



WOMEN'S RIGHTS CENTER
CENTAR ZA ŽENSKA PRAVA

WOMEN'S RIGHTS CENTER MONTENEGRO

SUBMISSION

TO THE UN UNIVERSAL PERIODIC REVIEW 43rd SESSION OF THE UPR WORKING GROUP (APR – MAY 2023)

Women's Rights Center (WRC) is a non-profit, non-partisan, non-religious organization from Montenegro, that fights for the elimination of all forms of violence against women, helping women access justice, and developing the gender-equal democratic practice in cooperation with all relevant national and international stakeholders in Montenegro.

Through direct legal support services for women, advocacy, monitoring and promotion of women's cultural initiatives, WRC improves conditions and the social atmosphere in which women exercise their rights.

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GENDER EQUALITY AND WOMEN'S EMPOWERMENT



1. Limited access to justice of women who experience gender based violence and discrimination, in particular Roma, LGBTIQ and women with disabilities, remain a serious concern. The Government fails to systematically monitor the effects of law implementation on women. The number of complaints pertaining to gender discrimination, filed with the Ombudsperson remains low - 26 cases in 2018, 29 in 2019 and 11 in 2021ⁱ (**REC.105.98, Bosnia and Herzegovina, Para.105**)ⁱⁱ

2. Institutional capacities to ensure the practical realization of the principles of equality and non-discrimination are still insufficient. National Council for Gender Equality is a non existing mechanism, whose last meeting (out of three) was held in 2017, with no records of any significant activitiesⁱⁱⁱ. Gender focal points^{iv} are mostly women officials in the departments of finance, human resources and general affairs^v and are not directly involved in policy making nor are aware of whether public policies and regulations are gender sensitive and mainstreamed^{vi}; A single database on cases of discrimination at the national level has not yet been established^{vii} (**REC:105.9, Moldova; 105.103 Sweden, 105.13 Uzbekistan, 105.99 Australia**)

3. There is a particularly worrying trend of shrinking overall space for provisions of gender sensitive specialized services for women and marginalized groups, due to inadequate system for distribution of CSO funding^{viii}; Instead of giving the priority to those who has expertise and experience, the process of licensing of CSO social service providers, has enabled excessive institutional control over women NGOs led services. It created a pressure and threat to the autonomy and functioning of these organizations and jeopardized a service provision based on human rights and victim centered approach. There were cases where perpetrators abused the system to put pressure on women NGOs service providers, through alleged charges of their illegal work, and the relevant institutions adhered to their attempts, performing frequent controls^{ix}. (**REC 105.16, Canada, para.105**)

4. Systematic approach in combating **sex selective abortions** is still missing. State still has to provide research on prevalence on selective abortions as well as launch continuous campaigns to raise awareness on its consequences on society and organise trainings of health care professionals regarding the use of prenatal genetic tests (**REC 104.6 Germany, 105.18 Uruguay, para 105.**);

5. There's a concerning upraise in misogynist rhetoric and hate speech, which is why serious considerations have to be put on the forthcoming adoption of the strategic and legislative framework regulating media sectorial policy and ICT induced gender based violence. At this point and by proposing Draft version of the new Media Strategy for 2022-2026, Government showed lack of strategic and gender sensitive approach to the issue. Sex-disaggregated data is completely excluded, gender sensitive language is not used, while any further evaluation on potential impact towards

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empowering women in media is missing. Only few remarks have been made on media literacy as a principal tool for exposing gender stereotypes in the media. (**REC: 105.46 -105.63 and 106.10 -106.11**)

6.The smear campaigns were also performed against women human rights defenders, particularly against those who provide specialized victim support.

7.The adoption of amendments to the electoral law, the Law on Government and the Law on Parliament, that allow for an increase in the quota of 40% for candidates of the underrepresented sex on electoral lists in order to improve the **representation of women in political life** is still pending (**REC no. 105.103, 105.42, 105.43, 105.45, 105.98 -105.108, para. 105**)

8.None of the activities which refer to the gender mainstreaming of policies in the field of education, culture and media in order to reduce the level of stereotypes and prejudices towards women and people of different sexual and gender identities, foreseen in the 2021 Action plan for National Gender Equality Strategy have been launched. **REC: 105.102, 105.11, 105.14, 105.103, para. 105)**

9.The latest WRC Report^x showed that gender-based discrimination in labour continue to be widespread, but go unreported due to fear of losing employment, distrust in institutions and concern over social condemnation or other repercussions. It is related to hiring, promotion, working conditions, maternity leave, paternity leave, parental status and sexual harassment. Despite women NGO appeals^{xi}, the state failed to take into account the effects of crisis caused by the COVID-19 on socio-economic position of women, which led to a worsening of their employment opportunities and regression to the private sphere where they perform 92% more unpaid work than men in the field of unpaid care and domestic work, according to the 2020 research^{xii}. (**REC: 105.104 Island, Slovenia, 105.88 – 105.93**)

10. There are serious concerns regarding women's access to healthcare. Cervical cancer is the second most common in Montenegrin women, right after the breast cancer, and one of the main causes of mortality^{xiii}. However, the screening program for its early detection has been suspended in 2020-21, due to the COVID-19 situation. This may lead to the diagnosis of patients with advanced stages of malignant disease in the coming years^{xiv}.

11. Another major health related concerns was the situation regarding maternity wards, that was also raised by the CEDAW Committee^{xv}, stating that services are hygienically inadequate, that access to pain relief medication was unavailable, that the privacy of the mother and her participation in decision-making was not respected. Even though the monitoring reports are missing, the recent experiences of wo-

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men reported by the media^{xvi} show that the aforementioned bad practices are still present in some hospitals. **(REC 105.93 Mexico)**

12. The hormone therapy with estradiol for transgender women was lacking during the COVID-19 crisis, so they were no longer able to procure the necessary medicines. **(REC 105.18)**

13. Limited progress has been made regarding protection of Roma, Ashkali and Egyptian Women from domestic violence and juvenile forced marriages. Insufficient access of RAE women to healthcare and premature pregnancies, leaves a toll on their reproductive, physical, and mental health.^{xvii} **(REC: 105.11,105.12, 105.126,105.127)**

14. Women with disabilities make 58 percent of unemployed persons with disabilities^{xviii}. Most of them have no education or only primary school finished and are living in the northern, rural part of the country. **(REC: 105.85, 105.86,105.138,105.139, 105.142)**

RECOMMENDATIONS:

- Ensure the Law on Prohibition of Discrimination is fully harmonized with CEDAW
- Strengthen significantly political power, institutional, financial and administrative capacity and competencies of the national gender equality mechanisms; ensure systematic gender impact assessments of national and local legislation, policies and action plans;
- Adopt amendments to the electoral law, the Law on Government and the Law on Parliament, that allow for an increase in the quota of 40% for candidates of the underrepresented sex in order to improve the **representation of women in political life.**
- Enhance measures aimed at preventing discrimination, intensify efforts on fighting poverty and social isolation of women and children, particularly those coming from vulnerable groups of the population.
- Fully implement action plans on gender equality in order to ensure women's political participation, education and economic empowerment, and address the needs of women facing multiple discrimination.
- Significantly increase efforts to address the challenges in the area of equal opportunities between women and men, with a particular focus on the economic and political empowerment of women, as well as combating violence and stereotypes of traditional women's roles.
- Continue taking measures to enhance the efficiency of its national institutional framework with a special focus on overcoming challenges in empowering women

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- and protecting women and children from all forms of discrimination and violence
- Ensure sufficient funding women's CSOs led service and urgently change the Rulebooks on social services provision in order to ensure ethical and human rights-based system of social support.
 - Ensure autonomy and confidentiality of CSOs social service providers for women and vulnerable groups.
 - Further strengthen efforts to protect the rights of lesbian, gay, bisexual, transgender and intersex persons effectively and investigate and prosecute cases of violence and discrimination against those persons.
 - Improve and enforce antidiscrimination provisions of the labour law and develop quality employment measures targeting women, particularly women with disabilities, LBT women, other minorities and vulnerable persons.
 - Increase the human, technical and financial resources in order to ensure access to justice and the remedies available for obtaining redress and reparation of persons who experience discrimination related to labour and employment.
 - Ensure better division of the family care and unpaid work by improving labour legislation.
 - Significantly improve the screening program for early detection of cervical and breast cancer; Regularly monitor and significantly improve hygienic conditions, access to pain relief, respect for privacy and the adequate involvement of patients in decisions taken in maternity wards;
 - Make modern forms of contraception available to all women and girls, free of charge, and raise awareness of the prevention of unwanted pregnancies and sexually transmitted diseases.
 - Ensure access to healthcare, by solving the problem of lack of hormonal therapy for all women in need, including estradiol therapy for transgender women.

FIGHT AGAINST TRAFFICKING IN PERSONS

(Rec: 105.64 -105.80 - increase actions to fight against human trafficking)

15. WRC follows the situation in the area of trafficking in persons and created the Report for a period of two years (January 2018 to December 2020)^{xix}. The findings are following: there were only three criminal proceedings for trafficking that lasted for almost two years; none of the victims used their right to free legal aid, none of the victims received financial compensation in either civil or criminal proceedings; Montenegrin authorities did not always respect a reflection period and some victims were questioned by the police before being brought to the shelters^{xx};

16.Regarding the quality of service provided to victims, there were allegations of misconduct toward children situated in the shelter for victims of trafficking, so the Basic State Prosecutor's Office in Podgorica opened a criminal case against the former

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director of the Shelter for victims of human trafficking for the crime of abuse and illegal deprivation of liberty of a child who was placed in the shelter^{xxi}. The anonymity of the victims was compromised in some cases.^{xxii} Concerns were also expressed by the UN Special Rapporteur on Trafficking^{xxiii}

RECOMMENDATIONS:

- Provide adequate legal assistance to victims provided by specialized lawyers and include NGOs in the system for free legal aid funded by the state;
- Ensure consistent implementation of existing legislation to protect the rights, safety and integrity of victims of trafficking.
- Review the criteria for licensing organizations providing shelter services and victim support to ensure victim's rights centered approach, experience and knowledge in understanding the trauma. Specialized shelters for women and children victims of sexual exploitation should be led by autonomous women's organizations. A professional and ethical Code of conduct for shelter staff and those working directly with victims needs to be developed to ensure the highest level of protection for victims, including the protection of victims' identities.
- Ensure compensation for victims and sustainable reintegration programs.
- Ensure regular independent monitoring and reporting on anti-trafficking activities and results in Montenegro, either through the activities of the Office of the Protector of Human Rights and Freedoms, or through the establishment of a special body, such as the Independent Rapporteur on Trafficking in Human Beings.

FIGHT AGAINST DOMESTIC VIOLENCE, VIOLENCE AGAINST WOMEN AND CHILDREN

(Rec: 105.109 -105.120 - addressing domestic and gender-based violence against women)

17. For the period of four months (October 2021- January 2022) three women were murdered by their partners, while the daughter of one of the victims was seriously injured, as well as the father of another. In two cases, years of torture against women occurred in the presence of minor children. All three cases were reported to the competent institutions, two of them on multiple occasions over the period of several years. All competent institutions have failed to act with due care and to protect victims and their minor children. Even though women NGOs led protests against femicide^{xxiv}, there was no concrete action to determine the responsibility of the competent public officials.

18. A particular concern is related to protection of women and children during custody issues, where relevant institutions failed to timely identify partner violence and tailor visitation model accordingly. Such institutional discrimination against women and children was encouraged by the case of President's of Montenegro decision to pardon a convicted family abuser, who was sentenced to 30 days in prison after not adhering to many court decisions aimed to ensure the contact of his former wife with their minor children^{xxv}. He was previously

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convicted for family violence against his former wife and blocked her contact with their minor children for more than three years. Such decision provoked protest of women's NGOs, whose requests were not met by the Government.^{xxvi}

19. The state failed to meet GREVIO request to establish a specialized center for supporting victims of sexual violence. The general public health services are not tailored to those experiencing sexual violence, and do not include emergency contraception. There was a case when a male gynaecologist from the main public health center in Montenegro refused to perform urgent examination of a rape victim, stating that he does not have the necessary approval by the authorized person. This also showed the lack of protocol for the medical examination of persons who are victims of rape or sexual violence^{xxvii}.

RECOMMENDATIONS:

-WRC welcomes the positive steps of the Ministry of Justice to adopt the Draft Law Amending the Criminal Code^{xxviii} aimed at toughening up penal policy in the area of **gender based violence** (recommendation no. 105.109), as well as better recognition of victim's rights in the adopted draft of the Criminal Procedure Code^{xxix}. However, Montenegro is yet to fulfil its commitments that derive from the ratified Istanbul Convention, particularly in the area of sexual violence. Further strengthen Montenegro's legislation by:

- a) Amending criminal laws to provide for measures of protection for victim safety during criminal proceedings and prior to a verdict;
- b) Expediting all orders for protection proceedings, issuing orders quickly and for the maximum time allowed;
- c) Issuing orders for protection based solely on victim's stated fears for her safety and not on offender status;
- d) Swiftly arresting, detaining, prosecuting, and incarcerating violators of protection orders.

-Require regular and comprehensive training, led by or in consultation with NGOs that serve victims, based on best practices including the dynamics of domestic violence, Montenegrin laws and the Protocol relating to domestic violence, sensitivity to victims, risk assessment, and promoting victim safety for all system actors including police, CSW personnel, prosecutors, and judges in misdemeanour and basic courts.

- Establish an independent mechanism to receive and handle complaints on authorities conduct in carrying out their duties under Montenegro's laws with the goal of ending impunity for officials who fail to carry out their duties in domestic violence cases.

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- Develop a standardized form/checklist for domestic violence police reports that includes a requirement that written reports be filed in all instances of police responding to reports of domestic violence, as well as information required to document in victim/witness interviews.
- Ensure all complaints of violence against women and girls are thoroughly investigated and where there is sufficient evidence, promptly prosecuted in accordance with the law and the right to a fair trial, and that no preferential treatment is given to perpetrators based on their position or social status.
- Provide programs for social integration of victims of violence, such as financial support, social housing, employment programs, child care, etc.
- Allocate enough resources for WCSOs services and establishment of sufficient number of specialized support services for women with disabilities.

ⁱ The Ombudsperson's Annual Reports 2018-2021, available at: https://www.ombudsman.co.me/lzvjestaji_Zastitnika.html

ⁱⁱ Follow up on the recommendations of the previous review of of Montenegro (3rd Cycle – 29th session)

ⁱⁱⁱ The Government of Montenegro in its Midterm Report for the 3rd Cycle from 2021, stated that the Ministry of Justice, Human and Minority Rights shall strengthen the role of the National Council for Gender Equality, continuous work of this mechanism, in order to monitor the implementation of gender equality policies (page 3, measure 15 related to recommendation no. 105.101);

^{iv} Since November 2016, 106 gender focal points and 13 contact persons in the media have been appointed at the national and local level. The Ministry of Justice, Human and Minority Rights is in charge of communicating with contact persons and coordinating their work in the field of gender equality. From the National Strategy for Gender Equality 2021-2025, at: <https://www.gov.me/en/documents/33985332-d431-4c25-9643-e9a15d76e548>, p.25

^v National Strategy for Gender Equality 2021-2025, with the Action Plan for 2021-2022, p. 26 <https://www.gov.me/dokumenta/33985332-d431-4c25-9643-e9a15d76e548>

^{vi} Gender Equality Profile, p. 14

^{vii} A statement of the Deputy Protector Nerma Dobardzic, June 3 2022, available at: <https://www.ombudsman.co.me/34781.news.html>





^{viii} In 2022, Ministry of Finance and Social Welfare made payments with 4-month delay to the NGOs whose projects were elected within the 2021 public call for funding, and only after they filed a lawsuit against the ministry.

^{ix} The information was obtained from several communications with SOS Center Niksic and Women's Safe House Podgorica

^x Report "Gender based discrimination in Labour", Womens's Rights Center, 2021, at: <https://womensrightscenter.org/category/publikacije/>

^{xi} In 2020, WRC sent several letters to the Minister of Economic Development and the Minister of Finance and Social Welfare with information on COVID crisis disproportionately high effects on women.

^{xii} For more information see UNDP research at: https://www.me.undp.org/content/montenegro/en/home/presscenter/pressreleases/2020/Women_Care_Work.html

^{xiii} Source: Public announcement of the Institute for Public Health, published on January 18,2022, at: <https://www.rtcg.me/vijesti/drustvo/348669/-oboljelih-od-raka-grlica-113-vakcina-za-djevojciće-u-septembru.html>

^{xiv} Source: Montenegrin Institute for Public Health, January 20202, at: <https://www.ijzcg.me/me/novosti/evropska-nedjelja- prevencije-raka-grlica-materice-17-23-januar-2022>

^{xvi} "Shocking testimonies about obstetric violence in Serbia and Montenegro", Portal Vice, February 4 2021, at: <https://www.vice.com/sr/article/y3gkvj/potresna-svedocenja-o-akuserskom-nasilju-u-porodilistima-u-srbiji-i-crnoj-gori>

^{xvii} See the Regional Report on Discrimination of Roma Women, on compliance with CEDAW and Istanbul Convention relating to discrimination of Roma women in the area of healthcare, child marriages and offering support and protection to Roma women in cases of domestic violence, 2019, available at: <https://eca.unwomen.org/sites/default/files/Field%20Office%20ECA/Attachments/Publications/2019/10/Regional%20Report%20on%20discrimination%20of%20Roma%20women%20English.pdf>

^{xviii} Monthly statistical bulletin of the Employment Institute of Montenegro, April 2022 https://www.zzzcg.me/wp-content/uploads/2022/05/4-April-BILTEN-04_2022..pdf

^{xix} Monitoring and evaluation of policies for combating human trafficking in Montenegro 2018-2020, WRC,

available at:<https://womensrightscenter.org/wp-content/uploads/>

^{xx} In accordance with the Council of Europe Convention against THB, the victims has the right to exercise the right to recovery and reflection within a period of 30 days, so that the victim can recover and make a free and informed decision on cooperation with law enforcement authorities.

^{xxi} Source: Portal Analitika, July 29,2022, at: <https://www.portalanalitika.me/clanak/formiran-krivicni-predmet-protiv-mitra-radonjica>

^{xxii} State Department TIP Report on Montenegro 2021, at: <https://www.state.gov/reports/2021-trafficking-in-persons-report/montenegro/>

^{xxiii} The UN Special Rapporteur on Trafficking, Maria Grazia Giammarinaro conducted an eight-day visit to the Montenegro and issued the Report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/44/45/Add.1), 22 Apr. 2020, available at: <https://reliefweb.int/report/montenegro/visit-montenegro-re>

^{xxiv} Media reports on protests available at: <https://www.vijesti.me/vijesti/drustvo/569755/protest-zbog-ubistva-sejle-bakije-u-podgorici-zrtvama-se-mora-vjerovati>
<https://www.slobodnaevropa.org/a/podgorica-protest-ubistvo-sejla-bakija-nasilje-nad-ze-nama/31497942.html>

^{xxv} NGOs requested requested a special session of the Government to be held and this and other similar cases to be considered. They raised the concern of such decision of the President, that encouraged illegal behavior and disrespect for court decisions to the detriment of children and discouraged all mothers who struggle to contact their children in accordance with court decisions. They also stated that by this act, the state committed outrageous institutional discrimination against women and children who are victims of violence and violated legally binding international standards of CEDAW, Convention on the Rights of the Child and the Istanbul Convention. <https://www.slobodnaevropa.org/a/podgorica-protest-nasilje-u-porodici/31343835.html>

^{xxvi} NGOs requested a special session of the Government to be held in order to discuss the case and systemic shortcomings in child custody cases: <https://www.slobodnaevropa.org/a/podgorica-protest-nasilje-u-porodici/31343835.html>

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^{xxvii} The statement of the President of Association of Gynaecologists of Montenegro for Daily Pobjeda, from 25 October 2021, is available at: <https://www.cdm.me/drustvo/miketic-zrtva-nije-smjela-da-ceka-pregled/>

^{xxviii} The Draft of the Criminal Code of Montenegro is available at: <https://www.gov.me/dokumenta/e52325cd-1f60-4aba-bfd1-2a756b5548e7>

^{xxix} The Draft of the Criminal Procedure Code available at: <https://www.gov.me/dokumenta/5a6f3785-9087-498c-bcd4-c69ab4fd2aa1>