, such a person is hired in special organisations, if he/she cannot be hired in the open labour market due to his/her work and health capacities.

Special organisations for employment of people with disabilities are: Institution for Professional Rehabilitation, Work Centre, Protection Workshop and Protection Facilities.

In order to foster employment of people with disabilities, and bearing in mind the role and importance of special organisations, the abovementioned organisations are granted a privileged status under this law, which implies:

- exemption from payment of customs duties for the import of special equipment, devices, spare parts, instruments and supplies for people with disabilities, provided that these are not manufactured in the country;
- exemption from corporate income tax, in proportion with the share of employees with disability in the overall number of employees;

With the aim of employing people with disabilities, the law stipulates quotas (the number of disabled persons that an employer is required to employ depending on the overall number of employees).

An employer that hires a person with disability, under the given law, is entitled to subsidies, which take the following forms:

- grants to adjust the workplace and working conditions to hire a person with disability;
- loans granted under favourable terms, to purchase machines, equipment and tools necessary to employ people with disabilities;
- participation in financing personal expenses of (workplace) assistant for a person with disability;
- subsidised wages of a person with disability that is hired.

An employer that did not hire a person with disability is required to pay a special contribution to the Fund for Professional Rehabilitation and Employment of People with Disabilities. The Fund's resources are used to: develop and upgrade professional rehabilitation and employment of people with disabilities; co-finance special organisations; pay out subsidies envisaged by the law; co-finance the programmes for keeping employment of people with disabilities; finance other activities related to professional rehabilitation of people with disabilities.

Bearing in mind the legal provisions given above, it is possible to come to the conclusion that the provisions contained in the law start from the main assumption that each person with disability is capable of performing some work that may be profitable for the employer and the state and that same person. Depending on the work abilities and needs of the labour market, through special organisations for employing people with disabilities and provision of certain benefits and subsidies to the employers hiring people with disabilities, the state is creating the preconditions for employment of such persons, and people with disabilities safeguard their own financial and social security and security of their families through work rather than through social welfare entitlements.

Employment and Education

124. Describe shortly the different means by which you promote active participation and inclusion of people with disabilities in the labour market. To what extent is the quota system applied and which are the other incentives and measures aimed at encouraging disabled persons entry into the labour market?

The Employment Office of Montenegro carries out motivation and training of unemployed people with disabilities to **actively seek employment** and enter the labour market by means of:

- information interviews to provide the unemployed person with disability with the quality information concerning his/her rights and responsibilities defined by the law and other regulations;
- interviews to identify the needs and limitations of the unemployed person with disability; activities in seeking employment and joining active employment policy programmes are outlined in the individual employment plan – agreement between the employment counsellor and the given person;
- information-motivation seminars (workshops) to motivate unemployed people with disabilities to take an active approach to employment, master the skills of job seeking, identify aims and develop employment plans that are realistic, aligned with their capacities and abilities;
- additional education of employment counsellors for the purpose of quality implementation of the modern method of work with the unemployed, especially hard-to-employ ones;
- information and counselling centres to assist unemployed people with disabilities to consider, plan and manage their professional careers as impartially as possible;
- Employment Office website that enables an unemployed person with disability to post individual presentation in order to actively seek employment;

- media, in continuous cooperation with the TVCG, Radio of Montenegro, Radio "Antena M", "Pobjeda" and "Dan" daily papers and other media, through occasional reports in the news and special programmes promoting the programmes implemented for this category;
- booklets aimed to recognise the interest of people with disabilities for involvement in adequate active employment policy programmes;
- round tables, debates and seminars to motivate all relevant entities to get involved and fully contribute to professional and social integration of people with disabilities;
- studies "Doctrine and technology of working with hard-to-employ persons" and "Social economy", that define the modern concept of technology of working with hard-to-employ persons, foster establishment of specialised organisations for the provision of services in the field of professional rehabilitation and employment of people with disabilities, highlight partnerships between organisations and institutions in this area, and indicate the role and importance of social entrepreneurship in improving employment of hard-to-employ groups in Montenegro.

The Law on Professional Rehabilitation and Employment of People with Disabilities establishes the following **quota scheme** for the employment of people with disabilities: employers with 20-50 employees are required to employ at least one person with disability; employers with more than 50 employees are required to employ at least 5% of the overall number.

Employers who do not meet the quotas are required, when paying monthly salaries and compensation of salaries, to pay to the designated account of the Budget of Montenegro – Fund for Professional Rehabilitation and Employment of People with Disabilities, organised within the Employment Office of Montenegro – a special contribution for professional rehabilitation and employment of people with disabilities for each person they did not hire.

Employers who hire a person with disability are entitled, under this law, to subsidies related to:

- grants to adjust the workplace and working conditions to employ a person with disability;
- loans granted under favourable terms, to purchase machines, equipment and tools necessary to employ people with disabilities;
- participation in financing personal expenses for (workplace) assistant of a person with disability;
- subsidised wages of a person with disability that is hired.

People with disabilities who are self-employed, engaged in individual business activity, started up a company, employed in family household or perform agricultural activity as the sole, main or supplementary occupation are also entitled to subsidies.

Specification of tax and other advantages for employers in order to foster employment of hard-to-employ persons is not regulated in the long-term sense, but a Decree on tax advantages for employing certain categories of unemployed persons has been adopted, effective for one year. According to the Decree, employers who hire a person with disability are exempt from paying more than 50% of fiscal charges to the employee's salary.

It is necessary to adopt legislation to specify tax, customs and other advantages for employing these persons for the long-term.

According to the Law on Professional Rehabilitation and Employment of People with Disabilities, employers were required to harmonise their operation, statute and other regulations with the law within nine months, hire people with disabilities using the quota scheme, or pay special contribution to the Fund for Professional Rehabilitation and Employment of People with Disabilities if they fail to meet the quota.

Compliance with these obligations is controlled by the Ministry of Labour and Social Welfare – Labour Inspection. From the date the law came into force and the end of the nine-month deadline, that is until 23 May 2009, labour inspection notified employers in writing with the obligations stemming from the law. Between 1 June and 1 August 2009, control was carried out with 3 226 employers (10% of the total number); it was noted that the employers paid the special contribution to the Fund. On 31 July 2009 there were € 276 532.00 on the Fund account.

In addition to the incentives defined by the Law on Professional Rehabilitation and Employment of People with Disabilities, there is a number of measures from the Law on Employment and regulations of the Employment Office: co-funding of public works programme; seasonal jobs; salaries for trainees; adjustment of premises and technical equipment (equipping the workplace); preparation programmes (vocational training, further training, retraining and specialisation, key IT and language skills etc); loans under the Programme to stimulate self-employment, with more favourable terms concerning the amount and payment, to stimulate employment and entrepreneurship of people with disabilities.

125. Describe shortly the system of vocational training available to disabled persons. How do you ensure that the training is adjusted to the need of the market?

Vocational education of children with special needs is carried out, depending on the degree of impediment, in institutions for secondary education (mixed-type and vocational schools), or in special institutions for education of children with special needs if they cannot attend schools because of the necessary support and close link between education, habilitation and rehabilitation.

Vocational education of such persons is implemented in line with the provisions of the Law on Vocational Education (Official Gazette of the Republic of Montenegro 64/02) and Law on Education of Children with Special Needs (Official Gazette of the Republic of Montenegro 80/04).

Education is carried out according to the curriculum, with provision of additional conditions and aids, according to the curriculum with adjusted implementation and additional professional assistance, special curriculum and upbringing curriculum.

Referral to the appropriate curriculum is performed by the local government authority competent for education (municipal secretariat) following proposal of the Commission for referral of children with special needs (based on the Rulebook on the criteria to determine the form and degree of deficiency, impediment or disorder in children and youth with special needs and the method of inclusion in educational curricula (Official Gazette of the Republic of Montenegro 80/04).

Schools or special institutions are obliged to adopt the individual curriculum for the child, within 30 days from admission, in cooperation with the parent. The curriculum defines the following: forms of teaching subject areas, the subjects; method of providing additional professional assistance; progression; adjustment in organisation, assessment, grading of children's knowledge, achievements and progress, and the timetable of lessons. Schools or special institutions establish a team of professionals that consists of teachers, education professionals from the school or institution and involves parents, to prepare, implement, monitor and adjust the curriculum. Individual curriculum may be subject to modification or adjustment during the year, in line with the child's progress and development.

Public curriculum is issued by the Ministry, following the proposal from the competent Council – Council for Vocational Education of Montenegro. The Council defines the curriculum for vocational education of children with special needs, proposes the general part of the curriculum for vocational education and for vocational education of children with special needs.

Vocational education enables equal participation in the labour market. Schools may deliver vocational education integrally or organise the theoretical part at school and practical training at the employer's premises. The requirements to be met by the employer in order to deliver vocational education are set by the Employers' Union and the line ministry for education. The line ministry in charge of labour or the Employment Office of Montenegro may organise lower level of vocational training.

Education and training of people with disabilities, as a measure of active employment policy, is implemented upon request of the employer and for the purposes of the labour market, according to special curricula for occupations and key skills (IT, foreign languages etc), adjusted to these persons' capacities. This measure is implemented at education providers (school, specialised organisation for adult education and other legal and natural persons that meet the legally

prescribed criteria) selected by the Employment Office of Montenegro following a competition announcement.

Education and training for certain occupations for the labour market is implemented based on the results of employers' survey, carried out since 2003 as a regular annual survey of expected employment in the coming year, occupations that are in short supply and compatibility between workforce supply and demand.

Education and training upon employer's request for a specific job is implemented accompanied by the decision of the competent authority to sign open-ended employment contract with the persons participating in the programme.

126. Transition period between the school and the first job pose a challenge and is crucial in ensuring successful integration of disabled persons into the labour market. Do you have any specific programmes in place targeting this challenge? Does some kind of follow-up guidance programme for the vocational training of the graduates exist?

Prior to the adoption of the Law on Education of Children with Special Needs, children and youth with physical or mental handicap used to be placed in categories and degrees of handicap. Based on the decision of the competent authority on placement in a specific category, children were referred to special schools and institutes for education and social welfare. Upon completion of the primary, the general secondary education or the vocational education, most of the categorised youth register with the Employment Office of Montenegro. The Employment Office's records include on average 500-600 such persons per year, who are entitled to cash benefit until they find employment.

In line with the law and its regulations, the Employment Office continuously grants certain advantages to employers hiring people with disabilities. However, the number of such persons hired on the open market is still not satisfactory, showing that current incentives are not sufficient.

Application of modern technology of work with the unemployed at the Employment Office (multidisciplinary approach) identifies a number of obstacles that impact their employment, such as: presence of prejudice among employers concerning their working capacities, health restrictions, loss of self-confidence, lack of motivation, drop in work capacities, outdated and inadequate knowledge, poor adaptability, alienation from work and social environment, unrealistic expectations, poor information, frequent cases that a person suffers from several impediments. These obstacles prevent them from being competitive in the labour market, so they need additional support and special professional treatment.

The Employment Office, as an intermediary in finding employment for the unemployed, has particular responsibility towards hard-to-employ persons. It has the capacity to provide shorter programmes of two to three days, along with the additional individual counselling as required, implemented as a part of the regular activities. The Office does not have the capacity to conduct more complex programmes intended for these persons, focusing on education or rehabilitation, or those for psychosocial and motivational support; its adaptation to play such a role is not justified either. Instead, the Office initiates and provides support in the initial stage, in setting up special organisations.

In late February 2009 a competition was announced for implementers of programmes for the long-term unemployed, aimed at enhancing individual competences of hard-to-employ persons, successful entering the labour market (identification of obstacles to employment and their acceptance, improved self-perception, higher self-respect, motivation for employment, designing plans and goals that are realistic and fostering an active role in seeking employment).

Two organisations offered an appropriate six-month programme titled "I will make it" (information-motivation workshops for one month and five months of professional assistance in actively seeking employment) and were selected to implement the programme, since they met the spatial, technical-technological and human resource requirements.

The programme involves long-term unemployed with moderate impediments; there is a plan to involve also hard-to-employ persons, especially people with disabilities.

Professionals – trainers delivering the programme – hold university degrees and are registered as unemployed. They were educated to work with hard-to-employ persons by the Employment Office, helped by experts from the Republic of Slovenia. Upon completing education, they took up jobs at these organisations.

In addition to these activities, the Employment Office has a record of several years of organising, together with other social partners; public works project "Sunny Workshop" for making cards and decorations for New Year's and 8 March, various souvenirs, stationery etc. Participants (50 to 80 people per year) develop agility, work and social skills, communication skills and generate income from fixed-term employment. Their work is monitored by experts of adequate background, who are engaged by the Employment Office. This may be considered as a beginning of social economy.

Upon Employment Office request, the Centre for Vocational Education, together with professionals from educational institutions working with persons with special educational needs, developed 3 training programmes in certain occupations (assistant garment manufacturer, assistant shoemaker and shoemaker). The programmes contain general instructions for training persons with special educational needs and implementation guidelines on the number of participants, duration of training and teaching staff to deliver the programme. Recommendations for special institutions are as follows:

- to define teaching forms by subject areas within individual curriculum, method of providing additional professional assistance, adjustment in organisation, testing, assessment of knowledge, achievement and progress, for the individual child;
- to perform analysis of labour market needs and adjust curricula, to take into account the ratio between the occupations that are in excess and those in short supply;
- to enable people with disabilities to acquire advanced knowledge and professional skills through various curricula, with an emphasis on expanding the "basic" occupation with additional knowledge and skills, especially in IT, languages etc;
- to establish cooperation with the Employment Office, in particular with the Centre for Information and Vocational Counselling within the Office, for the purpose of identifying jobs that can be performed by people with disabilities.

127.Has a legal basis for supported employment been established in your country? Describe briefly the supported employment services system.

Following the adoption of the national Strategy for Integration of People with Disabilities 2008-2016 and drafting of the Action Plan for the implementation of the Strategy in 2008-2009, the Law on Professional Rehabilitation and Employment of People with Disabilities (Official Gazette of Montenegro 49/08) was adopted in July 2008, providing adequate legal grounds for the institutional framework for implementation of professional rehabilitation programmes and fostering faster employment of people with disabilities.

The following rulebooks were adopted in August 2009 for the purpose of completing a unified and standardised system for professional rehabilitation and employment of people with disabilities:

- Rulebook on the conditions and criteria for assessing remaining working ability and possibility of employment (Official Gazette of Montenegro 54/09);
- Rulebook on the conditions and manner of exercising the right to professional rehabilitation (Official Gazette of Montenegro 54/09);
- Rulebook on the detailed conditions, criteria and standards for implementation of professional rehabilitation measures and activities (Official Gazette of Montenegro 54/09);
- Rulebook on the conditions to be met by institutions for professional rehabilitation, work centres, protected workshops and protected facilities (Official Gazette of Montenegro 54/09);

- Rulebook on the detailed conditions and manner of exercising the right to subsidised wages of persons with disabilities (Official Gazette of Montenegro 54/09).

Implementation of the Law on Professional Rehabilitation and Employment of People with Disabilities and the abovementioned rulebooks requires establishment of an adequate institutional network, training of staff – professionals of diverse background, as one of the main conditions for the functioning of the new system in this area.

The Employment Office is planning to establish expert multidisciplinary commissions on the central and regional level (psychologist, industrial medicine specialist, education specialist-adult education specialist, technologist etc.) that would assess, according to the standards set by the competent authority, working and other abilities of persons seeking employment and would determine measures and activities for their professional rehabilitation and employment.

There is also a plan to establish a new type of counsellors on rehabilitation or integration of hard-to-employ persons (with diverse background: education specialist, social worker, adult education specialist, psychologist, social education specialist etc), who would implement activities related to inclusion of these persons in rehabilitation programmes, participate in the work of the commission, cooperate with external partners, health care and social welfare organisations, rehabilitation providers etc.

Implementation of professional rehabilitation programmes requires establishment of institutions for professional rehabilitation - implementers of professional rehabilitation, which would, following the implementation of certain programmes adjusted to the needs of participants, provide an evaluation of the opportunities for their employment. In cases when the participants are people with disabilities, the evaluation would consider the possibility of employment on the open market or under special terms: in protected workshops, protected facilities and work centres when, based on their working and general abilities they cannot be employed on the open labour market even with provision of certain benefits and advantages.

Construction of the Centre for work integration of hard-to-employ persons began in late 2008 in Podgorica, founded by the Employment Office; this represents the inception of the network of institutions for professional rehabilitation and employment of people with disabilities and other persons facing obstacles in employment.

De-institutionalisation and independent living

128.To what extent is de-institutionalisation considered to be a priority for your government? Which measures aimed at promoting de-institutionalisation and community-based alternatives have been carried out?

The current system of social and child welfare is characterised by centralised governance, given that majority of competencies for determining rights, deciding on the manner of their exercise and necessary means are concentrated on the national level.

The process of decentralisation of social and child welfare does not imply that all the functions and rights should be decentralised, especially since some World Bank studies conducted in transition countries show that decentralisation may bring more harm than benefits if there is no adequate support, no appropriate structures and accountability mechanisms in place. Bearing that in mind, and taking into account the social and economic situation in Montenegro, the approach to decentralisation is a cautious and gradual one. Delegation of certain functions to the local level is currently feasible only in the field of community-based social services. The rights of general interest that must be granted to all citizens, regardless of which local community they live in, still need to be secured on the national level. Founder rights in the existing residential institutions for all types of beneficiaries need to be maintained, and social welfare centres established in all the municipalities.

Other forms of care (day centres, day-care, clubs) and residential institutions for the elderly may be established by local governments, natural and legal persons.

In the past three years, the most important activities in this field concerned building the network of day centres for children with disabilities. In addition to the one currently existing in Bijelo Polje, final construction works are underway in three more municipalities: Nikšić, Berane and Pljevlja. It is important to note that these projects represent the cooperation between the Ministry of Labour and Social Welfare, local governments, local associations of parents of children and youth with disabilities and the National association of parents of children with disabilities, and that there are ongoing negotiations to expand the network to other towns.

129. Does your government currently carry out any form of training for independent living programmes?

Within the process of the comprehensive social welfare reform, the Ministry of Labour and Social Welfare, supported by UNICEF, drafted the project proposal "Transformation of Komanski most Institute and development of network of small group homes for children". The first part of the project describes the service and elaborates the elements of social welfare service "Group home for children" as a substitute for living in family setting. The second part of the project proposes activities to improve the situation of children, the current residents of the "Komanski most" Institute for Children and Youth, in preparation for their deinstitutionalisation. Recommendations are provided for improving the situation of adult beneficiaries, accommodation and quality of life in the institution as well as preparation for a more independent life outside the institution, which is one of the conditions for the adoption of new rulebooks concerning the conditions for performing regular activities in social and child welfare institutions.

Together with UNICEF, the Ministry of Health, Labour and Social Welfare organised two seminars in 2008, where the representatives of social welfare centres and social and child welfare institutions were presented with the new experiences in the treatment of children with disabilities. More than 60 employees completed the training.

Activities are underway, in cooperation with Save the Children and the NGO sector concerned with people with disabilities, to develop the standards for "Daycares for children and youth with disabilities" and "Supported housing in the community of young people starting independent life". The standards will include a description of necessary equipment, space, personnel, organisation of work with beneficiaries and category of beneficiaries. Five-day training for the Ministry staff supported by Save the Children UK was held at the Ministry of Labour and Social Welfare, with the aim to develop the standards of social welfare service, in line with the regulatory function of this body.

In line with the above-mentioned, projects are to be developed and piloted in this area, as a reality check prior to the adoption of regulations.

In accordance with the measures envisaged in the Strategy and Action Plan for people with disabilities, the Association of Paraplegics of Montenegro has provided, for several years, organised assistance to its members concerning use of orthopaedic devices. The training is delivered by the members who were trained during rehabilitation in Serbia, since no such centres exist in Montenegro.

The project of the Association of Blind Persons of Montenegro "White cane, best friend" is currently inactive, as a peripathology specialist is expected to arrive from Belgrade to train 5 instructors of independent mobility in Montenegro. They will then train 50 to 75 persons in independent mobility assisted with a long white cane. Within the project, the Association of Blind Persons of Montenegro conducted a survey on the interest among the blind for training on the use of white cane. The data obtained show that out of 500 respondents across the country, more than 50% were interested in this type of training. The questionnaire is currently being analysed, in order to systematise the data (by age, cause of blindness etc.) so as to facilitate the selection of best-suited participants for the course on independent mobility.

VI. SOCIAL PROTECTION

A. Main influencing factors for social protection

130. Please provide the following main economic and financial indicators (if available, according to Eurostat methodology):

a) GDP: absolute in EURO; growth rate; GDP per head in PPS;

Gross domestic product

GROSS DOMESTIC PRODUCT (GDP)	2000	2001	2002	2003	2004	2005	2006	2007
Gross domestic product, market prices (at current prices), mill. EUR	1 065.7	1295.1	1 360.1	1 510.1	1 669.8	1815.0	2 148.9	2 807.9
Population (in thous.), mid-year estimate	608.9	612.9	615.9	620.3	622.1	623.3	624.2	626.2
Gross domestic product per capita in EUR	1 750	2113	2 208	2 435	2 684	2912	3 443	4 484
Gross domestic product at constant prices (at prices of previous year), mill. EUR	1 065.7	1 077.4	1 319.8	1 394.1	1 577.0	1 739.6	1 970.5	2 378.0
GDP growth rate at constant prices (%)		1.1	1.9	2.5	4.4	4.2	8.6	10.7
Nominal growth of GDP (%)		21.5	5.0	11.0	10.6	8.7	18.4	30.7
GDP deflator (%)		20.2	3.1	8.3	5.9	4.3	9.1	18.1

Source: MONSTAT

GDP per inhabitant in PPS, EU27 = 100¹⁰

	2005	2006	2007	2008
Montenegro	31	35	41	46 ¹¹

Source: EUROSTAT

b) Social expenditure as percentage of GDP;

Since data on social protection according to functional classification are not completely comparable, the following position was taken for social expenditure: transfers for social protection (economic classification).

Transfers for social protection include the following positions:

- rights from the field of social protection (child allowances, veteran-disability protection, family cash benefit, maternity leave, placement in an institution)

¹⁰ The Statistical Office provides inputs to EUROSTAT which publishes data on GDP per capita presented in the Purchasing Power Standards.

¹¹ Since we do not have data on GDP for 2008 at the moment, EUROSTAT has made estimations for 2008.

- funds for redundant employees (guaranteed salaries, severance pay, purchased supplementary years of service, unemployment benefits)
- rights from the field of pension and disability insurance (old-age pension, disability pension, survivors' pension, compensations)
- other rights arising from health protection (treatment outside Montenegro, outpatient treatment, stationary treatment, other treatment)
- other rights from the field of health insurance (compensation for travel expenses for the insured person, compensation for sick leave over 60 days, orthopedic appliances and aids)

	2001	2002	2003	2004	2005	2006	2007	2008
Social expenditure as a share in GDP	13.11%	13.17%	14.05%	13.86%	13.21%	12.10%	10.64%	10.50%

c) Social expenditure as percentage of state budget;

	2001	2002	2003	2004	2005	2006	2007	2008
Social expenditure as a share in consolidated public expenditure ¹²	33.19%	32.16%	33.39%	33.62%	31.57%	28.36%	25.72%	22.51%

d) Concise analysis of relative and absolute data and their development (time span covered? - 10 years?).

In the period 2006-2008 (although we can say that the growth rates for 2004 and 2005 are high) Montenegrin economy was characterised by extremely high growth rates due to structural and fiscal reforms of the Government of Montenegro creating a favourable economic environment. This led to a record level of foreign direct investments, bank credits, import and consumption. This period was characterised by exceptional dynamics in the capital and real estate market, as well as a significant growth of revenues of the Budget of Montenegro and local self-governments with an increase of surplus and state deposits. The expected accompanying effects were "overheating" of economy, inflation growth and high balance of payments deficit. It is clear that such economic trends are unsustainable in the long term, and in that sense medium-term macroeconomic and fiscal projections predicted a gradual balancing of growth rates, gradual budgetary revenues decrease with simultaneous gradual public expenditures decrease.

The economy of Montenegro, as it is often pointed out, is "small and open" so that its exposure to external shocks is very high. The inherited unfavourable economy structure through weak dispersion of economic activities is an additional factor having an unfavourable influence on economy, in this case the structure of export relying on aluminium production and tourism. All branches of the economy are affected by the global economic crisis, and especially aluminium production. Tourism is also among the industries for which a negative trend is predicted. The

¹² The question was rephrased because data would not be comparable if the share in state budget was taken. The share of social transfers in the consolidated public expenditures is data of better quality.

economy of Montenegro will in the following period have to rely on generating a more favourable economy structure and internal growth generators in the medium-term.

The data listed above shows the decrease of relative share of social welfare in GDP.

131. Please provide the following main demographic indicators: female/male:

a) population: absolute (Eurostat);

Table – Estimated population by sex, at the beginning of the year for the period 2003-2009

1st January	Estimated population		
	TOTAL	Male	Female
2003	619 300	305 369	313 931
2004	621 258	306 120	315 138
2005	622 978	306 737	316 241
2006	623 576	306 939	316 637
2007	624 896	307 598	317 298
2008	627 508	309 108	318 400
2009	630 095	310 460	319 635

Source: MONSTAT

b) age structure: proportion of the population aged less than 15 years; proportion of the population aged more than 60 years; demographic dependency ratio, net population increase;

Table – Estimated population by sex, at the beginning of the year for the period 2003-2008; proportion of the population under 15; estimated population over 60 ; demographic dependency ratio; net population increase

	Estimated population, Montenegro, 1st January	Estimated population under 15	% population under 15	Estimated population over 60	% population over 60	Demographic dependency ratio ¹³	Net population increase ¹⁴
2003							
TOTAL	619 300	130 430	21.1	98 084	15.8	58.5	-
Male	305 369	67 413	22.1	42 986	14.1	56.6	-
Female	313 931	63 017	20.1	55 098	17.6	60.3	-
2004							

¹³ Demographic dependency ratio is calculated as a share of total population under 15 and over 60 compared to the population aged from 15 to 60.

¹⁴ Net population increase is calculated as a ratio of total population in the current year compared to the previous year.

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TOTAL	621 258	129 044	20.8	99 130	16.0	58.0	100.3
Male	306 120	66 756	21.8	43 358	14.2	56.2	100.2
Female	315 138	62 288	19.8	55 772	17.7	59.9	100.4
2005							
TOTAL	622 978	127 612	20.5	99 681	16.0	57.4	100.3
Male	306 737	66 063	21.5	43 413	14.2	55.5	100.2
Female	316 241	61 549	19.5	56 268	17.8	59.4	100.4
2006							
TOTAL	623 576	125 573	20.1	99 865	16.0	56.6	100.1
Male	306 939	65 051	21.2	43 346	14.1	54.6	100.1
Female	316 637	60 522	19.1	56 519	17.8	58.6	100.1
2007							
TOTAL	624 896	123 664	19.8	99 174	15.9	55.4	100.2
Male	307 598	64 176	20.9	42 955	14.0	53.4	100.2
Female	317 298	59 488	18.7	56 219	17.7	57.4	100.2
2008							
TOTAL	627 508	122 437	19.5	100 093	16.0	54.9	100.4
Male	309 108	63 561	20.6	43 309	14.0	52.8	100.5
Female	318 400	58 876	18.5	56 784	17.8	57.0	100.3
2009							
TOTAL	630 095	122 116	19.4	101 766	16.2	55.1	100.4
Male	310 460	63 351	20.4	44 055	14.2	52.9	100.4
Female	319 635	58 765	18.4	57 711	18.1	57.3	100.4

Source: MONSTAT

c) fertility: birth rate per 1000 inhabitants, fertility rate, net reproduction rate;

Table – Birth rate, general fertility rate and net reproduction rate for the period 2003-2008

Year	Birth rate (per 1000 inhabitants)	General fertility rate	Total fertility rate	Net reproduction rate
2003	13.5	54.5	1.8	0.85
2004	12.6	51.2	1.7	0.82
2005	11.8	48.2	1.6	0.73

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2006	12.1	45.3	1.6	0.75
2007	12.5	49.6	1.7	0.78
2008	13.1	52.3	1.8	0.84

Source: MONSTAT

d) life expectancy at birth, at age 40 and 60;

Table – Life expectancy at birth, at age 40 and 60

Year	Life expectancy at birth		Life expectancy from age 40 to 44		Life expectancy from age 60 to 64	
	Male	Female	Male	Female	Male	Female
2003	70.3	74.9	33.4	37.1	17.2	19.7
2004	71.0	75.2	33.0	37.5	16.9	20.2
2005	70.3	74.9	33.4	37.1	17.2	19.7
2006	70.6	74.8	33.7	38.2	17.4	20.2
2007	71.2	76.1	34.3	38.2	17.7	20.3
2008	71.2	76.1	33.8	37.5	17.4	20.0

Source: MONSTAT

e) migration: emigration and immigration: main trends, main developments in absolute figures, percentages of population, age groups, regions and ethnic groups.

In 2008 a pilot research was conducted on international migrations. Data in the tables below refer to the mentioned pilot research.

Number of authorised requests for temporary residence i.e. permanent residence in Montenegro by age of persons who submitted a request, in 2008

Age	Total	Total %
Total	4 291	100.0
0-4	49	1.1
5-9	45	1.0
10-19	162	3.8
20-29	874	20.4
30-39	1 046	24.4
40-49	751	17.5
50-59	519	12.1
60-69	248	5.8

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70-79	120	2.8
80 and more	21	0.5
Unknown	456	10.6

Source: MONSTAT

Emigrated persons from Montenegro by age, in 2008

Age	Total	Total %
Total	431	100.0
0-4	10	2.3
5-9	5	1.2
10-19	18	4.2
20-29	100	23.2
30-39	82	19.0
40-49	58	13.5
50-59	51	11.8
60-69	58	13.5
70-79	37	8.6
80 and more	10	2.3
Unknown	2	0.5

Source: MONSTAT

Number of authorised requests for temporary residence i.e. permanent residence in Montenegro by ethnic affiliation of the persons who submitted a request, in 2008

Ethnic affiliation	Total	Total %
Total	4 291	100.0
Albanian	181	4.2
Austrian	10	0.2
Belgian	2	0.0
Bosnian	112	2.6
Bulgarian	5	0.1
Czech	4	0.1
Montenegrin	268	6.2
Danish	1	0.0
Egyptian	1	0.0
British	21	0.5
Finn	2	0.0

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French	1	0.0
Greek	7	0.2
Croatian	35	0.8
Italian	16	0.4
Jewish	4	0.1
Chinese	174	4.1
Hungarian	5	0.1
Macedonian	130	3.0
Muslim	95	2.2
German	33	0.8
Norwegian	1	0.0
Polish	2	0.0
Roma	4	0.1
Romanian	13	0.3
Russian	982	22.9
Slovakian	5	0.1
Slovenian	26	0.6
Serbian	395	9.2
Swiss	4	0.1
Swedish	1	0.0
Turkish	12	0.3
Ukrainian	79	1.8
Regional origin	78	1.8
Other nations	115	2.7
Undeclared	1 467	34.2

Source: MONSTAT

Emigrated persons from Montenegro by ethnic affiliation, in 2008

Ethnic affiliation	Total	Total %
Total	431	100.0
Albanian	1	0.2
Bosnian	3	0.7
Montenegrin	63	14.6

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Goranac	1	0.2
Croatian	4	0.9
Hungarian	2	0.5
Muslim	14	3.2
Roma	1	0.2
Slovakian	1	0.2
Serbian	179	41.5
Other nations	2	0.5
Undeclared	160	37.1

Source: MONSTAT

Number of authorised requests for temporary residence i.e. permanent residence in Montenegro by the country of previous residence of the persons who submitted a request, in2008

Country of previous residence	Total	Total %
Total	4 291	100.0
Albania	314	7.3
Australia	9	0.2
Austria	29	0.7
Belgium	3	0.1
Byelorussia	29	0.7
Bosnia	928	21.6
Britain	42	1.0
Denmark	2	0.0
France	7	0.2
Netherlands	18	0.4
Croatia	87	2.0
Italy	29	0.7
Canada	6	0.1
China	234	5.5
Kosovo	61	1.4
Macedonia	227	5.3
Germany	71	1.7
Russia	1 187	27.7

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Other former USSR countries	50	1.2
USA	34	0.8
Slovenia	60	1.4
Serbia	504	11.7
Switzerland	13	0.3
Sweden	1	0.0
Turkey	32	0.7
Ukraine	111	2.6
Other European countries	106	2.5
Non European countries	97	2.3

Source: MONSTAT

Emigrated persons from Montenegro by municipalities of previous residence, in 2008

Municipalities of previous residence	Total	Total %
Total	431	100.0
Andrijevica	5	1.2
Bar	84	19.5
Berane	27	6.3
Bijelo Polje	37	8.6
Budva	13	3.0
Cetinje	5	1.2
Danilovgrad	8	1.9
Herceg Novi	76	17.6
Kolašin	1	0.2
Kotor	21	4.9
Mojkovac	6	1.4
Nikšić	26	6.0
Plav	7	1.6
Pljevlja	30	7.0
Plužine	1	0.2
Podgorica	41	9.5
Rožaje	14	3.2
Tivat	22	5.1
Ulcinj	6	1.4

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Žabljak	1	0.2
Šavnik	0	0.0

Source: MONSTAT

Number of authorised requests for temporary residence i.e. permanent residence in Montenegro by the municipalities of new residence, in2008

Municipalities of new residence	Total	Total %
Total	4 291	100.0
Andrijevica	29	0.7
Bar	558	13.0
Berane	134	3.1
Bijelo Polje	78	1.8
Budva	684	15.9
Cetinje	57	1.3
Danilovgrad	74	1.7
Herceg Novi	264	6.2
Kolašin	49	1.1
Kotor	154	3.6
Mojkovac	35	0.8
Nikšić	265	6.2
Plav	114	2.7
Pljevlja	150	3.5
Plužine	3	0.1
Podgorica	1 165	27.1
Rožaje	101	2.4
Tivat	69	1.6
Ulcinj	275	6.4
Žabljak	33	0.8
Šavnik	0	0.0

Source: MONSTAT

Emigrated persons from Montenegro by the country of new residence, in 2008

Countries of new residence	Total	Total %
Total	431	100.00
Bosnia	21	4.87
Croatia	8	1.86

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Kosovo	2	0.46
Macedonia	1	0.23
Germany	5	1.16
Serbia	391	90.72
Other European countries	2	0.46
Non-European countries	1	0.23

Source: MONSTAT

Number of authorised requests for temporary residence i.e. permanent residence in Montenegro by the country of previous residence of the persons who submitted the request, in2008

Countries of previous residence	Total	Total %
Total	4 291	100.0
Albania	314	7.3
Australia	9	0.2
Austria	29	0.7
Belgium	3	0.1
Byelorussia	29	0.7
Bosnia	928	21.6
Britain	42	1.0
Denmark	2	0.0
France	7	0.2
Netherlands	18	0.4
Croatia	87	2.0
Italy	29	0.7
Canada	6	0.1
China	234	5.5
Kosovo	61	1.4
Macedonia	227	5.3
Germany	71	1.7
Russia	1 187	27.7
Other former USSR countries	50	1.2
USA	34	0.8
Slovenia	60	1.4
Serbia	504	11.7
Switzerland	13	0.3

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Sweden	1	0.0
Turkey	32	0.7
Ukraine	111	2.6
Other European countries	106	2.5
Non-European countries	97	2.3

Source: MONSTAT

Emigrated persons from Montenegro by municipalities of previous residence, in 2008

Municipalities of previous residence	Total	Total %
Total	431	100.0
Andrijevica	5	1.2
Bar	84	19.5
Berane	27	6.3
Bijelo Polje	37	8.6
Budva	13	3.0
Cetinje	5	1.2
Danilovgrad	8	1.9
Herceg Novi	76	17.6
Kolašin	1	0.2
Kotor	21	4.9
Mojkovac	6	1.4
Nikšić	26	6.0
Plav	7	1.6
Pljevlja	30	7.0
Plužine	1	0.2
Podgorica	41	9.5
Rožaje	14	3.2
Tivat	22	5.1
Ulcinj	6	1.4
Žabljak	1	0.2
Šavnik	0	0.0

Source: MONSTAT

Number of authorised requests for temporary residence i.e. permanent residence in Montenegro by municipalities of new residence, in 2008

Municipalities of new residence	Total	Total %
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Total	4 291	100.0
Andrijevića	29	0.7
Bar	558	13.0
Berane	134	3.1
Bijelo Polje	78	1.8
Budva	684	15.9
Cetinje	57	1.3
Danilovgrad	74	1.7
Herceg Novi	264	6.2
Kolašin	49	1.1
Kotor	154	3.6
Mojkovac	35	0.8
Nikšić	265	6.2
Plav	114	2.7
Pljevlja	150	3.5
Plužine	3	0.1
Podgorica	1 165	27.1
Rožaje	101	2.4
Tivat	69	1.6
Ulcinj	275	6.4
Žabljak	33	0.8
Šavnik	0	0.0

Source: MONSTAT

Emigrated persons from Montenegro by the country of new residence, in 2008

Country of the new residence	Total	Total %
Total	431	100.00
Bosnia	21	4.87
Croatia	8	1.86
Kosovo	2	0.46
Macedonia	1	0.23
Germany	5	1.16
Serbia	391	90.72
Other European countries	2	0.46

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Non-European countries	1	0.23
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Source: MONSTAT

132. Please provide the following main social indicators:

a) unemployment rate; vulnerable groups affected by unemployment (youth, women, disabled etc.) male/female;

Montenegro	2004	2005	2006	2007	2008
1. unemployment rate	27.7	30.3	29.6	19.4	16.8
a) youth (15-24)	-	58.1	59.5	(38.3)	30.5
• men	-	55.6	60.4	(32.6)	32.1
• women	-	62.6	58.2	(45.4)	28.2
• disabled	-	-	-	-	-
b) women	33.0	35.5	30.1	20.9	17.9

Source: MONSTAT
Labor Force Survey

b) employment and labour market developments: employment rate of women; employment rate of older workers (55+); highlight regional and sectoral differences and significances;

Montenegro	2004	2005	2006	2007	2008
1. a) employment rate of women	28.8	27.6	28.7	34.8	36.1
b) employment rate of older workers (55-64)	-	27.7	23.1	37.7	34.2

Source: MONSTAT
Labour Force Survey

Sectoral differences

Employed persons, by activity sector and sex

	2005			2006		
	Total	Male	Female	Total	Male	Female
Total	178 815	105 635	73 179	178 365	100 250	78 114
Agricultural activities	15 432	8 977	6 455	12 135	7 105	5 030
Agriculture, forestry and water management	15 223	8 768	6 455	11 902	6 872	5 030
Fishery	209	209	.	233	233	-

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Non-agricultural activities	34 393	27 662	6 731	34 759	25 984	8 775
Excavation of mines and stone	1 710	819	891	3 352	2 899	453
Manufacturing industry	21 893	17 049	4 844	18 295	12 612	5 683
El. energy, gas and water production	5 551	4 555	996	4 809	4 191	618
Construction industry	5 239	5 239	.	8 303	6 282	2 021
Service activities	128 990	68 996	59 994	131 471	67 161	64 310
Retail and wholesale, repairing	29 903	13 735	16 168	30 291	12 722	17 569
Hotels and restaurants	11 005	6 959	4 046	16 342	8 533	7 809
Traffic, storage and connections	14 617	11 423	3 194	17 846	13 506	4 340
Financial intermediation	2 224	1 009	1 216	1 781	781	1 000
Real estate affairs, renting	4 494	2 900	1 594	3 808	2 207	1 601
State administration and social insurance	22 797	14 421	8 376	20 146	14 742	5 404
Education	13 463	4 362	9 101	12 875	3 385	9 490
Health and social work	12 243	3 955	8 289	12 589	3 419	9 170
Other communal, social and personal services	17 825	9 814	8 011	15 180	7 866	7 314
Households with employed persons	.	.	.	613	-	613
Exterritorial organizations and bodies	418	418	.	-	-	-

Source: MONSTAT
Labour Force Survey

Note: For 2005 and 2006 data are processed and presented in absolute figures.

% Employed persons, by activity sector and sex

	2007			2008		
	Total	Male	Female	Total	Male	Female
Total	100.0	100.0	100.0	100.0	100.0	100.0
Agricultural jobs *	{8.6}	{9.0}	{(8.1)}	7.6	7.8	{(7.2)}
Non-agricultural jobs	17.5	23.1	{10.0}	21.4	28.8	11.6
Excavation of mines and stone; Manufacturing industry	10.9	{12.9}	{8.3}	12.6	15.7	8.5
El. energy, gas and water production	{2.8}	{(4.3)}	.	2.7	{(3.7)}	{(1.4)}
Construction industry	{3.8}	{6.0}	.	6.1	9.3	1.7
Service activities	73.8	67.8	81.8	71.0	63.4	81.2
Retail and wholesale, repairing	19.0	13.2	26.7	20.5	16.5	25.9
Hotels and restaurants	{9.1}	{8.4}	{10.1}	8.0	8.4	{(7.4)}

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Traffic, storage and connections	10.3	{15,7}	((3.0))	8.6	11.6	4.5
Financial intermediation	((1.9))	.	((2.8))	(1.7)	(1.4)	(2.2)
Real estate affairs, renting	((2.2))	((2.2))	.	2.9	2.9	2.8
State administration and social insurance	{9.3}	{11.2}	{6.8}	8.8	8.8	(8.7)
Education	{6.0}	((3.5))	{9.3}	6.1	3.2	9.9
Health and social work	{7.2}	((3.6))	{12.0}	6.0	2.6	10.6
Other communal, social and personal services **	{8.8}	{8.8}	{8,7}	8.5	7.9	9.2

Source:MONSTAT
Labour Force Survey

* Agriculture includes forestry and fishery	Explanation of symbols
** Including households with employed persons, as well as exterritorial organizations	. not zero but extremely imprecise estimation (CV>=30) (() imprecise estimation (20<=CV<30) { } less precise estimation (10<=CV<20) CV: Standard error in estimation as a percentage of estimation.

Note: For 2007 and 2008 data are presented in percentages as requested.

c) income distribution (which indicators; poverty: poverty lines, definitions, percentage of population affected by poverty, highlight vulnerable groups);

Since the Statistical Office of Montenegro processes poverty according to the consumption method, we will present data that we possess (see Chapter 18 Module 1.06.02 Income, Poverty and Social Exclusion).

	2005	2006	2007
National absolute poverty line in €/monthly/equivalent adult person	144.68	144.68	150.76
Poverty rate (%)	11.3	11.3	8.0

Source:MONSTAT

d) family structure: main trends, number of children per family; age of mother; divorce rate; percentage of one-parent families; percentage of single households.

Number of families in Montenegro; number of children under 25 years pf age and number of children per family

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Year	Number of families in Montenegro	Number of children under 25 years of age	Number of children per family
2003 ¹⁵	162 153	212 643	1.3

Source: MONSTAT

Number of families in Montenegro and percentage of one-parent families

Year	Number of families in Montenegro	One-parent families			Percentage of one-parent families
		Total	Mother with children	Father with children	
2003**	162 153	26 574	21 272	5 302	16.4

Source: MONSTAT

Number of households in Montenegro and percentage of single households

Year	Number of households in Montenegro	Single households	Percentage of single households
2003**	180 517	29 532	16.4

Source: MONSTAT

Divorce rate (per 1000 inhabitants) for the period 2003-2004

Montenegro	Year					
	2003	2004	2005	2006	2007	2008
Divorce rate (per 1000 inhabitants)	0.8	0.8	0.8	0.8	0.7	0.7

Source: MONSTAT

133. How does the described background affect social protection?

a) What future developments are expected?

Recession, which amounted to 3.5% in the first half of the year, according to estimates will continue in the second half of the year, so that the decrease in GDP will be around 4%. The uncertainty in developments in the next period calls for a serious analysis of social protection expenditure, having in mind the significantly lower collection of the current revenues of the budget and local governments, on the one hand, and the increased expenditures for the unemployed which are a sure consequence of the structural nature and possible increase in unemployment, on the other hand. The expected decrease in wages and predictions of low inflation can influence a decrease in expenditures for pensions since they are indexed every half year in accordance with the "Swiss formula" (50% inflation – 50% growth or decrease in wages).

** Census of population, households and housing in 2003, Book 18: Households and families and Book 17: Families by type and number of children.

b) Which are the economic forecasts for the next 2-3 years?

The projections from the 2008 Economic-Fiscal Programme are no longer real due to the effects of the economic crisis; new estimation of macroeconomic indicators is expected in the 2010 Economic-Fiscal Programme.

Growth rates in the following period will depend first of all on the lending activity of banks, attracting a strategic partner in the field of tourism, expected investments in the energy sector and improvement of liquidity of the economy, especially in the SME sector.

c) Are there any demographic projections? For which period? How are old-age dependency ratios (population aged 65+ over population aged 15-64) expected to evolve over the coming decades?

Demographic projections for the population are made until 2050 and published as "Demographic Trends in Montenegro from the Middle of 20th Century and the Perspectives until 2050".

The basic characteristics and dynamics of the population size, their components (birthrate, mortality and migrations), changes and characteristics of the population structure by sex and age are presented in the book.

Population projections represent combinations of hypotheses on future trends in fertility (low, medium, high, constant), mortality (expected, constant) and migrations (expected, zero, constant).

Projected population for 2010, 2020, 2030, 2040, 2050, according to different alternatives *

Year	2010	2020	2030	2040	2050
Alternative with low fertility, expected mortality and expected migrations					
Projected population	640 434	658 932	674 858	679 645	676 793
Population aged 65 +	82 338	101 036	124 612	140 079	166 009
Population aged 15-64	437 185	450 209	452 199	452 681	430 681
Old-age dependency ratio (Population aged 65+ compared to population aged 15-64)	18.8	22.4	27.6	30.9	38.5
Alternative with medium fertility, expected mortality and expected migrations					
Projected population	641 966	672 686	712 592	748 730	783 479
Population aged 65 +	82 338	101 036	124 612	140 079	166 009
Population aged 15-64	437 185	450 209	458 309	476 872	483 338
Old-age dependency ratio (Population aged 65+ compared to population aged 15-64)	18.8	22.4	27.2	29.4	34.3
Alternative with high fertility, expected mortality and expected migrations					

* Demographic Trends in Montenegro from the Middle of 20th Century and the Perspectives until 2050, Statistical Office of Montenegro-MONSTAT, Podgorica, 2008

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Projected population	642 789	680 098	733 013	786 999	845 312
Population aged 65 +	82 338	101 036	124 612	140 079	166 009
Population aged 15-64	437 185	450 209	461 597	489 916	512 076
Old-age dependency ratio (Population aged 65+ compared to population aged 15-64)	18.8	22.4	27.0	28.6	32.4
Alternative with constant fertility, expected mortality and expected migrations					
Projected population	641 274	666 418	695 168	716 505	733 066
Population aged 65 +	82 338	101 035	124 612	140 079	166 009
Population aged 15-64	437 185	450 209	455 555	465 767	458 872
Old-age dependency ratio (Population aged 65+ compared to population aged 15-64)	18.8	22.4	27.4	30.1	36.2
Alternative with constant mortality, medium fertility and expected migrations					
Projected population	641 163	665 838	694 947	715 976	732 692
Population aged 65 +	81 747	95 821	110 587	113 783	124 626
Population aged 15-64	436 987	448 690	455 000	470 900	474 710
Old-age dependency ratio (Population aged 65+ compared to population aged 15-64)	18.7	21.4	24.3	24.2	26.3
Alternative with zero migration balance: medium fertility, expected mortality, zero migration balance					
Projected population	645 659	660 593	669 807	670 201	666 490
Population aged 65 +	82 452	100 475	122 382	135 325	156 817
Population aged 15-64	439 879	440 966	428 972	422 798	401 907
Old-age dependency ratio (Population aged 65+ compared to population aged 15-64)	18.7	22.8	28.5	32.0	39.0

Source: MONSTAT

d) Are there any forecasts for labour market developments?

There are no systematic forecasts in the labour market at the moment, although the need was expressed for establishing mechanisms on a partnership basis for the consideration of these developments, particularly from the point of developing the necessary labour force knowledge and skills. Certain sector strategies (tourism) set specific goals regarding the forecasts for developments and needs in the labour market, but still insufficiently.

For now, a concrete step with regard to the forecasts for labour market developments is the developed and improved model of Employers Survey, within the CARDS programme (Labour market reform and labour force development, implemented 2006-2008). This survey is conducted by the Employment Office of Montenegro.

e) Outline the general trends and influences of economic, demographic and social developments on the social protection system of your country.

Dynamic economic growth and development which characterised Montenegrin economic system in the previous period influenced the decrease in social expenditures share and increase in investment share in GDP. Multiplicative effect of such active growth had as a consequence an increase in employment, and thereby an increased inflow of resources intended for social protection, which improved sustainability and efficiency of the system.

Consequences of the global economic crisis also had and still have negative repercussions for Montenegrin economy. The estimations state zero GDP growth rate for 2009 and mild recovery expected in the following two years. Negative economic trends have directly influenced and will influence the social protection system in Montenegro.

Pressures to the existing social protection system are generated from several sources, but we single out these as two key sources: the halt in the economic growth and development, and negative demographic trends.

1. The influence of the economic crisis is directly reflected in the halt of employment growth in the sectors which are directly affected by the global negative effects of the crisis. Such tendency has a negative influence on financial sustainability of the Pension and Disability Fund and the Health Insurance Fund which can not be financed only from regular revenues-contributions but require allocation of budgetary funds.

Additional pressure on the social protection system from the point of social-economic growth will be the following: drop in employment in the industry sector (Aluminium Plant Podgorica - KAP, Steel Mill, Bauxite Mine) and non-payment of social protection contributions or payment of minimal contributions by employers in most small and medium-sized enterprises.

Dismissal of the employees in the sector of industry will influence the increase in structural unemployment in the labour market, because these are people with average length of service over 20 years i.e. the category of people who are hard to employ, the majority of whom are directly referred to social protection system until the end of their service term.

2. Demographic trends in Montenegro are one of the factors that have additional negative influence on the social protection system. The ageing tendency of population is evident, reflected on one side in the decrease in young population share (up to 15 years of age) and increase in the relative share of older population (over 60 years) in the total population of Montenegro. Within older population group there is a distinct tendency of old population increase i.e. increase in the share of age groups over 75, which in turn influences the increase in expenditures from the social protection system with the aim of providing better life quality for this population category.

Results of the projections for the population in Montenegro point out that development of the ageing process in the first half of the 21st century will be one of the most important characteristics of the demographic development in Montenegro.¹⁶ The country will continue to be exposed to the influence of demographic ageing process, and the population will be demographically older at the end of the projection period than at the beginning, given any of the combinations of assumptions for concrete alternatives of projections.

¹⁶ *Demographic Trends in Montenegro from the Middle of the 20th Century and the Perspectives until 2050*, MONSTAT, Podgorica, December 2008 p.88

B. Overview of the social protection system

134. Please provide information on the general philosophy and the main principles and mechanisms of the social protection system: is the system employment-centred or citizen-centred, what are the main distributional effects of the system, who is included/excluded?

Legislation on social insurance in Montenegro through specific laws in the fields of pension and disability insurance as well as health insurance, defines insured persons from those fields on the basis of labour, specifically: employed persons, self-employed insured persons and members of their families, if not insured on some other basis and farmers.

Social and child welfare is based on the principles of: respect for the dignity of beneficiaries in the field of social and child welfare; personal responsibility and active participation of beneficiaries in developing goals and activities within social and child welfare; pluralism of providers, activities, forms, methods and services within social and child welfare; partnership and association of different activity and programme providers, particularly at the local level. Citizens are at the centre of the social protection system. The objective of social and child welfare is to provide protection for the family, the individual, children at risk and persons in the state of social need i.e. social exclusion. In fulfilling the objectives, protection is particularly afforded to: persons incapacitated for work and lacking financial means; children without parental care; children with physical, mental and sensory disability; abused and neglected children; children with behavioural disorders; disabled persons; senior persons, and the persons and families in need of adequate forms of social welfare due to special circumstances. Rights in the field of social and child welfare are exercised according to the criteria stipulated in the Law on Social and Child Welfare (the answer is given in the answer to the Question 137 c),h),j),k),l)). Social and child welfare is provided by social and child welfare institutions, specifically Social Welfare Centers and institutions for placement of beneficiaries. The amount of allowances on the basis of the rights arising from social and child welfare is determined in accordance with financial capacity of the country.

135. Please provide the following specific information (please refer to MISSOC as a model):

a) Organisational chart of the social protection system (involved ministries, statutory insurances etc.); discussion of the chart: main institutional responsibilities for the fields of social protection (legislation and administration);

Social protection in Montenegro in the widest sense includes:

- 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.

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.

STATE AUTHORITY	MINISTRY OF LABOUR AND SOCIAL WELFARE	MINISTRY OF HEALTH
JURISDICTION	<ul style="list-style-type: none"> • LABOUR RELATIONS • LABOUR MARKET AND EMPLOYMENT • PENSION AND DISABILITY INSURANCE AND VETERAN DISABILITY PROTECTION • SOCIAL AND CHILD WELFARE 	<ul style="list-style-type: none"> • HEALTH INSURANCE
EXERCISING RIGHTS	<ul style="list-style-type: none"> • PENSION AND DISABILITY INSURANCE FUND • EMPLOYMENT AGENCY • MUNICIPAL GOVERNMENT SECRETARIATS • REGISTER OF INSURED PERSONS 	<ul style="list-style-type: none"> • HEALTH INSURANCE FUND
RECORDS	<ul style="list-style-type: none"> • BUDGET • CONTRIBUTIONS 	<ul style="list-style-type: none"> • REGISTER OF INSURED PERSONS • BUDGET • CONTRIBUTIONS
FINANCING		
EXERCISING RIGHTS IN SOCIAL AND CHILD WELFARE	<ul style="list-style-type: none"> • SOCIAL WELFARE CENTRE • SOCIAL AND CHILD WELFARE INSTITUTION • REGISTERS • BUDGET 	
RECORDS		
FINANCING		
SUPERVISION	<ul style="list-style-type: none"> • MINISTRY OF LABOUR AND 	<ul style="list-style-type: none"> • MINISTRY OF HEALTH

	<p>SOCIAL WELFARE</p> <ul style="list-style-type: none"> • STATE AUDIT 	<ul style="list-style-type: none"> • STATE AUDIT
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Organisation, implementation and financing of the social protection is regulated by a specific set of laws, as mentioned earlier.

Social and child welfare is provided by institutions for social and child welfare in accordance with the Law on Social and Child Welfare, as well as civil society organisations and other legal and natural persons.

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

According to the listed regulations:

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.

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.

b) Centralisation/De-centralisation: Description of the main institutional levels in the social protection system, role of employers and employees, role of NGOs;

The entire social protection system is institutionally organised and implemented at national level through state bodies, as presented and described in the answer under a), and on the basis of the law the representatives of workers and employers are actively included in the work of Management Boards of the funds and other institutions, such as Pension and Disability Insurance Fund, Health Insurance Fund, Employment Office.

Funds for performing the activities and exercising the rights arising from social protection are provided by the state in the state budget.

The implementer of the activities arising from social and child welfare is the Ministry of Labour and Social Welfare, i.e. Sector for social and child welfare. The Sector for social and child welfare conducts the affairs related to: protection for the family, the individual, children at risk and persons in the state of need i.e. social exclusion, and particularly the persons incapacitated for work and lacking financial means, children without parental care, children with physical, mental and sensory disability, abused and neglected children, children with behavioural disorders, disabled persons, senior persons and persons and families in need of adequate forms of social welfare due to special circumstances as well as refugees and internally displaced persons; creating strategic documents of interest for protection of specific vulnerable population categories; monitoring application of adopted documents; second instance administrative procedure in the field of social and child welfare and family relations; affairs from the field of analytics, planning and preparation of analyses, information and reports on financial flows serving as a basis in the creation of projections of necessary funds for financing of the annual needs and obligations and investments in the fields of social and child welfare; preparation of reports and statistics on the use of funds in the field of social and child welfare and their generating through internal and external entities; establishing cooperation with NGOs and local government bodies. The Sector has the following two departments: Department for social and child protection and supervision and Department for protection of at risk groups.

Social and child welfare is provided by institutions of social and child welfare in accordance with the Law on Social and Child Welfare. An institution may be founded by the state, municipality or other legal or natural person. When the state is the founder, or municipality, the founding act is adopted by the Government of Montenegro i.e. the competent body of the municipality. The Ministry of Labour and Social Welfare provides consent to the statute of the institution founded by the state. Bodies of the institution are the management board and the director. Management board of the institution founded by the state is appointed by the Government of Montenegro; it consists of: four representatives of the founder, one representative of the municipality and two representatives of the employees from the institution. The director of the institution is appointed and dismissed by the founder. Director of the institution founded by the state is elected by the management board on the basis of a public announcement and a submitted development programme for the institution, with previous consent of the Ministry of Labour and Social Welfare.

According to the Law on Social and Child Welfare, institutions for social and child welfare are Social Welfare Centers and institutions for placement of beneficiaries. Social Welfare Centers are institutions through which the rights within social and child welfare are exercised; there are ten centres in the territory of Montenegro, which with their branches cover the territory of all municipalities in Montenegro. Social Welfare Centers are bodies which decide on the rights within social and child welfare in the first instance. The Ministry of Labour and Social Welfare decides in the procedure upon the appeal to the decision of the Social Welfare Centre in the second instance. Administrative Court of Montenegro decides in the procedure upon a complaint to the decision of

the second instance body in the administrative dispute. Administrative procedure is conducted according to the Law on Social and Child Welfare and the Law on Administrative Procedure and the administrative dispute is conducted according to the Law on Administrative Dispute.

Institutions of social and child welfare are institutions in which permanent or temporary placement is provided for children and young people, adult-disabled and senior persons and leisure and recreation of children, and there are five organised in Montenegro:

- Public institution for placement of persons with mental disability - PI Institute "Komanski most", Podgorica with 130 beneficiaries;
- Public institution for placement of children and young people with behavioural disorders - PI Centre for Children and Young People "Ljubović", Podgorica with 20 beneficiaries;
- Public institution for placement of adult-disabled persons - PI Home for the Elderly "Grabovac", Risan with 300 beneficiaries;
- Public institution for placement of children and young people without parental care and children with development disturbed due to family situation - PI Child Centre "Mladost" Bijela with 170 beneficiaries;
- Public institution for leisure and recreation of children – PI "Lovćen-Bečići" Cetinje with 3100 beneficiaries.

The Law on Public Administration (Official Gazette of the Republic of Montenegro 38/03 and Official Gazette of Montenegro 22/08) stipulates the relationship of administration bodies towards NGOs in view of obligation to provide cooperation of the ministries and administration bodies with NGOs, particularly:

- consulting NGO sector on legal and other projects and regulations regulating the method of exercising freedoms and rights of citizens;
- enabling participation in the work of working groups for discussing issues of common interest or normative regulation of respective issues;
- organising common public discussions, round tables, seminars and other forms of joint activities and other suitable forms, and
- informing on the content of the work programme and report on the work of public administration bodies.

Promoting the cooperation between the Government of Montenegro and NGO sector and creating conditions for citizens and nongovernmental organisations in partnership with other social actors, governed by tolerance and understanding, respect for different positions and opinions through dialogue and argued statement of facts, on the principles of sustainable development, interaction, responsibility and equal opportunities for all, and respect for independence of nongovernmental organizations and creation of stimulating environment for their work, to participate in the development of Montenegro as a democratic and open country, contributing to its success according to their capacities, is the subject of the Strategy of Cooperation of the Government of Montenegro and Nongovernmental Organisations (adopted at the session of the Government of Montenegro on 22 January 2009).

c) Supervision structures.

In the mandatory pension and disability insurance on the basis of the current financing there is a number of supervision types, namely:

According to the Law on Pension and Disability Insurance, supervising the exercise of this Law is conducted by the public administration body competent for the affairs of pension and disability insurance (Ministry of Labour and Social Welfare) in accordance with a special law. Supervision over legality and effectiveness of the work of the Fund is also conducted by the Ministry of Labour and Social Welfare, in accordance with the law.

Ministry of Labour and Social Welfare, as the second instance body in the procedure of deciding on the rights within pension and disability insurance decides on appeals to decisions of the Pension and Disability Insurance Fund and conducts the review of the first instance decisions.

Ministry of Finance, through the Rulebook on the method of preparation, creation and submitting of financial reports of the budget, extra-budgetary funds and local government units (Official Gazette of the Republic of Montenegro 3/06), stipulated that all budget entities and state funds submit financial reports by the 15th of the month for the previous month and quarterly to the Ministry, in the following forms:

- cash flow statement I economic classification,
- cash flow statement II functional classification,
- report on outstanding obligations and
- report on consolidated public expenditure.

In this way the Ministry analyses the total receipts and expenditures for the given periods and the total consolidated public expenditure, and therefore also the operation of public funds.

In its annual Audit Plans, the State Audit Institution includes audit of certain entities, including the Pension and Disability Insurance Fund as a public fund. Audit of the complete operation of the Fund was conducted for 2007.

Supervision over the founding and the operation of the management company and the pension fund is conducted by the Securities Commission by giving consent to their acts and controlling their operations, in accordance with the Law on Voluntary Pension Funds (Official Gazette of the Republic of Montenegro 78/06 and 14/07).

As already stated, the Ministry of Labour and Social Welfare conducts supervision over the application of the Law on Pension and Disability Insurance through labour inspection in the part related to the obligation of payment of contributions for the mandatory forms of social insurance, pension and disability, health and unemployment insurance.

Law on Labour Inspection determines that labour inspector in the procedure of inspection supervision verifies whether the employer has paid contributions for mandatory social insurance for the person with who he/she concluded an employment contract or a special type of the employment contract and takes measures if he/she determines that the employer is not meeting his/her obligations.

According to the Law on Employment (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07 and Official Gazette of Montenegro 21/08) the administrative supervision in the field of employment is conducted by the ministry competent for the affairs of labour, in accordance with the law.

136. Please provide information on financing of social protection:

a) Main financing sources of social protection (taxes, contributions, state subsidies) and institutions involved (State, parafisci, regional authorities, NGOs, private households etc.);

The main financing sources of social protection are contributions for social protection:

- contributions for pension and disability insurance;
- contributions for health care;
- contributions for unemployment insurance;
- other contributions, as well as
- general budget revenues that provide financing for the lacking funds for social transfers

The following institutions are included in this process: Ministry of Labour and Social Welfare, Ministry of Finance (state budget, extra-budgetary funds: the Pension and Disability Insurance Fund, the Health Fund, the Employment Office and to a small extent the local government.)

b) Main financing principles for the fields of social protection (pay-as-you-go, funded financing);

Through mandatory pension and disability insurance based on current financing, on the basis of labour, depending on the length of investment and the level of the basis for which the contribution for pension and disability insurance was paid, applying the principles of reciprocity and solidarity, the insured persons are provided with the rights in the event of old age, disability and bodily injury, and members of their families the right in the event of death of the insured person i.e. the beneficiary. Pension and disability insurance based on current financing is financed from the contributions for pension and disability insurance, state budget and other sources in accordance with the Law on Pension and Disability Insurance, and the funds collected for that purpose represent the revenue of the Pension and Disability Insurance Fund of Montenegro.

Mandatory health insurance is a part of the social insurance system of the citizens providing, on the principles of obligatoriness, reciprocity and solidarity, the right to health care to all citizens of Montenegro, as well as other persons. Health insurance system is financed through mandatory contributions for health insurance, health care for the insured persons working abroad, right to salary compensation during temporary incapacity to work and the right to travel expenses related to the use of health care, which are the revenues of the Health Insurance Fund of Montenegro.

Rights of disabled persons to professional rehabilitation and employment are partly financed through a special contribution for professional rehabilitation and employment of disabled persons paid by employers who are not employing disabled persons, and which is paid in to the special account of the budget of Montenegro i.e. the Fund for Professional Rehabilitation and Employment of Disabled Persons. The resources of the mentioned Fund are, apart from the special contributions, provided from the state budget, budget of the local government unit in whose territory the disabled persons has residence, donations and assistance from domestic and foreign legal and natural persons and other sources in accordance with the law.

Unemployment insurance includes participation of employed persons, employers, state and other bodies and organisations in providing funds for productive employment and for exercising rights on the basis of unemployment. Mandatory contributions for unemployment insurance, paid by the employed persons and employers, and which represent the revenue of the Employment Office of Montenegro, provide the funds for payment of the unemployment rights.

The main principle of the financing in the field of exercising the basic rights from social and child welfare, such as providing protection for the family, the individual, children at risk and persons in the state of social need, or social exclusion, is financing from the state budget.

Funds for financing the rights within veteran and disability protection are provided from the budget of Montenegro.

c) Financial administration of social protection: contribution rates, contribution base and tax base; is there an upper (lower) ceiling?

Contribution rates for wages are:

	2008	2009	2010
Contributions for pension and disability insurance (PDI) – employees	12.0%	12.0%	12.0%
Contributions for health care – employees	6.5%	5.0%	4.0%
Contributions for the unemployed – employees	0.5%	0.5%	0.5%
Tax on wages of employees	15%	12%	9%
Surtax on the tax on wages of employees	14-15 %	14-15 %	14-15 %

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Contributions for PDI – employer	9.0%	8.5%	8.0%
Contributions for health care – employer	5.5%	5.5%	5.0%
Contributions for the unemployed – employer	0.5%	0.5%	0.5%

The base for the calculation of contributions (gross basis) is a result of the coefficient of the complexity of work, accrued labour (years of service), minimum wage and coefficient for the calculation which is 1.6393.

The base for the calculation of taxes is the gross basis from which the non-taxable part in the amount of €70 is subtracted.

The base for the calculation of surtax to the tax for the wages of employees (local government revenue) is the calculated tax on the wages of employees.

137. Please provide an overview of allowances: benefits and services provided by social protection (coverage, qualifying conditions, level of benefits, length of provision, taxation of benefits)

a) health care;

System of mandatory health insurance provides:

- health care,
- right to compensation for travel expenses related to the use of health care,
- right to salary compensation during temporary incapacity for work.

Health care includes:

- medical measures and procedures for promotion of health, prevention, fighting and early detection of diseases;
- medical examinations and other types of medical assistance relating to monitoring and examining health condition;
- medical treatment of sick and injured persons;
- medical rehabilitation;
- medicines and medical equipment;
- medical-technical aids etc.

In providing health care the priority is given to children, persons over 65 years of age, women during pregnancy, delivery and maternity, handicapped persons, persons with infectious diseases, malign diseases, rheumatic fever, diabetes, kidney insufficiency, coronary, cerebral and vascular diseases, system auto-immune diseases, progressive neuromuscular diseases, cerebral paralysis, multiple sclerosis, cystic fibrosis, hemophilia, persons with mental disorders and persons with insufficient mental development regarding the health care for the mentioned diseases.

Health care at primary level is provided in public health centers, which provide health care through a selected doctor, support centers and units. There are 18 public health centers in Montenegro providing primary health care services, and there are stationeries in three public health centers (Rožaje, Mojkovac and Ulcinj).

Health care at 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.

For treatment of diseases, conditions and injuries which are not possible to be successfully treated in health care institutions of Montenegro, insured persons are referred to health care institutions outside Montenegro on the basis of concluded contracts on provision of health care services. The

largest number of treatments are performed in the Republic of Serbia: diagnostic analyses, hospital treatment and control examinations. In 2008, 6 525 insured persons were referred to health care institutions in Serbia. 72 insured persons were referred to treatment in other countries (Germany, Italy, France, Slovenia and other) in 2008 on the basis of commercial contracts.

Apart from the mentioned forms of health care, the following rights are provided to the expense of the funds of mandatory health insurance: the right to medical rehabilitation in health care institutions which perform specialised medical rehabilitation, right to medical technical aids: prosthetics and orthotic devices, additional aids for facilitating movement, seeing, hearing, aids for enabling speaking, dental aids and other aids, right to medicaments, as well as the right to two procedures of in-vitro fertilization.

In exercising health care in health institutions outside the place of residence, insured persons are provided the right to compensation of travel expenses for the insured person and the companion, at the price of the cost for the transport determined by the referral for treatment, issued by the selected doctor, or Medical Commission.

During treatment abroad insured persons also obtain the right to expenses of the stay if they don't have accommodation provided in the health institution where they receive treatment.

After the performed treatment, the insured person submits a request for payment of travel expenses with the prescribed documentation. Upon the request, the calculation is made and the payment of the travel expenses to the address of the insured person.

On the basis of temporary incapacity for work, employed insured persons are entitled to salary compensation. Salary compensation is determined in the amount of average salary for the last three months preceding the month when the temporary incapacity for work occurred.

Salary compensation during temporary incapacity for work is determined in the minimum amount of 70% of the compensation base, with payment in the amount of 100% of the compensation base for the following cases: during maintaining of pregnancy, occupational injury and occupational disease, isolation due to a state of germ-carrying, in the case of donating blood, tissues and organs, for blind and handicapped persons.

For the first 60 days of temporary incapacity for work, the compensation is paid to the expense of the employer, and after the 61st day the compensation is provided by the Health Insurance Fund. Payment of the compensation is made for the whole period of temporary incapacity for work and the compensation is subject to the obligation of payment of all taxes and contributions that are paid for salary.

Payment of the compensations on the basis of temporary incapacity for work for an employed insured person is made by the employer. The Fund reimburses the salary to the employer after the 61st day.

b) sickness;

System of mandatory health insurance provides:

- health care,
- right to compensation for travel expenses related to the use of health care,
- right to salary compensation during temporary incapability for work.

Health care includes:

- medical measures and procedures for promotion of health, prevention, fighting and early detection of diseases;
- medical examinations and other types of medical assistance relating to monitoring and examining health condition;
- medical treatment of sick and injured persons;
- medical rehabilitation;

- medicines and medical equipment;
- medical-technical aids etc.

In providing health care the priority is given to children, persons over 65 years of age, women during pregnancy, delivery and maternity, handicapped persons, persons with infectious diseases, malign diseases, rheumatic fever, diabetes, kidney insufficiency, coronary, cerebral and vascular diseases, system auto-immune diseases, progressive neuromuscular diseases, cerebral paralysis, multiple sclerosis, cystic fibrosis, hemophilia, persons with mental disorders and persons with insufficient mental development regarding the health care for the mentioned diseases.

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In exercising health care in health institutions outside the place of residence, insured persons are provided the right to compensation of travel expenses for the insured person and the companion, at the price of the cost for the transport determined by the referral for treatment, issued by the selected doctor, or Medical Commission.

During treatment abroad insured persons also obtain the right to expenses of the stay if they don't have accommodation provided in the health institution where they receive treatment.

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For the first 60 days of temporary incapacity for work, the compensation is paid to the expense of the employer, and after 61st day the compensation is provided by the Health Insurance Fund. Payment of the compensation is made for the whole period of temporary incapacity for work and the compensation is subject to the obligation of payment of all taxes and contributions that are paid for salary.

Payment of the compensations on the basis of temporary incapacity for work for an employed insured person is made by the employer. The Fund reimburses the salary to the employer after the 61st day.

c) maternity;

The Labour Law (Official Gazette of the Republic of Montenegro 49/08) stipulates that during pregnancy, delivery and child care, an employed woman has the right to maternity leave for the period of 365 days from the day of the birth of the child. The same law stipulates that the father of the child can use the right to maternity leave in the event when the mother abandons the child, dies or is for other reasons prevented from using the right (serving a prison sentence, serious disease and other).

The Law on Social and Child Welfare (Official Gazette of the Republic of Montenegro 78/05) stipulates that during the maternity leave the employee is entitled to compensation of the 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 had been employed for at least six months continuously. The employee who was 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 with 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 were 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.

d) invalidity;

Pursuant to the Law on Pension and Disability Insurance (Official Gazette of the Republic of Montenegro 54/03, 39/04 and 47/07), invalidity exists when due to changes in health condition, which can not be eliminated through treatment or medical rehabilitation, the insured person develops a total loss of working capacity. Invalidity also exists when due to changes in health condition, which can not be eliminated through treatment or medical rehabilitation, the insured person develops a partial loss of working capacity of 75%.

The mentioned legal provision stipulates the definition of invalidity on the basis of which the rights within pension and disability insurance are obtained and it is valued in comparison to any job the insured person can perform.

The law stipulates that invalidity may occur due to occupational injury, occupational disease, injury outside work or illness. In order to be considered work-disabled, a person needs to have invalidity determined on the basis of findings, assessment and opinion of the authority for expertise. The assessment of invalidity is conducted by invalidity commissions.

Beneficiaries are scheduled for a mandatory control examination, no later than within three years from the date of determining invalidity, except in cases prescribed by the general act of the Fund.

On the basis of invalidity the insured persons can exercise the following rights within pension and disability insurance:

- right to full disability pension,
- right to partial disability pension,
- right to disability pension

An insured person is entitled to disability pension if he/she develops a total loss of work capacity (full disability pension) in the case where the disability is caused by an occupational injury or occupational disease regardless of the pensionable years of service. If the invalidity is caused by an injury outside work or illness the condition is that there are years of pensionable service covering at least 1/3 of the years of service. Years of service represent the number of full years in the period from the date when the insured person reached the age of 20, or 23 if he/she acquired higher professional qualification through regular education, or 26, if he/she acquired university degree through regular education, until the day when the invalidity occurred.

Disability pension in the case of invalidity caused by an occupational injury or occupational disease is determined in the amount of old age pension which would pertain to the insured person for 40 years of pensionable service.

Apart from the total loss of working capacity, the status of partial loss of working capacity of 75% is established and the right to partial disability pension on that basis. Partial disability pension in the case of invalidity is determined depending on the cause of the invalidity, in the amount of 75% of the full disability pension.

With the aim of protecting younger insured persons who developed invalidity before the age of 30, more favourable conditions for obtaining the right to disability pension were prescribed.

- right to pecuniary compensation for bodily injury

Bodily injury exists when the insured person develops a loss, a significant injury or a substantial disability of certain organs or parts of the body, which aggravates normal activity of the organism and requires more effort in fulfilling everyday needs, regardless of whether it causes invalidity or not. Bodily injury may exist simultaneously with the existence of invalidity caused by the same illness or injury. Working capacity may be fully preserved with insured persons who have bodily injury, but since he/she suffered impairment of physical integrity, i.e. certain physical impairments, he/she is placed in a more difficult position concerning the activities related to his/her work. However, it is possible that the injury or disease did not lead to invalidity, but caused a bodily injury. In that case, the right to pecuniary compensation is acquired on the basis of that bodily injury as an independent and sovereign right from the risk of invalidity and the right on that basis.

Therefore, the right to pecuniary compensation for bodily injury is a special right in the system of pension and disability insurance, realised independently from other rights arising from this insurance.

The right to pecuniary compensation for bodily injury can be acquired only by the insured persons with bodily injury of at least 50% caused by an occupational injury or occupational disease. The amount of the pecuniary compensation for bodily injury is determined from the base constituting 90% of the average monthly salary for December 2003, less the paid taxes and contributions, in the corresponding percentage depending on the degree of the bodily injury. The base to which the pecuniary compensation is determined is indexed twice a year according to the method of pension indexing.

e) old-age;

According to the Law on Pension and Disability Insurance, the right to old age pension is acquired by an insured person upon reaching 65 (men) i.e. 60 (women) years of age and at least 15 years of pensionable service, or upon 40 (men) i.e. 35 (women) years of insurance record and at least 55 years of age. However, the mentioned conditions for acquiring the right to old-age pension will be

fully applied from 1 January 2013, until when it is stipulated that the existing age limit will be gradually increased and the necessary years of pensionable service for acquiring the right to old-age pension will be reduced. Starting from 1 January 2004, the previously determined age limit for acquiring the right to old-age pension (60 for men i.e. 55 years for women) is raised by six months each calendar year, while the necessary years of pensionable service are reduced by six months.

It is also envisaged to gradually raise the age limit as a condition for acquiring the right to old-age pension on the basis of completion of the insurance record of 40 years for men i.e. 35 years for women from 50 years of age to 55 years of age each calendar year, by six months, ending in 2013.

f) survivors;

Right to survivors' pension can be acquired by family members of:

- a deceased insured person who had at least five years of accrued insurance record or at least ten years of pensionable service or who was eligible for old-age or disability pension;
- a deceased beneficiary of an old age or disability pension.

If the death of the insured person occurred as a consequence of an occupational injury or an occupational disease, members of his/her family become entitled to survivors' pension, regardless of the years of pensionable service of the insured person, or that person.

Family members who can acquire the right to survivors' pension are:

- the spouse;
- the children (born in wedlock or out of wedlock or adopted and stepchildren who were supported by the insured person, or the beneficiary).

A spouse from a divorced marriage may also be entitled to survivors' pension, under the prescribed conditions provided that he/she was afforded the right to financial maintenance by an effective court verdict.

A widow i.e. a widower acquires the right to survivors' pension, provided that:

- he/she reached the age of 50 prior to the death of his/her spouse;
- prior to the death of his/her spouse or within one year from the death of his/her spouse he/she became completely incapable for work;
- following the death of the spouse, one or more children are entitled to a survivor's pension based on that spouse, and the widow, i.e. the widower is performing the parental duty for the children.

A widower, or a widow who, within the duration of the right on that basis, develops complete incapacity for work, retains the right to survivors' pension during such incapacity.

In order to obtain the right to survivors' pension after the death of the insured person, or the beneficiary, a widow has to meet one of the alternatively listed special conditions.

The law also sets forth a transitional period which specifies that the age limit for acquiring the right to survivors' pension for a widow is gradually increased from 45 to 50, within the period of 10 years (from 2004 to 2012), each calendar year by six months.

g) employment injuries and occupational diseases;

In the system of pension and disability insurance, employment injuries and occupational diseases as causes of certain risks of insurance represent a significant element that directly affects acquiring of the right on the basis of disability, death and bodily injury as well as determination of their scope.

Influence of employment injuries and occupational diseases as causes of certain risks of insurance for acquiring the right and the amount of pecuniary compensations is presented within the answers

to the items d), e) and f) of this question.

h) family benefits;

In accordance with the Law on Social and Child Welfare (Official Gazette of the Republic of Montenegro 78/05), the right to compensation for accessories for each newborn child and the right to child allowance is established.

Parents are entitled to compensation for accessories for each newborn child. The compensation can be acquired until the child is one year old. The compensation is a lump sum payment and it amounts to €100.

The right to child allowance can be acquired by: a child receiving a cash benefit; a child with bodily, mental and sensory impairment who can be trained for independent life and work; a child with bodily, mental and sensory impairment who cannot be trained for independent life and work; a child without parental care. The first three children in the family are entitled to the right to child allowance. Child allowance is also provided to children born after the birth of the second child as twins, triplets etc.

A child with bodily, mental and sensory impairment who can be trained for independent life and work, a child with bodily, mental and sensory impairment who cannot be trained for independent life and work, and a child without parental care is entitled to the right to child allowance regardless of the number of children in the family.

The right to child allowance is obtained until the child is aged 18, or after 18 if the child is attending regular secondary school education, until the time limit set for such education. A child aged from 15 to 18, who is not attending full-time education, is entitled to this right if he/she is registered with the Employment Office of Montenegro.

A child meeting conditions for child allowance on several grounds exercises that right on a more favourable basis. Child allowance is paid in a monthly amount to the parent i.e. the guardian or the person to whom the child is entrusted for care, education and training. Child allowance for a child without parental care who is placed in a social and child welfare institution is paid on behalf of the child to the authorised person in the institution and is used for the needs of the child.

Monthly amounts of child allowance are as follows: for a child receiving a cash benefit €18.5; a child with a bodily, mental and sensory impairment who can be trained for independent life and work €24.20; a child with a bodily, mental and sensory impairment who cannot be trained for independent life and work €30.25; a child without parental care €30.25.

i) unemployment;

In accordance with the Law on Employment (Official Gazette of the Republic of Montenegro 5/02, 74/04, 29//05, 12/07 and Official Gazette of Montenegro 21/08), unemployed persons are entitled to:

- information on possibilities and conditions of employment conducted with the Employment Office,
- intermediation in employment,
- inclusion into programmes of active employment policy,
- preparation for employment,
- unemployment insurance,
- financial assistance,
- health insurance,
- other rights of unemployed persons.

The activities and measures taken between an unemployed person and an employer with the aim of concluding a labour contract are considered as intermediation in employment. Intermediation in employment is conducted by the Employment Office. Certain affairs within jurisdiction of the Office can also be conducted by other legal persons trained for conducting these affairs (agencies) in accordance with regulations.

The right to inclusion into programmes of active employment policy measures is afforded to: unemployed persons, employed persons working less than full working hours and persons whose services are no longer needed due to technological, economic and organisational changes.

Preparation for employment includes: career guidance, vocational training, retraining or additional training, innovation of knowledge of unemployed persons waiting for employment longer than two years, training of trainees for independent work at their level of qualifications and other forms of training. The right to preparation for employment is provided to an unemployed person under the age of 50 (men) or 45 (women).

The right to unemployment insurance (right to cash benefit and cash assistance) is provided to an unemployed person in accordance with this law.

Acquiring the right to cash benefit

The basic condition for acquiring the right to cash benefit under the Law on Employment is termination of employment without consent and guilt of the insured person (unemployed person), who was employed with one or more employers with full working hours for at least nine months continuously or 12 months with interruptions in the last 18 months, provided that payment of the contributions on the basis of which the right is acquired for the given period.

The right to cash benefit is also provided to a disabled person trained to work in an institution for social protection or in another family while waiting for employment.

An unemployed person is entitled to cash benefit from the first day of termination of employment, if he/she reports to the Office and submits a request for acquiring that right within 30 days from the day of termination of employment. Period of 30 days does not include the period of temporary incapacity to work. An unemployed person is obliged to report to the Office within eight days from the day of termination of temporary incapacity.

If an unemployed person submits a request after the expiry of the prescribed deadline, he/she receives a cash benefit from the day of submitting the request. Cash benefit does not belong to an unemployed person who submits a request after the expiry of the period during which he/she was entitled to this right.

The period of entitlement to cash benefit

Length of the accrued insurance record and the period of receiving cash benefit on that basis:

Length of insurance record	Period for which payment of cash benefit is made
9 months continuously	3 months
12 months with interruptions	3 months
2 years continuously	4 months
4 years with interruptions	4 months
5 – 10 years continuously	6 months
10 – 15 years continuously	8 months
15 - 20 years continuously	10 months
20 – 25 years continuously	12 months

Over 25 insurance service	Until reemployment or acquiring some other basis for termination of the right to cash benefit
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An unemployed person is entitled to cash benefit in the amount of the lowest pension stipulated by the Law on Pension and Disability Insurance until meeting the conditions for acquiring the right to pension i.e. until another basis for termination of the right to cash benefit according to this law enters into force, at the age of:

- 60 (men) i.e. 55 (women) and not less than 10 years of insurance record;
- 30 years of insurance record and not less than 50 years of age.

Continuation of payment of cash benefit

Payment of cash benefit is continued upon expiry of the period of receiving compensation determined according to the length of insurance record:

- during pregnancy and delivery, which is regarded as maternity leave for employed women, according to regulations on labour relations,
- during temporary incapacity to work determined according to regulations on health care and health insurance, during the incapacity period, but at the latest until the deadline determined by these regulations, when the unemployed person is referred to disability assessment,
- for the duration of vocational training, retraining or additional training of an unemployed person.

According to the Law on Employment, cash benefit amounts to 60% of the lowest labour cost or in the amount of the lowest pension stipulated by the Law on Pension and Disability Insurance.

Contributions for health and pension-disability insurance are calculated and paid for the amount of cash benefits.

Taxation of cash benefit

Law on Income Tax for Citizens (Official Gazette of the Republic of Montenegro 65/01, 12/02, 37/04, 79/06 and 4/07) stipulates that income tax is not paid for the income acquired on the basis of compensations for the period of unemployment paid to the expense of extrabudgetary funds.

Right to cash assistance

An unemployed person referred to the Office for further vocational education, retraining, additional training or specialisation, and who is not receiving cash benefit, is entitled to cash assistance for the period of further vocational education, in the amount of 60% of the lowest labour cost.

An unemployed person who is provided employment outside the place of his/her residence, through the Office or in another way, is entitled to lump sum assistance, in accordance with the act of the Office.

The Office can also determine other cases and conditions under which the unemployed person registered with the Office can be provided cash assistance.

Right to health insurance

The right to health insurance is granted to the unemployed persons registered with the Office, provided that they cannot obtain that right as family members of an insured person pursuant to health care and health insurance regulations.

Other rights of unemployed persons

An unemployed person is entitled to coverage of moving house expenses due to employment in another place, to expenses for travelling by public transport incurred due to seeking employment with a consent from the Office or upon referral by the Office.

j) minimum resources/social assistance;

An individual, a family, or a person in the state of social need, who is incapacitated for work and without resources for fulfilling the basic everyday needs, and cannot obtain those resources through his/her own work, property income or in some other way, is entitled to a compensation on the basis of the right to family cash benefit, which represents a fundamental right in the social protection system.

The conditions for obtaining the right to family cash benefit and the rate of the benefit are determined by the Law on Social and Child Welfare.

Right to family cash benefit can be obtained by family, or a family member if he/she is incapacitated for work (a child until the age of 18, and if the child is attending regular secondary school education, until the deadline prescribed for the education; a child aged from 15 to 18, who is not attending regular education, if he/she is registered with the Employment Office of Montenegro (hereinafter the Employment Office); a person with a determined incapacity for work, in accordance with the law; a person over 65 years of age), or a person 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.

The monthly rate of the benefit for a family without any income amounts: for a single-member family €60.50; for a family with two members €72.60; for a family with three members €87.15; for a family with four members €102.5; for a family with five and more members €114.95. The amount of the cash benefit payable to a family that gained income is determined at an amount equal to the difference between the amount granted to a family without any income and the average monthly income of the family in the previous quarter.

The benefit is granted while the family, or a family member meets the prescribed conditions for obtaining the right. The beneficiary is obliged to report any change that affects entitlement to the right and its amount. The fulfilling of the prescribed conditions for obtaining the right is assessed every three months by a competent body.

Cash benefit is not regarded as a taxable income, and is paid monthly.

The right to family cash benefit is provided to 12,754 families i.e. 39,334 members.

In addition to the right to family cash benefit, a family or a family member can be entitled to: child allowance, lump sum cash benefit, right to leisure and recreation for children, right to coverage of funeral expenses, right to social work services.

Right to child allowance can be acquired by: a child of a cash benefit recipient; a child with bodily, mental and sensory impairment, who can be trained for independent life and work; a child with bodily, mental and sensory impairment, who cannot be trained for independent life and work; a child without parental care. The first three children in the family are entitled to child allowance. Child allowance is also provided to children born after the birth of the second child as twins, triplets etc.

A child with bodily, mental and sensory impairment who can be trained for independent life and work; a child with bodily, mental and sensory impairment who cannot be trained for independent life and work, and a child without parental care is entitled to child allowance regardless of the number of children in the family.

Right to child allowance is obtained until the child is aged 18, or after 18 if the child is attending regular secondary school education, until the time limit prescribed for the education. A child aged from 15 to 18, who is not attending regular education, is entitled to this right if he/she is registered with the Employment Office of Montenegro.

A child meeting the conditions for child allowance on several grounds exercises that right on a more favourable basis. Child allowance is paid in a monthly payment to the parent, or the guardian or the person to whom the child is entrusted for care, education and training. Child allowance for a child without parental care who is placed in a social and child welfare institution is paid on behalf of the child to the authorised person in the institution and is used for the needs of the child.

The monthly rate of child allowance amounts: for a child who is a cash benefit recipient €18.15 ; a child with bodily, mental and sensory impairment, who can be trained for independent life and work €24.20; a child with bodily, mental and sensory impairment, who cannot be trained for independent life and work €30.25; a child without parental care €30.25.

The right to a lump sum cash benefit can be obtained by a family or an individual in the state of social need due to specific circumstances affecting their housing, financial and health conditions. The amount of the lump sum cash benefit is determined on the basis of social anamnesis of the family prepared by the Social Welfare Centre.

The right to leisure and recreation is obtained by a child of a cash benefit recipient and a child placed in an institution or in another family, for sport-recreation, cultural, entertainment and education activities, by referral to a child rest and recreation facility.

Entitlement to coverage of funeral costs in the event of death of a recipient: of a cash benefit, personal disability benefit, placement in a social and child welfare institution or placement in another family, is afforded to the person who took over the funeral expenses, unless obtaining that right on some other grounds. Social and child welfare institution which paid for the funeral expenses for the mentioned persons is entitled to a reimbursement from the person held liable for payment. Coverage of funeral costs is provided by the Social Welfare Centre. Coverage of funeral costs for a person with unknown residence, deceased in the territory of Montenegro, is provided by the Social Welfare Centre and is determined in the amount of the actual funeral expenses. The amount of funeral expenses is determined in the amount of €300.

With the aim of solving vital problems, a family, an individual or a social group can be entitled to social work services. Acquiring this right is free of charge.

k) long-term care;

Long-term care is ensured through application of the right to protection outside family and includes placement in a social and child welfare institution and placement in another family.

In accordance with the Law on Social and Child Welfare, placement in a social and child welfare institution is obtained through placement in an institution and providing compensation for accommodation expenses. Accommodation is provided as daily, temporary, occasional or permanent.

The right to placement in a social protection institution is provided to: a child without parental care and a child whose development is affected by family conditions until the completion of regular secondary education, and not later than six months upon the completion of education; children and youth with with bodily, mental and sensory impairment; a child with behavioural problems; a person with bodily, mental and sensory impairment, who cannot be provided protection in another way due to housing or health or social or family conditions; an adult disabled person and an elderly person who cannot be provided protection in another way due to housing or health or social or family conditions.

There are five social and child welfare institutions in Montenegro: Public Institution for Placement of Adult Disabled and Elderly Persons (300 beneficiaries), Public Institution for Placement of Children and Youth without Parental Care and Children whose Development is Affected by Family Conditions (170 beneficiaries), Public Institution for Placement of Children and Youth with Behavioural Problems (20 beneficiaries), Public Institution for Placement of Persons with Mental Impairment (mild, serious and severe) (130 beneficiaries) and Public Institution for Leisure and Recreation (visited by 3100 children during 2008-2009).

Right to placement in another family, apart from persons who are entitled to placement in a social and child welfare institution, is also provided to a pregnant woman and a single parent with a child under the age of three who needs placement due to social conditions. A person of legal age can be placed in a family whose member meets the conditions for a guardian, in accordance with the Family Law. The family where the person is placed is entitled to a special compensation. Placement in another family is provided to 290 persons.

The procedure for granting the right to placement in a social and child welfare institution and right to placement in another family is conducted at the Social Welfare Centre. The right of the beneficiary cannot cease before the centre provides conditions for his/her placement in another social and child welfare institution, placement in another family or other form of social and child welfare.

The cost of placement in a social and child welfare institution or placement in another family is borne by the beneficiary, the parent, or a relative held liable to provide for the beneficiary and other legal or natural person who had assumed the responsibility of paying the costs of placement. For persons who are not capable of bearing the expenses for placement, the funds are provided in the budget of Montenegro. A person who is placed in a social and child welfare institution, with the funds for placement provided in the budget of Montenegro, is entitled to allowance for personal needs amounting to 20% of the cash benefit rate set for a single-member family (€60.50).

Placement in a social and child welfare institution can also be obtained on the basis of a contract between the institution for placement of a beneficiary, provided that the beneficiary bears the placement costs. A person for whom placement cannot be provided in an appropriate institution in Montenegro can be provided placement outside Montenegro.

I) disability;

In the social protection system, in accordance with the Law on Social and Child Welfare, a person incapacitated for work is: a child under the age of 18, if the child is attending regular secondary school education until the end of the time limit prescribed for such education; a child from the age of 15 until the age of 18 who is not attending regular education, if such a child is registered with the Employment Office of Montenegro (hereinafter the Employment Office); a person who was found to be incapacitated for work; a person over 65 years of age. The mentioned persons are entitled to all rights within social and child welfare, as well as other persons who need such care, specifically the right to: family cash benefit; child allowance, placement in a social and child welfare institution; placement in another family; coverage of funeral expenses, lump sum cash benefit and right to social work services.

In addition to the mentioned rights, persons incapacitated for work are also entitled to: personal disability benefit; assistance and care of another person; assistance for upbringing and education of children and youth with special needs; compensation of salary for part-time work; right to discount for travelling in road and rail transport; right of a blind person accompanied by a guide dog and disabled person in wheelchair with an assistance dog for mobility.

A person who became incapacitated for independent life and work before reaching the age of 18 is entitled to personal disability benefit. Right to personal disability benefit is a cash benefit intended for persons with severe disability.

Entitlement to care and assistance of another person belongs to: a recipient of a family cash benefit who is, due to permanent health impairment or old age, in need of permanent care and assistance of another person for meeting basic everyday needs; a recipient of personal disability benefit; a person with a severe physical, mental and sensory impairment in need of permanent

care and assistance for meeting basic everyday needs. A person may acquire care and assistance of another person provided that he/she has not acquired such benefit on any other basis.

Entitlement to care and assistance of another person is a cash benefit with the aim to provide payment of the service necessary for performing basic everyday activities that the person is not capable of without assistance of another person.

Incapacity for independent life and work before the age of 18 and need for constant care and assistance of another person are determined by a competent social-medical commission, in accordance with the Rulebook on medical indications for acquiring rights within social and child welfare (Official Gazette of the Republic of Montenegro 3/06).

There is no financial threshold regarding income and property for acquiring the right to personal disability benefit and the right to care and assistance of another person.

Right to assistance for upbringing and education of children and youth with special needs is afforded to children and youth entitled to upbringing and education of children and youth with special needs, in accordance with the Law on Upbringing and Education of Children and Youth with Special Needs (Official Gazette of the Republic of Montenegro 80/04).

Right to assistance for upbringing and education of children and youth with special needs includes: expenses for placement in an institution for upbringing and education or placement in another family and travel expenses. Children and youth who are entitled to upbringing and education of children and youth with special needs acquire placement in an institution for upbringing and education or placement in another family under the conditions and in the manner stipulated by the Law on Social and Child Welfare.

Children and youth who have acquired the right to upbringing and education of children and youth with special needs, referred to upbringing and education outside the place of residence, or temporary residence, are entitled to expenses for placement in an institution for upbringing and education or placement in another family for the duration of upbringing and education.

Children and youth who have obtained the right to upbringing and education of children and youth with special needs are provided with travel expenses for the duration of upbringing and education, and if they are placed in an institution for upbringing and education or another family they are also provided with travel expenses during winter and summer school holidays, if they travel to the place of residence, as well as for return to the place of education. Travel expenses are provided in the amount of the cost of public transport.

In accordance with the Law on Travel Discounts for Disabled Persons (Official Gazette of Montenegro 80/08), a disabled person – receiver of care and assistance of another person, children and youth who acquired the right to assistance for upbringing and education of children and youth with special needs, in accordance with the regulation in the field of social and child welfare and a receiver of care and assistance of another person who acquired that right in accordance with the regulation in the field of pension and disability insurance, is entitled to travel discount in road and rail transport in the territory of Montenegro. Right to travel discount is also provided to the companion of the disabled person (a parent, a guardian or a person authorised by the disabled person). Right to travel discount is also provided to the companion in the case when he/she travels to bring the disabled person back or returns after accompanying the disabled person.

A disabled person and his/her companion have the right to discount for twelve trips in road and rail transport during one calendar year. A disabled person who is employed is also entitled to travel discount from the place of residence to the place of work, as well as to return to the place of residence.

A companion of children and youth who acquired the right to upbringing and education of children and youth with special needs is entitled to travel discount for the duration of upbringing and education, from the place of residence to the place of upbringing and education, and if children and youth are placed in an institution for upbringing and education or in another family the companion is entitled to travel discount during winter and summer school holidays, if travelling to the place of residence, as well as for the return to the place of education. The receiver of the travel discount is

entitled to a cash compensation in the amount of the travel ticket. A disabled person and his/her companion, when using a car, are provided with a cash compensation in the amount of the travel ticket and road toll.

In accordance with the Law on Movement of a Blind Person Accompanied by a Guide Dog (Official Gazette of Montenegro 18/08), a blind person accompanied by a guide dog and a disabled person in wheelchair with an assistance dog, who is trained for movement with a guide dog, or an assistance dog, is entitled to use means of transport in public transport and to free access to public places, such as: official premises, health institutions, hotels, restaurants, banks, post offices, theatres, sport facilities, markets, shops, schools, universities etc. Right to use means of transport in public transport and right to free access to public places are also provided to a blind person with a guide dog and a disabled person in wheelchair with an assistance dog - a foreign citizen, who can prove with appropriate documents that he/she is a blind person entitled to use a guide dog, or a disabled person in wheelchair entitled to use an assistance dog and an instructor.

In accordance with the Labour Law (Official Gazette of Montenegro 49/08), upon expiry of maternity leave, one of the employed parents is entitled to work part-time until the child reaches the age of three, if the child needs additional care. The right is also provided to an employed adoptive parent of the child or a person who has been entrusted with the child for custody and care by a competent authority. Part-time work is considered as full-time work for acquiring the labour-based and labour-originated rights.

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. Part-time work is considered as full-time work for acquiring the labour-based and labour-originated rights. .

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 cannot exercise the right while the disabled person is placed in a social and health care institution.

Medical indications for acquiring the right to work part-time are determined by the Rulebook on medical indications for acquiring rights within social and child welfare (Official Gazette of the Republic of Montenegro 3/06).

An employed parent, an adoptive parent or a person who is entrusted with a child for custody and care by a competent custodian body, a person who is entrusted with a child with developmental disability for custody and care by a competent custodian authority, or a person providing care to a person with a severe disability, acquires the right to compensation of salary during the absence from work for a part-time work with the employer. The employer can acquire a refund on the basis of payment of a compensation of salary for a part-time work, with the Social Welfare Centre.

A person performing an entrepreneurial activity as a sole employee acquires the right to compensation of salary for the period of absence from part-time work with the Social Welfare Centre in the amount of 50% of the base for which taxes and contributions were paid.

m) housing.

The Law on Social and Child Welfare does not stipulate the right to provision for the housing needs of persons in the state of social need.

The Law on Local Government – Article 16 item 25, stipulates the jurisdiction of the municipality for solving housing issues for social needs. Certain municipalities regularly, on an annual basis, based on their acts, resolve housing issues of socially vulnerable persons.

The Ministry of Labour and Social Welfare has co-financed construction of apartments for recipients of family cash benefit in cooperation with the local governments. 12 residential units were constructed in Tivat, 42 residential units are nearly finished in Kolašin, and construction of 12 residential units is in progress in Petnjica, Berane.

The Ministry has prepared the Law on Housing and Maintenance of Residential Buildings, currently in the process of adoption by the Government, which will also cover social housing. Namely, in the Proposal for the Law, the field of social housing represents a form of social assistance provided by the state and local governments to households with low and medium incomes, and is reflected in approval of long-term loans, fostering of various forms of acquiring apartments for social housing for ownership or lease, as well as fostering of partnership between private and public sector in the field of social housing.

Also, the Government of Montenegro, the Trade Union of Montenegro and the Employers' Union have founded the Montenegrin Fund for Solidarity Housing Construction, which has so far provided a larger number of residential units in cooperation with local government units; this solves the housing problem of citizens under much more favourable terms than the market ones and represents one form of solving social issues in the field of housing.

This Ministry is also preparing the Law on Housing Cooperatives, which is harmonized with the Regulation of European Commission No 1435/2003 (Council Regulation No 1435/2003 of 22 July on the Statute for a European Cooperative Society – SCE) and Recommendations on Promoting Cooperatives of International Labour Conference No 193 of 3 June 2002, and whose entering into force will also significantly contribute to solving housing problems of citizens.

138. How are the various benefits and allowances delivered to the beneficiaries? How is the accessibility and efficiency of the system ensured?

Cash benefits on the basis of acquired rights within social and child welfare are paid through Montenegrin Post to the address of the beneficiary, or the beneficiaries collect the benefit at commercial banks. The Ministry of Labour and Social Welfare secures a provider of these services in accordance with the Law on Public Procurements (Official Gazette of the Republic of Montenegro 46/06) and on the basis of a contract. Efficiency of the system is reflected in regular payment of cash benefits (payment is provided from the 15th to 20th in the month for the previous month).

The Pension and Disability Insurance Fund performs distribution of pension allowances through commercial banks by cashless payment of pensions and through Montenegrin Post delivering the pension allowances to the address of the beneficiary. To this end, contracts on business cooperation i.e. contracts on payment of pensions and benefits to beneficiaries in the territory of Montenegro were concluded with commercial banks and Montenegrin Post, defining the business cooperation in payment of pensions and other benefits.

Pension administration reform was also completed, creating a modern organisation of the Fund, for efficient exercise of rights within pension and disability insurance and compability with other systems. Within Pension and Disability Insurance Fund, certain inefficient operational functions were terminated, new contemporary operational processes established (internal audit, public relation, personnel service, financial management), a new integrated information system and latest generation of IT technology implemented. Four strategic documents were adopted by the Government of Montenegro and Fund management bodies:

- Strategy for the Pension and Disability Insurance Reform in Montenegro
- Act on Internal Organisation and Systematisation of Work Positions
- IT Strategy Project of the PDI Fund.
- Financial Plan for Sustainability of Pension System in Montenegro for the Period 2005 – 2008.

All phases in the reform of the pension administration implied a complete normative standardisation and strive to automatization of operational processes and in that way creating conditions for transforming PDI Fund into a contemporary and efficient organisation focused on providing more quality services to clients. The basic aims achieved in the previous period of reforming pension administration resulted in:

- increased level of publicity and transparency of the PDI Fund functioning;
- harmonisation of legal regulations with EU standards;
- change in cultural approach – relation client – Fund;
- reduced administrative expenditures of the PDI Fund;
- creation of better functional-technical conditions for performing operational processes;
- continuous education of the Fund personnel;
- standardisation and unification of data sharing process between the PDI Fund, Tax Administration and other competent institutions;
- modernisation of the information technology system of the PDI Fund.

For the purpose of implementation of regulations, Pension and Disability Insurance Fund has prepared a brochure Guide for acquiring rights within pension and disability insurance, which was issued free of charge as a supplement with all Montenegrin daily newspapers. The Guide was also available to citizens free of charge in all organisational units of the Fund in Montenegro, and can also be found on the Fund website. Boxes for remarks, suggestions and potential complaints of the insured and beneficiaries have been deployed in all organisational units of the Fund. Pension Bulletin, containing all relevant information from this field, is regularly published in the daily newspaper "Pobjeda", weekly or every fifteen days, as needed.

The authorities competent for the implementation of regulations within pension and disability insurance are organised in such manner that they are available to public.

Cash unemployment benefit is delivered to beneficiaries by post. Accessibility to the system of acquiring rights to cash benefit is regulated according to the territorial principle.

139. Who is in charge of collecting and processing social data? Are there any specialised social research institutes?

Collecting and processing of data in the field of social and child welfare falls under the competences of Social Welfare Centers and institutions for placement of beneficiaries. Social Welfare Centers are the competent bodies for conducting procedures for acquiring rights within social and child welfare, and they are therefore also competent for keeping records on beneficiaries in accordance with the Law on Social and Child Welfare and secondary legislation regulating this issue. Also, institutions for placement keep records on their beneficiaries. Processing of rights to family cash benefit (monthly social assistance) and right to child allowance in Social Welfare Centers is performed systematically, through automatic data processing, by entry into the legally prescribed forms.

In the system of automatic data processing, records on data entered by Social Welfare Centers for the right to family cash benefit and child allowance are located in the Ministry of Labour and Social Welfare. Although the Law on Social and Child Welfare stipulates the establishment of a centre for counseling, research and professional services in the field of social and child welfare, at the moment there is no specialized institute for social research.

According to the Law on Pension and Disability Insurance, data on the insured persons, contribution payers and beneficiaries of rights from pension and disability insurance is kept by the PDI Fund in its central register. For the employed in the public administration body competent for the affairs of police and the National Safety Agency, those bodies maintain the central register in the manner determined by this law.

Law on Registers in the Field of Labour and Employment (Official Gazette of the Republic of Montenegro 69/03) stipulates the types, the content and the method of keeping records in the field of labour and employment, as well as the method of collecting, processing, using and protection of data from these records.

The Employment Office, according to the provisions in the mentioned law, keeps records on unemployed persons, on vacancies, citizens of Montenegro employed abroad through the Office or otherwise, and on the employed and unemployed foreigners in Montenegro.

Keeping records in the field of labour provides data for the system of statistical research, a unified information system in the field of employment and social insurance.

Records determined by the mentioned law and regulations in the field of labour and employment are kept according to prescribed uniform methodological principle. Data entry is conducted according to a uniform code system.

Collecting and processing of data is conducted in accordance with the adopted statistical standards, methods and procedures for collecting, processing, keeping, protection and publishing statistical data.

Monthly and annual reports with data from the records are submitted to the competent state body performing and publishing data.

Law on Data Collections in the Field of Health (Official Gazette of Montenegro 80/08) regulates types, content and method of keeping data collections in the field of health as elements of unified health statistics, as well as the method of collecting, processing, using, protection and safeguarding data from collections.

Data collections in the field of health are sets of data with precise definitions that serve for: monitoring and studying of the health condition of the population; planning and programming health protection; conducting statistical and scientific researches; meeting obligations of all entities in the field of health and assistance for state bodies in conducting health policy.

C. Pensions

Evaluation of the current system

140. What is the public-private mix in your country? What role do mandatory, occupational and individual pension schemes play for income security in old age (different pillars of the systems)? Is there a universal system for the whole population? Are there any statistics on the composition of income in old age (social transfers, family support, labour income, additional private income)?

Pension and disability insurance in Montenegro functions as a multi-pillar system and includes the following:

- mandatory pension and disability insurance on the basis of current financing (Pillar I),
- mandatory pension insurance on the basis of individual capitalised savings (Pillar II) and
- voluntary pension insurance on the basis of individual capitalised savings (Pillar III).

The Law on Pension and Disability Insurance regulates the mandatory pension and disability insurance on the basis of current financing. This labour-based insurance, depending on the investment period and the amount of the base to which pension and disability insurance contribution is paid, with the principles of reciprocity and solidarity applied, secures the rights in the event of old age, disability and bodily injury, and the right of family members in the event of death of the insured person i.e. beneficiary of the right. 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), which is in line with the Convention 102 of the International Labour Organisation on minimum social security standards. The funds for pension and disability insurance on the basis of current financing are provided from the contributions paid by the insured persons and employers. In special cases and under the conditions stipulated by law, the funds for pension and disability insurance are provided by the state i.e. other payers.

The Government decided that introduction of Pillar III, or voluntary pension funds, should precede the introduction of mandatory capitalised savings i.e. Pillar II. As of 2006, Montenegro has legislation in force that enables establishment and development of supplementary private pension insurance systems within voluntary pension insurance on the basis of individual capitalised savings (Pillar III of the pension system). Namely, the Law on Voluntary Pension Funds was adopted by the Parliament in December 2006 and published in the Official Gazette of the Republic of Montenegro 78/06 and 14/07. Based on this law, which entered into force on 31 December 2006, the Securities Commission issued all secondary legislation necessary for establishment and operation of voluntary pension funds. With the secondary legislation entering into force, pension fund management companies were able to initiate the procedure for obtaining the license for operation, followed by the procedure to establish the voluntary pension fund.

In accordance with the Law on Voluntary Pension Funds (Official Gazette of the Republic of Montenegro 78/06 and 14/07) three voluntary pension fund management companies have been founded and obtained work permits: ATLAS PENZIJA a.d. Podgorica and MARKET INVEST a.d. Bijelo Polje and NLB PENZIJA a.d. Podgorica.

ATLAS PENZIJA a.d. has founded a voluntary pension fund PENZIJA PLUS, while MARKET INVEST a.d. founded an open voluntary pension fund MARKET PENZIJA a.d. Voluntary pension fund management company NLB PENZIJA a.d. has obtained a work permit for managing a voluntary pension fund, but has not proceeded with founding a voluntary pension fund. A management company is obliged to start collecting contributions within 12 months from the date of acquiring the work permit; on the contrary their work permit is suspended.

Since voluntary pension fund management companies have just started collecting contributions from the participants in Montenegro, it is not possible to estimate their share in income security in old age.

Voluntary pension fund PENZIJA PLUS had 348 members on 14 August 2009, and net property value of this pension fund was €21 636.31.

MARKET PENZIJA had 29 participants on 13 August 2009, and net property value of €3 803.87.

Establishment of voluntary pension funds provided the citizens the opportunity of additional savings for old age i.e. free choice of membership and payment of contributions to the voluntary pension fund. Citizens thus decide, on a voluntary basis, on the manner and dynamics of investing a share of available funds for the purpose of accumulating and investing them in order to secure additional income in old age. The purpose of the pension fund is to invest the funds in accordance with law, in national and/or international market and obtain certain income from that. Supplementary pension will, therefore, represent the sum of funds that the citizen paid into the voluntary pension fund and the return on the fund's investments.

The Law on Pension and Disability Insurance provides the legislative basis for the introduction of mandatory pension insurance on the basis of individual capitalised savings (Pillar II), which will be regulated by a separate law.

Therefore, mandatory pension and disability insurance covers all those who meet the conditions prescribed by the law who have taken up employment, engaged in individual business activity or agriculture, whereas membership in private pension funds is voluntary.

All funds paid to the beneficiaries on the basis of the law are recorded by the state authorities in charge of payment i.e. the procedure for the recognition of the right to entitlement.

141. Describe the level and structure of benefits: the replacement rate, the pension distribution, adjustment and indexing of pensions and the issue of poverty among pensioners. Do you think that the pension system is adequate with regard to income security in old age, the intergenerational distribution and the reduction of poverty in old age?

Law on Pension and Disability Insurance stipulates the rights within pension and disability insurance on the basis of current financing , specifically:

- in the event of old age, right to old age pension;
- in the event of disability, right to disability pension;
- in the event of death:
 - right to survivors' pension;
 - right to coverage of funeral expenses;
- in the event of bodily injury caused by occupational injury or occupational disease, right to compensation for bodily injury.

These rights are acquired under the same conditions for all three types of insured persons (employed insured persons, self-employed insured persons, and insured farmers) with the exception that the law stipulates that certain categories of insured persons are entitled to old age and disability pension under special, more favorable, conditions.

Categories of insured persons that are not entitled to old age pension under more favourable conditions are: authorised public servants pursuant to the regulation on performing internal and police affairs, authorised public servants of the National Security Agency, professional military personnel serving in the Armed Forces of Montenegro, employees of the bodies and organisations that, pursuant to the defence regulation, work in the positions where the insurance record is calculated at an accelerated rate, authorised professionals pursuant to the regulation on enforcement of criminal sanctions.

Law on Wages and Other Incomes of State and Public Officials (Official Gazette of Montenegro 33/08) stipulates the special, more favourable, conditions under which state officials can acquire rights within pension and disability insurance.

The following is the overview of the number of pension beneficiaries and average pension rate depending on the type of pension for the period 1999-2009, paid in Montenegro.

19 Social policy and employment

PENSION BENEFICIARIES AND AVERAGE PENSION RATE IN MONTENEGRO								
Year	Old age		Disability		Survivors'		Total	
	Number of beneficiaries	Average pension	Number of beneficiaries	Average pension	Number of beneficiaries	Average pension	Number of beneficiaries	Average pension
0	1	2	3	4	5	6	7	8
Dec. 1999	31 142	3743.52 DIN	27 102	2670.08 DIN	23 223	2442,74 DIN	81 467	3015.61 DIN
Dec. 2000	32 110	231.94 DM	27 029	166.52 DM	23 754	152,44 DM	82 893	187.83 DM
Dec. 2001	33 284	242.25 DM	26 790	174.83 DM	24 160	159,79 DM	84 234	197.15 DM
Dec. 2002	35 100	136.84 €	26 451	99.41 €	24 561	90.79 €	86 112	112.21 €
Dec. 2003	37 507	147.32 €	26 149	107.28 €	24 995	97.76 €	88 651	121.53 €
Dec. 2004	39 245	150.69 €	25 591	109.49 €	25 084	99.50 €	89 920	124.68 €
Dec. 2005	40 671	155.36 €	25 057	113.49 €	25 645	102.84 €	91 373	129.14 €
Dec. 2006	40 962	170.87 €	24 962	127.06 €	25 962	113.58 €	91 886	142.78 €
Dec. 2007	42 757	222.03 €	25 144	165.64 €	27 194	148.53 €	95 095	186.10 €
Dec. 2008	43 369	284.27 €	24 565	213.07 €	27 566	190.29 €	95 500	238.83 €
July 2009	43 636	305.57 €	24 370	228.81 €	27 768	204.26 €	95 774	256.67 €

The table presented shows that the implemented reform measures influenced a more favourable structure of pensioners in the observed period, first of all the drop in the number of disability pensioners, which is also a result of new definition of disability which is now determined in the concept of general disability as well as the introduction of regular audit of disability pensions. Of 95,774 beneficiaries of pensions paid in Montenegro in July 2009, 45.56% were old age pensions, with an average rate of €305.57.

The following table shows the number and the average benefit rate for other beneficiaries within pension and disability insurance.

RECEIVERS OF OTHER RIGHTS ACCORDING TO THE LAW ON PENSION INSURANCE until July 2009		
Types of rights	Number of beneficiaries	Average benefit rate
Care and assistance of another person	1548	184.73
Compensation for bodily injury	6822	47.35
Compensation to unemployed disabled persons in 2 nd or 3 rd category	1525	175.48
TOTAL	9895	135.85

As we can see from the previous tables, old-age pensions are on average higher than disability and survivors' pensions, because they are acquired at an older age and with more years of pensionable service than other types of pensions. The accrued age of old-age beneficiary who acquired their pension during 2008 is 60.6, while disability pension beneficiaries acquired pension

at the average age of 53. The average number of years of pensionable service of the beneficiaries who acquired old-age pension is 33 years, and average number of years of pensionable service of disability pension beneficiaries is 23 years.

AVERAGE YEARS OF PENSIONABLE SERVICE OF THE PENSION BENEFICIARY			
TYPE OF PENSION	TOTAL (YYMMDD)	MEN (YYMMDD)	WOMEN (YYMMDD)
Old age	33|00|17	34|07|11	30|06|16
Disability	23|09|28	25|03|05	20|10|17
Survivors'	23|06|07	24|01|24	19|00|08
Total	28|05|13	29|07|13	26|03|14

In July 2009, there were 6050 beneficiaries who acquired their pension under more favourable conditions compared to the conditions stipulated by general regulations on pension insurance; the number of such beneficiaries and the average amounts of their pensions are presented in the next table.

PENSION BENEFICIARIES OBTAINING THE RIGHT TO PENSION UNDER MORE FAVOURABLE CONDITIONS UNTIL JULY 2009			
Number	Pension beneficiaries	Number of beneficiaries	Average pension
1	Military pensioners	2929	405.85
2	Retired Ministry of Interior personnel	3050	384.48
3	Retired officials	71	1039.94
	TOTAL	6050	402.52

Indexation

Indexation of pensions and other rights arising from the pension and disability insurance, from January 2004, when the application of the Law on Pension and Disability Insurance in Montenegro started, is conducted twice a year, from 1 January and 1 July of the current year, on the basis of statistical data, **with the development of costs of living and average salary** of the employed in the territory of the state in the previous half-year compared to the half-year prior to that one, **in the percentage** representing the **sum of the half of percentage of growth or decrease in the cost of living, and the half of percentage of growth or decrease in wages.**

Such indexation method represents one of the reform measures stipulated by the Law on Pension and Disability Insurance, with the aim of contributing to improvement of financial sustainability of the pension system. Through application of this method, a more realistic link between the increase in pensions and economic capacity of the country for their increase is established. When the wages increase realistically i.e. when the nominal growth in wages exceeds the growth of the cost of living the pensions will also increase realistically. Therefore, with the improvement of the standard of the employed, the standard of pensioners will also improve.

On the basis of the present legal provisions, pension indexation is conducted twice a year, from 1 January and 1 July of the current year; an overview of all indexations conducted from December 2003 until July 2009 is presented in the next table:

Table – Current pension value, amount of the lowest pension and percentage of indexation

Indexation date	Pension value for one personal point	Lowest pension	% indexation percentage	% growth percentage		GROWTH INDEXES		
				Salary	Cost of living	Wage	Cost of living	Pension
0	1	2	3	4	5	6	7	8
01/01/2004	2.97	45.00	....	....	.....	100.00	100.00	100.00
01/07/2004	3.01	45.67	1.49	1.38	1.60	101.38	101.60	101.49
01/01/2005	3.11	47.15	3.25	7.09	-0.60	108.57	100.99	104.79
01/07/2005	3.12	47.29	0.30	-1.81	2.40	106.60	103.41	105.10
01/01/2006	3.32	50.30	6.36	12.12	0.60	119.52	104.03	111.79
01/07/2006	3.45	52.33	4.03	5.45	2.60	126.04	106.74	116.29
01/01/2007	3.59	54.39	3.93	7.05	0.80	134.92	107.59	120.86
01/07/2007	4.02	60.86	11.89	22.08	1.70	164.71	109.42	135.23
01/12/2007*	4.42	66.95	10.00	.....	.....	.....	.....	148.76
01/01/2008	4.73	71.60	6.95	9.10	4.80	179.70	114.67	159.10
01/07/2008	5.17	78.26	9.30	13.90	4.70	204.68	120.06	173.89
01/12/2008 *	5.69	86.09	10.00	...	.....	....	.....	191.28
01/01/2009	5.97	90.31	4.90	6.40	3.40	217.78	124.15	200.65
01/07/2009	6.12	92.52	2.45	3.20	1.70	224.75	126.26	205.57

* Extraordinary pension indexation for December 2007 and December 2008 by 10% respectively according to the Law on Indemnity for Beneficiaries within Pension and Disability Insurance.

Since the application of the mentioned method of pension indexation started on 1 January 2004, pensions have increased, i.e. cumulatively indexed by 82.25% including also the indexation conducted in December 2003 by 7.40% and extraordinary indexations in accordance with the Government conclusion by 10%. If we have in mind that the average salary without taxes and contributions was €237.00 in January 2004, and in July 2009 €457.00, we can conclude that the average salary for the same period increased by 92.82%.

This indexation enables that, in conditions of real salary growth, i.e. in conditions when nominal salary growth exceeds inflation, pensions mark real growth, i.e. pensioners participate in the growth of the standard of the employed. On the other side, if inflation exceeds nominal salary growth, the decrease in real pension value would be lower than the decrease in real salary value, i.e. in this way pensioners are more protected in the conditions of the decline of the standard of living.

Therefore, this formula for pension indexation was chosen because the application of only one or the other method, costs of living or wages, would potentially result in an unjust position of different generations. For example, if salary growth is significant, and the increase in costs of living lower, and pensions are indexed by wages, pensions will grow by the same rate as wages, while the costs of living for pensioners would stay the same. This leads to an unjust intergenerational transfer from the young i.e. the employed insured persons to the old, i.e. to pensioners.

The following is an overview of the average pension development from 2003, as well as the replacement rate i.e. the ratio between the average pension and the average salary in the country, for the pension for July paid on 20 August 2009.

DATA ON THE AVERAGE PENSION GROWTH BY YEARS							
	2003	2004	2005	2006	2007	2008	July 2009
Average pension rate	121.53 €	124.68 €	129.14 €	142.78 €	186.10 €	238.83 €	256.67 €
	-	2004/2003	2005/2004	2006/2005	2007/2006	2008/2007	2009/2008
Index	100	102.59	103.57	110.56	130.34	128.33	107.46

REPLACEMENT RATE BY TYPES OF PENSION FOR JULY 2009				
Type of pension	Number of pension beneficiaries (pension for July 2009)	Average pension (pension for July 2009) in €	Average salary without taxes and contributions for July 2009 in €	Replacement rate in %
Old age	43636	305.57	457.00	66.86
Disability	24370	228.81	457.00	50.06
Survivors'	27768	204.26	457.00	44.69
Total	95774	256.67	457.00	56.16

Poverty

Due to the fact that pension indexation is conducted with the lower percentage than the salary growth, it is inevitable that in some years the average pension decreases compared to the average salary. However, due to extraordinary indexations conducted on the basis of the special Law on Indemnity of Beneficiaries within Pension and Disability Insurance, total pension indexation for the period from January 2004 to July 2009 was conducted with the percentage of 82.25%. For the same period, the salary growth was 85.96% cumulatively, which influenced the ratio between the average pension and the average salary of 56.16% in July 2009.

Standard of living of pensioners, i.e. their incomes after retiring are affected not only by the method of pension indexation but also by other measures taken in the pension system reform. One of those measures is the method of pension calculation, i.e. the number of years included in the pension calculation. The Law on Pension and Disability Insurance from 1st January 2004 introduced the point system in Montenegro. The point system for pension calculating in combination with the increase of the number of years included in calculation from 10 years to total years of service, provides a direct connection of the salary rate of the insured, i.e. the rate of paid contribution with the resulting pension. Compared to legal provisions that were in force until the end of 2003, the new formula establishes an equal treatment of the insured persons regardless of sex, so that each year of service is treated the same both for women and men.

Starting from 2019, when the transition period of the gradual application of the Law expires, personal coefficient will be calculated on the basis of annual personal coefficients acquired by the insured person during the whole insurance period, starting from 1 January 1970. In order to acquire gradual transition, i.e. not to have an abrupt change due to the transfer to the new calculation method, the value of one personal point is calculated so that, in the first year of the reform, the formula generates the same pensions for the same inputs.

The new method of pension calculation provides higher pension rates to the insured persons who work longer and who have higher wages and higher contributions paid. On the other side, in this

way the insured persons are stimulated to work longer and to keep their average wages as long as possible, which is significant not only for the standard of the future pensioner but also for the stability of the pension system. Since the formula for pension calculation provides that the beneficiary receives higher pension rate for longer service period, this stimulates the beneficiaries to work longer.

Unlike the legal provisions applied until December 2003, which included taking years of pensionable service of not more than 40 years for calculation of pension rate, now with the application of the new formula for pension calculation, there is no limit for the years of pensionable service in calculating personal points. This means that the overall years of pensionable service that the insured person accrued until the date of acquiring the right to pension will be taken for calculating the pension rate.

Apart from the economic principle that the rights within pension and disability insurance depend on the length and the volume of investing funds for pension and disability insurance based on the current financing, the principle of solidarity that reflects its social character is also being applied. The principle of solidarity in the system of pension and disability insurance means that the volume and the level of the right, in certain cases, cannot be in proportion with the invested funds, and as a measure of social policy pursued by the state. The right to **the lowest pension rate** is acquired by the insured person, or the person who acquires the right to pension (old age, disability or survivors') if his/her pension rate is lower than the rate stipulated as the lowest for that type of pension.

NUMBER OF LOWEST PENSION BENEFICIARIES ACCORDING TO OLD AND NEW REGULATIONS IN MONTENEGRO					
Type of pension	Number of pension beneficiaries (pension for July 2009)	Average pension (pension for July 2009) in €	Number of lowest pension beneficiaries according to new regulations €92.52 (pension for July 2009)	Number of lowest pension beneficiaries according to old regulations €143.96 (pension for July 2009)	Number of lowest pension beneficiaries €70.04 (pension for December 2003)
	43636	305.57	725	1746	2291
Old age	24370	228.81	303	4949	6390
Disability	27768	204.26	410	7403	9504
Survivors'	95774	256.67	1438	14098	18185

From the total number of pensioners paid by the PDI Fund before the reform, there were slightly more than 25 000 beneficiaries of the lowest pension, which means that almost every third pensioner received pension in a higher rate than the pension that belonged to him/her on the basis of the accrued pension service and the salary to which the contribution was paid for the pension and disability insurance. Such a large share of lowest pensions in fact serves to confirm the wide application of the principle of solidarity in the pension system of Montenegro, before the reform.

The Law on Pension and Disability Insurance, as a measure of social policy pursued by the state, through the principle of solidarity, also stipulated the lowest pension. In order to protect the ones who worked shorter or had a minimum wage, when the application of the Law started on 1 January 2004, the lowest stipulated pension was EUR 45. The Law stipulated that the lowest pension rate is indexed from 1 January and 1 July in the manner of indexing the pension value for one personal point which provides the preservation of their value (with development of costs of living and the average salary of the employed in percentage that represents the sum of the half of percentage of growth or decrease in the cost of living, and the half of percentage of growth or decrease in wages). As the prescription of the lowest pension represents a measure of social policy pursued by the state, resources for the Fund are provided from the state budget in the amount of the difference between the pension rate that belongs to an insured person and the lowest pension rate that he/she receives.

Compared to the regulations applied until 31 December 2003, the practice of the lowest pension is set in the new law in a significantly more restrictive way so that the lowest pension rate received from 1 January 2004 is significantly lower than the rate received previously (the overview of the indexation of the lowest pension is presented in the Table – Current pension value, lowest pension rate and indexation percentage).

NUMBER OF LOWEST PENSION BENEFICIARIES ACCORDING TO OLD REGULATIONS (pension for July 2009)						
TYPE OF PENSION	T1- €235.60 (40-35 years of service)	T2- €209.43 (35-30 years of service)	T3- €183.26 (30-25 years of service)	T4- €157.06 (25-20 years of service)	T5-€ 143.96 (under 20 years of service)	Total
Old age	2746	1110	1265	1835	1746	8702
Disability	272	442	955	1178	4949	7796
Survivors'	443	172	27	24	7403	8069
Total	3461	1724	2247	3037	14098	24567

NUMBER OF BENEFICIARIES RECEIVING PENSION IN THE RANGE FROM THE LOWEST TO THE HIGHEST AVERAGE PENSION			
Type of pension	Number of beneficiaries with pension rate €92.52 (pension for July 2009)	Number of beneficiaries with pension from €92.52 to €256.67 (pension for July 2009)	Number of beneficiaries with pension from €70.04 to €121.59 (pension for December 2003)
Old age	725	18589	11677
Disability	303	16974	11458
Survivors'	410	22201	8775
Total	1438	57764	31910

Since the lowest pension represents a special form of social protection implemented through the system of pension and disability insurance with the aim of guaranteeing the necessary level of financial and social security of pensioners, the conclusion is that the pension system in Montenegro has emphasized redistributive social elements that mitigate the problem of poverty among the elderly population.

In december 2008, amendments to the Law were introduced that created a legal possibility for pensioners to be able to find employment or perform independent activity, without suspension of pension payment, which will influence the improvement of financial position of pensioners as a part of elderly population with capacity for work.

Regarding the income security in old age, it is necessary to point out that pensions are a secure income and a regular income and that their payment is guaranteed by the state. The Fund is also provided the difference between the funds collected on the basis of contributions and the lacking funds for pension payment from the state budget.

142. Describe current problems of financing the pension system in your country.

As in most other countries, the system of pension and disability insurance in Montenegro is based on the current financing, meaning that all who work and earn income allocate, according to the principle of obligatoriness, through contributions for pension and disability insurance, funds for

financing pensions of the present beneficiaries. In that way present contribution payers acquire the right to have their pensions financed from the funds which the future contributors will allocate.

Pension and disability insurance based on the current financing (Pillar I) is financed from: contributions, the state budget and other sources, in accordance with the law. Fund obligations for the provision of the rights within pension and disability insurance are guaranteed by the state.

Contributions for the pension and disability insurance are:

- contributions of the insured persons;
- contributions of employers;
- additional contributions for insurance record calculated at an accelerated rate;
- contributions of other contribution payers determined by this law;
- contributions i.e. funds in the case of occupational injury and occupational disease.

The funds for payment of pensions that are acquired under more favorable conditions as well as the difference between the funds collected on the basis of contributions and the lacking funds for the payment of pensions are provided from the state budget.

Total revenues and expenditures of the PDI Fund in mil € and their share in GDP

TOTAL REVENUES AND EXPENDITURES OF PDI FUND IN MIL € AND THEIR SHARE IN GDP								
Year	GDP	Total revenues from the pension system	Total expenditures from the pension system	Revenues from contributions for PDI (source revenues)	Transfer rate (in mil. euro)	% of total revenues share in GDP	% of total expenditures share in GDP	% of transfer share in total revenues of the Fund
1999	n/a	55.20	60.66	31.55	18.90	n/a	n/a	n/a
2000	1,065.69	121.96	121.91	76.97	38.45	11.44	11.44	31.53
2001	1,295.11	141.25	132.96	73.68	56.15	10.91	10.27	39.75
2002	1,360.35	155.76	152.35	93.11	46.76	11.45	11.20	30.02
2003	1,510.13	166.35	161.43	105.85	38.61	11.02	10.69	23.21
2004	1,669.78	165.84	168.48	115.98	37.72	9.93	10.09	22.74
2005	1,814.99	185.31	180.86	118.33	44.14	10.21	9.96	23.82
2006	2,148.99	205.65	196.59	139.29	54.33	9.57	9.15	26.42
2007	2,540.00	250.33	235.48	173.88	61.16	9.86	9.27	24.43
2008	3,338.00 ¹⁷	288.55	287.97	214.63	68.39	8.64	8.63	23.70

Total expenditures of the Fund (pension and disability insurance based on the current financing – Pillar I) in 2008 amounted to 287.97 million euros i.e. 8.63% of GDP, while revenues from contributions amounted to 214.63 million euros or 74.38% of total revenues of the Fund.

Pension system with current financing (generational solidarity) applied in Montenegro for almost half a century, is a result of high social awareness of the society, but it is insufficient for the future generations of pensioners, because it provides only the basic level of social security. Key determinants in functioning of such pension system are demographic trends and the level of economic growth. On the other side, this system which was created on an adequate ratio between the number of the employed and the number of pensioners has proved to be inefficient and

¹⁷ Estimation of the Ministry of Finance.

financially unsustainable, because it relies only on the current payments from the contributions of the insured persons.

The social and economic situation in which the system of current financing was applied was very favourable and provided its efficient functioning as long as the ratio between the number of the employed – those who generate revenue and pay the contributions – and the number of beneficiaries was favourable, GDP growth was relatively high even when demographic trends were favourable. However, in the late 1980s, the social and economic environment for this pension system changed completely, which affected its functioning i.e. financing the right from this system. The revenues provided by the system of current financing were not sufficient, despite the high contribution rate, to cover the accrued expenditures for about 90,000 pensioners. The system of generational solidarity obtains the basis for its functioning and sustainability precisely from the ratio between the number of the employed and the pensioners i.e. the number of contribution payers and those whose incomes are financed from these contributions. Disturbance of the main indicators of the system of pension and disability insurance (the number of the employed, the number of pensioners) is the cause of the difficulties and the constant disbalance regarding the collection of source revenues on the basis of contributions and the need for functioning of the pension system. For these reasons, the existing system of intergenerational solidarity, without radical reforms, could not provide financial sustainability of the pension system i.e. security for the insured persons after retiring.

The mentioned weaknesses of the system of generational solidarity (current financing) forced the state to start the reform of traditional approaches in this field in order to adjust to the new demographic situation and avoid potential larger disturbances of the system in the future.

To solve the identified problems and bring the pension system to the level of financial sustainability, based on the recommendation and in cooperation with the World Bank, the Government of Montenegro opted for a concept of the three-pillar pension system, as the most widely applied concept of pension reform in the world.

Adoption of the Law on Pension and Disability Insurance in September 2003 and its application from 1 January 2004 represented the first step towards financial sustainability of this system and completed the first phase of the pension reform. Gradual raising of the age limit, changed pension formula, increase in the number of years included in the pension calculation, application of the new method of pension indexation and other reform measures, produced the results which justified medium-term projections and a mild decrease in the pension expenditure share in GDP.

Along with these reform measures, the reform of the pension administration was also concluded. Within the Pension and Disability Insurance Fund, certain inefficient operational functions were suspended, new contemporary operational processes were established (internal audit, public relation, personnel service, financial management), a new integrated information system and IT technology of the latest generation were implemented.

The implemented activities influenced an increase in the number of the insured within the pension and disability insurance i.e. integration of a growing number of persons into legal economy and creation of a more favorable pensioner structure, primarily the reduction in the number of disability pensioners, which is also a result of the new definition of disability which is now determined according to the concept of general disability as well as the introduction of regular audit of disability pensions.

The mentioned changes as well as the implemented measures and activities, with the aim of more efficient collection of contributions for the pension and disability insurance, through intensive and quality cooperation with the bodies in charge of control and collection of public revenues, have significantly influenced the increase in revenues of the Fund and contributed to a larger share of revenues from contributions in the total revenues.

Therefore, the reform of Pillar I of the pension system in the short and medium term is showing positive results. However, negative demographic trends as well as ageing of the population will in the following period lead to a deteriorated relation between the pension system and the labour market in the long term, which means that it will influence closer approximation of the number of pensioners to the number of the employed. Further reform of the pension system is therefore

needed, which could be reflected in fostering and creation of a challenging work situation for older employed persons, in order to motivate them to work longer. Regardless of the positive effects of the reform measures implemented so far, high pension expenditures aggravate the financing i.e. the increase in the share of transfer from the budget in the total revenues of the Fund.

143. What are the economic incentives set by the pension system with regard to labour market participation, employment policies? Are there any other incentives (eg. support for employers hiring older workers)?

Pension reform is an integral part of the comprehensive system reforms and it is conducted with the aim of improving the fiscal and social sustainability of the pension system, and as such it has a positive influence on the labour market and the increase of employment, in several ways:

- The new method of pension calculation as one of the measures from the Law on Pension and Disability Insurance provides a higher pension rate to the insured persons who work longer and who have higher salaries and higher paid contributions. Introduction of the pension formula based on the point principle establishes a firmer relation between paid contributions i.e. the base to which contribution was paid and the pension rate. In this way the insured persons are encouraged to work longer and to keep the average salaries as long as possible, which is significant not only for the standard of the future pensioners but also for the stability of the pension system. Since the formula for pension calculation provides a higher pension rate for longer service, the beneficiaries are encouraged to work longer.
- Tightening of the conditions for obtaining the right to disability and survivors' pension, the change of the procedure for acquiring disability pension, stipulating the mandatory control examination (every three years) for beneficiaries who acquire the right to disability pension through application of the new law, as well as elimination and a restrictive approach to certain rights that by their nature do not belong to the system of the pension and disability insurance. In accordance with the new definition of the term of disability, apart from the option of total loss of capacity to work, the option of partial loss of capacity to work is also established. The insured person with a determined partial loss of capacity to work can be employed for $\frac{1}{4}$ of full working hours with the aim of providing longer stay of the insured persons in the work process i.e. in performance of activities.
- One of the important measures that was taken within the reform of Pillar I of the pension system is decrease in contribution rates. In the period of ten years before 2004, contribution rates had not changed, but in 2004 they were reduced to 22.80%. Pension reform implementation caused further decrease in contribution rates. Contributions for the pension and disability insurance in 2008 amounted to 21% of the gross salary (the employer pays 9% and the employed 12%), and contribution rate dropped to 20.5% since 2009 (the employed pays 12%, while the employer pays 8.5%). The tendency of lowering the rate will also continue in 2010, when it is planned to be reduced to 20%, also to the benefit of reducing the share of the contributions that will be paid by the employer (the employer will pay 8%, the employed 12%).

The effects of the decrease in contribution rates have significantly affected the improvement of the situation in the labour market and the positive changes in the pension system. The main consequence of this measure is the decrease of grey economy, because the employers tend to register more employees and pay the contributions at lower rates. With the aim of stimulating employment of hard-to-employ persons (work-disabled persons, older categories of unemployed persons, persons waiting for employment for a longer period and other hard-to-employ persons), the Decree on tax reliefs for employment of certain categories of unemployed persons (Official Gazette of Montenegro 29/2008) was adopted.

The sudden growth in the number of registered employed persons in Montenegro from the beginning of 2004 occurred due to the reduction of the tax burden for labour, primarily reflected by the lower contribution rate for the employer for the pension and disability insurance. That

stimulated the supply of labour in the Montenegrin labour market, increased the inflow of domestic and foreign investment, led to a segment of grey economy joining the formal channels, and thus increased the employment rate and reduced the unemployment rate, which presented an incentive for the long-term growth of wages and salaries. Also, a more favourable macroeconomic situation in Montenegro and the reduction of business barriers contributed to positive employment growth rates, which affected the inflow of foreign direct investments into infrastructure facilities, tourism and financial sector. As a result of this and other projects in the field of employment, there was a reduction of unemployment and increase in the number of registered employed persons in the country, along with an increase in the paid contributions for the pension-disability insurance.

It should be noted that the continuation of the reform activities, primarily the reform of the existing pension system, also influenced the employment growth and the lower number of registered unemployed persons. The previous pension system did not provide employers with incentives for new employment, while employees were motivated to use the generosity of such system and to take an early retirement. The new reform measures that stipulated reduction of tax burden for employers regarding the contribution rate for the pension-disability insurance, contributed to reduction of unemployment rate in Montenegro during the last several years.

Stipulating the lowest pension as a special form of social protection implemented through the system of the pension and disability insurance, with the aim of guaranteeing the necessary level of financial and social security of pensioners, the redistributive social elements are highlighted to the benefit of insured persons with lower salaries. The key factor in determining the pension are the years of pensionable service, which stimulates the insured persons to work longer and to keep their average incomes as long as possible.

Also, pensioners are enabled to take up employment or perform independent activity without suspension of the payment of their pension, with a possibility to ask for a new estimation of the pension after one year.

144. Are there certain groups excluded from the system (coverage)? Is there a possibility of 'opting out'? If so, are there any problems caused by the exclusion of certain groups? Do you consider the system as equitable with regard to gender equality and other groups of the population?

The Law on Pension and Disability Insurance stipulates the basis of insurance (employment, performing independent or agricultural activity) which means that all persons meeting conditions for employment or performing independent or agricultural activity can be insured within pension and disability insurance. Therefore, the law does not explicitly determine the population groups that are excluded from the insurance system, but acquiring the status of an insured person is conditioned by meeting certain conditions. If those conditions are met, the status of an insured person is acquired by virtue of law i.e. insurance is mandatory; with termination of prescribed conditions, mandatory insurance ceases.

Rights from the pension and disability insurance are acquired under the same conditions by all three categories of insured persons (employed insured persons, insured persons performing independent activities and insured farmers) except that the law stipulates that certain categories of insured persons acquire the right to old-age and disability pension under special, more favourable, conditions. The separate Law on State and Public Officials' Salaries and other Earnings (Official Gazette of Montenegro 33/08) stipulates the special, more favourable conditions under which state officials can acquire rights within the pension and disability insurance.

In the system of mandatory pension and disability insurance, equality is ensured for each individual regardless of sex or ethnic origin. An exception is the condition for acquiring the right to old-age pension for women, which is five years lower compared to insured men.

Equality in the system is ensured by:

- stipulating equal conditions for acquiring the status of an insured person;

- equal conditions for payment of contributions and equal contribution rates for all insured persons with the same status;
- method for determining pension that ensures equal pension for the same salary and years of pensionable service regardless of sex;
- equal method for indexing pensions, regardless of the sex of the beneficiary and the basis for insurance that preceded the acquiring of the right;
- equal method for payment of pensions both in Montenegro and abroad.

145. Does the public consider your system as transparent and administratively effective? Does the system meet general acceptance in the population?

Regarding the transparency and administrative effectiveness of the system, an affirmative answer can be given. When adopting the Law on Pension and Disability Insurance, a broad public discussion is conducted on the issues regulated by it, that all interested entities can participate in. Drafting of the reform Law on Pension and Disability Insurance took 17 months. The trade union, the employers' association and the pensioners' association were included in the drafting process. The draft was published in all daily media in Montenegro and all interested entities were invited to submit their remarks, opinions and suggestions that were considered in the adoption of the final text. Also, public discussions, television and radio programmes were organised, and pages specially devoted to the most significant legal provisions were periodically published in daily newspaper.

For the purpose of implementation of regulations, the Pension and Disability Insurance Fund prepared a brochure Guide for Acquiring Rights within Pension and Disability Insurance which was issued free of charge as a supplement to all Montenegrin daily newspapers. The Guide was also available to citizens free of charge in all organisational units of the Fund in Montenegro, and can also be found on the Fund website. Boxes for remarks, suggestions and potential complaints of the insured and beneficiaries were deployed in all organisational units of the Fund. Pension Bulletin, containing all relevant information from this field is regularly published in the daily newspaper "Pobjeda", weekly or every fifteen days, as needed.

Competent bodies for application of regulations from the pension and disability insurance are organised so that they are available to the public.

Regarding the administrative efficiency of the system, it is evidenced by the reports on the work of Pension and Disability Fund of Montenegro adopted by the Management Board composed of representatives of the insured persons from the trade Union, the employers' association, the pensioners' association and the representatives of the state. The Pension and Disability Fund of Montenegro reports on its work at least once a year to the Government.

Also, on the basis of the **Strategy of Media Campaign for the Pension Reform in Montenegro**, two researches were conducted prior to (2005) and after the campaign (2007), in order to make an overview and to check the results of the campaign, which primarily related to introduction of voluntary pension funds.

Research themes, among other, related to the confidence in the Pension and Disability Fund of Montenegro, the reform of the Fund – awareness and relation, confidence in the role of the Government of Montenegro in the reform of the pension system and willingness to invest into voluntary pension funds.

- **Confidence in the Pension and Disability Fund of Montenegro.** More than one half of the citizens of Montenegro show confidence in the state pension fund. This is particularly shared by women, respondents under 30 years of age and those with college and higher education.
- **Reform of the Fund – awareness and relation.** Awareness on the reform of the pension fund is relatively high – especially with men and those with higher education (who are also more interested in social-political themes). Observed by regions, highest awareness is present in the central part of Montenegro.

- **Confidence in the role of the Government of Montenegro in the reform of the pension system.** Confidence in the intentions of the Montenegrin Government to increase the amount of future pensions through the Law on Voluntary Pension Funds is relatively high. Most citizens do not believe in any financial institution, and only the Ministry of Finance is stated as the highest authority in the field of finance.
- **Willingness to invest into voluntary pension funds.** Most citizens state a positive opinion regarding the new Law on Voluntary Pension Funds. Most also believe that their pension will be higher (42%) or significantly higher (14%) if they invest money into voluntary pension funds. However, opinions are very divided regarding the safety of their payment into voluntary pension funds. General disbelief in financial institutions and the safety of money as well as general financial dissatisfaction discourage citizens from this form of investment, which is also confirmed by the motives for payment (higher personal earnings and safer future).
- **Trend: comparison with the results in 2005.**
 - Comparison with the results of the first research enables us to make the conclusion that there was an increase in the awareness and familiarity of the citizens with the reform. A considerably larger share of citizens were informed about the reform of the pension system conducted by the Government of Montenegro than two years ago. This is probably a reflection of the campaign and stabilization after Montenegro became independent.
 - Although changes were not as visible as with the awareness on the reform, a mild improvement in the attitude towards the Law on Voluntary Pension Funds was noted, and the confidence in the state fund of Montenegro is somewhat higher.
 - Expectations did not change much between the two researches regarding the influence of investment in voluntary pension funds on the amount of the future pension. Also, opinions on safety of payment into voluntary pension funds are still distinctively divided. The categories which are not likely to profit from this form of investment (housewives and pensioners) show most reserve and suspicion. The underlying reason is probably the general disbelief in financial institutions and personal social-economic dissatisfaction.
 - Readiness to invest remains at the relatively similar level. While the number of citizens who do not see themselves as investors decreased, the number of those who do not have a specific opinion increased. This does not have to be negative data, as it can indicate a more serious consideration of this topic than two years ago. Also, the ones who are interested in investing into these funds are now more concrete regarding the annual amount they would allocate.
 - The ones who believe that pension is still distant (at least in the sense of time), show a significantly more positive attitude towards the reform. The greatest readiness is shown by those younger than 30, followed by those between 30 and 50 years of age, and the category of the employed – so the ones who are the most open to this form of investment belong to the working and socially most active categories.

The results of the research show that it improved the level of information of the citizens of Montenegro, their awareness on the need for conducting reforms in the pension system, and that it is necessary to further work on developing confidence in financial institutions and capital market, since there is a good basis, with better general and financial situation, to motivate citizens to invest into voluntary pension funds in the following period.

Evaluation of future challenges

146. Assess the financial sustainability of the system (of each pillar) with regard to demographic, economic and social changes.

The Law on Pension and Disability Insurance stipulates that the pension and disability insurance in Montenegro includes:

- mandatory pension and disability insurance based on current financing,
- mandatory pension and disability insurance based on individual capitalised savings
- voluntary pension insurance based on individual capitalised savings

Financial sustainability of Pillar I of the pension system in the following period will be conditioned on the one hand by the amount of the accrued contributions and their share in total revenues i.e. the coverage of total expenditures and reduced coverage through transfers from the budget of Montenegro, then by the ratio between the number of employees and the number of beneficiaries from PDI i.e. expected further decrease of unemployment and reduced number of pensioners. Naturally, developments in the pension system in the long-term will be negatively affected by unfavourable demographic trends i.e. the distinctive ageing of the population, lower fertility rate and longer life expectancy of population and thus the longer period of exercising the right to pension.

The second part (Pillar II) of the pension system is mandatory insurance based on capital coverage i.e. individual capitalised savings of the insured persons. In this system each insured person has his/her own private savings account with a private pension fund to which the contribution is paid. Those resources are invested and the gain is added to the sum in individual accounts which is personal ownership of the insured person, who uses it by acquiring the right to pension. Therefore, this pillar is organised on economic principles. Its success is affected by the success of implementing organisational and administrative changes. If the introduction of this pillar is initiated, it is highly probable that there will be structural changes related to the amount of the base for the contribution payers and lack of sufficient development of the capital market in Montenegro and in the region. Introduction of this pillar requires detailed financial and economic analyses (different scenarios based on actuary model in the projected macroeconomic environment), which provide the grounds for the Law. An adequate institutional framework, supporting the sustainability of this system takes into consideration introduction of the new functions (regulatory and supervisory body, central register, custodian), a public campaign and issuing licenses to pension investment funds.

In introducing Pillar II i.e. mandatory pension insurance on the basis of individual capitalised savings, transitional deficit i.e. deficit that will appear with the state pension fund due to lower amount of received contributions, was identified as an essential problem. The practice of the countries that introduced Pillar II recognises three possibilities for covering this deficit, namely:

- public debt issue;
- privatisation revenues, and
- reducing expenses of the state budget and/or raising taxes.

Introduction of Pillar II in the future includes development of different scenarios in order to create a basis for the new regulatory framework.

These analyses/macroeconomic projections would refer to:

- projections of deficit due to reduction of contribution rate financing the existing system;
- plan of use of accumulated resources realised in Pillar II;
- time and method of investing the realised resources in individual accounts;
- public campaign addressing employees, to promote the principle of investment security, freedom of choice - demonopolisation;
- institutional framework that supports the sustainability, security and efficiency of this system by developing a supervisory function, licensing of providers (funds), separating resources of the private fund from the management company; minimising the risk and

maximising revenues through “linking” the profit of the management company to the realised profit in private funds.

The same principles are the basis for the third part (Pillar III) of the pension system representing the voluntary insurance that is, like the second pillar, based on individual capitalised savings of the insured persons. However, contrary to the second pillar, this insurance is not mandatory, but voluntary. Since the legal grounds are created and the first pension funds are founded, we can expect that in the following period, depending on the growth of the standard of living, increase of salaries, capital market development, a strong public campaign, introduction of foreign investors into this area, the interest in contracts on voluntary pension insurance will grow.

147. Are there pension finance projections for the future? Which future developments are indicated?

Pension reform and its effects cannot be regarded in isolation from other reform processes in the society and the effects that their successful completion will have on economic development and increase in the total population standard, and thus the standard of pensioners. In fact, the reform of the pension system is an integral part of the comprehensive system reforms and the transition process and it is designed and implemented with the aim of improving fiscal and social sustainability of the pension system, development of market economy and long-term improvement in individual and general social well-being.

Accordingly, financial projections related to future pension trends have to consider numerous economic, demographic and social categories. The Ministry of Labour and Social Welfare, within the Pension Reform Project that received credit support from the World Bank, appointed a working group with the task to develop an actuary model that would, using the listed criteria, provide answers to most questions related to future trends in the pension system i.e. for introduction of Pillar II of pension insurance in Montenegro.

However, immediately before the adoption of the Law on Pension and Disability Insurance in 2003, based on the experience of countries that implemented a similar pension reform model earlier and the anticipations concerning the economic growth in the long and medium term, projections of future revenues and expenditures of the Fund were made i.e. the effects of the pension reform. The projections aimed to show a trend of development of the pension system in Montenegro with or without the application of the reform, and will be presented below.

Since the pension system reform proved to be inevitable and urgent, and since, due to social and economic sensitivity, it has to be implemented gradually and over a longer time period, the Law on Pension and Disability Insurance introduced measures to reform the existing pension system of generational solidarity i.e. to create the preconditions for a better and more secure financial position for all pensioners. The main measures are the gradual raising of the age limit to 60 for women and 65 for men, the change of the pension formula, increased number of years that are calculated in the pension, SWISS indexation of pensions, expansion of the base for the payment of contributions and stricter conditions for acquiring disability, survivors' pension and other special rights. These measures are planned to be gradually implemented by 2013 or 2018.

On the basis of the projections for the pension system, in the long term (until 2050), results were obtained that showed that the absence of the reform would increase the pension deficit (difference between revenues from contributions and total expenditures of the pension system) from 3.9 % to 12.2% of GDP. With transfers from the state budget at the level of 1.9% GDP, this difference was slightly lower (10.2%). In the short term, if the reform had not been implemented it would have caused a pension deficit of 3.7% GDP; with the transfers from the budget (of 1.9% GDP) it would amount to 1.8% GDP. Without the reform, total expenditures of the PDI Fund i.e. the share of expenditures for payment of pensions would increase from 13% GDP, which was the amount in

2002, to 20% GDP in the long term¹⁸. Not only that such pension system was incapable of providing a stable and sustainable method of financing pensions, but it would be an obstacle to the economic and social progress. However, the PDI Fund balance deficit on the basis of projections for 2008, with application of the mentioned measures, was supposed to amount to 0.5% GDP, and according to data of the PDI Fund the deficit amounted to 0.035% GDP (projected amount of GDP is 3,338 mil Euro for 2008). Thus on the basis of the projections in the medium-term it was foreseen that through the application of all measures of the law, precisely in 2010, revenues (contributions and transfers of 1.9%) and expenditures of the PDI Fund would be equalised and the system would start operating positively. However, having in mind the impossibility of complete consideration of the effects of the global crisis, the projections made in 2003 may prove to be insufficiently accurate in the following period. Still, it should not be overlooked that the system generated 0.08% surplus in 2007, which was the result of improved collection of contributions and economic growth of the country in most areas.

Also, it should be noted that the parameters used for projection of the pension system prior to the reform in the optimistic scenario, such as the assumptions on the real growth of salaries (2.5%) and GDP growth (3.5%), exceeded the expectations after five years. Thus, in the period from 2004 to the end of 2008, the average salary without taxes and contributions increased on average by about 19% a year, and the real GDP growth in the same period was 7.2%.

As in most other states, in addition to the economic reasons, the reform of the pension system in Montenegro was caused by demographic trends. In the last fifty years the population ageing index i.e. the ratio between the number of inhabitants older than 65 and the number of inhabitants from 0 to 14 more than doubled. Demographic data show a negative trend also in the ratio between the population over 65 five years of age and population with working capacity (15 to 64). That ratio was 18% in Montenegro in 2003, and according to the projections until 2050 it will reach 38%. On the other side, due to the improved living conditions and progress in medicine and prevention, there is a natural increase in life expectancy, and in turn of the period of receiving pension. Such demographic developments caused by a declining birth rate and longer life expectancy (both at birth and at the age of 60) inevitably lead the pension system based on current financing into financial difficulties. In the long term, such demographic developments cause a worsening ratio between potential contribution payers and beneficiaries of pensions because of the lower number of young people entering the labour market and paying contributions.

The raised age limit, SWISS indexation and application of the new formula certainly have a positive influence on the balance of the PDI Fund. However, due to demographic developments in the long term the budget deficit of the PDI Fund would, on the basis of these projections, amount to 2% GDP (in 2050), which represents a deficit lower by 8% of GDP than the one that would occur if the reform of the pension system was not conducted.

All indicators of implementation of the reform of the first pillar of the pension and disability insurance and the reform of the pension administration (the Pension and Disability Insurance Fund) in the previous period show that the effects are satisfactory and that the application of the reform measures provided stabilisation of the Fund in the medium term and created a basis for further reform. After almost five years of the application of the Law we have a reduced inflow of pensioners, a more favourable beneficiary structure with 44.68% of old-age pensioners out of the total number, a significantly larger share of revenues from contributions in total revenues of the Fund and, apart from the lower contribution rate, reduction of operative expenditures and expenditures of the Professional Service in total expenditures of the Fund, etc.

Accordingly, we can conclude that the reform of the pension system as a segment of overall system reforms has had a positive influence on the economic developments, primarily in the field of employment, reducing grey economy, better fiscal discipline through regular payment of public revenues, as a precondition of full economic and social progress. It should therefore continue, so that voluntary and mandatory pension insurance on the basis of capitalised savings become integral parts of the pension system, so that the future system stimulates adequate economic and

¹⁸ Source: Working paper: Pension reforms in Montenegro, Institute for Strategic Studies and Prognoses, ISSP.

social growth of Montenegro, including provision of an adequate level of social security of population in old age.

148.What are the main challenges for the old-age security of your country in the future?

The key determinants in the functioning of the pension system in Montenegro are the demographic trends and the level of economic growth. Since its financial sustainability is determined by an adequate ratio of the number of employed persons and the number of pensioners and the current payments from contributions of the insured persons and transfers from the state budget, it is insufficient for the future generations of pensioners because it provides only the basic level of social security.

In order to be economically sustainable and fiscally tolerable and to serve the purpose of economic development, the pension system has to be adjusted to economic and demographic structures and capacities of the society. Thus defined requirements can be met only in the process of a full reform of the pension system which ultimately consists of introduction of multi-pillar system of pension insurance.

Establishing a financially stable, transparent and efficient pension system in the future is a challenge for Montenegrin society. Identifying a model that would best meet this challenge is a highly complex and demanding task.

Pension benefit rate i.e. the security and regularity of its payment, besides provision of quality and available health protection and inclusion of its members in all spheres of socio-economic life, will have a crucial influence on the security of the “the third age” population in the future.

Evaluation of recent and planned reforms

149.Describe recent major reforms which have been implemented. What were the main objectives of the reforms?

Analysis of the functioning of the pension system in Montenegro in the five years prior to the reform and the research conducted in this field identified the following problems:

- unfavourable ratio between the number of pensioners and the number of the employed (1:1.3),
- high share of the PDI Fund expenditures in GDP (13%),
- generosity of the pension system,
- unjust redistribution,
- negative demographic trends,
- high fiscal burden of the economy,
- avoiding payment of contributions for pension and disability insurance,
- poorly targetted PDI Fund expenditures, and
- financial unsustainability in the short and long term.

The identified problems showed that the pension system, based on current financing, is not capable of further regular financing of all rights within this insurance and that a comprehensive reform was needed. The reform is inevitable and urgent, and due to social and economic sensitivity it has to be implemented gradually and over a longer time period.

In order to solve the identified problems and to bring the pension system to the level of financial sustainability, in September 2003, the Parliament of Montenegro adopted 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).

This law:

- implemented the reform of the existing mandatory insurance on the basis of current financing (generational solidarity or the first pillar);
- created a normative assumption for introduction of mandatory insurance on the basis of capitalised savings of the insured persons (second pillar) and voluntary insurance (third pillar).

Reform of the mandatory insurance on the basis of current financing is based on:

- gradual increase in the age limit for acquiring the right to old-age pension to 65 years for men i.e. 60 years for women – trying to neutralise the negative demographic trends in Montenegro;
- introduction of the pension formula that is based on the point principle – establishing a stronger link between the paid contributions i.e. the basis to which the contribution was paid and the amount of the pension;
- gradual increase in the number of years included in the calculation of the pension to the complete period of pension insurance;
- introduction of pension indexation i.e. the value of the pension for one unit point according to the “Swiss formula”, representing the sum of the half of percentage of growth or decrease in the cost of living and the half of percentage of growth or decrease in gross salaries – affecting the decrease in expenditures of the pension system;
- expanding the pool of insured persons and the base for payment of contributions;
- tightening of conditions for acquiring the right to disability and survivors' pension, change in the procedure for acquiring disability pension, stipulating the mandatory control examination (every three years) for the beneficiaries who acquire the right to disability pension through the application of the new law, as well as elimination and restrictive approach to specific rights that by their nature do not belong to the pension and disability insurance system.

Main aims of the pension system reform in Montenegro are:

- creating an economically sustainable, financially tolerable pension system that will serve the purpose of economic growth i.e. its adjustment to economic and demographic structures and capacities of the society, in order to make it acceptable to the present and future generations;
- slowing down the inflow of new pensioners and change of the unfavourable structure of pensioners (large share of disability pensioners in the total number),
- enhancing individual responsibility for income in the old age.

The Law on Voluntary Pension Funds was adopted (Official Gazette of the Republic of Montenegro 78/06 and 14/07), and the secondary legislation for its application, which introduced the third pillar of the pension system in Montenegro – voluntary pension insurance on the basis of individual capitalised savings.

150. Describe the discussion and status of planned reforms. What are the main political positions? What is the expected impact of these reforms?

With the aim of considering the achieved level of the reform of mandatory pension and disability insurance on the basis of current financing (the first pillar of the pension system), implementation of the prescribed reform measures as well as their influence on financial position of pensioners, in order to recognise the gaps in the system and its related upgrading and improvement, analyses and information are done in the line ministry with regular informing of the Government.

Regarding further reforms in the pension system that are aimed at better financial sustainability of the Fund and lower of taxes and contributions for the pension and disability insurance, full support is available from pensioners' association, employers and workers. As the projected aims of the reform are implemented and the share of the expenditures of the pension and disability insurance system in GDP is reduced and better financial sustainability of the Fund is ensured, it is further

confirmed that the need for the system reform was justified and that the prescribed reform measures produced expected results.

Full implementation of the prescribed reform measures after the expiry of the transition period and decrease in the contribution rate for the pension and disability insurance will affect medium-term stabilisation of the pension system.

A significant issue in reform continuation is possible introduction of the second pillar of the pension system – mandatory pension insurance on the basis of individual capitalised savings. A number of questions are raised, the most significant ones concerning the method of solving transition expenditure and the amount of contributions that are to be paid for this form of pension insurance. Certainly, the answer to these questions will depend on comprehensive analyses that will consider results of the reform so far, future economic, demographic and social developments and other factors affecting the pension system.

151 Provide an analysis of current trends in pension policy and an assessment whether in your view these reforms (recent and planned) will cope with future challenges.

A large part of the pension reforms in Montenegro have been finalised and the normative-regulative framework is complete. The Law on Pension and Disability Insurance was adopted, reforming the system of pension and disability insurance based on generational solidarity (the first pillar of the pension system), as well as the secondary legislation necessary for implementation of the Law on Pension and Disability Insurance.

The reform of the pension administration is also completed. Within the Pension and Disability Insurance Fund, certain inefficient operating positions were suspended, new contemporary operating processes are established (internal audit, public relation, personnel service, financial management), along with implementation of a new integrated information system and the latest generation IT technology. All phases in the pension administration reform included a complete normative standardisation and striving to automatisation of operating processes and thus creating conditions for transforming the PDI Fund into a modern and efficient organisation focused on providing quality services to insured persons and beneficiaries.

According to the World Bank criteria, one of the most significant indicators of “improvement of administrative capacities of the PDI Fund” is the share of operative expenditures in total expenditures so that the decreasing trend of this indicator in the PDI Fund for the last several years (2000 – 9.30%; 2001 – 6.95%; 2002 – 5.61%; 2003 – 4.52%; 2004 – 4.27%; 2005 – 4.24%; 2006 – 3.58%; 2007 – 2.73% and 2008 – 2.63%), is also very significant for the total positive evaluation of the Project for the Reform of the Pension System in Montenegro.

Since January 2007, the Tax Administration has been working intensively on implementation of the Project Consolidated Registration and Collection of Taxes and Contributions (UCG), which is, as a part of the Pension Reform Project, financed from the World Bank credit that is supposed to include functionality of a number of institutions in an integrated way.

Application of the Law on Consolidated Registration and the System of Calculation and Collection of Taxes and Contributions, which was supposed to enter into force on 1 January 2006, was postponed due to procurement of the software that was to provide consolidation of the registers and application of the Law. The Ministry of Finance adopted the Rulebook on the form and content of unified return for registration of tax payers, contribution payers and insured persons in the Central Register and the Rulebook on the form, content, method of filling in and submission of unified return for the calculated income tax for physical persons and contributions for the mandatory social insurance.

The Law on Voluntary Pension Funds was adopted (Official Gazette of the Republic of Montenegro 78/06 and 14/07) along with the secondary legislation for its application, introducing the third pillar of the pension system in Montenegro – voluntary pension insurance on the basis of individual capitalised savings. In accordance with the Law on Voluntary Pension Funds, three voluntary

pension fund management companies have been founded and obtained work permits in Montenegro: ATLAS PENZIJA a.d. Podgorica, MARKET INVEST a.d. Bijelo Polje and NLB PENZIJA a.d. Podgorica

ATLAS PENZIJA a.d. founded a voluntary pension fund PENZIJA PLUS, while MARKET INVEST a.d. founded an open voluntary pension fund MARKET PENZIJA a.d. Management company of the voluntary pension fund NLB PENZIJA a.d. obtained a work permit for managing a voluntary pension fund, but has not proceeded with founding a voluntary pension fund. A management company is obliged to start collecting contributions within 12 months from the date of acquiring the work permit; otherwise, their work permit is suspended.

Voluntary pension fund PENZIJA PLUS had 348 members on 14 August 2009, and net property value of this pension fund was €21 636.31.

MARKET PENZIJA had 29 participants on 13 August 2009, and net property value of €3 803.87.

Since voluntary pension fund management companies have just started collecting contributions from the participants in Montenegro, it is not possible to estimate the impact of introduction of voluntary pension insurance on the basis of individual capitalized savings.

Regarding the introduction of the second pillar of the pension system – mandatory pension insurance on the basis of individual capitalised savings, it is not evident yet when the law regulating that part of the pension system will be adopted and its implementation started. In order to achieve that, it is necessary to solve the question of the transition cost i.e. how to compensate for the lacking resources that will be necessary to provide to the Pension and Disability Fund of Montenegro due to a decrease in the inflow on the basis of contributions for the pension and disability insurance on the basis of current financing – this will occur due to the fact that a share of contributions for the insured persons who get included in the second pillar of the pension system, which is now paid only for the first pillar of the pension system, will be paid for the second pillar, to the individual account of the insured persons who included in the mandatory pension insurance on the basis of individual capitalised savings.

The reform of the pension and disability insurance based on the current financing provided its financial stability and reduced the inflow of new beneficiaries. Due to the fact that pension indexation is conducted with the lower percentage than the growth of salaries, it is inevitable that during certain years the average pension will grow slower in comparison to the average salary.

The conducted activities affected the increase in the number of the insured within the pension and disability insurance, i.e. inclusion of an increasing number of persons into legal economy flows as well as creation of a more favourable structure of pensioners, primarily the lower number of disability pensioners, which is a result of the new definition of disability that is now determined according to the concept of general disability, as well as introduction of regular audit of disability pensions.

The mentioned changes as well as the taken measures and activities, with the aim of efficient collection of contributions for the pension and disability insurance, through an intensive and quality cooperation with bodies responsible for the control and collection of public revenues, have significantly influenced the increase in the revenues of the Fund and contributed to a larger share of the revenues from contributions in the total revenues.

Therefore, the reform of the first pillar of the pension system is showing positive results in the short and medium term. However, regardless of the positive effects of the reform measures conducted so far, high pension expenditures aggravate its financing, i.e. the increase in the share of transfers from the budget in the total revenues of the Fund. Negative demographic trends as well as the ageing of the population will lead to deterioration of the relation between the pension system and the labour market in the long term, which means that it will influence closer approximation of the number of pensioners to the number of the employed. For that reason, further reform of the pension system is necessary with the aim of providing its long-term financial sustainability, diversification of the sources of pension, inclusion of the individual in the process of making decisions on resources allocated for pensions, and, finally, stimulating citizens to start earlier with additional savings for old age.

VII. ANTI-DISCRIMINATION AND EQUAL OPPORTUNITIES

A. Anti-discrimination

152. Which is (are) the government department(s) responsible for measures to combat discrimination on the grounds outlined above?

All ministries and other state administration bodies, within the scope of their competence and action, have as an imperative the guarantee of equality and non-discrimination in the implementation of normative acts. The Ministry of Human and Minority Rights, Ministry of Justice, Ministry of Labour and Social Welfare, Ministry of Education and Science, Ministry of Health, Ministry of Culture, Sports and Media, Ministry of Interior and Public Administration, Police Directorate, Institution for Enforcement of Criminal Sanctions, Refugee Care and Support Office, Employment Office, Human Resources Administration etc. most directly deal with combating discrimination as the basis for overall respect for guaranteed human rights and freedoms.

Given the sensitive nature of the issues of national minorities' status (especially Roma) and gender equality, two independent departments have been formed within the Ministry of Human and Minority Rights: Department for Gender Equality Affairs and Department for Promotion and Protection of Rights of the RAE population.

Having regard to the mentioned European Union directives, the most important institutions in the field of combating discrimination are the Ministry of Labour and Social Welfare, Ministry of Education and Science and Human Resources Administration.

153. What kind of legislative and non-legislative measures exist in your country to tackle discrimination?

Legislative measures

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 includes equality before law, regardless of any particularity or personal capacity, among 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 attribute (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 most significant legal acts in the legal system of Montenegro that prohibit discrimination and promote equality are the following:

- The Law on Minority Rights and Freedoms (Official Gazette of the Republic of Montenegro 31/06, 51/06 and 38/07) guarantees members of minorities equality with other citizens and enjoyment of equal legal protection. Also, this law prohibits any direct and indirect discrimination on any grounds, including race, colour, sex, national affiliation, social background, birth or similar status, religion, political or other belief, financial status, culture, language, age and psychological or physical disability.
- The Law on Employment (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07 and Official Gazette of Montenegro 21/08) prescribes equal status of unemployed persons in exercising the right to employment, regardless of national affiliation, race, sex, language, religion, political or other belief, education, social background, financial status and other personal attribute.
- The Labour Law (Official Gazette of Montenegro 49/08) 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 place 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.
- The Law on Social and Child Welfare (Official Gazette of the Republic of Montenegro 78/05) stipulates equality of citizens in exercising the rights pertaining to social and child welfare, regardless of their national affiliation, race, sex, language, religion, social background or any other personal attribute
- The Law on Health Care (Official Gazette of the Republic of Montenegro 39/04) 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 attribute.
- The Law on Gender Equality (Official Gazette of the Republic of Montenegro 46/07) defines and regulates the manner of ensuring and exercising rights pertaining to gender equality and the creation of equal opportunities for participation of women and men in all spheres of social life.

Contents of the set of *education* laws (General Law on Education, Law on Primary Education, Law on Secondary School, Law on Higher Education), as well as the set of *media* laws (Law on Media, Law on Broadcasting, Law on Public Broadcasters Radio and Television of Montenegro) also contain non-discriminatory approach to the exercise of relevant rights. In the legal system of Montenegro, discrimination is incriminated by criminal legislation. The Criminal Code contains a number of provisions which incriminate any dissemination of ideas based on racial superiority and hatred, any encouragement of racial discrimination, as well as all acts of violence with racial background. Articles 158-182 of the Criminal Code prescribe the criminal acts against freedoms and rights of man and citizen: violation of the right to use language and alphabet; violation of equality; violation of freedom of expression of national or ethnic affiliation; violation of freedom of confession of religion and performance of religious rites; unlawful deprivation of liberty; violation of freedom of movement and residence; abduction; coercion; extortion of confessions and statements; torture and maltreatment; endangering safety; infringement of inviolability of home;

illegal search; unauthorised disclosure of secret; violation of privacy of letters and other mail; unauthorised wiretapping and recording; unauthorised photographing; unauthorised publication and presentation of other people's written texts, portraits and recordings; unauthorised collection of personal data; violation of the right to legal remedy; violation of freedom of speech and public appearance; prevention of printing and distributing printed materials and broadcasting; prevention of publishing response and correction notice; prevention of public gathering; prevention of political, trade union and other associations and activities.

Measures of education and promotion

Measures of education and promotion aimed at combating discrimination on any grounds include a number of activities, primarily educational activities (new concept of education and introduction of civil education into the formal system, seminars, lectures, workshops etc.), campaigns for raising public awareness, activities of non-governmental organisations, international cooperation of Montenegrin authorities with international organisations, states and international non-governmental organisations.

Activities of non-governmental organisations in promoting tolerance, combating discrimination and assisting victims of discrimination need to be particularly emphasised. These activities are mainly carried out by non-governmental organisations involved in protection of human rights and promotion of non-discrimination, by means of organising seminars, workshops, trainings, and implementing projects aimed at promoting equality.

The media also have a very significant role in raising public awareness regarding promotion of tolerance and need to combat discrimination. Programme content in public broadcasters Radio and Television of Montenegro in many ways depict Montenegro as a multinational, multiethnic, and multicultural state. Media campaigns conducted by the state bodies (independently or in cooperation with non-governmental organisations and international organisations) result in presenting to the public and raising awareness about the diversity of Montenegrin society. Major media campaigns promoting equality and anti-discrimination were: "All Together in School", "Safely". "Decade of Roma Inclusion", "Enough", "16 Days of Activism against Violence against Women", "Gender Equality – Fundamental Value of the Democratic Montenegro" etc.

154. What kind of judicial remedies exist in case of discrimination in the fields of employment, education, health care, social security, housing and access to goods and services? To what courts or other tribunals could victims of discrimination take their cases?

The Constitution of Montenegro prohibits any direct and indirect discrimination and guarantees each person equal protection of their rights and freedoms. Article 20 of the Constitution also guarantees the right to a legal remedy and prescribes that every person has the right to a legal remedy against decision determining their rights or legally based interest. Article 67 of the Constitution prescribes that social insurance of employees is obligatory and that the state provides financial security to a person who is unable to work and has no financial means for life, while Article 69 prescribes that everyone is entitled to health care.

The introduction of the following new constitutional categories, as significant constitutional novelties, in the sphere of protection of human rights and freedoms should be emphasised: the Ombudsman, as an autonomous and independent body that takes measures for protection of human rights and freedoms.

Along with the traditional role of review of constitutionality, the supreme legal act grants the Constitutional Court jurisdiction to decide not only on the compliance of laws and other general acts with the Constitution, but also with ratified international treaties; with a view to ensure a high level of protection of human rights and freedoms, constitutional complaint is introduced as a legal remedy decided by the Constitutional Court. Everyone is entitled to refer to the Constitutional Court

concerning violation of human rights and freedoms, after exhausting legal remedies before other state bodies.

The constitutional commitment that the international treaties and generally accepted rules of international law are an integral part of the international legal system, that they have supremacy over national legislation and that they are directly implemented when regulating relations differently from national legislation, deserves special attention. This definition verifies the legal effect of international treaties by treating them as a part of the national legal system with supremacy over national legislation.

Based on such constitutional provisions it is concluded that in the event of discrimination in the fields of employment, education, health care, social security, housing and access to goods and services, a person who thinks that he or she is a victim of discrimination may protect his or her rights first in administrative, criminal and civil proceedings, or before state administration bodies and courts, and subsequently also in the proceedings before the Constitutional Court.

Specifically, there is legal protection in administrative and judicial proceedings in cases of discrimination.

Discrimination in the field of employment and labour relations is regulated by the Labour Law (Official Gazette of Montenegro 49-08) in the manner of prescribing the prohibition of direct or indirect discrimination in which a potential victim of discrimination can be a person seeking employment or an employee who is discriminated against on the basis of sex, birth, language, race, religion, skin colour, age, pregnancy, health condition, disability, nationality, marital status, family obligations, sexual orientation, political or other belief, social background, financial status, membership in political and trade union organisations or any other personal attribute. The Law also defines what is implied by direct and indirect discrimination, prescribes the prohibition of specific forms of discrimination based on employment and work, prohibits harassment and sexual harassment at work and in connection with work, along with the definition of those forms of discrimination, defines what is not considered to be discrimination and regulates the protection from discrimination before court.

The given Law stipulates that the employer decides on the labour-based and labour-originated rights and responsibilities of employees, in accordance with the law, Collective Agreement and employment contract. The employee who believes that his/her labour-based or labour-originated right has been violated by the employer may submit a request to the employer to be provided the exercise of the given right. The employer is required to decide on the employee's request within 15 days from the day of submitting the request. The decision is final, unless otherwise stipulated by law. The decision from paragraph 3 of this Article is delivered to the employee in writing, with an explanation and instruction on legal remedy.

The employee who is dissatisfied with the decision or to whom the decision was not delivered within the deadline, is entitled to initiate labour dispute before the Basic court in order to protect his/her rights, within 15 days from the day of decision delivery. The employer is required to execute the enforceable court decision within 15 days from the day of decision delivery, unless another deadline has been set by the court decision.

Article 121 of the Labour Law prescribes the alternative protection before the arbitrator, i.e. reconciler. The employee and the employer (parties in the dispute) may entrust the settlement of labour-based and labour-originated dispute (individual labour dispute) to an arbitrator. The settlement of disputes arising from the procedure of signing, implementation, amendments to Collective Agreements, exercise of the right to trade union organisation and strike may be entrusted to a reconciler. The procedure of peaceful settlement of individual and collective labour disputes is carried out in accordance with the law.

Victims of discrimination in the field of labour and social insurance may first refer to the Ministry of Labour, whose scope of work includes Labour Inspectorate. Article 39 of the Law on Inspection prescribes that, after inspection, the inspector issues a decision on the measures, actions and deadlines for removing irregularities. An appeal may be lodged against the inspector's decision within eight days from the day of delivery of written decision. The Minister decides on the appeal.

Dissatisfied party may initiate administrative dispute against the final decision of the Ministry before the Administrative Court.

The Law on Civil Servants and State Employees stipulates that Montenegro is responsible for any damage caused to a civil servant or state employee at work or in relation to work, according to general rules of civil law. Responsibility for the damage also refers to the damage inflicted by Montenegro on a civil servant or state employee by violation of labour-based and labour-originated right. A written agreement may be signed between the head of the state authority and the civil servant or the state employee who has suffered the damage concerning the amount and manner of damage compensation. The written agreement represents an enforceable title.

An appeal may be lodged against the decision on selection of civil servant, i.e. state employee on the grounds of violation of selection procedure. Appeal Commission decides on the appeal against the decision on labour-based and labour-originated rights and responsibilities of a civil servant i.e. state employee. In the procedure of deciding on the appeal, the Appeal Commission applies the Law on General Administrative Procedure, unless otherwise stipulated by law. The Appeal Commission decides on the appeal lodged by a civil servant or a state employee as soon as possible, and at the latest within 30 days from the day of lodging the appeal.

The Appeal Commission decides on an appeal against the Decision on temporary suspension from work within 5 days from the day of receiving the appeal. Civil servant or state employee is not entitled to judicial protection with regard to the decision of the Appeal Commission on an appeal against the Decision on temporary suspension from work.

An administrative dispute may be initiated against the decision of the Appeal Commission within 30 days from the day of decision delivery. Filing of a complaint does not postpone the enforcement of the Appeal Commission decision except in the case of a dispute concerning taking up employment. The procedure upon the complaint is urgent.

Civil servant or state employee may initiate a dispute before the competent Basic Court against the decision of the Appeal Commission on the appeal to the decision on damage compensation.

Article 3 of the Law on Administrative Dispute (Official Gazette of the Republic of Montenegro 60/03) prescribes that any natural and legal person has the right to initiate administrative dispute if they think that their right or legally based interest is violated by administrative or some other act. State body, organisation, settlement or a group of persons etc. not having capacity of a legal person may initiate administrative dispute if they can be holders of the rights and obligations that were the subject of the administrative dispute. If an administrative or any other act has violated the law in favour of a natural person, legal person or other party, administrative dispute may be initiated by the Public Prosecutor or other competent body.

In case of discrimination in the field of health care, a person who is prevented from exercising his or her health care rights may refer to the Ministry of Health i.e. to the Health Inspectorate which operates within the Ministry of Health. The person has the right to appeal against the decision to the Minister of Health, who issues the decision in the second instance. Administrative dispute may be initiated against the final decision before the Administrative Court of Montenegro.

In case of discrimination in the field of education, a pupil, student, parent, or guardian who believes that his or her right from the field of education has been violated has the right to refer to the Educational Inspectorate which performs supervision through educational inspectors. Educational inspector issues the decision on the measures, actions and deadlines for removing irregularities. An appeal may be lodged against the inspector's decision within eight days from the day of delivery of written decision. The Minister decides on the appeal. Dissatisfied party may initiate administrative dispute against the second-instance decision before the Administrative Court of Montenegro.

Besides protection in administrative procedure before state bodies, civil procedure and in administrative dispute before the Administrative Court of Montenegro, a person who thinks that he or she has been discriminated against on any grounds has the right to criminal-law protection, as well as to protection before courts in a civil procedure.

Criminal-law protection relevant to these issues is provided in the Criminal Code of Montenegro under Title Fifteen – Criminal Acts against Man and Citizen.

The criminal acts from the given Title are prosecuted *ex officio* by the Public Prosecutor having jurisdiction. In all these cases in criminal proceedings the potential victim of discrimination has the status of the injured party as a person whose personal or property right is affected or violated by the commission of a criminal act. The injured party has the right to report the criminal act to the Public Prosecutor having jurisdiction. The right to file a report to the Public Prosecutor having jurisdiction is laid down in Article 229 of the Criminal Procedure Code. If the report is filed to court, police or to the Public Prosecutor lacking jurisdiction they shall receive the report and immediately forward it to the Public Prosecutor having jurisdiction.

In accordance with Article 59 of the Criminal Procedure Code, the injured party also has the right to take over or assume the prosecution in specific cases (when the Public Prosecutor assesses that there are no grounds to prosecute a criminal act that is prosecuted *ex officio* or that there are no grounds to prosecute any of the accomplices reported, as well as when the court renders the ruling to suspend the proceedings based on the Public Prosecutor's withdrawal of charges. When the Public Prosecutor or the court notifies the injured party that he or she may assume prosecution, they will also send a notice containing the advice on which actions need to be undertaken in order to exercise that right. Article 62 of the Criminal Procedure Code prescribes that the subsidiary Prosecutor has the same rights as the Public Prosecutor, except for those that are vested in the Public Prosecutor as a state body.

Subsidiary Prosecutor is also entitled to regular and extraordinary legal remedies in criminal proceeding. This means that he or she has the right to lodge an appeal against the first instance judgment which postpones the enforcement of the judgment (Article 371), as well as the right to appeal against the ruling in judicial proceedings which is defined in Article 404 of the Criminal Procedure Code. The proceedings on the lodged appeal are conducted before the competent second instance court. The right to file an extraordinary legal remedy – request for reopening of the proceedings – is also laid down in Title Twenty-five, Articles 410-423 of the Criminal Procedure Code.

Any person who thinks that he or she is discriminated on any of the abovementioned grounds may file a complaint to initiate a civil procedure in which the court rules and decides on disputes relating to personal and family relations, labour relations, as well as property and other civil-law relations of natural and legal persons, unless some of the mentioned disputes fall under the competence of another state body. In this procedure, the person has the right to regular and extraordinary legal remedies, or the right to lodge an appeal, and to file a request for reopening of the proceedings out of legally prescribed reasons. When all regular and extraordinary legal remedies are exhausted, a procedure may be initiated before the Constitutional Court.

Therefore, after all legal remedies have been exhausted before other state bodies, every citizen is given the opportunity to refer to the Constitutional Court concerning violation of human rights and freedoms. Namely, protection of human rights and freedoms before the Constitutional Court is laid down in Article 149 of the Constitution of Montenegro which prescribes that the Constitutional Court rules on the constitutional complaint concerning violation of human rights and freedoms guaranteed by the Constitution, after all effective legal remedies have been exhausted.

The decision of the Constitutional Court is final and its rendering exhausts all legal remedies.

After concluding the proceedings before national judicial bodies, that is after all legal remedies have been exhausted, both in administrative and judicial proceedings, the dissatisfied party has the right to initiate procedure before the European Court of Human Rights at the Council of Europe. The right of citizens of Montenegro to access the European Court of Human Rights arises from the fact that Montenegro has ratified the European Convention for the Protection of Human Rights and Freedoms.

155. Are there specific legal provisions prohibiting discrimination and providing for remedies? Does such legislation define various types of discrimination (direct, indirect, harassment and instructions to discriminate)?

1. Constitutional guarantee of equality and prohibition of discrimination

Prohibition of discrimination, that is equality before law and equal legal protection are of essential importance for the protection of human rights. Equality and prohibition of unfair distinction are stipulated by the Constitution and Montenegrin laws. Article 8 of the Constitution of Montenegro prohibits any direct or indirect discrimination, on any grounds. The Constitution also stipulates that regulations and introduction of special measures aimed at creating the conditions for national, gender and overall equality and protection of the persons who are in placed in an unequal position on any grounds is not considered discrimination. Special measures may be applied only until the achievement of the aims for which they were undertaken.

Article 17 of the Constitution of Montenegro, in the section Human Rights and Freedoms, regulates that all citizens of Montenegro are equal before the law, irrespective of any particularity or personal attribute. Everyone is entitled to equal protection of rights and freedoms (Article 19) i.e. everyone is entitled to legal aid, which may be free of charge, in accordance with the law (Article 21).

2. Legal guarantee of equality and prohibition of discrimination

In addition to the Constitution and international agreements, national legislation contains a number of laws whose provisions prohibit discrimination, promote equality and stipulate anti-discrimination measures. The most important laws in the legal system of Montenegro that prohibit discrimination and promote equality are the following:

- **The Law on Minority Rights and Freedoms** guarantees to members of minorities equality with other citizens and enjoyment of equal legal protection. Likewise, this Law prohibits any direct or indirect discrimination on any grounds, including race, colour, sex, national affiliation, social background, birth or similar status, religion, political or other belief, property status, culture, language, age and psychological or physical disability.
- **The Law on Employment** envisages equality of unemployed persons in exercising the right to employment irrespective of national affiliation, race, sex, language, religion, political or other belief, education, social background, property status or other personal attribute.
- **The Labour Law** prohibits any direct or indirect discrimination of persons seeking employment, as well as employees, with regard to sex, birth, language, race, religion, colour, age, pregnancy, health condition i.e. disability, nationality, marital status, family obligations, sexual orientation, political or other belief, social background, property status, membership in political or trade union organisations or any other personal attribute (Article 5). The Labour Law specified these types of discrimination. Direct discrimination is any treatment on any grounds that place 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.
- **The Law on Social and Child Welfare** stipulates equality of citizens in exercising the rights pertaining to social and child welfare, regardless of their national affiliation, race, sex, language, religion, social background or any other personal attribute
- **The Law on Health Care** prescribes equality of citizens in exercising the right to health care, regardless of their national affiliation, race, sex, age, language, religion, education, social background, property status or any other personal attribute.

- **The Law on Gender Equality** defines and regulates the manner of ensuring and exercising the rights pertaining to gender equality and the creation of equal opportunities for participation of women and men in all spheres of social life.
- **Education** laws (General Law on Education, Law on Primary Education, Law on Secondary School, Law on Higher Education), as well as the set of **media** laws (Law on Media, Law on Broadcasting, Law on Public Broadcasters Radio and Television of Montenegro) also contain non-discriminatory approach to the exercise of relevant rights.

In the legal system of Montenegro, discrimination is incriminated by criminal legislation. *The Criminal Code* contains a number of provisions which incriminate any dissemination of ideas based on racial superiority and hatred, any encouragement of racial discrimination, as well as all acts of violence with racial background.

3. Draft Anti-Discrimination Law

The Fundamental Provisions define the subject matter of this Law i.e. the implementation of protection in accordance with this law, and refer to anti-discrimination provisions in other laws, that regulate the exercise of specific rights. Precise definition of the very concept of discrimination and definition of the concepts of direct and indirect discrimination serve as the starting points and foundations of this Law. The starting points for the definitions were international documents and definitions of discrimination that they contain (in particular Article 1 of Protocol 12 to ECHR, Article 2 of the Council Directive 2000/43/EC and paragraph 6 of the ECRI Recommendation No.7).

This draft qualifies instigation to discrimination as discrimination. The draft aims to protect each conscientious citizen who reported discrimination or, in any capacity, gave a statement before the competent authority in the procedure examining a case of discrimination – protection from victimisation.

The scope of the Law is defined by Article 7 of the present draft, that is the Law is applicable for all persons that regulations of Montenegro are applicable for (citizens, foreign citizens, IDPs, asylum seekers etc). The provisions of the Law are applicable also for legal persons if they are subject to discrimination on one of the defined grounds.

The draft defines the concepts of harassment, mobbing, segregation, and places particular emphasis on severe discrimination, which should guide the court when deciding on the sanction or the amount of compensation. The qualification of unlawful treatment indirectly suggests to all, and especially courts and other bodies tasked with the protection of human rights, more stringent legal response as a consequence of unlawful treatment. Therefore, whether concerning civil law, criminal law or other legal protection from discrimination, the state authority is instructed to apply more stringent sanctions for those types of discrimination that are qualified by the legislator as particularly severe.

Specific cases of discrimination are addressed individually: discrimination in procedures before public authorities; discrimination in the use of public buildings and areas; discrimination on the grounds of health condition; discrimination in education and vocational training; discrimination in labour; discrimination of people with disabilities; discrimination on the grounds of sexual identity and sexual orientation.

In order to complete the overall anti-discrimination system, in addition to the protection provided by the Ombudsman, with its competences and available measures, judicial protection against discrimination is also regulated. The underlying principle was that sufficiently developed and clearly organised area of judicial protection is a necessary element in combating discrimination. It is important to point out that it is the defendant's obligation to prove that no discriminatory conduct occurred, which is a standard of developed democratic societies in combating discriminatory conduct.

Inspection of implementation of this Law related to discrimination in various fields will be performed by the inspectorates in charge of the respective fields (service provision, construction industry, health, education, labour and employment, safety at work, transport, tourism etc.).

156.What sanctions and remedies can be applied in discrimination cases?

Title XV of the Criminal Code - Criminal Acts against Freedoms and Rights of Man and Citizen regulates the sanctioning of the following:

- violation of the right to use language and alphabet, Article 158, punishable by a fine or imprisonment of up to one year;
- violation of equality, Article 159, punishable by imprisonment of up to three years. If the criminal act is committed by an official acting in official capacity, he or she is liable to imprisonment from three months to five years.
- violation of freedom of expression of national or ethnic affiliation or culture, Article 160, punishable by a fine or imprisonment up to one year. If the criminal act is committed by an official acting in official capacity, he or she is liable to imprisonment of up to three years.
- violation of freedom of religion or confession of religion and performance of religious rites, Article 161, punishable by a fine or imprisonment up to two years. If the criminal act is committed by an official acting in official capacity, he or she is liable to imprisonment of up to three years.

Title XVII of the Criminal Code, Criminal Acts against Honour and Reputation, Article 199, prescribes that violation of reputation of people, national and ethnic groups living in Montenegro is punishable by a fine in the amount from three thousand to ten thousand euro.

Title XXIX, Criminal Acts against Constitutional Order and Security of the Republic of Montenegro, Article 360, prescribes imprisonment from three to fifteen years for the attempt to change the constitutional order of Montenegro by force or threats of using force..

The Constitution of Montenegro prohibits any direct or indirect discrimination on any grounds. The Labour Law and the Law on Minority Rights and Freedoms (as normative acts of the recent date) recognise and prohibit various types of discrimination – direct and indirect, whereas other legal regulations define general prohibition of discrimination on any grounds.

157.What bodies (such as "equality bodies") exist to promote the fight against racial discrimination (and discrimination on other grounds)? What are their powers?

In Montenegro there is no separate body which exclusively deals with the promotion of the fight against racial discrimination or discrimination on other grounds. Apart from the Government of Montenegro, its ministries and other state administration bodies, the following bodies also deal with the fight against discrimination:

- **The Parliamentary Committee for Human Rights and Freedoms** – considers proposals for laws, other regulations and general acts and other issues relating to: rights and freedoms of man and citizen, with special reference to minority rights, implementation of ratified international acts concerning the exercise, protection and promotion of these rights; monitors implementation of documents, measures, and activities for promotion of national, ethnic and other equality, especially in the field of education, health, information, social policy, employment, entrepreneurship, decision-making process etc; participates in preparation and drafting of documents and in harmonisation of legislation in this field with standards in the European legislation; cooperates with the relevant working bodies of other parliaments and non-governmental organizations from this field.
- **The Ombudsman** – protects the human rights and freedoms guaranteed by the Constitution, law, ratified international treaties on human rights and generally accepted rules of the international law, when they are violated by act, action or lack of action of state bodies, local government bodies and public services and other holders of public authorities. Citizens can approach this body for fast and efficient intervention easily and without special formalities and costs; this body may also act on its own initiative. Procedure before the

Ombudsman is confidential and no person who files a complaint or in any way participates in the procedure conducted by the Ombudsman cannot be called to account because of that, nor can he or she be brought into unfavourable position on that ground. The Ombudsman introduces the Parliament and the general public with his or her findings, positions and opinions and thus contributes to the opening and transparency of public administration and other public services and bodies towards the Parliament, the Government, the public and citizens. According to the current normative decisions, the Ombudsman has two deputies, one of whom deals with the protection of minority rights.

- **The judicial system** – In Montenegro judicial power is exercised by 15 basic courts, two high courts, two commercial courts, the Appellate Court, the Administrative Court and the Supreme Court. In cases of discrimination as a criminal act, basic and high courts have the main role. Basic courts have jurisdiction in criminal cases to decide in the first instance on criminal acts for which a fine or imprisonment of up to ten years is prescribed as a principal sanction, as well as to decide in the first instance in civil cases, labour cases, non-litigation cases; to rule on the enforceable cases and decide on recognition and enforcement of foreign court decisions. High courts have jurisdiction in criminal cases to decide in the first instance on criminal acts for which imprisonment exceeding 10 years is prescribed and for a list of specified criminal acts, and in the second instance to decide on appeals against decisions of basic courts. The Appellate Court decides on appeals against the first instance decisions of high and commercial courts. The Supreme Court is the highest court which determines legal positions of principle and legal opinions of principle for uniform application of regulation by courts, decides in the third instance in legally defined cases on extraordinary legal remedies, on transferring territorial jurisdiction, determines which court has territorial jurisdiction when it is not possible to decide on it and resolves conflicts of jurisdiction between different types of courts. Affairs of the Public Prosecution Office are performed by 13 Basic Public Prosecutors, two High Public Prosecutors, the Supreme Public Prosecutor and the Special prosecutor for suppressing organised crime. Basic Public Prosecutors are established for the area of one or more basic courts and they act before basic courts and district bodies for misdemeanours, and the High Public Prosecutors for the area of high court and commercial court and they act before these courts. The Supreme Public Prosecutor acts before the Supreme Court, the Appellate Court, the Administrative Court and other courts in accordance with law.
- **NGOs** - In Montenegro there is a number of high quality and active non-governmental associations and organizations which deal with protection of human rights, promotion of tolerance and the fight against discrimination.

158. What NGOs exist to promote the fight against discrimination? How are they involved in concrete actions, including policy-making and the defence of discrimination cases in the courts?

The Law on Non-Governmental Organisations (Official Gazette of the Republic of Montenegro 27/99, 30/02, 11/07), which is considered one of the most liberal in the region, provides the opportunity of NGO registration for unlimited number of fields. This means that the NGOs are not obliged to “choose” specific sectors or scopes of activities; thus, their statutes and founding acts, which they have to submit along with the request for registration with the competent state authority – the Ministry of Interior and Public Administration, cover a wide range of various and diverse activities, almost incompatible with each other. There is no official record on this issue, and therefore it is not possible to provide a precise answer.

The reason for such legal provision is that NGOs depend on donors, so in order to have greater opportunities to apply to a greater number of donors, they are not obliged to specify their scope of activities, that is, they can state very diverse areas of activity; for this reason, it is almost impossible to state precisely which NGOs specialise in certain areas, such as the fight against discrimination in this case.

It is a fact that through practice and activities of certain NGOs it is possible to recognise the ones that, besides other things, deal with the fight against discrimination in various fields; however, this cannot be a valid source for a precise answer, because, according to the regulations currently in force, no state body keeps such record nor is such record prescribed.

However, by analysing data from the Register of NGOs for the purpose of preparing the answers, it has been concluded that approximately 2.5-3% of all registered NGOs perform activities aimed at anti-discrimination, in direct or indirect way. This share includes the NGOs whose primary activities relate to anti-discrimination (such as the Centre against Racism and Racial Discrimination, the Human Rights Action, the Centre for Democracy and Human Rights (CEDEM), the Centre for Documentation and Research of Human Rights, the Centre for Inter-ethnic Relations and Minority Rights - PAX, the Centre for Integration of Marginalised Groups of Montenegro, the Committee for Human Rights and Fundamental Freedoms from Cetinje, the Montenegrin Helsinki Committee for Human Rights, the Association for Equality and Tolerance – AET, the Forum for Human Rights in Montenegro, the Human Rights Group, the League for Peace, Tolerance and Human Rights in Montenegro, the Network of Committees for Human Rights and Fundamental Freedoms in Montenegro, NGO Centre for Human Rights Development, the Committee for Human Rights in Montenegro, the Youth Cultural Centre Juventas, the Organisation for Human Rights Protection and International Cooperation – Amnesty, Place for Protection and Support to Elderly, Handicapped and Marginalised Groups in Podgorica, the Movement for Protection and Equality of Men Adam-Igalo, the Association for Support to Marginalised Groups, the Association for Support to Marginalised Persons and Groups, the Centre for Anti-discrimination “EQUISTA”, NGO Human Rights House), NGOs which generally deal with protection of human rights, as well as NGOs whose activities are aimed at protection of specific categories of persons in relation to religion, nationality, origin, sex, education, sexual orientation, health condition (e.g. disability, drug addiction, AIDS etc.)

The types of activities conducted by these non-governmental organisations for the purpose of achieving their statutory objectives primarily include organisation of conferences, round table discussions, seminars, issuing of publications and brochures etc. Very often, partners from public sector, foreign partners and interested public are also involved in these projects. For example, in the past, the Centre for Democracy and Human Rights (CEDEM) organised a number of seminars, round table discussions and conferences out of which we single out the following:

- round table discussion on “Anti-discriminatory Legislation”, Becici, 2005, organised together with the Swedish Helsinki Committee for Human Rights;
- round table discussion on “Model Guide against Discrimination”, Becici, 2006, organised together with the Swedish Helsinki Committee for Human Rights. Participants in the round table discussion were the representatives of non-governmental organisations, ministries, basic courts, law firms and the Ombudsman;
- regional seminar for lawyers on “Prohibition of Discrimination”, Igalo, 2007. The seminar on prohibition of discrimination was organised in April 2007, as a forum for professional exchange of opinions on mechanisms for prevention of or protection from discrimination, in the midst of public discussions on the draft of a new Montenegrin Constitution. Apart from domestic lecturers, foreign reputable experts gathered in this seminar as well, for the purpose of introducing the representatives of the Montenegrin judicial institutions with the European standards in the fight against discrimination and specific mechanism of protection from discrimination under the European Convention on Human Rights. This seminar is the fourth one organised by CEDEM in 2007 with the support of the Foundation and in cooperation with AIRE Centre from London. Partial support to implementation of this project was provided by OSCE, the UK Foreign Office, the Government of the UK, and the Westminster Foundation for Democracy.
- round table discussion on “The Challenges in the Prevention of Discrimination in Montenegro with the Focus on Roma, Ashkalia and Egyptian Communities”, Podgorica, 2009, organised together with the Representation of the United Nations High Commissariat for Refugees in Montenegro (UNHCR) etc

In 2009 CEDEM also published "Guide against Discrimination" which deals with the following issues: defining discrimination, manifestation of discrimination, as well as national and international legal frameworks related to this issue.

Regarding other types of specific activities of non-governmental organizations related to anti-discrimination, the Centre for Anti-discrimination EQUISTA in September 2009 started the Counselling Centre for persons exposed to various types of discrimination. This Counselling Centre provides free legal advice related to the exercise of the rights of discriminated individuals, and organizes meetings between members of the legal team and clients as needed.

Apart from the Government bodies and the University of Montenegro, the civil sector (the Centre for Human and Minority Rights, the Roma Scholarship Foundation) also participated in the process of drafting the Strategy on Minority Policy, which the Government of Montenegro adopted in 2008, and which, in accordance with the comparative legal standards, identifies the measures for implementation of the Law on Minority Rights and Freedoms and overall improvement of living conditions of minorities. NGO coalitions (CEZAM, CEDEM, NGO ASK, Nansen Dialogue Centre) participated also in the consultative process which preceded drafting of the Strategy.

In relation to this, it is important to emphasize that in the preparation of the Strategy of Cooperation of the Government of Montenegro and Non-governmental Organisations and Action Plan for the Implementation of the Strategy for the period 2009-2011, which the Government of Montenegro adopted on 22 January 2009, (draft was prepared by an intersectoral working group consisting of seven members: six state officials and one NGO representative, representative of the NGO Coalition "Cooperation towards the Goal"), data of the NGO Centre for Development of Non-governmental Organisations were used, according to which "the greatest number of NGOs deal with culture, art and socio-humanitarian issues, whereas they least deal with legislation, representation, public policy and problems of refugees and displaced persons."

The Law on State Administration (Official Gazette of the Republic of Montenegro 38/03 and Official Gazette of Montenegro 22/08) in the Chapter "Relation of State Administration Bodies with Non-governmental Organisations" in Article 80 prescribes (text of Article 80 quoted entirely from the Law):

"Ministries and administration bodies shall ensure cooperation with non-governmental organisations, which shall be achieved particularly by:

- 1) consulting non-governmental sector on legal and other projects and regulations governing the manner of exercising freedoms and rights of citizens;
- 2) enabling the participation in work of working groups for consideration of issues of common interest or for the normative regulation of relevant issues;
- 3) organising common public debates, round table discussions, seminars and other forms of common activities and by other appropriate forms;
- 4) informing about the content of agenda and about the report on activities of state administration bodies."

Progress may be stated in participation in specific actions, including policy making, since NGOs are increasingly taking part in the promotion and achievement of public interests, as well as in the promotion of the overall position of civil society, primarily by participating in the drafting of laws and strategic documents of the Government and by involvement in the work of government bodies. For example, in the previous period NGOs prepared or participated in the preparation of a certain number of laws and strategic documents such as: the Public Procurement Law, the Law on National Security Agency, the Law on Free Access to Information the Law on Police, the Law on Conflict of Interest, the Law on Witness Protection, Road Transport Safety Law, National Strategy of Sustainable Development, Communication Strategy for Informing the Public about the Process of Montenegro's Association with the European Union, Defence Strategy, Programme of Fight against Corruption and Organised Crime, Development and Poverty Reduction Strategy, Social and Child Welfare Development Strategy, Strategy for Development of Social Welfare System of Elderly, Strategy for Integration of Disabled Persons, as well as the already mentioned Strategy for Cooperation of the Government of Montenegro and NGOs.

NGO representatives also participate in the teams monitoring implementation of certain strategic documents, and a number of Memoranda of Understanding have been signed between certain

ministries and related NGOs. In the final stage of the preparation of the National Programme for Integration of Montenegro into the EU, on 8 May 2008, 11 NGOs and the Secretariat for European Integration prepared and signed the Cooperation Agreement and the Action Plan of SEI and NGO partners for implementation of Communication Strategy for Informing the Public about the Process of Montenegro's Association with the European Union in 2008.

Furthermore, the Communication Strategy of the Euro-Atlantic Integration of Montenegro, specifies non-governmental organisations as partners involved in the implementation of action plans for implementation of this Strategy. The Coordination Team for Implementation of the Strategy signed a Memorandum of Understanding with 7 NGOs, aimed at enhancing the information of citizens about the Euro-Atlantic integration and developing a partnership with state bodies based on the principles of tolerance and understanding, respect for the right to a different viewpoint and opinion, and presentation of facts based on valid arguments.

The answer to the part of the question concerning the manner of involving NGOs in policy making and specific action is contained in one of the Strategy goals related to improving the institutional framework for cooperation with NGOs i.e. establishment of the Council for Cooperation of the Government of Montenegro and Non-governmental Organisations which will consist of the representatives of the Government, ministries and NGOs, as well as in the following first two objectives of the Strategy of Cooperation of the Government of Montenegro and Non-governmental Organisations:

- improved information, consultation, participation in development and assessment of public policies through development of a culture of dialogue and the principle of independence of NGOs, improved exchange of information, development of NGO consultation process and ensuring greater participation of NGOs in bodies formed by the Government, ministries and other state administration bodies and
- development of a more encouraging environment for action of NGOs through increased participation of NGOs in the processes of European and Euro-Atlantic integration, encouraging and supporting volunteerism, ensuring greater participation of NGOs in implementation of the concept of civil and lifelong education, creation of conditions for equal access of disabled persons to public institutions.

Activity 17 from the Action Plan for the Implementation of the Strategy for the period 2009-2011, which relates to the obligation of drafting acts on the criteria and the selection procedure of NGO representatives in relevant bodies and working groups formed by the Government or ministries, also corresponds with this.

B. Equal treatment of women and men

Equal opportunities (Directives 75/117, 76/207, 2002/73, 86/613, 86/378, 92/85, 96/34, 96/97, 97/80 and 2004/113)

159. Is the principle of equal pay for equal work or work of equal value for men and women guaranteed?

i) by law;

The principle of equal pay for equal work or work of equal value for men and women (employed) is prescribed by the Labour Law (Official Gazette of Montenegro 49/08). The law employs 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.

ii) by collective agreement;

The same principle of equal pay for equal work or work of equal value for men and women (employed) also applies to collective agreements, which may not be contrary to law.

iii) by the Constitution ?

The Constitution guarantees the equality of women and men and develops the policy of equal opportunities for earning for equal work or work of equal value.

160. Do pay gaps exist between women and men? How is the gender pay gap defined and measured?

According to the Constitution and the Labour Code of Montenegro, there is no pay gap between employed men and women.

If a pay gap between men and women occurs, it is solely due to different pay for the jobs mainly performed by men and those mainly performed by women, and not due to gender.

In parallel with diminishing gender disparities and disparities in education, disparities are diminishing in acquisition of professional qualifications i.e. a specific level of education, based on gender equality, which is the basis for performing specific job positions with the employer that are equally valued both for men and women.

161. Is direct discrimination forbidden by law in the field of access to employment, training, promotion and working conditions?

The Constitution of Montenegro proclaims the principle that every person has the right to work, free choice of occupation and employment, fair working conditions and protection during unemployment.

According to the Law on Employment (Official Gazette of the Republic of Montenegro 5/02, 79/04, 29/05, 12/07 and Official Gazette of Montenegro 21/08) unemployed persons are equal in exercising the right to employment regardless of national affiliation, race, sex, language, religion, political or other belief, education, social background, financial status and other personal capacity.

Also, the Labour Law (Official Gazette of Montenegro 49/08) prohibits direct and indirect discrimination of persons seeking employment or employed persons based on sex, birth, language, race, religion, skin colour, age, pregnancy, health condition, or disability, nationality, marital status, family obligations, sexual orientation, political or other belief, social background, financial status, membership in political and trade union organisations or some other personal attribute.

The abovementioned discrimination is prohibited regarding:

- Terms of employment and selection of candidates for a job;
- Working conditions and all rights stemming from employment;
- Education, training and development;
- Promotion;
- Termination of employment contract.

The Law on Gender Equality (Official Gazette of the Republic of Montenegro 46/07) prohibits discrimination on the grounds of sex which implies any legal or factual, direct or indirect distinction, privilege, exclusion or limitation based on sex due to which a person is impeded or denied recognition, enjoyment or exercise of human rights and freedoms in political, educational, economic, social, cultural, sports, civil and other areas of public life. Sexual harassment, encouragement of other person to discrimination, as well as use of words in masculine form as a generic neutral form for masculine and feminine form is deemed as discrimination. Under this law, the right of women to protection of maternity, as well as to prescribed special safety at work due to biological characteristics, is not deemed as discrimination.

162. Is gender specific advertising allowed?

The Law on Gender Equality (Official Gazette of the Republic of Montenegro 46/07) defines that gender equality implies equal participation of women and men in all areas of public and private sector, equal position and equal opportunities for exercising all rights and freedoms and using personal knowledge and skills for society development, as well as obtaining equal benefit from the results of their work.

The Constitution of Montenegro (Official Gazette of Montenegro 1/07) prohibits any direct or indirect discrimination on any grounds. The Labour Law (Official Gazette of Montenegro 49/08) prohibits discrimination related to terms of employment and selection of candidates for performing a specific job. The Law on Civil Servants and State Employees (Official Gazette of the Republic of Montenegro 27/04, 31/05) prescribes that, in employment of civil servants or state employees, all positions are available to candidates on equal grounds. In relation to this, all vacancy advertisements of Human Resources Administration are written in a gender sensitive manner i.e. candidates of both sexes are explicitly invited to apply.

163. Is there a rule established either by law or jurisprudence that there is no justification whatsoever to ask a woman about pregnancy when applying for a job of whatever kind?

The Labour Law (Official Gazette of Montenegro 49/08), with a view to protecting maternity, prescribes that an employer must not require any data on pregnancy or refuse to employ a woman because of her pregnancy, terminate her employment contract or reassign her to other job positions because of the pregnancy, except in case when she performs work which endangers her or the child's life or health, as defined by the competent health authority.

164.Does the national law or case law provide a definition of direct and indirect discrimination? (Directive 2002/73/EC)

Definition of direct and indirect discrimination is laid down in the Labour Law (Official Gazette of Montenegro 49/08).

Under this law, direct discrimination is any action caused by any of defined grounds 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.

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 attribute, status, commitment or belief.

165.Are there any legal provisions concerning damages to be awarded by court in case of discrimination on grounds of sex? If so, are there any upper limits defined by law for such cases?

The Labour Law (Official Gazette of Montenegro 49/08) prescribes the possibility that a person seeking employment or an employed person who suffers damage due to discrimination may demand compensation for damages before the competent court.

Limits of possible amounts of compensation for damages, which would be binding on the competent court when deciding on individual disputes, are not defined by regulations.

166.Is there a system of administrative sanctions in case of discrimination based on sex? If so, please give details.

In Montenegro there are no regulations prescribing administrative sanctions in cases of discrimination based on sex.

167.Are there any provisions to protect women (not pregnant women) against work underground, onerous and harmful work and in particular from night work?

According to the Labour Law (Official Gazette of Montenegro 49/08) 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.

An employed woman working in the field of industry and construction business may not be assigned to night work. This prohibition does not refer to an employed woman in management or performing duties of health care, social and other protection.

Exceptionally, 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.

168. Are there any provisions in law or ordinance to define jobs in the sense of Art. 2 (2) of Dir. 76/207 where the sex of a worker constitutes a determining factor?

According to the provisions of the Labour Law (Official Gazette of Montenegro 49/08), an employed woman and an employed breast-feeding woman may not perform a job which entails mainly 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.

An employed woman working in the field of industry and construction business may not be assigned to night work. This prohibition does not refer to an employed woman in management or performing duties of health care, social and other protection.

169. Is there a general prohibition of night work for pregnant women?

Pursuant to the provisions of the Labour Law (Official Gazette of Montenegro 49/08), an employed woman during pregnancy and woman having a child under the age of three years may not work longer than standard working hours or night shift.

170. What is the legal position of a spouse of a self employed worker in terms of status, social protection and rights?

According to the special regulations, a spouse of a self employed worker i.e. a person engaged in an independent business activity is deemed to be a family member of the insured, therefore he or she exercises health insurance rights under the conditions prescribed by a special law from the field of health.

171. Are pregnant women protected against dismissal during the time of pregnancy and maternity leave?

According to the Labour Law (Official Gazette of Montenegro 49/08) 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. 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.

Pregnancy or maternity leave does not influence the termination of employment of an employed woman who has concluded a fixed-term contract.

172. Do national law or collective agreements forbid the exposure of pregnant or breast-feeding women to hazardous agents?

The Labour Law (Official Gazette of Montenegro 49/08) contains provisions on temporary reassignment of a pregnant woman or a breast-feeding woman on the basis of the results and recommendation of a doctor, if the competent doctor has found that she is performing work that endangers her life or health or child's life or health. If an employer is in no position to reassign her to another position, a pregnant woman or a breast-feeding woman has the right to leave from work with a compensation of salary for the previous position.

The same issue related to protection of these women is laid down in regulations on safety at work.

173.Does the employer have to assess the risk within the workplace?

Pursuant to the Law on Safety at Work (Official Gazette of the Republic of Montenegro 79/04) an employer is obliged to adopt an act on risk assessment for all job positions and to define the manner and measures for removing risk, and the Rulebook on manner and risk assessment procedure in the workplace (Official Gazette of the Republic of Montenegro 43/07) prescribes the manner and risk assessment procedure in the workplace with an employer, with measures for preventing, removing or reducing risk to the smallest possible measure are prescribed.

174.What are length and conditions of maternity leave required by law?

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.

175.Do provisions in your law clearly stipulate that at least 2 weeks of maternity leave are compulsory?

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.

176.Do national law or collective agreements give an individual right to parental leave and to reintegration into the previous or an equivalent job?

The Labour Law (Official Gazette of Montenegro 49/08) enables individual use of the right to maternity leave and to reintegration into the previous or an equivalent position.

177.Is parental leave granted on an individual non-transferable basis to both parents?

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).

During this leave, an employed woman or a father of a child has the right to a compensation of salary, in accordance with law and collective agreement.

178. What provisions on parental leave grant parents the right to return to the same work place, protection against dismissal and the protection of acquired rights?

According to the Labour Law (Official Gazette of Montenegro 49/08) an employer may not terminate an employment contract with a pregnant woman or terminate it because of the pregnancy or if she uses maternity leave.

Pregnancy or maternity leave does not influence the termination of employment of an employed woman who has concluded a fixed-term contract.

179. Are there provisions on the burden or proof concerning court suits and other procedures in cases of sexual discrimination? If so, does the employer have to prove that he did not discriminate if discrimination can be presumed?

The Constitution of Montenegro prohibits any direct and indirect discrimination and guarantees everyone equal protection of their rights and freedoms. The obligation of adherence to non-discrimination is laid down in Article 15 of the Constitution of Montenegro which prescribes that all citizens are free and equal regardless of any particularity or attribute. The constitutional prohibition of discrimination on any grounds is elaborated in more detail in a number of newly adopted regulations. Gender equality is laid down in Article 18 of the Constitution, which guarantees equality of women and men and develops the policy of equal opportunities.

The Law on Gender Equality (Official Gazette of the Republic of Montenegro 46/07) has provided a firm basis for the improvement of position of women and achievement of gender equality, as well as for the promotion of prohibition of discrimination on the grounds of sex.

The introduction of the following new constitutional categories, as significant constitutional novelties, in the sphere of protection of human rights and freedoms should be emphasised: the Ombudsman, as an autonomous and independent body that takes measures for protection of human rights and freedoms.

Apart from the traditional role of review of constitutionality, the supreme legal act grants the Constitutional Court jurisdiction to decide not only on the compliance of laws and other general acts with the Constitution, but also with ratified international treaties; with a view to ensure a high level of protection of human rights and freedoms, constitutional complaint is introduced as a legal remedy decided by the Constitutional Court. Everyone is entitled to refer to the Constitutional Court concerning violation of human rights and freedoms, after exhausting legal remedies before other state bodies.

The constitutional commitment that the international treaties and generally accepted rules of international law are an integral part of the international legal system, that they have supremacy over national legislation and that they are directly implemented when regulating relations differently from national legislation, deserves special attention. This definition verifies the legal effect of international treaties by treating them as a part of the national legal system with supremacy over national legislation.

Based on such constitutional provisions it is concluded that in the event of gender discrimination a victim may protect his or her rights in civil and criminal judicial proceedings, and subsequently also in the procedure before the Constitutional Court.

The presumption of innocence is guaranteed by Article 35 of the Constitution, which prescribes that everyone is considered innocent until proven guilty by a final court decision. Defendant is not obliged to prove his or her innocence, and the court is obliged to interpret doubt regarding guilt to the benefit of the defendant.

The Law on Civil Procedure (Official Gazette of the Republic of Montenegro 22/04, 28/05 and 76/06) prescribes that the parties are required to present all facts on which they base their claims and propose evidence in support of those facts. The Court is authorised to ascertain facts not presented by the parties and to present evidence not proposed by the parties if the result of the

hearing and presentation of evidence indicate that the parties are intending to dispose of claims which they may not dispose of. The Court may not base its ruling on facts and evidence on which the parties were not afforded the opportunity to declare themselves.

Article 3 of the Criminal Procedure Code prescribes that everyone is considered innocent until his or her guilt for a criminal act has been established by the final court decision, which represents a very important guarantee of the right of a defendant to a fair trial. The presumption of innocence means that a defendant is not obliged to prove his or her innocence by having to refute unproven allegations of the charges. In case of sex-based discrimination the prosecution also has to prove the existence of criminal liability. A defendant is acquitted of the charges not only when his or her innocence is established, but also when allegations of the charges are not fully proved. A defendant is also acquitted when the court remains in doubt regarding the guilt of a defendant, which means that a verdict of acquittal represents the application of rules referred to in Article 3 paragraph 3 of the Criminal Procedure Code i.e. a suspicion with respect to the existence of the fact composing characteristics of a criminal act or on which depends an application of a certain provision of criminal legislation shall be decided by the Court in the manner that is the most favourable for a defendant.

Criminal-law protection relevant for these issues is provided in the Criminal Code of Montenegro in Title Fifteen – Criminal Acts against Man and Citizen. Article 159 of the Criminal Code prescribes the criminal act of violation of equality, prescribing imprisonment of up to 3 years to an offender who due to national or ethnic affiliation, race, religion, or due to absence of such affiliation or due to differences regarding political or other belief, sex, language, education, social status, social background, financial status or some other personal attribute, denies or limits to another person the rights of man and citizen prescribed by the Constitution, laws or other regulations or general acts or ratified international treaties, or on the grounds of such differences grants privileges or exemptions to another person. If the aforementioned act is committed by an official acting in official capacity, he or she is liable to imprisonment from three months to five years.

Article 443, on racial and other discrimination, prescribes that a person who violates the fundamental human rights and freedoms guaranteed by the generally accepted rules of the international law and international treaties ratified by SMN, on the grounds of a difference in race, skin colour, nationality or ethnic origin, or some other personal attribute is liable to imprisonment from six months to five years. Anyone persecuting organisations or individuals for their efforts to ensure equality of people is liable to the same punishment. Anyone who disseminates ideas about the superiority of one race over another or promotes racial hatred or encourages racial discrimination is liable to imprisonment from three months to three years.

Under Title Twenty of the Criminal Code criminal acts 224-232 prescribe criminal acts against labour rights.

Article 224, violation of labour rights, prescribes that any person who deliberately does not adhere to law or other regulations, collective agreements and other general acts on labour rights and on a special safety at work of youth, women and disabled persons and thereby denies another person the right or limits him or her to the right he or she is entitled to, is liable to a fine or imprisonment of up to two years.

Article 225 prescribes the criminal act violation of equality in employment and a fine or imprisonment of up to one year for an offender who by deliberate violation of regulations or in any other unlawful manner denies or limits the right of a citizen to free employment under equal conditions within the territory of Montenegro.

Article 229 of the Criminal Code prescribes the criminal act violation of the right to social security benefits and a fine or imprisonment up to two years for an offender who deliberately does not adhere to laws or other regulations or general acts on social security benefits and thereby denies or limits the right that a person is entitled to.

180. Do structures exist to explore the right of equal treatment between the sexes? (Equal opportunities Commission, ombudsperson)

The Committee for Gender Equality of the Parliament of Montenegro was established on 11 July 2001 as a standing body of the Parliament with the mandate to consider and monitor the exercise of the freedoms and rights of man and citizen related to gender equality, which are laid down in the Constitution.

Gender Equality Office was established at the session of the Government of Montenegro on 27 March 2003 and it was operating within the General Secretariat of the Government until April 2009. Now it is Department for Gender Equality Affairs, which is competent for pursuing policies of gender equality in Montenegro, monitoring implementation of international conventions from this field, cooperation with gender equality mechanisms in the region, as well as cooperation with non-governmental organisations.

The Ombudsman is the institution established by a special law adopted by the Parliament of Montenegro on 10 July 2003. The Ombudsman has the duty to protect and promote human rights and freedoms when they are violated by an act, action or lack of action of the state bodies.

181. Please provide information on:**a) the activity rates of women and men;**

Montenegro	2004	2005	2006	2007	2008
Activity rate	51.7	49.9	48.9	51.7	51.9
-Men	60.9	57.4	57.8	60.0	60.4
-Women	43.1	42.9	41.0	43.9	43.9

Source: MONSTAT

b) the employment rates of women and men;

Montenegro	2004	2005	2006	2007	2008
Employment rate	37.4	34.8	34.5	41.7	43.2
Men	46.5	42.4	41.0	49.1	50.8
Women	28.8	27.6	28.7	34.8	36.1

Source: MONSTAT

c) the unemployment rates of women and men;

Montenegro	2004	2005	2006	2007	2008
Unemployment rate	27.7	30.3	29.6	19.4	16.8
Men	23.6	26.2	29.1	18.1	15.9
Women	33.0	35.5	30.1	20.9	17.9

Source: MONSTAT

d) part time work for women and men;

Montenegro	2004	2005	2006	2007	2008
Part time work	-	-	-	(16.9)	19.7
Men				((8.5))	11.4
Women				((8.4))	8.3

Source: MONSTAT

Explanation of signs

. It is not zero but it is very imprecise estimation (CV>=30)

(()) imprecise estimation (20<=CV<30)

{ } less precise estimation (10<=CV<20)

CV: Standard error of estimate as the percentage of estimation

Note: - means that no information is available.

e) educational attainment of women and men (upper secondary school, 20-24);

Population 15+ according to sex and educational qualifications – 2003 Census

		Total	Secondary education
Montenegro	Total	492 684	238 671
	Men	239 322	127 621
	Women	253 362	111 050
20-24 years	Total	48 963	38 316
	Men	24 792	19 373
	Women	24 171	18 943

Source: MONSTAT

f) share of members of national Parliaments (women and men);

The Parliament of Montenegro has 81 members, out of which number 9 or 11.11% are women.

g) share of senior ministers of national government (women and men);

The Government of Montenegro has 17 ministers, out of which number one woman or 5.8%.

h) the gender pay gap between women and men.

According to the Constitution and the Labour Code of Montenegro, there is no pay gap between employed men and women.

Article 15, paragraph 2 of the Labour Code uses the terms 'employee' and 'employer' in their grammatical masculine form as neutral for men and women, which also ensures gender equality in the exercise of labour-based and labour-originated rights. Regarding the tasks pertaining to a job position that is assigned an appropriate coefficient depending on the necessary level of formal qualification, degree of education and other requirements, employed men and employed women are provided equal treatment.

182.Are there any legal provisions in place covering occupational social security schemes? If so, do such schemes already exist in your country?

The Labour Code (Official Gazette of Montenegro 49/08) prescribes that an employer is obliged to register an employee for compulsory social insurance (health, pension and disability insurance and insurance against unemployment), from the day of taking up employment, in accordance with a special law.

An employer is obliged to hand a copy of registration of insurance to an employee no later than 10 days from the day of taking up employment. This ensures more security for the employees and prevents illegal work.

183.Are there any restrictions based on gender, concerning access to goods and services available to the public, offered outside private and family life?

In Montenegro there are no restrictions based on gender, concerning access to goods and services available to the public.

184.Is gender used as an actuarial factor for 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.

185.Are health insurance premiums for women higher than for men and are pregnancy and maternity related costs taken into account for the purpose of calculating premiums?

Health insurance contribution bases and rates are the same for men and women.

Equality of treatment in social security

186. Is there a general social security scheme covering the working population in your country? Does it contain differences in the pensionable age for men and women, or in the survivor pension benefits available to men and women? (These may be permitted under the derogations contained in Directive 79/7/EEC.)

On the basis of current financing, the compulsory pension and disability insurance covers the working population (insured employees, insured self-employed persons and insured farmers). This compulsory nature means that it starts by virtue of law from the day when a person takes up employment, starts performing an independent business activity in accordance with the law, or starts performing agricultural activity in accordance with the law.

The Labour Law (Official Gazette of Montenegro 49/08) prescribes that an employer is obliged to register an employee for compulsory social insurance (health, pension and disability insurance and insurance against unemployment) in accordance with a special law from the day of taking up employment.

An employer is obliged to hand a copy of registration of insurance to an employee no later than 10 days from the day of taking up employment. This ensures more security of employees and prevents illegal work.

According to the Law on Pension and Disability Insurance, the insured acquires the right to old age pension upon turning 65 (man) or 60 (woman) years of age and completing a pension qualifying period of at least 15 years. The insured acquires the right to old age pension upon completing an insurance period of 40 years (man) or 35 years (woman) and reaching the minimum age of 55. However, the given conditions for the acquisition of the right to old age pension will be fully applicable only after 1 January 2013; until then a gradual increase of the previously applied age limit and shortening of the required pension qualifying period in relation to conditions for acquisition of the right to old age pension are planned.

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.

Concerning the special conditions to be fulfilled by the family members for acquisition of the right to the survivor pension, the law does not distinguish between a widow and a widower. A widow or a widower become eligible for the survivor pension if they reached the age of fifty before the death of their spouse.

Since the regulations which were applied until 31 December 2003 prescribed different age limit for the acquisition of the right to the survivor pension for a widow and a widower, the new law prescribes the transitional period which determines a gradual increase in the age limit for the acquisition of the right to the survivor pension for a widow from 45 to 50 years of age within the period of 10 years (from 2004 to 2012), that is 6 months per every calendar year.

187. If there is a general social security scheme, does it also apply to civil servants, including the police and armed forces? Is there any specific scheme for civil servants, or are there within the general scheme specific rules for civil servants? Does it contain differences in the pensionable age for men and women, or in the survivor pension benefits available to men and women?

On the basis of current financing, the compulsory pension and disability insurance covers the working population (insured employees, insured self-employed persons and insured farmers).

Compulsory insurance covers as ensured employees civil servants, servants in the sense of the regulations on performing interior and police affairs and military personnel.

Accordingly civil servants exercise the rights from pension and disability insurance under general conditions applicable to all insured employees, which means that the insured - civil servant - acquires the right to old age pension upon turning 65 (man) or 60 (woman) years of age and completing a pension qualifying period of at least 15 years, or upon completing an insurance period of 40 years (man) or 35 years (woman) and reaching the minimum age of 55. Also, the method for determining the pension is the same for all these insured persons, including civil servants.

Within the general system, exemption from the general conditions for acquisition of the right to pension laid down in Articles 17, 197 and 198 of 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) is envisaged for military personnel and police officers. Exemption from the generally prescribed method for determining the amount of pension is prescribed as well.

Namely, the provision from Article 17 paragraphs 1 and 2 of this law prescribes that the insured acquires the right to old age pension upon turning 65 (man) or 60 (woman) years of age and completing a pension qualifying period of at least 15 years, or upon completing an insurance period of 40 years (man) or 35 years (woman) and reaching the minimum age of 55.

However, the provision from Article 197a of the Law on Pension and Disability Insurance prescribes that, in exception to Articles 17, 197 and 198, the right to old age pension may be acquired by the insured - employees - performing the jobs for which reduced service years for retirement are prescribed, those being the following:

- authorised officers in the sense of the regulations on performing interior and police affairs;
- authorised officers of the National Security Agency;
- military personnel serving in the Army of Montenegro;
- persons employed in bodies and organisations who, in the sense of the regulations on defence, perform jobs for which reduced service years for retirement are prescribed;
- authorised officials in the sense of the regulations on enforcement of criminal sanctions.

The insured referred to in Article 197a of this Law, that is military personnel and police officers, acquire the right to old age pension on turning at least 50 years of age and completing an insurance period of 20 years, out of which at least 10 years were effectively spent in jobs for which reduced service years for retirement are prescribed.

The exercise of the right to pension by application of the stated special conditions is time-limited until 31 December 2012 (Article 197d of the Law).

The given provisions of Articles 17, 197 and 198 of the Law on Pension and Disability Insurance prescribe the general condition for acquisition of the right to pension in relation to age, which is different for men and women. However, the provisions of Article 197b of the cited law prescribe the same condition for acquisition of the right to pension in relation to age for both men and women.

Concerning the special conditions which have to be fulfilled by the family members in order to acquire the right to the survivor pension, the law does not distinguish between a widow and a widower.

A widow or a widower become eligible for the survivor pension if they reached the age of fifty before the death of their spouse.

Since the regulations which were applied until 31 December 2003 prescribed different age limit for acquisition of the right to the survivor pension for a widow and a widower, the new law prescribes the transitional period which determines a gradual increase in the age limit for the acquisition of the right to the survivor pension for a widow from 45 to 50 years of age within the period of 10 years (from 2004 to 2012), that is 6 months per every calendar year.