



WOMEN'S RIGHTS CENTER
CENTAR ZA ŽENSKA PRAVA

GENDER ANALYSIS OF THE EUROPEAN COMMISSION REPORT ON MONTENEGRO
FOR 2023

GUIDELINES FOR IMPLEMENTATION OF RECOMMENDATIONS



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INTRODUCTION

The current European Commission report presents more stringent and direct assessments compared to previous iterations, particularly within the domain of gender equality, which serves as the focal point of this analysis. The reiterated evaluation by the European Commission (hereinafter referred to as "EC") indicating limited progress¹ in Montenegro regarding gender equality was not unforeseen.

The Commission observes that the legislative framework concerning gender equality exhibits limited efficacy due to a lack of sufficient political will to elevate this issue to a priority within the broader spectrum of governmental accountability mechanisms². Furthermore, it offers a negative appraisal of Montenegro's negotiation outcome and, consequently, the status of women's human rights within the nation. The report underscores that Montenegro's advancement towards EU accession is contingent upon the successful implementation of reforms in pivotal domains such as the rule of law, human rights, and fundamental freedoms. This assertion is unambiguously reinforced by the European Parliament in its recent Resolution concerning the European Commission's Report on Montenegro³.

It is of utmost importance to intensify the political dialogue on gender equality, wherein the European Commission plays a significant role by providing concrete recommendations to Montenegro, emphasizing the implementation of measures aimed at advancing the position of women and girls in society, and effectively combating the growing trend of gender-based violence within families. Building upon these recommendations and their own practices, non-governmental organizations focused on women's human rights advocate for the initiation of inclusive dialogue at the highest levels, offering their expert knowledge and experiences in this field.

Although the Women's Rights Center has been monitoring the inclusion of a gender perspective in the European integration process⁴ for years, this analysis represents a first of its kind. Its purpose is to provide decision-makers in Montenegro with support in fulfilling obligations regarding gender equality. Thus, at the end of each chapter, recommendations are provided, which, if implemented, will lead to progress in the field of gender equality, consequently improving Montenegro's assessment of progress in the process of accession to the European Union.

¹ Report of the European Commission on Montenegro for 2023, page 46, more on the link: https://neighbourhoodenlargement.ec.europa.eu/montenegro-report-2023_en

² Ibid.

³ Resolution of the European Parliament on the Report of the European Commission on Montenegro, at the link: https://www.europarl.europa.eu/doceo/document/A-9-2023-0277_EN.html

⁴ See more at the link: <https://womensrightscenter.org/izvjestaj-o-napretku-zemlje-za-2021/>

European Commission - Assessment of the Socio-Political Context for Advancing Women's Human Rights

In order to improve the state of human rights in the country, institutional capacities must be strengthened, including through adequate financing.

The role of the Constitutional Court in providing legal remedies for human rights violations has been undermined due to its incomplete composition, as explained in the judiciary section of the EC report. By the end of 2022, the Constitutional Court had 564 cases related to the protection of human rights. Montenegro must ensure that the duration of proceedings before the Constitutional Court is shorter to guarantee the position of the European Court of Human Rights from 2015 regarding the effectiveness of constitutional appeals as a legal remedy.

The internal organization of the Ministry of Human and Minority Rights must be improved, whereby an internal structure responsible for all types of fundamental human rights is defined, including the hiring of new personnel. Changes in the management structure at the Ministry introduced in July 2022 have directly weakened its capacities to effectively work on human rights enhancement, strengthen the legislative framework, develop new laws, and implement, and monitor the implementation of existing strategies and policies. Key individuals responsible for the rights of persons with disabilities and non-discrimination were also replaced⁵.

The EC report further assesses that systematic mechanisms for reporting to the UN human rights mechanism on the implementation of recommendations from the Universal Periodic Review Report on Human Rights in Montenegro from 2018 (UPR) have not improved. In the latest (fourth) UPR cycle, the state received 247 recommendations, the majority of which relate to gender-based violence, hate speech and hate crimes, other forms of discrimination, human trafficking, torture and abuse, and threats to journalists⁶.

Gender Equality

The European Commission consistently reiterates the urgent need for effective addressing of deeply ingrained social behaviors that degrade and discriminate against women, resulting in cases of gender-based violence. The legislative framework on gender equality has limited impact due to insufficient political will to prioritize this issue within the overall government accountability mechanisms. Montenegro is yet to adopt

⁵ Report of the European Commission on Montenegro for 2023, page 39.

⁶ Ibid.

a comprehensive monitoring and data collection system to assess the level of implementation of laws, policies, and strategies on human rights.

European Commission - Assessment of the Role and Importance of the Civil Sector

We call upon the Government of Montenegro to demonstrate unequivocal political support for civil society, which the Commission emphasizes as a key component of any democratic system. Over the past year, we have witnessed politicians - including those in top positions - frequently belittling the work of critical civil society, a situation openly criticized by the Commission in its official recommendations.

The role and contribution of the civil sector in the process of European integration should be recognized and evaluated in practice, not just in theory, as is currently the case in Montenegro⁷.

The Commission warns that the legislative and institutional framework regulating cooperation between the state and civil society must be improved. This indirectly refers to amendments to the Law on NGOs, which are designed to enhance procedures for the establishment, registration, and operation of non-governmental organizations. The law has yet to be adopted.

In combatting human trafficking, the Ministry of Internal Affairs allocated funds to an organization whose director has been accused of violence against underage victims of human trafficking - residents of the shelter. Two underage victims filed complaints with the local police. The distribution of state funds must be based on the highest standards of professionalism and integrity and must be protected by control mechanisms.

With this in mind, the Women's Rights Center calls on the Government to:

1. Reopen public discussion on the Law on Non-Governmental Organizations and amend and adopt accompanying sub-legal acts prescribing clear mechanisms to prevent the aforementioned abuses, primarily guaranteeing that individuals convicted of violent crimes are ineligible to lead specialized support services in this area. (Competence: Ministry of Public Administration)
2. Reopen and hold public discussions on the Law on Amendments and Supplements to the Law on Free Legal Aid, where specialized legal support services for victims, led by non-governmental organizations, will be recognized through budget funding⁸. (Competence: Ministry of Justice)

⁷ Ibid.

⁸ Although the Government has adopted amendments to the Law on Free Legal Aid, as also reported, once again the long-standing appeals of women's NGOs, whose goals and activities are focused on free legal aid and access to justice, have not been accepted to be recognized in the system of funding free legal aid. The Ministry of Justice's explanation is that the only providers of free legal aid can be lawyers, who will now be required to

3. Establish a database of financial support to civil society organizations providing specialized services for women and children, respecting their autonomy and work principles. The Commission recognizes cases where the lack of precise and fair selection criteria results in the selection of NGOs without experience in the field or the selection of NGOs unsuitable for working with a specific target group⁹. As a result, large amounts of money are spent ineffectively and do not reach the vulnerable groups, who need them most. This practice applies to all support lines (combatting violence, persons with disabilities, the LGBTQI+ community, etc.). (Competence: Ministry of Public Administration, Ministry of Labor and Social Welfare in collaboration with other ministries).

Public Administration Reform

The Commission notes that institutional structures have been established for a coherent policy-making system and to enhance the overall quality of strategic documents. The General Secretariat has been more attentive to incorporating a gender perspective and environmental protection issues into all policies. However, further work is needed to make the process more efficient and practical, including training of all stakeholders.

A legal and political framework has been established to improve gender equality in public administration, and efforts are being made to integrate gender issues into all aspects of public administration reform. Further work is needed on collecting and disaggregating data on gender equality at all levels of public administration. The Commission calls for the preparation of planned gender equality action plans for all ministries to commence.

attend specialized training in the field of domestic violence. The Women's Rights Center has long emphasized that the lawyers it collaborates with are on the list of providers of free legal aid and have years of experience in representing cases of gender-based and family violence, which is not the case with most lawyers on the aforementioned list. In addition to the financial constraints faced by women's organizations, as clearly emphasized in the Commission's Report, engaging these lawyers to ensure adequate access to justice creates additional burdens. The fact that the Women's Rights Center provided over 300 free legal aid services to support service users in 2022, while according to open data, the state provided this service for 168 cases in three years, clearly indicates that NGOs need to enter the funding system and be recognized through the Law. Recommendations from the Commission to Montenegro in this regard would be more than crucial.

⁹ Report of the European Commission on Montenegro for 2023, page 17.

What does the EU Action Plan on Gender Equality and Women's Empowerment in External Relations 2021–2025 (GAP III) envisage?

The EU Action Plan on Gender Equality and Women's Empowerment in External Relations 2021–2025 (GAP III) aims to promote gender equality in all areas of the European Union's internal and external policies. It sets forth three principles underlying the EU's gender policy: a gender-transformative approach, an approach addressing intersectionality, and a human rights-based approach. The Women, Peace, and Security Agenda is one of the key areas of GAP III.

GAP III also foresees the development of specific implementation plans at the country level – Country Level Implementation Plans (CLIP)¹⁰. The Delegation of the European Union (EU) leads this process in Montenegro. During the recently completed consultative process for amendments and revisions to CLIP¹¹, EU Member States reiterated the importance of political will and leadership at the highest political level for integrating gender issues into the policy cycle.

The current revision of CLIP will provide the EU Delegation in Montenegro and EU Member States with a clearer context within which political dialogue will be conducted and a gender perspective will be openly advocated for reforms.

To expedite the entire process, synchronized monitoring and consistent reporting on the implementation progress of GAP III are necessary, focusing on thematic areas prioritized by CLIP.

These areas include:

A. Ensuring freedom from all forms of gender-based violence

Women, men, girls, and boys, in all their diversity, are better protected from all forms of gender-based violence in the public and private spheres, at the workplace, and in online spaces through laws and effective enforcement;

Women, men, girls, and boys, in all their diversity, who experience gender-based violence have increased access to essential services;

¹⁰ Country Level Implementation Plan – CLIP (revision of 2023), MONTENEGRO. The document was shared with the Women's Rights Center during an intensive consultation process with the EU Delegation in Montenegro, aimed at amendments and additional documents. The process started in June 2023 and was still ongoing at the time of writing this report.

¹¹ Gender Action Plan III – 2021-2025 - Country Level Implementation Plan – CLIP (revision of 2023), MONTENEGRO. The document was shared with the Women's Rights Center during an intensive consultation process with the EU Delegation in Montenegro, aimed at amendments and additional documents. The process started in June 2023 and was still ongoing at the time of writing this report.

The right of every individual to have full control and freely and responsibly make decisions regarding their sexuality and sexual and reproductive health and rights, without discrimination, coercion, and violence, is better protected;

Women, men, girls, and boys, in all their diversity, who are trafficked for all forms of exploitation and abuse, have improved access to adequate and quality services for socioeconomic integration and psychosocial support;

Women's rights organizations, social movements, and other civil society organizations are influential in ending gender-based violence; Quality, disaggregated, and globally comparable data on various forms of gender-based violence and harmful practices are increasingly collected and used to inform laws, policies, and programs.

B. Promoting sexual and reproductive health and rights

Improved access for every individual to sexual and reproductive health and services, including family planning services, information, and education on sexual and reproductive rights

C. Enhancing economic and social rights and empowering girls and women

Increased access for women, in all their diversity, to decent work, including women's transition into the formal economy and coverage by non-discriminatory and inclusive social protection systems;

Increased access for women, in all their diversity, to financial services and products, and productive resources;

Women, in all their diversity, have improved access to entrepreneurship opportunities, including social entrepreneurship, alternative livelihoods, and enhanced participation in the green and circular economy;

Improved access for women, in all their diversity, to managerial and leadership roles in social and economic sectors and forums;

Reducing gender disparities in enrollment, progression, and retention at all levels of education and lifelong learning for women, men, girls, and boys;

D. Enhancing equal participation and leadership

Creating conditions for equal participation of women, men, girls, and boys, in all their diversity, in decision-making;

Ensuring better access to justice for women and girls to protect their civil and political rights;

Promoting fair social norms, attitudes, and behaviors that enhance equal participation and leadership at the community and individual levels – through civic education, media, education, and culture at all levels;

Developing systems for collecting quality, disaggregated, and globally comparable data on women's political participation and leadership.

E. Climate change and the environment and digitalization¹²

Strategies and agreements on climate change and risks management must more inclusively incorporate a gender perspective at the local, national, regional, and international levels.

Women and men, in all their diversity, participate more and have improved access to jobs, entrepreneurial opportunities, and alternative livelihoods in the green and circular economy.

The rest of the analysis is structured through five thematic sections of the same name, aimed at presenting a synthesis of all official recommendations and assessments of the European Commission with the CLIP structure, to contribute to the methodological consistency of monitoring the process of fulfilling recommendations and facilitate future monitoring of negotiation dynamics in selected areas. Presented in this way, the analysis contributes to the visibility and significance of CLIP and facilitates future monitoring of the success of activities carried out by the EU Delegation in Montenegro. Ultimately, with the recommendations we offer as a civil society organization, whose vital role in democratizing the process is clearly recognized in the EC Report, we contribute to the implementation of European strategic obligations in the field of gender equality from GAP III, as well as to the overall dynamics of EU accession.

Below, we provide an overview of the Commission's assessments of selected chapters, along with corresponding recommendations.

¹² In parallel with the process of analyzing the European Commission's Report for 2023, the Women's Rights Center participated in the revision process of the Country Level Implementation Plan (CLIP), where alongside a series of recommendations, we also indicated the need to expand thematic areas to include the UN Security Council Resolution 1325 "Women, Peace, and Security." We consider this note important in the context of regional instability, as well as the focus of the European Commission's work, especially the Directorate-General for International Partnerships (DG INTPA), on issues related to women's participation in peace processes and security in the Western Balkans and beyond.

A: Freedom from all forms of gender-based violence



This year, once again, the key recommendation of the EC relates to the field of gender-based violence and violence against women.

A.1. Gender-based violence and domestic violence

Gender-based violence, especially domestic violence, remains a serious and persistent problem and the most extreme manifestation of gender inequality in Montenegro.

Publicly expressed misogyny, gender-based violence, and violence against children, with insufficient oversight by the competent authorities, are causing serious concern. Additional efforts need to be made to ensure the effectiveness of law enforcement, access to justice, and the implementation of rights in administrative and judicial proceedings, especially for vulnerable groups.

Women's organizations remain a crucial factor in supporting victims of gender-based violence and in organizing various training sessions and awareness campaigns. However, these organizations face constant financial constraints.

Crisis centers and clear protocols for supporting victims of sexual violence have not yet been established.

Despite a solid legal framework, there is a lack of systemic gender sensitivity and procedures tailored to women victims of violence. The European Commission sees a

challenge in the limited specialization of judicial, social, health, and police experts dealing with gender-based violence and violence against women.

The investigative and judicial practice remains very lenient, applying only some protective measures in misdemeanor proceedings and very few security measures in criminal proceedings. Such practice is not in line with international standards, primarily with the practice of the European Court of Human Rights, which requires state authorities to conduct appropriate investigations in cases of family violence and take measures for appropriate prosecution. In the reporting period, monetary fines account for one-third of the total number of imposed misdemeanor penalties (32, or 36%), suspended sentences one-fifth (21, or 6%), and prison sentences continue to be rarely imposed (10%).

Regarding procedural rights and free legal aid, in addition to the lack of comprehensive data on the use of this mechanism, this year's Report also highlights the problem of inadequate protection of victims, especially women and children, as well as the duration of proceedings.

Recommendations of the European Commission 2023:

Recommendation 1: Similar to last year, the report mentions the upward trend in the number of femicides and cases of gender-based violence as a very concerning issue. Therefore, the European Commission recommends that Montenegro amends and adopts legislation in line with EU legal standards, and European and international standards on domestic violence, combating discrimination, hate crimes, and hate speech.¹³ Other changes in legislation are also necessary, particularly in the area of nondiscrimination, emphasized the Commission.

Recommendation 2: The European Commission also urges Montenegro to amend and harmonize criminal legislation with EU legal standards, and European and international standards for the protection of fundamental and procedural rights.

Recommendation 3: It is recommended to enhance the protection of basic human rights, especially the rights of vulnerable groups, and ensure consistent interpretation of the case law of the European Court of Human Rights and European and international human rights standards throughout the judicial system, including improving interinstitutional cooperation.¹⁴

¹³ The recommendation is provided through Cluster 2: Rule of Law and Fundamental Rights, and pertains to Chapter 23: Judiciary and Fundamental Rights. European Commission Report on Montenegro for 2023, page 39.

¹⁴ Consistent interpretation of the case law of the European Court of Human Rights, as an official recommendation to Montenegro by the Commission, is of utmost importance for Montenegro and for resolving

How to achieve progress in this area and obtain better assessments from the European Commission next year?

To achieve progress in this area and obtain better assessments from the European Commission next year, the Women's Rights Center calls on the Government of Montenegro to:

1. Convene an urgent session to appoint a task force mandated to analyze the existing ineffective system for the protection and support of victims, with a clear deadline for the submission of a report.
2. Ensure continuous supervision and evaluation of the work of all relevant institutions and establish a clear accountability system for all representatives of institutions involved in the fight against violence.
3. Urgently establish a national body for coordination, monitoring, and evaluation of policies and measures to prevent and combat all forms of violence covered by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, with membership of representatives of women's NGOs leading specialized support services for women and children with experience of violence, which will place the rights and best interests of victims at the center of all measures.¹⁵ (Competence: Ministry of Labor and Social Welfare)
4. Design and launch programs for the reintegration of victims of violence, such as social housing, employment programs, and support and childcare services, in cooperation with local governments and specialized NGOs.
5. Establish a monitoring system for the total amount of funds spent on:
 - 5.1. Prevention of gender-based violence and domestic violence.
 - 5.2. Support for victims of gender-based violence and domestic violence. (Competence: Ministry of Labor and Social Welfare)
6. Ensure conditions for the specialization of officials and the formation of expert teams in institutions working on the prevention and suppression of violence against women and domestic violence – police, prosecution, social welfare centers, judiciary, health services, and forensic experts;

the situation of judges' decisions in cases involving both economic and social rights of women and girls. (More on this in Chapter C).

¹⁵ The establishment of this committee is in line with the reporting and evaluation mechanism envisaged by the National Action Plan of Montenegro for the implementation of the Istanbul Convention, which the Government adopted on July 6, 2023. More information can be found at the following link:

<https://www.gov.me/clanak/saopstenje-sa-60-sjednice-vlade-crne-gore>

7. Establish a record of all training and specialization of employees in institutions working on the prevention and suppression of violence against women and domestic violence – police, prosecution, social welfare centers, judiciary, health services, and forensic experts.
8. Establish an independent mechanism for receiving and resolving complaints about the behavior of public officials in the performance of duties to prevent and protect against violence to eliminate impunity for failures in work and build trust in the work of state institutions.
9. Ensure the completion of work on amendments to the Law on Protection against Domestic Violence and criminal legislation and consider ways to further enhance it with measures against femicide, digital violence, and gender-based hate speech, as partially promised in Prime Minister Milojko Spajić's [exposé¹⁶](#), as well as integrate recommendations from GREVIO and women's NGOs, and submit it to the Assembly for final adoption.
10. Provide adequate human and financial resources for the implementation of all measures, policies, and legislation aimed at preventing and combating violence against women.
11. Ensure political and financial support to civil society organizations that lead specialized services for women and children, respecting their autonomy and working principles.

A.2. Prohibition of Discrimination

Montenegro has not made progress regarding the adoption of a new Law on the Prohibition of Discrimination that would ensure full compliance of national legislation with EU legal standards on combating discrimination and the recommendations of the European Commission against Racism and Intolerance from 2017. These recommendations call on Montenegro to establish a system for collecting disaggregated data on hate crimes.

The Commission notes increased social polarization, misogyny, and hate speech. Vulnerable groups, including Roma and Egyptians, persons with disabilities, and the LGBTQI+ community, continue to face multiple forms of discrimination and challenges in realizing their rights, occasionally facing hate speech and hate crimes. There is an urgent need for effective addressing of all forms of discrimination using legal protection mechanisms.

The EC emphasizes that acceptance and respect for pluralism in society should be encouraged from an early age, through engagement with young people and adults, to

¹⁶ The exposé of the Prime Minister for the composition of the 44th Government of Montenegro can be found at the following link: <https://www.gov.me/dokumenta/959151c9edbe-446e-aabb-4e2e41465a46>

promote behavioral changes and tolerance towards diversity. According to a study by the Center for Democracy and Human Rights on discrimination from 2022, 67% of respondents (2020: 57%) believe that discrimination is present in Montenegro, mainly based on political beliefs, as stated in the report.

How to make progress in this area and achieve better assessments from the European Commission next year?

1. Complete the process of drafting the Equality and Non-Discrimination Protection Act and submit it to the Parliament for further procedures. (Competence: Ministry of Human and Minority Rights)
2. Initiate and implement the harmonization and alignment of provisions of the Law on Life Partnership of Same-Sex Individuals with the remaining legislation (even 26 laws and sub-legal acts¹⁷). (Competence: Ministry of Human and Minority Rights)
3. Align the legal framework with the standards of the UN CEDAW Convention, following the recommendations of the CEDAW Committee. (Competence: Ministry of Human and Minority Rights and Ministry of Justice)
4. Organize training sessions and strengthen the capacities of relevant institutions to recognize gender discrimination, particularly in the field of labor and employment.

A.3. Human Trafficking

Montenegro must significantly improve the judicial response to human trafficking by expediting court proceedings and imposing deterrent penalties.

Montenegro should strengthen its capacities to detect human trafficking for all forms of exploitation and to identify victims at an early stage, especially in high-risk sectors, and target specific actions for particularly vulnerable groups.

Support services and assistance to victims of human trafficking need to be improved, particularly for victims belonging to vulnerable communities.

The shelter for victims of trafficking in human beings should be opened as a matter of priority.

Montenegro still needs to improve the support available to the victims in trials related to human trafficking.

In the absence of specialised lawyers and proper legal advice, many victims do not

¹⁷ The analysis of the Montenegrin regulatory framework regarding compliance with the Law on Life Partnership of Same-Sex Persons, with a focus on necessary amendments and supplements to laws and sublegal acts, was conducted by the non-governmental organization Queer Montenegro and submitted to the Parliament of Montenegro in 2021. More information can be found at: <https://www.aktuelno.me/crna-gora/kalezic-trazimo-osnovna-prava-sad-i-odmah/>

request the free legal aid they are entitled to and do not access compensation.

The Law on compensation of damages for victims of violent crimes, adopted in 2015, should be applied.

The capacity of labour inspectors and law enforcement agencies to detect, identify and investigate trafficking for the purpose of labour exploitation needs to be strengthened.

The initial recording in human trafficking investigations continued to improve, and greater institutional capacities led to a greater number of detected cases. However, there was no single **court decision** in any of the 11 cases pending before the courts in 2022 and in the first trimester of 2023. Moreover, **not a single verdict** related to trafficking in human beings has been issued by courts in the last two and the half years.

The multi-disciplinary victim identification team, which is in charge of identification of, referral of and initial assistance to victims, identified 16 victims, **nine of which were minor girls** (victims of illicit marriage, i.e. before the legal age of 18, or forced beggary), four of which were women (victims of sexual exploitation or illicit marriage), and two were minor boys (victims of illicit marriage, or forced beggary). People from the Roma community, **in particular women and children**, remained at high risk of trafficking in human beings.

the shelter for victims of trafficking in human beings, financed by the state and run by an NGO, was closed in December 2022, after two minor victims hosted in the shelter filed a complaint with the local police about violence exerted against them by the manager of the shelter. Montenegro currently has no **shelter for victims of trafficking in human beings**, and no specialised **shelter for children victims either**. In 2023, the aforementioned manager of the shelter **received another grant** from the Ministry of Interior, after having funded a new NGO. Montenegro needs to strengthen control over the allocation of state funds in this area, where the highest professionalism and ethical standards should prevail.

The seriousness of this case and the ineffectiveness of institutions in terms of taking further measures after the reported violence in the shelter and possible corruption in the funding system is evidenced by the fact that the Commission once again mentioned it in the chapter referring to the work of the NGOs, demanding urgent measures to prevent and suppress these adverse events.

How to achieve progress in this area and a better EC assessment next year?

1. Ensure that all victims of trafficking in human beings use free legal aid, and ensure

that lawyers specialize in this topic.

2. Ensure that victims of trafficking in human beings get the information about all the rights they during the procedure in writing, in a language that the victim understands.
3. It is necessary to amend the **Law on compensation of damages for victims of violent crimes**, and to provide for the establishment of the Compensation fund, in accordance with the amendments made by the Women's Rights Center, in order to enable the victims of trafficking in human beings to exercise their right to state compensation where such compensation cannot be provided from other sources.
4. A 30-day period of recovery or reflection should be granted to all victims, without exception.
5. It is necessary to **strengthen the cooperation between the state authorities** and the civil society organizations that provide support to the RAE population, so as to resolve any doubts related to criminal offense of trafficking in human beings in the community more effectively.
6. It is necessary to provide **specialized shelters, in particular, shelters for women and children victims of sexual exploitation and trauma**, which would be run by women's organizations specialized in working with the victims of gender-based violence.
7. It is necessary to develop a **professional and ethical code of conduct** for employees in shelters and those who work directly with victims, in order to ensure the highest level of protection for the victims, including the protection of their identities,
8. To amend the **Rules on detailed conditions for the provision and use, norms and minimum standards services stay at the shelter** so as to ensure that only persons with specialized knowledge and skills, and whose CV guarantees the victims' safety, may work directly with the victims.
9. It is necessary to ensure full implementation of the **Rules on detailed conditions for the provision and use, norms and minimum standards services stay at the shelter**, in particular Article 10 which more closely defines the manner of victim accommodation per age and gender, as the Women's Rights Center repeatedly warned the competent institutions about the violation thereof.
10. Provide a regular (annual) **independent monitoring** and reporting on the activities and results of the fight against trafficking in human beings in Montenegro, either via the activities of the Office of the Protector of Human Rights and Freedoms, or via the establishment of a separate body, i.e. the Independent Rapporteur on Trafficking in Human Beings.

B. Improving the sexual and reproductive health and rights in women and girls;

Montenegro is **moderately prepared** in the area of health care, and a **limited progress** was made on last year's recommendations. Alignment with the EU acquis was achieved with the adoption of the Law on Health Care. In order to improve the overall situation in the health sector, the Commission officially recommended Montenegro to adopt a new strategy for the development of the healthcare system and start its implementation.

Regulations in the field of medically assisted reproduction were adopted in order to further align national legislation with the EU legislation. The first HPV vaccination program for nine-year-old girls was introduced in 2022.

The Commission also states that vulnerable groups have access to healthcare facilities, save for persons without regulated civil status, including Roma and Egyptian minorities. Persons who live in remote rural areas, **especially the elderly**, face difficulties in reaching health institutions. Also, the lack of accessible health facilities, appropriate equipment and special health services **remains a problem for people with disabilities**.

How to achieve progress in this area and a better EC assessment next year?

1. Adopt the Strategy for the development of the healthcare system in Montenegro that will identify and solve specific problems in healthcare that particularly affect the female population.
They are, *inter alia*, related to the obstacles faced by women in rural and displaced areas, who rarely use the national screening and preventive tests for the early detection of cervical cancer, as shown by research conducted in a sample of 14 municipalities in the northern Montenegro¹⁸. The same research showed a high percentage (35%) of women who do not have a primary care gynaecologist, or women (46%) who have never had preventive gynaecological or breast examinations, with as much as 75% women who have never had a mammogram¹⁹. In 57% of cases, women visit a gynaecologist when they already have a problem. These data must be informative for the Strategy for the development of the healthcare system, along with the planning of specific measures (jurisdiction: Ministry of Health).
2. Ensure the accessibility of health care for women with disabilities.

¹⁸ More information available at: <https://forsmontenegro.org>

¹⁹ Ibid.

Namely, the identified problems that women with disabilities face upon accessing health care are related to the inaccessibility of gynaecological examination chairs, as there are only three at the country level, and they are either in a poor condition or the medical staff does not know how to use them in the units that do have them²⁰. (jurisdiction: Ministry of Health).

Ensure the constant availability of free estradiol hormone therapy, the lack of which particularly affects trans women. (jurisdiction: Ministry of Health).

3. Accelerate the adoption of the Law on Legal Gender Recognition Based on Self-Determination scheduled for 2023, so that trans people are not forced to undergo forced sterilization as a requirement for changing the gender designation in personal documents. (jurisdiction: Ministry of Human and Minority Rights)
4. Initiate making amendments to the discriminatory provisions of the Rulebook on closer conditions, procedure and content of medical documentation for exercising the right to infertility treatment using the MAR procedure in women who do not live in marriage or cohabiting union, as well as parts of other by-laws that prevent persons with sexual and affectional orientation toward people of the same gender and women in civil partnership to access MAR, as well as to donate gametes.

C. Improvement of economic and social rights and empowerment of girls and women;



During the reporting period, the Commission noted institutional and technical drawbacks as to the activities of the Ministry of Labour and Social Welfare. The reconstituted Ministry did not manage to adopt all relevant strategic documents in time. The Chapter 19 Working Group was set up again, but did not meet again after the constitutive meeting.

Despite the improved labour market conditions, there are still some structural problems,

²⁰ Source: Association of Youth with Disabilities

including large regional disparities and gender gap, as well as high youth unemployment and long-term unemployment rates.

Female activity rate (61.4%) remained significantly below the male activity rate (73.9%). Although the gender gap has widened since the pandemic, female unemployment rate (population aged 15-64) continued to drop faster than the male unemployment rate in 2022. The report repeats the 2019 gender equality index value of 55 points, compared to the EU average of 67.4. Data from the World Bank are also cited, according to which the share of women in top management is only 15%, i.e. 24% in business ownership.

The Commission welcomed the programs for development of women's entrepreneurship and the measures taken on the labour market in order to increase the overall female and youth employment rates. However, they warned that social support services for vulnerable groups remain scarce and unsustainable. They are mostly organised by civil society organisations, without continuous support from the local or national level.

Therefore, the Commission **recommended** Montenegro to, based on the Roadmap of reforms on social assistance and social and child protection services, establish a clear timeline and financial planning for the reform of the social protection system and start implementing the reforms.

How to achieve progress in this area and a better EC assessment next year?

1. Include the guidelines of the Women's Rights Center that we had forwarded to the Ministry of Economic Development in the official text of the **Economic Reform Programme 2024-2026** (in preparation for public consultation)²¹. With these comments, *inter alia*, we request that all future measures clearly reflect their **impact on gender**. (jurisdiction: Ministry of Economic Development)

2. Economic and social measures planning needs to be based on the collection of data on all types of services provided by the centers for social work, classified per the rightsholder's gender. In addition to the above, there is a data gap as to the distribution of social support within the family, and whether all family members benefit equally²². Reforms in the social and child protection system cannot be gender neutral, **but they should provide a solution as to overcoming poverty in women and children**, especially those from vulnerable groups who are disproportionately affected by the risk of poverty²³. (jurisdiction: Ministry of Economic Development, Ministry of Labour and

²¹ More about the preparatory phase is available at: <https://www.gov.me/dokumenta/412e23aa-1e77-4ea6-a186-78345bdeb7be>

²² It is important to take the prevailing gender roles and power relations in Montenegrin families into account, including the likeliness of men taking charge of household budgeting.

²³ The official statistics on income and living conditions (EU-SILC) showed that the group most at-risk-of-poverty are

Social Welfare)

3. Initiate an urgency procedure for the adoption of the **Law on Amendments to the Law on Temporary Child Support** which is suspended as of February 2023, thus additionally exposing children who are already at risk of poverty.
4. The next Government work programme should finally envisage the adoption of the **Strategy for the fight against poverty**, as Montenegro does not have data on the number of poor people, or the people who are unable to meet their basic living needs.
5. Initiate urgently a procedure of **amending the Law on Pension and Disability Insurance** so as to enable everyone who so chooses to retire at the age of 64 with 15 years of service²⁴. This will eliminate the negative consequences of the decision of the Constitutional Court that showed a fundamental misunderstanding of the constitutionally guaranteed principle of positive discrimination, whereby ignoring the social and socio-political circumstances in which women and men live in Montenegro.

D. Promoting equal participation and leadership;



Montenegro did not adopt some important pieces of legislation, such as the Law on Government and the Law on Parliament, which are needed to improve overall governance.²⁵

Women are underrepresented in the electoral administration. Polling stations remain predominantly inaccessible for people with disabilities.

The inclusion of women in political life remains low, so after the elections held in June,

single person households with at least one dependent child (47,4%) and the children up to the age of 18 (30,5%). These data must be considered in the light of official annual data on the percentage of divorces in which children were entrusted to the care of their mothers (75,1%), fathers (10,7%) or both parents (11,9%).

²⁴ The analysis of the decision of the Constitutional Court done by the Women's Rights Center and Action for Human Rights is available at:

<https://www.facebook.com/womensrightscenter.mne/posts/pfbid02HMWpRfSgQXvQKTRtyLcnRwDKf4doGbjEJ8uAJJHeRpewTiRKKmYVMPV2qNSTX32PI>

²⁵ The European Commission Montenegro Report 2023, page 14.

the new Parliament consisted of only 17 women, (21%), which is the lowest percentage since the introduction of the quota system, under which one fourth of the electoral ticket must be reserved for representatives of the underrepresented gender. The situation is not better at the local level, as the percentage of women remains low, with the exception of Podgorica and Budva.

Just like last year, women remain under-represented in political and economic decision-making.

Nothing has changed regarding the representation of women in managerial positions in public administration, i.e. women continue to make up a quarter of the public administration's total management, often due to explicit or implicit bias.

This year, the Commission repeated that smear campaigns, hate speech and use of gender-based violence against women in politics and public life still persist.

How to achieve progress in this area and a better EC assessment next year?

1. The Government of Montenegro should list the improvement of gender equality as one of its priorities;
2. Directorates for persons with disabilities and non-discrimination should be re-established, and the entire mechanism of human resources employed in this sector should be strengthened with new employees and greater financial budget allocations for their activities;
3. Identify social behaviours that degrade and discriminate women, and raise awareness thereof via the education system, targeted campaigns and intensive media activities (**jurisdiction: Ministry of Culture and Media, Ministry of Human and Minority Rights, Ministry of Education, Science and Innovation, Institute for Education**);
4. Improve the system of collecting gender-disaggregated data and include the recommendations of the Women's Rights Center in the 2024-2028 **Program for the Development of Official Statistics** (sent to the **Statistical Office**) and 2024-2028 Strategy for Development of Official Statistics (sent to the competent **Ministry of Finance**).
5. Determine the **deadlines and contact persons responsible for the development** of gender equality plans for all ministries.
6. Initiate an urgency procedure for amending the electoral legislation so as to prescribe a quota of **at least 40% of the under-represented sex/gender representation** (instead of the current 30%), together with the condition that one candidate must belong to the under-represented sex/gender in a group of three; prescribe a **clear and effective sanctioning mechanism** in case of quota non-compliance, as well as the structure of jurisdiction in the case of determining irregularities as to the announced electoral tickets, both at the local and parliamentary elections.
7. Resubmit the draft **Law on Government** to a new procedure and public consultation,

and provide for the obligation that the members of the under-represented sex make up at least 40% of the cabinet candidates. If the Government comprises of only one deputy prime minister, the Law on the Government should provide for a candidate belonging to an under-represented sex to be proposed for this position. Furthermore, the Law should include a provision that prescribes the duty of the president to reject any proposal for the Government composition that does not observe the under-represented gender quotas, as well as a provision that would guarantee that any change in the Government structure must be carried out in observance of the gender equality principle and the under-represented gender quotas.

8. The Parliament of Montenegro should proceed drafting the Law on the Assembly, which will guarantee a more balanced representation of the under-represented sex/gender in the Collegium of the President of Parliament, working bodies and MPs Groups per the same quota principle.

9. Accelerate the adoption of the amendment to the Law on Companies that, due to the joint initiative of the Investment Development Fund and the Women's Rights Center, guarantees the minimum female representation in state-founded companies' boards of directors. This bill should be submitted to the Assembly as soon as possible.

10. The Government of Montenegro should adopt the Action Plan on hate speech focusing on misogyny in public and political life and promotes a political culture of zero tolerance for any form of violence against women.

E. Climate change and environment and digitalisation

Not only was the gender perspective exempt from national and local policies in the context of climate change management and environmental protection, but it also wasn't included in the European Commission report. Therefore, we generally believe that we must strategically work on education on the methods of implementing green policies at all levels of management in the upcoming period. Expert teams in the European Union give this topic the importance it deserves and offer solutions, such as the analysis titled *Feminist Green Deal*²⁶, but this expertise has not yet become part of the official EU green policies, and an integral part of the European Commission reports.

That being the case, before proposing the direction of future national policies, we draw attention to several conclusions from the new **feminist approach to green and thus just transition**.

²⁶ Read the publication at: <https://eeb.org/library/a-feminist-european-green-deal-towards-an-ecological-and-gender-just-transition/>

In order to achieve, or at least strive for, a **just transition**, we need a fundamental change in defining the value system between the **productive** market sphere (goods and services) and the **reproductive** (unpaid and unrecognized in official economic policies) sphere of action.

The funds intended for climate change mitigation and energy transition are mostly directed towards a predominantly male workforce, while sectors predominantly chosen by women - which often suffer from low wages and job insecurity - are either not invested in or not invested in enough²⁷.

“To ensure an economy which is both gender just and inclusive and delivers on climate objectives, we need a holistic understanding of sustainability and of the necessary transition. It cannot be limited to the fields of energy, buildings, transport, digitalisation or agriculture, all sectors with a predominantly male workforce and leadership, but must include all sectors crucial for our societies, including those with a mainly female workforce.”²⁸

In terms of this transition, “sustainable” and “green” must not only take the energy sector, construction, transport, and agriculture into account. **Care and education should be included in the very core of a just transition.** Primarily due to the fact that they contribute to the wellbeing of different generations and the resilience and health of society in general. Secondly, research suggests that climate change and environmental degradation, in particular widespread pollution, will put more pressure on health and care in addition to the increasing needs created by an ageing population in Europe²⁹. Finally, education is decisive for societies’ long-term sustainability to “equip” future generations with ecological knowledge and the necessary skills and tools to respond to environmental challenges.

In their 2023 report, the European Commission calls on Montenegro to plan a **just transition in the region**, by providing economic alternatives to the communities that will be affected the most. In addition, more intensive work on the implementation of the Climate Change Strategy is required to ensure consistency with the 2030 EU climate and energy policy framework. They had also mentioned the newly formed **permanent working group for mitigation and adaptation to climate change** under the auspices of the National Council for Sustainable Development. The aim of the working group is to set

²⁷ Ibid.

²⁸ Op.cit. Feminist Green Deal.

²⁹ UN Environment Programme and International Livestock Research Institute (2020), link:

<https://www.unep.org/resources/report/preventing-future-zoonotic-disease-outbreaks-protecting-environment-animals-and>. UNEP, Nairobi.

up a monitoring and reporting system for greenhouse gas emissions and to prepare policies and measures for adaptation and mitigation to climate change in accordance with the EU *acquis*³⁰.

How to achieve a better assessment next year?

1. Include the national gender expertise in the work of the WG27, as well as in the work of the National Council for Sustainable Development so as to analyse the needs of men and women in this sector, the risks they are exposed to, and to develop the measures for targeted risk management.
2. Initiate an inclusive dialogue on the meaning and importance of a **just transition** that leaves no one behind.
3. All future measures within green policies must be supported by data on the specific needs of men and women, especially those who live in the most environmentally 'exposed' places in the country, and one of the examples is the collection of data on the most common diseases in women and men affected by climate change. In that respect, we propose the **establishment of an intersectoral working team** composed of male and female representatives of the Institute for Public Health, MONSTAT, women's NGOs and other stakeholders.
4. We repeat the request to start drafting the Poverty Reduction Strategy, which will specifically recognize **energy poverty** and develop the indicators for measuring its representation in the country, as per the practice used in the EU countries³¹.
5. Publish the **Report on the implementation of the Roadmap for the 2023 Energy Support Package Action Plan** that will provide precise information on the allocations of the 30 million EUR financial support package Montenegro received from the EU to fight the energy crisis caused by the inflation due to the increase in energy prices. We also expect the preparation and publication of the Energy Transition Study foreseen in the aforementioned Roadmap.

³⁰ The European Commission Montenegro Report 2023, page 120.

³¹ Read more at: https://energy.ec.europa.eu/topics/markets-and-consumers/energy-consumer-rights/energy-poverty_en#eu-measures-to-tackle-energy-poverty

ANNEX

GUIDELINES FOR THE EUROPEAN COMMISSION SUBSEQUENT REPORTING

Although the issues of gender, women and girls are more visible compared to previous reports, with somewhat more references, there are close to none official recommendations that directly refer Montenegro to concrete measures to achieve gender equality and effective access to justice for women and children. This affects the final assessment related to gender incorporation throughout the report, which is the lowest compared to the previous three years.

Gender-based violence and domestic violence

In addition to the strongly expressed position on the issue of gender-based violence and the need for an effective institutional response this year, the Commission failed to mention the systematic neglect of the rights of children who witness violence, especially in cases of entrusting custody and defining the method of maintaining contact with a violent parent. For years, the practice of the Women's Rights Center has warned against the actions of social work centers that give priority to maintaining contact between children and both parents, instead of assessing the child's safety risks, whereas judges in family litigation do not investigate domestic violence, nor are they familiar with safety measures once imposed. This practice confirms the Commission's assessment on the lack of inter-institutional coordination that was stated more than once in the report. We believe that the Commission should have drawn attention to the negative actions of the courts in cases where the victims of violence are prosecuted because they defended themselves against the abuser. Recently, these cases appear more and more often in the practice of the Women's Rights Center, and cause incalculable damage to the empowerment of women, discouraging them from reporting the abuser and privileging abusers by imposing significantly lower sentences.

In last year's Commission report for 2022, in the official recommendations section, women and children were justifiably recognized as particularly vulnerable groups exposed to discrimination, unequal access to justice, as those who selectively enjoy procedural rights, including free legal aid, and Montenegro was officially requested to improve the inter-institutional coordination that should enable the exercise of these rights. The recommendations formulated in this way are still valid.

Instead of generic recommendations that allow for flexible interpretations by the Government and those to whom they refer, the Commission's clear wordings place clear responsibilities, especially in the weak accountability system in Montenegro, as the Commission noted, but potentially encourage system reporting mechanisms within other formats, such as the Universal Periodic Review (UPR) of the human rights status in the country, which were negatively assessed in the 2023 report.

Also, in order to improve the methodology of the Commission's reporting, but also to monitor the level of recommendations fulfilment, it would be crucial for each subsequent EC report to include a brief assessment of their fulfilment. This also applies to other areas covered in this analysis.

On gender equality

In order to elaborate the limited progress in gender equality policies, the Commission failed to state the assessment from the Assessment Report on the implementation of the National Gender Equality Strategy 2021-2025³² that provides an overview of the overall fulfilment of strategic goals, which do not exceed 30% of planned measures and activities, on average. As a result, from the beginning of the strategy implementation until this day, the strategic problems of women and men have not been solved, as stated in the assessment.

Although the Commission was concerned to recognize the lack of ministerial coordination, this year, it failed to mention the almost complete absence of coordination of the national gender equality mechanism, and the complete non-functionality of the Council for Gender Equality since 2018. It would be relevant if it had invited Montenegro to strengthen the Department for Gender Equality both financially and in terms of capacity, in the way it did when presenting the activities of the Directorate for Combating Gender-Based and Family Violence.

Likewise, GE contact points, mostly male and female employees from the departments of finance, human resources or general affairs³³ do not participate directly in the development of policies nor they understand whether policies and regulations are gender-sensitive or gender mainstreaming. It was paramount to include these assessments³⁴ in this year's Report, in order to accurately map the issues in public

³² The assessment is available at <https://www.gov.me/dokumenta/00303903-9045-4c6a-afed-b6e82ebc552b>

³³ Information from the Strategy <https://www.gov.me/dokumenta/33985332-d431-4c25-9643-e9a15d76e548>

³⁴ Gender Equality Profile, page 14

administration so as to call on Montenegro to take concrete measures that would speed up progress on gender mainstreaming in policymaking and public administration.

Political participation of women

Last year, the European Commission officially invited the Parliament to improve its capacities for integrating and monitoring gender equality issues. Through the assessment of the Parliament's work, the Commission has identified the causes of women's underrepresentation, their exposure to hate speech without the necessary clear stance of political parties to oppose this phenomenon, which is particularly disincentive for young women in politics. This report presents an overview of the work of the Gender Equality Committee and analyses the existing capacities of the employees, especially in view of implementing gender-responsive budgeting.

The 2023 report on the political participation of women was prepared from the perspective of elections and the sub-topic of gender equality. This decision of the European Commission leaves the context of the Parliament without an important gender perspective. In addition to the above, the Commission did not comment on whether the Parliament has fulfilled the recommendations from last year's report.

Once again, the opportunity to review the position of women in the executive branch was missed, especially in the context of the new Government formation and the passing of the Law on Government, which is still pending. Our research showed that women traditionally do not participate in negotiations on the formation of the government, which resulted in a Government with the lowest share of women since 2012 (17.4%). There are only 4 women in the Government, none of whom hold the position of a deputy prime minister. In response to the proposal of the Law on Government, the Women's Rights Center requested the introduction of a quota of at least 40% representation and at least one deputy prime minister position for the under-represented gender. These requests had not been adopted, which will make it even more difficult for Montenegro to reach the European average of a minimum of 30% representation for the under-represented gender in the future at all levels of management.

Finally, in their official recommendation on the need for a comprehensive electoral legislative reform and harmonization, the Commission failed to emphasize the need to prescribe a clear and effective sanctioning mechanism in case of non-compliance with the quotas prescribed by law, as well as a jurisdictional structure in case of irregularities

as to the announced electoral tickets, both at the local and parliamentary elections. Moreover, the Commission did not even mention the case of illegal announcement of as many as 13 election tickets at local elections which violate the provisions on the minimum participation of candidates of the under-represented gender set forth in the Law on the Election of MPs, although these elections had been included in the report. Pointing out the observed irregularities is important from the aspect of calling on Montenegro to acknowledge its responsibility and future measurement of real progress in the field of electoral legislation, and the implementation of the recommendations drawn up by international bodies on the political participation of women, including the recommendations of the CEDAW Committee.