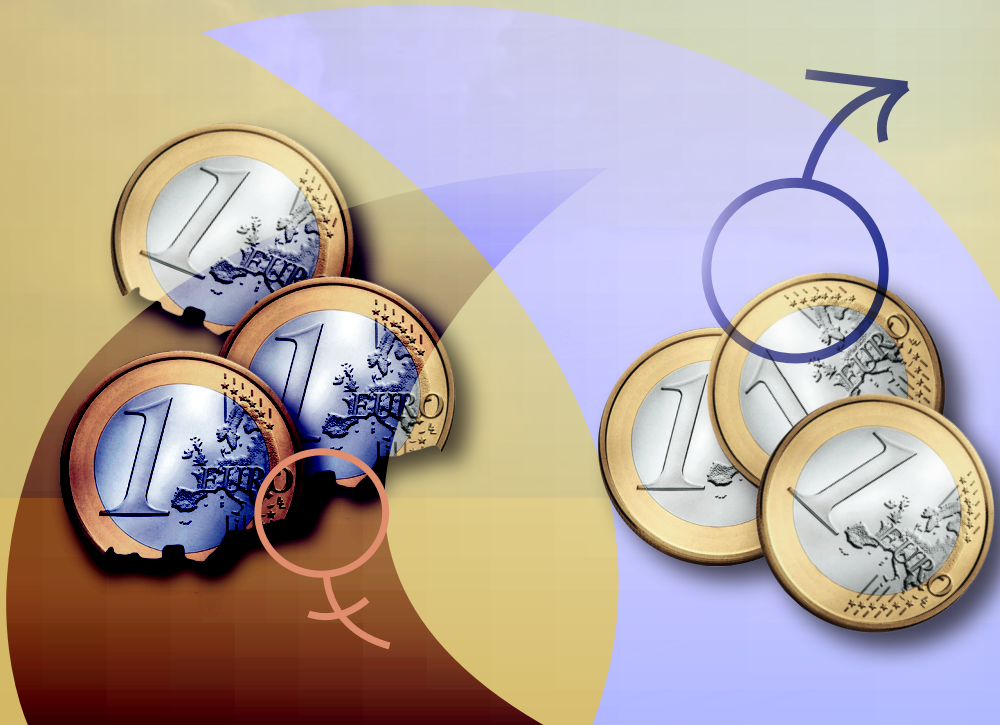


GENDER EQUALITY PERSONAL PAY AND INCOME AND PUBLIC POLICIES



European Movement
in Montenegro



European Movement
in Montenegro

Gender Equality, Personal Pay and Income and Public Policies



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FOREWORD

All of those who are dealing with the issue of gender equality may find on the following pages of this book a very extensive overview and analysis of data concerning equality of men and women in the area of pays and other incomes, as well as a number of other economic, legal and social aspects of this issue. This book is a result of endeavours of the European Movement in Montenegro team, as well as a number of representatives from other relevant organizations and institutions from the civil and public spheres of the Montenegrin society.

Namely, in spring of 2010 the European Movement in Montenegro launched the project „Gender Pay and Income Gap in Montenegro“, which was financed by European Union (EIDHR) through the Delegation of the European Union to Montenegro.

This project arose from the need to draw attention to pay and income gap between men and women in Montenegro. We wanted to contribute to improving the position of women in the labour market through evaluation of the size, shape and evolution of this gap in the Montenegrin economy, and by providing empirical evidence on the extent and evolution of gender inequality in the labour market.

In order to achieve this ambitious goal we have tried and managed to gather representative institutions and organizations through a framework of the Advisory Board of the project who gave their complete creative and substantial contribution to the full realization of envisaged activities.

After three month long preparations and a series of meetings with various interested actors of Montenegrin society the Advisory Board was formed in June 2010, and the first meeting showed that the task assigned in the project is actually much larger and more complex, and that it touches upon a much broader framework of social situations and occurrences, than it was originally envisaged by the planned narrow framework of the project activities.



Nevertheless, after a series of consultations and internal analysis within the Advisory Board a set of guidelines was established which provided not only the effective exercise of the project tasks, but also a number of additional goals which multiplied effects of invested resources, knowledge and energy.

Thus, with this project, much more extensive research was conducted on establishing the possible gaps in pay and income that are caused by gender differences, than the one that was originally planned.

This research that was conducted by IPSOS Strategic Marketing in period from November 2010 to February 2011 for the needs of the European Movement in Montenegro showed that there are differences in pay between men and women and that gender is an important cause of these differences, but also that the social, legal and broader economic context in which this phenomenon takes place is actually the most important generator of unfavourable position of women.

Therefore, our initial project goal to draw attention to the gender pay and income gap in Montenegro was expanded due to the need to point out to all other social circumstances that affect it, but also in order to create new long-lasting values that will become guidelines for further fight against this social situation.

For such a pursuit of new, more effective and lasting values which will occur as a result of this project we received support from the team of the Delegation of the European Union to Montenegro, who we would hereby like to thank, knowing that without their understanding of the specifics of this project we would not have had the opportunity to obtain so impressive, valuable and sustainable results today.

In that way, this book is one of the new and lasting values, and in a comprehensive way it is depicting the current position of women in relation to their pays and income, as well as the overall social, economic, legal and legislative positioning of gender equality in Montenegro.

The first part of the book will give you an opportunity to get familiar with the contents of our research, which in addition to the exact data on gender inequality of women in the field of pays and incomes, determines and explains in detail the deep rooted economic inequality

of women in gender segregation in the work process, as well as the existence of the „glass (invisible) ceiling“.

This research clearly points out to a number of anomalies, such as long-term system, institutional, structural and personal discrimination which is not regulated by social or legal system, to the traditional division of gender roles, established pyramid of power in which men hold the most important and the highest places in all spheres of the society, as well as to the strong impact of Montenegrin masculine traditionalism, which results in multiple and multi-layer discrimination which is perceived as „normal“ by the women in Montenegro today.

After this, the readers will have the opportunity to read six original analysis and the texts of the renowned authoresses from Montenegro on various issues and questions relating to contemporary position of women in the society, economy and politics, as well as in statistical and legislative framework. On this occasion, we would like to express our sincere gratitude to the authors, Ms. Branka Vlahovic, Ms. Nada Drobnjak, Ms. Vesna Simovic, Ms. Kaca Djurickovic, Ms. Milana Cabarkapa, Ms. Gordana Radojevic and Ms. Sonja Jovanovic.

We believe that the data and analysis that we have an opportunity to find in these texts will serve not only as a valuable source of information, but also as an inspiration to many that will continue, within their respective spheres of interests or scope of work or social activism, to fight for full economic, social and political equality of women in Montenegro and beyond.

Today, with a sense of satisfaction for successful finalization of the activities under the project „Gender Pay and Income Gap in Montenegro“, we are proud to present a book „Gender Equality, Pays and Incomes and Public Policies“ and we wish it becomes a foundation of many future social, scientific, economic, legal and political projects which will aim at putting the issues of gender equality in the focus of contemporary social needs of Montenegro, its overall democratization and European integration process.

Respectfully,

Branka Vlahovic and Momcilo Radulovic



Survey: Gender Pay and Income Gap in Montenegro



European Movement
in Montenegro

Survey conducted by: *IPSOS Strategic Marketing*,
November 2010 - February 2011



1. INTRODUCTION

Women's activity rate has been quite high in all former socialist countries according to international standards. Women's social position has deteriorated in former Yugoslav countries in last 20 years, particularly with regard to their economic position in comparison with previous period, and through decrease in their activity rate, lower incomes, higher level of employment of women in less profitable sectors, and lower representation on managerial positions and among entrepreneurs than men.

Gender equality mainstreaming, as one of characteristics of a modern society, that is one of key postulates of human rights, is an important prerequisite of economic growth.

This project aims at looking at inequalities pertaining to incomes, caused by gender issues and differences and related position of women on the labor market. The survey comprises:

- Secondary (desk) survey of a real situation in Montenegro.
- Primary survey of people's perception on gender differences in incomes and economic position of women and men in Montenegro on general population random representative sample.



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- Primary survey of commercial sector perception on gender differences in incomes and economic position of women and men in Montenegro on a random representative sample.
- Primary survey of opinion leaders' perception on gender differences in incomes and economic position of women and men in Montenegro. Within this part of survey we have talked to representatives of:
 1. Ministry of Labor and Social Care
 2. State Employment Agency
 3. Ministry for Human and Minority Rights
 4. NGOs
 5. Administration for Human Resources
 6. Trade Unions
 7. Media
 8. Employers' Union

The survey results aim at providing support in creating labor market policy that would contribute to reduction of differences in incomes primarily conditioned by gender roles.

We would like to use this opportunity to thank Monstat that enabled us use its data from the Manpower Survey for 2009 and data on differences in men and women's incomes in March, 2009.

2. SUMMARY

Women in Montenegro are legally speaking equal to men. Formally and legally wise they share same rights when employing, social care, incomes, education, etc. However, exercising these rights has been significantly made more difficult in practice, so that overall social status of women is less favorable than men's. There is a huge gap between proclaimed principles and concrete practice.

A detailed analysis of fulfillment of labor rights of women and men (employment, promotion, working conditions, overtime, heights of incomes, sexual harassment and blackmail at work, etc.) has revealed a serious difference between women and men's positions.

In addition to this, further analysis of social context (share of roles in private practice, education structure of population, moral stands, i.e. different social expectations from women and men) reiterate that work related discrimination of women is a part of general social context where women are much poorly positioned than men.

This survey has proved that different position of women and men (i.e. discrimination of women) is visible and recognized by both general population and employers.

The survey has proved that women's incomes have been at the level of 86% in comparison to men's. Average male gross income in March, 2010 was 740 Euro, and female 637 Euro. When average price per working hour is observed (Monstat, ARS 2009.), price of female working hour makes 87, 5% of male's price.

Difference in incomes in the self-employed category is smaller than when overall population is taken into consideration. In this case, net average female income makes 94% of male's (which additionally underlines institutional and structural discrimination in working sphere – since these differences tend to be much smaller in the absence of state or private employer stipulating incomes).



Analyses have proved that gender, together with education, is one of the most important causes generating differences in incomes, and that these differences have also been conditioned by a number of factors such as horizontal and vertical segregation of occupations according to gender, traditional role, biases and discrimination of women at work.

Hence, the survey has proved that differences in incomes have not been caused by different female and male characteristics, but by their different appreciation.

We cannot but underscore that slightly less than 30% of population and around one fourth of surveyed employers has noticed some kind of harassment at work. They agree that women have been much more often harassed than men. It has been similarly concluded when it comes to sexual blackmailing at work.

Gender sensitive statistics, i.e. systematic collection of data that should ensure insight in real problems of women and contribute to clarification of causes and consequences of different community positions of women and men should precede adoption of adequate public policies measures that would influence improvement of the female position.

Next step in creation of adequate policies is a gender analysis of public policies, currently undertaken by the state, first of all employment related ones¹ (i.e. economic development in general), and education (gender segregation in choosing a profession leads to a high gender segregation of labor power), and a special attention should be devoted to those related to work (working conditions, promotion and training, pensions, benefits, unpaid work, discrimination at work, sexual harassment and blackmail, etc.).²

¹ Public policies here imply legislative framework, as well as all national strategies and action plans currently in power in the country for certain areas.

² Detailed analysis of the Law on Labor, its main postulates, labor rights protection mechanisms, etc., as well as all strategies in this area. Analysis of institutions in charge of labor rights protection, e.g. labor inspection and similar would also be important here.

It is extremely important to check results of the applied measures and policies since lessons learned from previous periods, as well as examples of comparative solutions are of utter importance for enhancement of policies.

Continuous monitoring of trends in all these spheres would also be quite significant, i.e. understanding of what could happen unless public policies intervened.

Last but not the least, the fact that women live longer, retire earlier than men and have lower incomes points at worse position of women in later life (i.e. the so-called feminization of poverty).

Having said this, we may conclude that women's lower incomes and overall more complex position on the labor market have been caused by institutional and structural discrimination, i.e. failure to recognize harder position of women and lack of public policy adequate measures and institutions in charge of their application.



3. POSITION OF WOMEN ON THE LABOR MARKET

3.1. PERCEPTION OF DISCRIMINATION IN THE AREA OF THE LABOR RIGHTS

Discrimination of women in the area of labor rights has been perceived as an integral part of every society, hence a part of Montenegrin society as well. When it comes to legislative framework, respondents who have taken part in this survey as opinion leaders, do not think there is room for discrimination with regard to unequal rights, but they all agree it is present in everyday life. In addition to this, they generally believe that discrimination of women is not easy to spot and recognize since it is a part of everyday life, habitual behavior, interwoven in all segments of society, from education, through everyday communication, to marriage and family life.

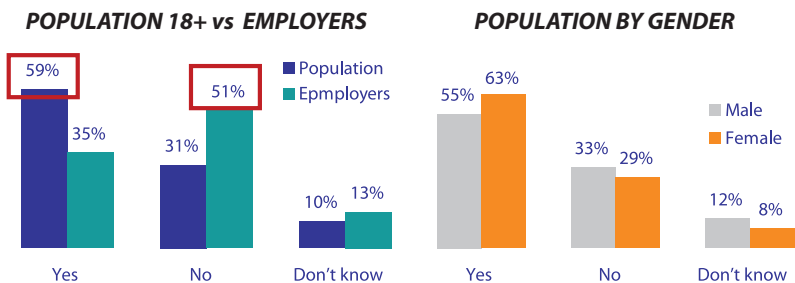
Most respondents feel that discrimination of women in the society is usually identified with and recognized through domestic violence. They think that **limiting discrimination of women to issue of violence against them is also a kind of discrimination** since role of woman in the society is thus reduced to her role in the family.

None of respondents in in-depth interviews has personally experienced discrimination of any kind; they base their opinions on information on experience of others, from immediate environment or from the media. However, these experiences, as they admit themselves, have rarely been officially registered, and hardly ever brought to court. General lack of comprehension of what discrimination essentially is all about is the main issue.

Male and female citizens of Montenegro and employers have significantly different perception of discrimination when it comes to labor rights in Montenegro. While 60% of male and female citizens of Montenegro believe that discrimination is present in our country, as

well as only 35% of employers. There are also differences in perception of discrimination of men and women in Montenegro.

Chart 3.1.1: Perception of discrimination in area of the labor rights



In your opinion, does discrimination exist in our country (unequal rights and possibilities) in the area of labor rights: in starting the employment, during work and during termination of employment?

14% male and female citizens of Montenegro spontaneously mention women in the first place, followed by disabled and ill people as vulnerable group pertaining to discrimination of labor rights. However, this is the case with only 7% of employers. The highest percentage of employers mention disabled, ill people, Roma, elder and middle-aged persons, women being the fourth in the list. Further on, the total of 22% of inhabitants of Montenegro and every tenth employer spontaneously mention women as a vulnerable group when it comes to discrimination in the area of labor rights. Unlike employers, male and female citizens list mothers with juvenile children as vulnerable group. 3% of employers and 4% of population mention pregnant women as a vulnerable group.

3.2. HARRASMENT AT WORK

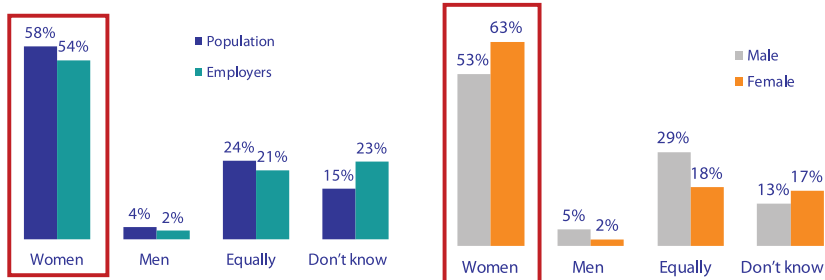
29% of population and 27% of employers have heard of a harassment case³ at work in their immediate environment. There are no significant

³ Harassment is every undesired discriminatory behavior, which violates dignity of persons looking for employment or persons employed, which causes fear or creates hostile, humiliating or insulting environment.. Have you ever heard of a case of such harassment in your environment? All respondents were read the definition

gender differences with respect to this issue.

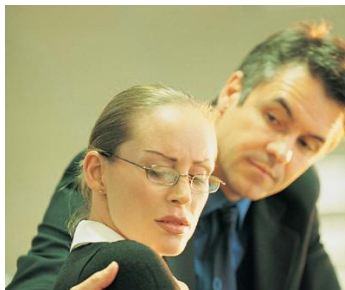
Women are dominantly recognized as victims of harassment at work among population, as well as among employers. A significantly higher number of women (63%) in contrast to men (53%) believe that women are most often victims of harassment at work. One may therefore assume that women are more often victim of harassment at work than men. On the other hand, only 1% of employers admit to harassment cases taking place in firms (organizations) they have been managing.

Chart 3.2.1: Who are the victims of harassment at work
Population 18+ vs Employers **Population by Gender**



In your opinion, who is more frequently victim of harassment at work (mobbing) in Montenegro, women or men?

Findings are similar when it comes to sexual harassment⁴. 22% of general population and 13% of employers have heard of a sexual harassment case in his/her immediate environment. In this case either, women have predominantly been recognized as victims of sexual harassment at work.



of sexual harassment so that all respondents share the same reference framework.

⁴ Sexual harassment is every verbal, non-verbal or physical behavior, which insults dignity of a person looking for employment, or an employed person, in the sphere of sexual life, that causes fear or creates hostile, humiliating or insulting environment. Have you heard about a case of sexual harassment in your environment? As in the previous case, all respondents were read the definition of sexual harassment so that all respondents share the same reference framework.

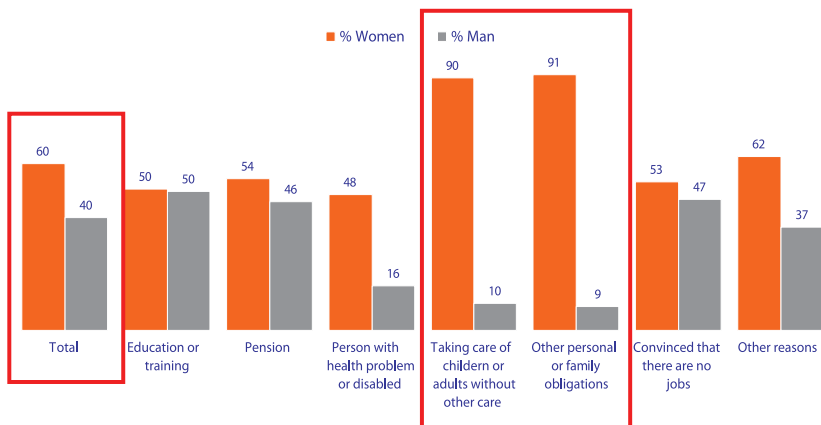
72% of general population and 62% of employers believe that women are most often victims of sexual harassment at work. No significant differences in male and female opinions have been noticed in perception of victims, which can be explained by stigmatization of sexual harassment victims and the facts that this is still a taboo here. 2% of employers confirm cases of sexual harassments in firms (organizations) they have been managing.

3.3. EMPLOYMENT

Opinion leaders do not think **employers are sufficiently and equally gender sensitive** in public and private sector. They also do not believe that women who plan family, have children or plan to expand their families **have equal chances** as other participants on the labor market.

Among the unemployed, **a significantly higher percentage of men have actively been looking for a job** (34%) than women (26%). There are numerous reasons for which inactive population fails to be looking for a job. It is indicative that **women predominantly list reasons that correspond to traditional gender roles in the family.**

Chart 3.3.11⁵: Inactive population not looking for job, by gender, LFA third quarter of 2010 - reason



⁵ Source: Monstat, LFA III quarter of 2010.

Unemployed women actively seeking an employment **have been much less optimistic when it comes to chances to find a new job** in next 6 months. Namely, 73% of unemployed women do not believe there are high chances of finding a job in next 6 months. 57% of unemployed men actively looking for a job are of the same opinion.

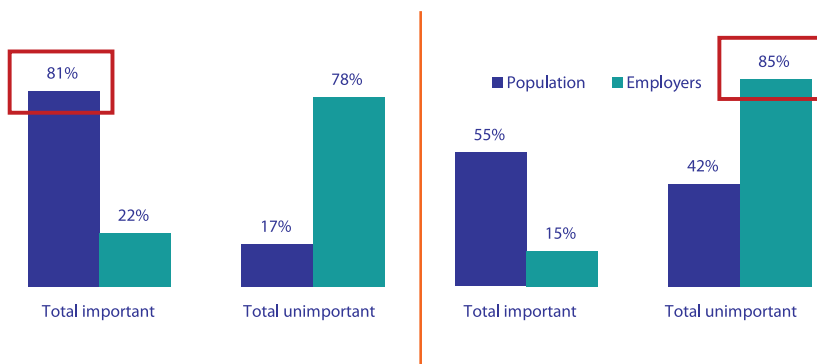
52% of general population and almost one third of employers agree that **men and women do not have same employment opportunities**. They almost anonymously agree that men find job more easily (81% of general population and 84% of employers).

Assuming a hypothetical situation, in which a man and a woman compete for the same job, and share same qualifications for it, almost half of the general population and 13% of employers believe the job would be given to the man, and 20% of general population and 6% of employers that the woman would be given an advantage.



Physical appearance and its importance when looking for a job has been differently valued pertaining to gender by the respondents. Hence, 81% of the general population finds **physical appearance of a woman matters when looking for a job**, while 55% say this applies to men as well. Unlike them, 22% of employers believe physical appearance of women matters, and 15% believes this applies to men either.

Chart 3.3.2: Importance of physical appearance in the process of being hired



Mandatory health check-up of a candidate looking for a job has been acceptable to even 57% of general population and 45% of employers. Besides, 40% of general population and every fourth employer finds it acceptable to ask a candidate for information on his/her family status, and every fifth employer would ask a female candidate for a pregnancy test.

Slightly more than a half of general population and around 40% of employers agree that quite often, employers in Montenegro when interviewing candidates, ask for information on marital and family status. 44% of general population and 35% of employers believe that very often employers require a candidate do a medical check-up when being employed. A high percentage of general population (37%) and employers (31%) finds it a usual practice to ask for information on family plans (starting or expanding family) when employing. In addition to this, every third male/female citizen of Montenegro says that employers in Montenegro look for information on political orientations, and only 13% of employers agree. Every tenth employer thinks that candidates have often been asked about their property and pregnancy tests, every fifth male/female citizen of Montenegro agrees with them when it comes to property related information and 16% when talking about pregnancy tests.

On the other hand, 38% of employers say that they themselves often ask from candidates to carry out health check-ups, 11% sometimes asks and 16% often seeks for family status related information, and 18% sometimes asks for the same information. 13% of employers often ask for marital status information, and 31% sometimes. Only 4% of employers admit to have often been asking for pregnancy test at employment, and 12% of them do it occasionally. In addition to this, only 1% of employees always tend to ask candidates for their family related plans, the practice which has sometimes been shared with them by 16% of employers. Only 7% of employers say they sometimes ask for political orientation and property related information from their candidates.

Finally, almost 30% of employees find it important to know whether candidates plan to start a family or have another child in the near future.



3.4. WORKING CIRCUMSTANCES

Respondents from in depth interviews believe that women of poorer economic power have been most frequently discriminated women with regard to labor rights – women in families with low incomes or without any additional source of income (single mothers, women in families without any other employed member, women with disabled children, etc.).

Women, under such circumstances, accept and do jobs with rather unfavorable working conditions (no contracts, illegally, short-term agreements, minimal incomes, two – three shifts, no free weekends, too much overtime, etc.) since it is the only source of money they have. Small private groceries/shops have been most often recognized as an area of discrimination of women’s labor rights.

A significant number of respondents from in depth interviews believe that there are no large differences in the way men and women are treated at work. Most of them think that certain situations when there are some differences in treatment of employees have been caused by nature and personalities of individuals and have no gender related roots.

A couple of respondents, however, believe that there are examples when an individual would rather discriminate a woman than a man due to patriarchal legacy in the society. This has been put down to traditional way of thinking and behavior, in which women are expected to mind their business and not express their opinions and views or confront.

In depth interview: ‘It’s easier to yell at a woman, she is weaker and would not return.’

Almost every second male/female citizen of Montenegro and every third employer believe that men were favored at appointing (promotion) in a company. 13% of population and only 5% of employers disagree and think that women were favored, not men.

When it comes to a secure job, 43% of general population recognizes favoring men, and only 16% say women were favored. Most employ-

ers do not believe that gender has any influence on having a secure job, hence only 16% of employees think that men were favored and 4% is on the female side.

Men are favored when selecting a candidate for professional advanced training. This is opinion of 38% of general population and 16% of employers. Only 19% of general population and 5% of employers underline favoring women.

29% of general population, and every tenth employer believe that men were favored when it comes to bonuses and awards; whereas, 19% of general population and 4% of employers believes that women were favored.

Finally, 30% of employed men and 22% of employed women say that overtime is always paid to them. Overtime is paid, but only sometimes, to 26% of employed men and 16% of employed women, and never paid to every tenth employed male and every fourth employed female.

Business trips are often an additional source of income for employees. Women however often feel additional pressure if they have to go on a business trip and be away from home for a number of days, due to the lack of balance between male and female responsibilities in private sphere. 36% of employees in general population say that men tend to go more often to business trips than women. 43% of employers agree and half of employees and 43% of employees say that men and women equally go to business trips in their respective companies.

9% of general population and 9% of employers does not think the law prevents from firing a pregnant woman, even though she has not breached any work related duties. Almost identical percentage of general population (11%) and employers (10%) does think the law prevents from firing women on maternity leave. On the other hand, as many as 22% of general population and 18% of employers have heard of a case in their immediate environment when a woman was fired when she left for pregnancy leave and 14% of general population and 12% of employers have heard of/know about an example of a women being transferred to a lower post when she returned from maternity leave.



3.5. GLASS CEILING – VERTICAL SEGREGATION

According to respondents in in-depth interviews, men and women are not equal when it comes to managerial posts. Men usually hold posts of directors, managers and ministers, while women most often hold posts of close and main associates of managers.

Therefore, in the Government of Montenegro percentage of women ministers is only 6%, while the percentage of women at the assistant minister's level is higher, but does not exceed 35%.

Women make only 12,8% of MPs in the Parliament of Montenegro. Women do not participate in working bodies of the Parliament of Montenegro with more than 30%, with an exception of the Committee for Gender Equality with 80% of female members. Strikingly enough, **women do not take part in work of the Committee for Security and Defense, Committee for Economics, Finances and Budget and the Administrative Committee.**

Chart 3.5.1⁶: Working bodies in the Parliament of Montenegro, 2011



Women make only 13% of board members in all local self-govern-

⁶ Source: <http://www.skupstina.me/>.

ments. The lowest percentage of women is in Andrijevica 3%, and less than 10% in Pljevlja, Berane, Ulcinj, Rožaj, Plav and Nikšić. Four municipalities only have 20% or more female members: Herceg Novi (20%), Kotor (21%) and Tivat and Budva (22%).

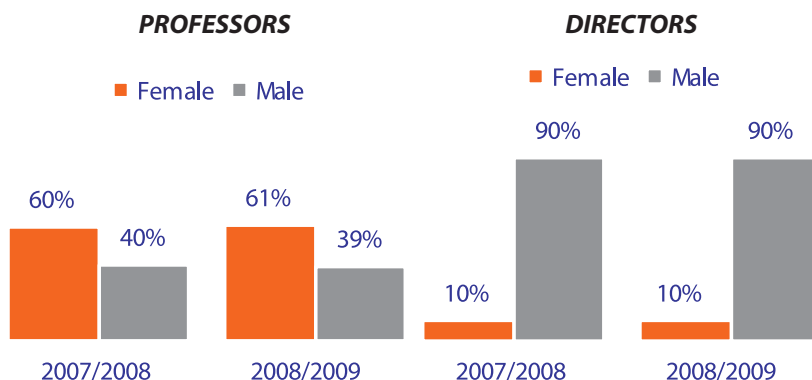
With regard to the judiciary in Montenegro, there is almost no difference in presence of women and men as judges. However, 20 men and only 2 women hold the post of president of a court in Montenegro.

Academic year 2008/2009 records 71% of female teaching staff in primary schools in Montenegro, and only 16% of female principals.

Similar differences have been noticed in high schools. Hence, in the same academic year, there were 61% of women among teaching staff and 10% among principals.



Chart 3.5.27: High schools – employees by gender



Respondents in in-depth interviews assess situation with private sector as slightly more favorable since, they believe, women more often hold managerial posts, although they at the same time underline that this is still not a rule but an exception.

⁷ Source, Monstat: Women and Men in Montenegro

In depth interview: 'We have a female finances director...More and more women are editors-in chief.'

'There are a lot of women in our company's management...'

Respondents in in-depth interview unanimously agree that employers, regardless of the sector, tend to employ women on posts closest to managerial ones, requiring responsibility, precision, good organizational skills, strategic approach, analytical capabilities, devotion to work, accountability, and they believe women proved much more successful than men on such positions.

In depth interview: 'Just have a look yourself, women hold all positions requiring hard work and responsibility.'

Besides, respondents in in-depth interview believe that most women **do not get promoted** as often as men although they have equal access to managerial functions, and explain it as follows:

- Women are more cautious and tend to more realistically reconsider demands of certain posts and measure their capacities and skills against them.
- It is much more difficult for women to perform such functions because of a number of other responsibilities they have, such as managing households, raising children, etc.
- Women are not sufficiently politically wise ambitious and engaged, which is a must for holding certain functions and promotions in the public sector.

Regardless of the above listed explanations, female representatives of NGOs and trade unions do not think women always have an opportunity to be offered engagement in certain positions since an employer tends to assume beforehand she would not accept it any way due to other obligations, or they do not believe they will be able to do that job successfully due to same reasons.

In depth interview: 'He would not even offer, since if you have a small child, for example, employer assumes you would have to use sick-leave, would not want to work overtime and similar, so you are out of the game beforehand.'

'Glass ceiling'⁸ as a form of vertical segregation is the most prominent form of discrimination of women when it comes to labor rights. Men usually hold managerial functions even in professions women tend to dominate in numbers. Further on, men prevail on managerial functions, in legislative and local self-government bodies.

Source 1.5.3⁹: Employees by Gender, 2008



3.6. LABOR FORCE AND LEVELS OF ACTIVITY

Women's activity rate has been quite high in all former socialist countries according to international standards. Women's social position has deteriorated in former Yugoslav countries in last 20 years, particularly with regard to their economic position in comparison with previous period, and through decrease in their activity rate, lower incomes, higher level of employment of women in less profitable sectors, and lower representation on managerial positions and among entrepreneurs than men.

Economic position of women and their participation on the labor

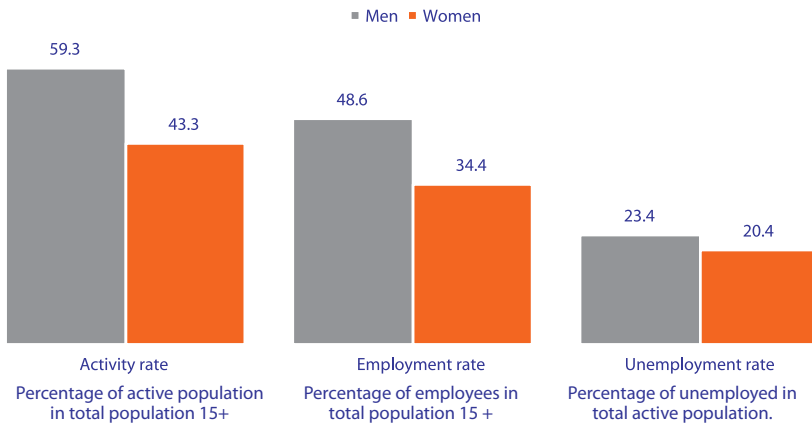
⁸ Invisible barriers preventing women from being promoted to the most senior managerial positions in business hierarchy.

⁹ Source, Monstat: Women and Men in Montenegro



market is of a key importance for development of gender equality in a society. Economic safety and independence of women contribute to suppression of discrimination in different spheres of social life and have influence on both personal, as well as social progress and development.

Position of women on the labor market in Montenegro has been determined by a lower activity rate, and employment and unemployment rate in comparison with men, as well as significant difficulties at women's renewed arrival at labor force market and low participation in entrepreneurship. Women's activity rate is also low in comparison with the EU average (around 63%). Asymmetrical economic activity of genders may also be viewed as a consequence of unequal social positions of genders in Montenegro.



Female population is the biggest reserve of labor power, and percentage of female working contingent usage is extremely low in tradition orientated societies.

Twofold role of women as employees and housewives brings about gender inequality in the labor market. Having in mind the listed roles and current inequality in the labor market, women have been sanctioned for combining paid and unpaid work in form of incomes, social security and career. On the other hand, men are not stimulated enough, economically or socially, to take over some household ac-

tivities and thus contribute to a more even distribution of risks and opportunities in the labor market. Such a situation leads to an issue for the whole society, particularly pertaining to an increased deficit of qualified labor power.

Even though society acknowledges that strengthening of business positions for women could contribute to a higher GDP, there is a fear that, if more and more women opt for employment than for raising children, this may result in negative consequences for the society, such as, for example, low birth rate. However, statistics indicate that countries, such as Sweden and the USA, where most women are employed, actually have higher birth rate than Japan and Italy, where women often stay at home.

Insufficiently developed female entrepreneurship is a separate issue, since despite development of private sector, women rarely decide to start their own business resulting in only 25% of self-employed women.



4. TRADITIONAL ROLES

Gender roles are socially designed roles of women and men. A number of factors: cultural, political, economic, social and religious, determine how a society will see male and female roles and what is expected from them (gender based social expectations). They are all equally influenced by customs, law, class and ethnical belonging, as well as widespread prejudices in a given society. Gender based stands and behavior are learned and subject to changes. Differences in understanding of social male and female roles may be perceived in social, political, education and economic context.

4.1. MAKING A FAMILY

Every fourth women that got married in 1980 was between 15 and 19 years old,. Only 1,3% of grooms were between 15 and 19. There were 45,5% of brides and 31,5% of grooms in the category of between 20 and 24. Every fifth bride was from 25-29 years old when she got married, and even 40% of grooms in the same category. Significant difference has been noticed within 30-34 category; with 6% of registered brides in 1980 and almost 16% of grooms.

Almost 30 years later age limits have shifted, bit women are still dominant in the 15-19 category, as well as in the following age group (20 to 24). While percentagewise almost equal in the 25-29 category, there are significantly more men in the following category.¹⁰

¹⁰ Source: Monstat

Chart 4.1.1. 1980. Marriages

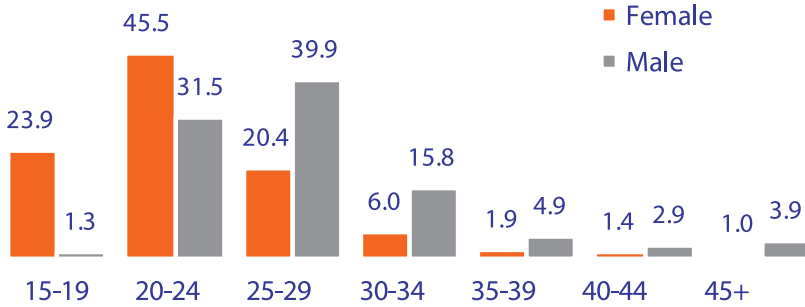


Chart 4.1.2. 2009. Marriages

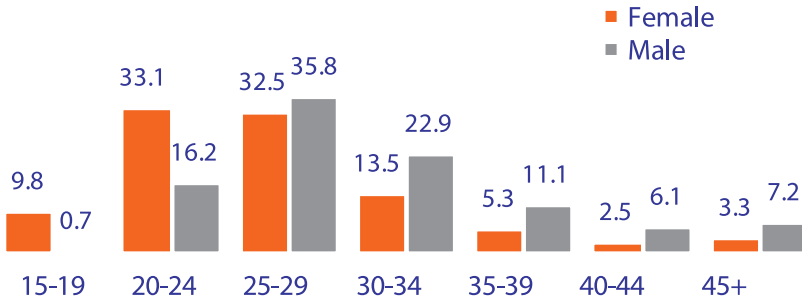
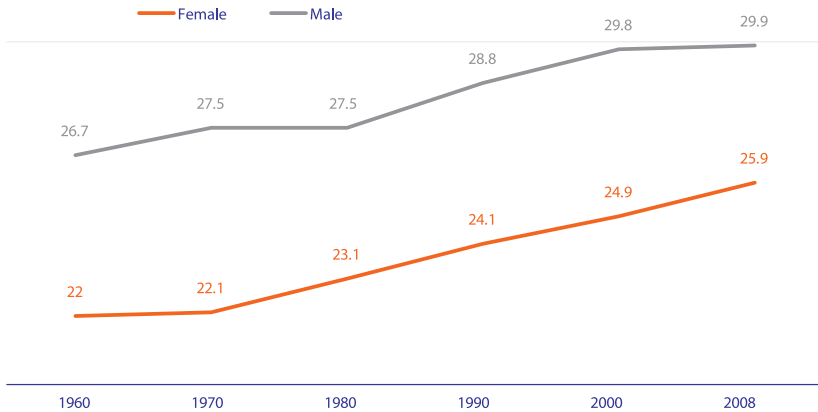


Chart 4.1.3. Average age for the first marriage



Average age¹¹ for the first marriage in the last 50 years has been constantly going up both with men and women, but the age difference between women and men when getting married for the first time remains almost constant.

Women tend to get married at an earlier age and have children, which is in most cases a milestone in her professional career, since they then take over traditional role of a mother and make break in their careers.



While women get married with 25,9 years, and have their first child with 26,9 and thus take over a huge part of duties from joint life, men have another year

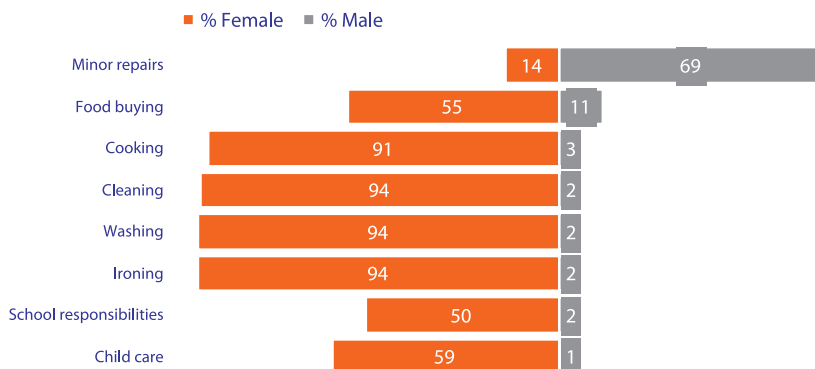
or two for professional affirmation freed from family duties (men get married at the age of 29,9 on average).

4.2. UNPAID WORK AND HOUSE KEEPING

Almost half of men do not do any chores. Every fifth men takes part in household chores for less than one hour per day, every tenth from 1 to 2 hours, etc. Hence, as the number of used up hours for household chores, the percentage of men drops. Realistically seen, according to the number of hours spent on doing chores, one may conclude that unpaid work has been performed by women since every fourth women says she spends more than 5 hours doing the chores, and every fifth from 3 to 5 hours. One of five women spends 2 to 3 hours doing chores and 23% 1 to 2 hours. Every tenth woman spends less than one hour per day in household chores, **and only 3% of women do not do any chores.** According to the number of hours spent on household chores, men spend around 50 minutes on average and women around 180.

¹¹ Source: Monstat

Chart 4.2.1. Who is engaged in house keeping



Looking at the structure and share in household chores one may conclude that women dominate in all chores but small repairs and take almost all private life burden.

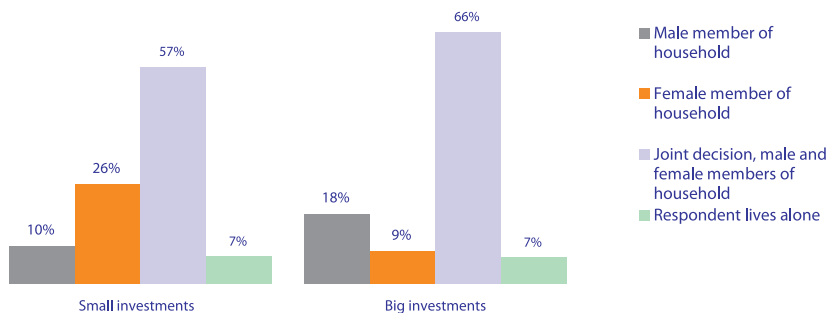
Despite the above mentioned facts, every second woman living with a husband or a partner assess participation of husband or partner in household chores as satisfying, and every third as not bad; only 17,5% of women assess participation of their partners in household chores as unsatisfying.

4.3. PROPERTY AND DECISION MAKING ON CONSUMPTION

Private property is mainly in man's hands. Hence, men own in more than 80% of cases car, property or house. While two thirds of men own flats, only every fourth women does. Joint ownership usually includes savings in 14% of cases and weekend houses in 5%.



Chart 4.3.1. Making decisions on consumption



In addition to this, man usually decides on big investments (18%), while women more often take part in decisions related to everyday purchases (26%). Percentage of women who take decisions on smaller investments and everyday purchase grows with increased incomes in the household.

4.4. PERCEPTION OF WOMEN AND MEN

Both men and women, and general population and employers, perceive women as a weaker gender, which is quite often a factor influencing transfer of women to more senior functions that are usually better paid ones.

Men have been better assessed by **general population** by all parameters, but team work skills. There are no differences in perception of men and women by general population when it comes to this parameter. Men are usually perceived as self-assured, and this parameter shows the biggest difference in perception of men and women by general population in Montenegro. Besides self-confidence, that is self-assuredness, which is the best assessed with women as well (but at the same time marks the biggest difference in contrast to assessments for men); men were highly graded when it comes to courage and strong character. Courage is also highly graded for women, as well as motivation. The biggest differences, apart from self-confidence, have been registered in terms of leadership capabilities, courage and independence.

Employers' opinions on men and women most differ when it comes to this very leadership capability. While men have been given the highest grade for this parameter, women were allocated one of lowest in comparison with other attributes. Employers underline independence of men, self-confidence, motivation and teamwork, and motivation and self-confidence of women. The biggest differences, apart from leadership capabilities, have been noticed with regard to teamwork and courage.

Interestingly enough, women failed to be given any higher grade by any attribute by both general population and employers.

Chart 4.4.1. Population

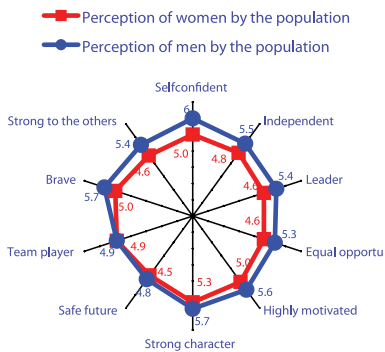
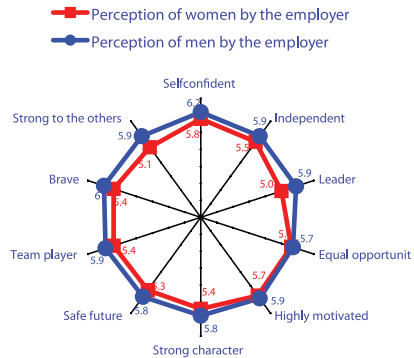


Chart 4.4.2. Employers



We have tested what men and women think about both genders using the same attributes.

Men record the biggest differences in opinion on male and female capabilities. Hence, men believe they most differ from women in self-confidence, character and motivation.

Even women themselves see men as more capable and they only believe they are better team players than men. In addition to this, women assess character attribute same for both genders. Women give better grades to men by all attributes and the biggest difference is the one pertaining to leadership and self-confidence.



Chart 4.4.3. Population: Men 18+

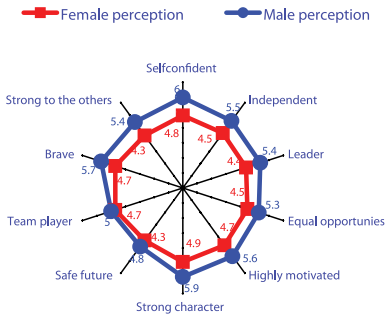
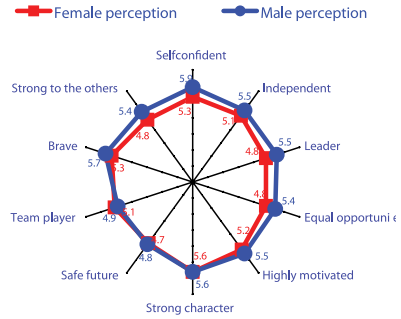


Chart 4.4.4. Population: Women 18+



This very traditional view on men and women leads to horizontal segregation of occupations, i.e. division of professions to male and female. General population says male professions are: director, MP, judges, and all professions involving night work. A high percentage of general population perceives a job of physical education teacher as male profession and pilot is the most obvious example. Employers have slightly more moderate stand than general population, still giving advantage to men for all professions general population has mentioned.

While managing (power related) functions and professions requiring greater physical engagement are traditionally related to men, women are more for service and care for others jobs, such as teachers, business secretary and medical nurse.

Gender division of professions issue has become more important when we reconsider certain professions women should win – such as certain medical branches (neurosurgery, maxillofacial surgery, orthopedics and urology) where there is not a single women, which best illustrates this problem. Such a situation will significantly influence future generations that would not have the same gender model as a role model.

4.5. EDUCATION

Most respondents do not think there are differences in education of women and men. Around 25% of population, however, thinks that women are better educated than men. When objective data are consulted, one may see that there are no cases of illiteracy among men, whereas there are still 4% of illiterate women in Montenegro. In addition to this, the 2003 census among population, age 15 or plus, has recorded 11% of women without any school qualification and only 2% of men. On the other hand, with regard to the higher level of education, Montenegro has been keeping up with European trends of increased numbers of young women involved in education. There are significantly more women than men among students, hence in academic year 2009/2010, 53% of women enrolled and 47% of men, and in 2008, almost two third of graduates, i.e. 64% were women and 36% men. In most developed countries, more women than men enroll at and graduate from high and higher schools. For example, in the USA, 140 women on every 100 men who start with high education, and even 150 in Switzerland.

In addition to this, women much more often enroll at postgraduate studies than men and finish them more often, too. Hence, in 2009, there were 57% of women and 43% of men Master graduates. Women were much more present in all education related research areas, leading in particular in arts and human sciences (76% of women and 24% of men), science, math and IT (74% of women and 26% of men) and health and social protection (67% of women and 33% of men). 60% of women and 40% of men enrolled at Master studies in the same year.

Despite the fact that education level of employed women is higher than that of men, their position is not in line with their education structure, and they are still much more present in economic branches with less paid professions. The majority of women works for manufacturing industry, retail and wholesale, healthcare and social work. These are, among other issues, sectors in which there is an extremely huge gap between male and female incomes, particular dominant in manufacturing industry where women's average salary is only 69% of men's.



5. GENDER PAY GAP

According to respondents in in-depth interviews, main difference between incomes in public and private sector is that incomes in private sector are higher on average. However, respondents also emphasize uncertainty of holding a post and having a job, which is also higher in private sector.

They go on explaining that incomes in the public sector have been calculated by a mathematical formula applied equally to all employees, hence the impression that both women and men in the public sector have been equally paid and that possible differences are minimal and mainly based on years of services.

However, respondents claim that men are generally better paid than women in the public sector in practice due to the following reasons:

- They hold initially better paid positions (higher coefficient)
- Beside their regular positions, men tend to be more often additionally engaged through memberships in working groups, commissions, administrative boards and hold managerial positions in those bodies where they are entitled to higher incomes than other members.
- Men go more often than women on business trips (per diem and other costs covered).
- There is no system for determining height of incomes in private sector and they exclusively depend on offer and agreement with the employer. There are no standards that could be used as basis for assessing whether employees have been equally paid for performing same jobs.

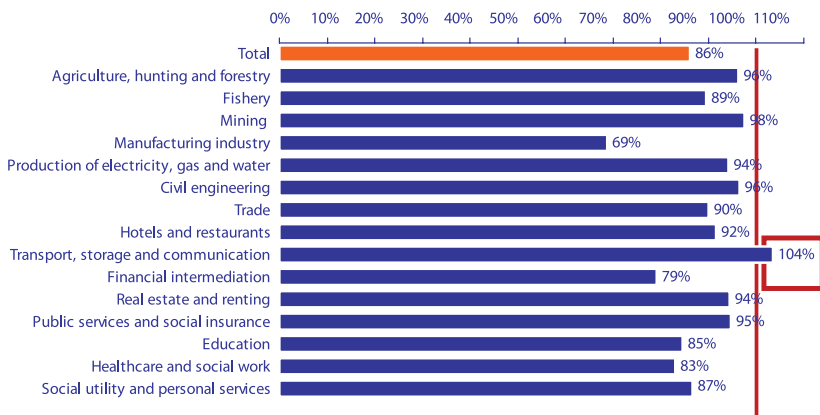
General impression of respondents in in-depth interviews is that men are better paid than women in the private sector since they usually hold managerial – better paid posts in this sector. The situation in this

sector has however been significantly changing under the influence of foreign companies.

Almost identical percentage of general population and employers (around 60%) thinks that men earn more than women in Montenegro. Moreover, 38% of general population and only 7% of employers believe that men are more paid even when both women and men have same qualifications and do the same job.

Data from 2009¹² show that women's incomes are at the level of 86% in comparison with men's. The worst situation is in the manufacturing industry where women's incomes fail to reach 70% of men's, followed by financial intermediation with female incomes as 79% of male, and below 90% in education, healthcare and social utilities and personal services. Only in transport, storage and communications sector women's incomes exceed men's and make 104% of male incomes.

Chart 5.1. Average salaries of women in relation to average salaries of men (30. september 2009.)



In September, 2009, average gross income of women in Montenegro was 581 Euro, and men 674 Euro, while in March, 2010, average gross income of women was 637 Euro, and men 740 Euro so that average female gross income and average male gross income ratio has not changed (female incomes make 86% of male's). Nonetheless, when

¹² Source: Monstat, Women and Men in Montenegro



average price of working hour is observed (Monstat, ARS 2009) the price of working hour for women make 87,5% price of working hour for men.

Difference in incomes in category of self-employed is less than when the overall population is taken into consideration, and in this case average net income of women is 94% of men's.

Women's incomes make 85,3% of men's when it comes to experts, and 82,9% when we talk about professional assistants and technicians. This difference is 78% among services employees and traders, and 73% with basic simple occupations. In category of clerks, average incomes of women are higher than of man, making 102% of men's average incomes.

When observing men and women who have long been working in a same company, differences in their salaries tend to be smaller than it is the case with those with shorter years of service period in the same company. The differences in incomes between men and women who have been working for less than 2 years in same company is 15,6%, and 8.6% between those who have been working for more than 22 years. Men lead in both cases.

Chart 5.2. Income structure by Gender



It is important to notice that there is a significant difference in male and female income structure. Hence, 39% of all male incomes and even 61% of female incomes make 10% of lowest incomes, while the case with highest salaries is quite opposite, 61% of male and 31% of female incomes in 10% of the highest incomes.

Registered differences in incomes between men and women do not have to be necessarily caused by gender and related position in the society. There are definitely other factors, gender related, and real generators of these differences. It is hence necessary check influence of gender and other variables, one assumes to be leading to differences in incomes (the so-called Confounding variables).

General Linear Model enables simulation of situation where influence of gender is tested when all other relevant characteristics are balanced by a statistical method.

In other words, a situation is simulated in which men and women are equal on all other characteristics, such as age, education, occupation, activity of company, years of working in the company, number of hours of work per week, so influence of gender is checked in a clear situation, and all differences revealed in such groups may be ascribed to gender effect.

In this case, influence of gender, age, education, region and type of settlement a person live in, years of service in a firm have been tested. It has been discovered that gender is the second most important factor after education influencing height of income.

	F	sig	Existence of effect at importance level of 0.05	Partial Eta Squared
Education	130.815	0.000	x	0.043
Gender	89.078	0.000	x	0.015
Region	33.114	0.000	x	0.017



Occupation	16.191	0.000	x	0.022
Company activity	12.600	0.000	x	0.008
Usual weekly number of hours spent at main job	3.655	0.000	x	0.026
Age	1.897	0.000	x	0.017
Years at the same job	1.066	0.35		

The proposed model explains 16% of total variance of personal income

6. CONCLUSIONS

Women in Montenegro, in legal terms, are equal to men. From a formal legal point of view, they have equal rights when taking up employment, realizing social security, in terms of salaries, education acquiring. However, the practical realization of those rights is considerably impeded, so that the overall social status of women is less favorable than the one of men. There is a significant gap between the declared principles and actual practice.

A more detailed analysis of the application of labor rights of women and men (recruitment, promotion, working conditions, overtime work, income, sexual harassment and blackmail at work, etc.) showed a serious difference in the positions of women and men.

Also, further analysis of the social context (the division of roles in the private sphere, the educational structure of the population, value judgments, i.e. different social expectations from women and men) confirmed that discrimination against women in the sphere of work makes a part of the general social context in which women have a significantly worse position than men.

This survey has shown that the different position of women and men (i.e. discrimination against women) is apparent and recognized by the general population and employers, as well.

In the general population, women are second-placed in the category of the most vulnerable groups in the community (directly following the disabled and ill persons) and the general population recognizes women as a vulnerable group to a much greater extent than employers do, which is understandable given the that the perception of employers is related only to a certain sphere of life and work.

In the general population, women, rather than men, specify women as a highly vulnerable category, which could be an indicator that the topic is insufficiently recognized in public (the position of women is



just a women's issue and thus should not be dealt by men or the wider community), and on the other hand, it clearly indicates the actual position of women (women talk about examples of discrimination that they face on daily basis).

In the sphere of work, official figures indicate that the rate of activity and employment rate are significantly higher in men than in women. On the other hand, the difference in the unemployment rate among women and men does not show this difference, which indicates the dominance of women in the category of so-called inactive population, whereby women's work remains invisible (the work of housewives, women in rural areas, women employed in the informal economy, unpaid domestic work, daily care of children and the elderly in the family).

The survey has shown that among the unemployed, men more often actively seek job, whereby the main reasons for that lie exactly in traditional female roles.

Among male/female citizens of Montenegro, there is also a consensus that it is easier for men to get a job, and both citizens and employers find it justifiable for an employer to ask the candidate, on the occasion of job interviews, to present his/her family situation and plans for the future, which certainly has a significantly greater negative impact on women than on men. What creates an additional pressure is an attitude that physical appearance plays a significant role when seeking employment, considerably more often in women than in men.

When they get a job, men are favored over women - they are paid overtime more often and more often they go on business trips, they get promoted faster than women and there are differences in incomes between men and women.

The survey has shown that the women's incomes are at the level of 86% compared to men's incomes. The average gross men's income in March, 2010 amounted to EUR 740 and EUR 637 of women. Observing the average cost per hour (Monstat, ARS 2009) the price of a working hour of women makes 87.5% of the working hour of men.

The difference in incomes in the category of self-employed is lower in relation to the whole population and in this case, the net average incomes of women make 94% of those of men (which further indicates the existence of institutional and structural discrimination in the sphere of work - because when there is no state or private employer determining incomes, these differences are significantly smaller).

Analyses have shown that gender, along with education, is one of the most important causes that create differences in incomes, and that these differences are also conditioned by numerous factors such as horizontal and vertical segregation of occupations based on gender, traditional gender roles, prejudices and discrimination against women at work place.

Thus, the survey has found that differences in salaries are not resulting from the different characteristics of women and men, but from the different valuation of the same characteristics.

This is particularly important given that the most respondents consider that there are no differences in education between women and men. About 25% of the population, however, believes that women are more educated than men. The objective data show that literacy among men in Montenegro has been eradicated, while there are still about 4% of illiterate women. On the other hand, in recent years an increasing number of women has enrolled at and finished colleges and universities.

It is also significant that both men and women, as well as the general population and employers, perceive women as a weaker gender, which is often a factor that affects transfer of women to higher positions which are, as a rule, better paid.

Thus this “glass ceiling”, being an example of vertical segregation and/or a limited opportunity of women in terms of promotion and taking up high positions in management hierarchies, implies the most expressive form of discrimination against women when it comes to labor rights. Even in those occupations in which women are numerically dominant, men mostly perform managerial functions. Furthermore,



except for governance functions, men predominate in the legislative bodies and local self-government organs. The maintenance of the effect of glass ceiling is primarily affected by:

1. Deeply rooted attitudes toward gender roles of men and women in society and/or prejudices that women cannot be as good leaders as men can be. This opinion has its roots in the private sphere in which, for example, it is usual that the private property in most cases is owned by a man and the man is the one who more often makes important family decisions, e.g. on large purchases, while women more frequently take part in making decisions regarding the organization of everyday life.
2. A small number of women holding high positions who may encourage other women (which, as it is mentioned above, primarily results from the perception of the role of women and evaluation of their work).
3. Often, women are not part of informal networks within a company, and the informal network is just as important as the formal one as to get promoted within the organizations.
4. Women more often give up careers or slow down their progress (or make a break) because of their families. In Montenegro, women are getting married earlier than men and have children earlier than men; in a significant number of cases, this moment represents a milestone in the professional career of woman, since in these situations they take the traditional role of mother and make a break in their careers. Returning to work, they must reach the competition which currently has had one year or two more for the professional training and promotion.
5. The challenges women face in balancing personal and business obligations just due to the lack of balance, between women and men, in taking responsibility in the sphere of private life. In Montenegro, more than half of men do not do household

chores; practically speaking, according to the number of hours spent in doing household chores, it can be concluded that the unpaid work is entirely covered by women.

An important aspect of this problem is the current division of occupations to male and female, whereby the occupations of directors, members of parliament and judges are considered as male's ones. This problem becomes more significant when considering specific occupations that women are just to win – what best illustrates this problem is the occurrence that among the surgeons in Montenegro there is no a single woman, along with the existence of horizontal segregation of occupations by sex. This situation significantly affects the future generations that will not have a model of the same sex with whom they could identify themselves.

What is to be emphasized is that less than 30% of the population and about one quarter of the surveyed employers noted the appearance of harassment at work. They share the opinion that women are harassed more frequently than men. Similar conclusions can be drawn about sexual blackmail in the workplace.

Last but not least, the facts that women have longer life expectancy, that they retire earlier than men and have actually lower incomes indicate the inferior position of women in an older age (i.e. the so-called feminization of poverty).

Considering the all aforementioned, we conclude that the causes of lower earnings of women and overall difficult position of women in the labor market lies in institutional and structural discrimination or in the lack of recognition of women's hard position and in the absence of adequate public policy measures and institutions responsible for their implementation.



7. RECOMMENDATIONS

7.1. INTRODUCING GENDER-SENSITIVE STATISTICS

Introduction of gender sensitive statistics should precede adoption of adequate public policies measures that would have an impact on improved women's position, i.e. a systematic data collection that would provide an insight into real issues related to women and also contribute to clarification of causes and consequences of different position of women and men in the community.

Consequently, it would be good to provide analysis of the current method of collecting/publishing official data (above all whether the data are collected and published by gender), as well as mapping key areas where gender related data are missing. Next step would be creation of new standards for data collection (above all those that the state has collected through its records and institutions).

It would be particularly important to conduct a research on female unpaid work. The fact is that public statistics on labor power often fail to recognize this type of work. They often include inactive population, e.g. women from the rural areas, housewives, women working in the grey economics, which all points at nonexistence of public policy measures in this area. The state first needs to become acquainted with the issue in order to be able to react and pass adequate measures. It is extremely important for women that these types of work are visible, recognized and respected, if not through payments, than through, e.g. possibility of earlier retirement and similar.

Further research into poverty, i.e. population living below the poverty line with special focus on feminization of poverty would be very important for introduction of adequate measures.

7.2. GENDER ANALYSIS OF PUBLIC POLICIES

Next step in creation of adequate policies would be gender analysis of public policies currently implemented by the state, primarily those from employment area¹³ (i.e. general economic development), and education (gender segregation in choosing profession leads to a high gender determined segregation of labor power), and a special attention should be devoted to work related spheres (working conditions, promotion and training, pensions, benefits, unpaid work, discrimination at work, sexual harassment and blackmailing, etc.).¹⁴

With regard to this, one should check whether current policies have taken differences in position of women and men into consideration, i.e. if these policies are based on gender sensitive aims and activities. Next question would refer to whether, for example, national strategies and action plans include affirmative action measures and if special financial resources have been allocated for implementation of these parts of strategies, which should contribute to reduction of differences in positions of women and men.

It is particularly important to check results of application of current measures and policies, i.e. whether lessons have been learnt from the previous period, as well as examples of comparative solutions of huge importance for enhancement of policies.

What would also be significant is continuous monitoring of trends in each sphere, i.e. to be able to understand what could happen unless public policies intervene.

Trends should be examined, i.e. what would happen in each sphere in the future unless public policies intervene.

¹³ Public policies here include legislative framework, as well as all national strategies and action plans the country is currently implementing in certain areas.

¹⁴ A detailed analysis of the Law on Labor, its main postulates, labor rights protection mechanisms, etc., as well as all strategies in this area. Analysis of institutions in charge of labor rights protection, e.g. labor inspection would be important here.



7.3. CREATION OF NEW MEASURES OF PUBLIC POLICY AND/OR MEASURES OF AFFIRMATIVE ACTION

Following gender analysis it is necessary to create new public policies measures or just measures of affirmative action (possible within the existing ones, or passing new national strategies and actions that would separately deal with individual issues, i.e. position of women on the labor market).

Gender analysis should be a base for a number of measures of affirmative action, such as:

- Scholarships for certain profession both for women and men (men should also join some of traditionally female professions, particularly in education and healthcare)
- Affirmative actions when taking an employment for certain positions (advantages when taking an employment)
- Programs and resources for female entrepreneurship
- Introduction of gender equality subject in education system (through civil education or any other way)
- Introduction of the “family friendly” employment concept that should provide for a better balance between duties at work and at home (particularly for women), flexible forms of employment, etc.
- Introduction of the quota system for lower represented gender on key decision making posts¹⁵

¹⁵ Norway is a good example of the state’s influence on the glass ceiling issue since it defined by the law that companies have to have two female persons in their administrative boards. The Law was in force until the end of 2006, which has directly caused that Norway today is among countries with the highest percentage of women in leading managerial positions.

7.4. EDUCATION AND CAMPAIGNS FOCUSED ON REDUCING GENDER STEREOTYPES

Gender sensitive eyes, i.e. taking gender perspective into consideration are required for creation and implementation of gender sensitive public policies (the so called gender mainstreaming). It is therefore necessary to create a number of different training (training, presentations, round tables, etc.) for key stakeholders – decision makers in ministries, experts in this area, trade unions, labor inspections, commercial chambers, unions of employers, employment bureaus, NGOs, etc.).

Training is extremely important for existing institutions within the system, such as labor inspection for example, or employment bureau, having in mind their mandates and responsibilities in implementation and protection of gender rights and should be introduced as a part of continuous enhancement of these and similar institutions.

It is then possible, following training, to introduce measures at the company's level, that would reflect a systematic fight against stereotypes and biases, professional advanced training, special training for empowerment of women, networking and mentorship, as well as support to women when they return to work after longer breaks.

Transitional measures could be applied by the state or by an employer. These measures include infrastructure for childcare, generous and universal policy of incomes substitution and compensations for parental leave, flexible working hours, incentives to men to take more part in household chores and looking after children.

Uninterrupted co-operation with existing mechanisms for gender equality in the country would significantly contribute to a better transparency of the topic in public and provide an important support to reinforcement of capacities for dealing with this issue.

It is obvious that gender determined roles or the so-called gender



mainstreaming in community have impact on position of women on the labor market. Statements that men are better by all examined attributes are a direct consequence of gender stereotypes present in the community. It is therefore necessary create campaigns that would aim at changing gender based stereotypes in the community.

8. METHODOLOGY

For the purpose of research on differences between salaries of men and women the following methodological solutions were used

- Face to face survey on general population
- B2B research on the sample of employers
- In-depth interviews with opinion leaders
- Desk research based on the available Monstat data and data from other relevant sources

8.1. FACE TO FACE SURVEY

Data collection method:	Face to face at respondent's home
Main sample:	Population of Montenegro 18+; data from 2003 census and assessment of population related dynamics
Type of sample:	Stratified three-stage probability sample with the following stages:
Stages:	<ul style="list-style-type: none">▪ Unit of the first stage – territory of polling place – approximate size of 200 HH (PPS with probability proportional to size)▪ Unit of the second stage – households chosen by method of random walk starting from the given addresses (SRSWoR)▪ Unit of the third stage – members of households chosen with the same probability (SRSWoR) – Kish tables
Stratification is based on:	<ul style="list-style-type: none">▪ Type of settlement – urban/rural▪ 4 geo-economic regions



Post stratification is done by:	Gender, age, type of settlement and geo-economic regions
Size of sample:	838 (from 85 sample points)
Confidence interval:	<ul style="list-style-type: none"> ▪ 95% confidence interval for occurrences with incidence of 05% is (03.39%, 06.61%) ▪ 95% confidence interval for occurrences with incidence of 20% is (17.04%, 22.96%) ▪ 95% confidence interval for occurrences with incidence of 40% is (36.37%, 43.63%)
Period of data collection:	From 7 to 14 December 2010

8.2. B2B SURVEY

- Ad hoc f2f survey in premises of the employer
- Collection of data on quota sample
- Size of the sample: 82
- Period of data collection: from 7 to 14 December 2010

8.3. IN DEPTH INTERVIEW

In depth interview is one of the methods of qualitative research. It lasts approximately between 30 and 60 minutes.

It is facilitated by a trained moderator (psychologist) and it includes interview with one participant. This technique makes possible deeper understanding of behaviors, attitudes, motives, etc., as well as collection of extensive information in a short period of time.

Results obtained through in-depth interviews cannot be generalized to population because the sample is too small.

Taking into account that respondents were selected according to previously determined criteria, opinions expressed here should be considered typical only for this segment of population

The interviews were conducted with representatives of:

- Ministry of Labor and Social Care
- State Employment Agency
- Ministry of Human and Minority Rights
- NGOs
- Administration for Human Resources
- Trade unions
- Media
- Employers' Union

8.4. DESK ANALYSIS

Desk research includes analysis of secondary (already existing) data.

This segment has mainly used Monstat data, such as statistics annuals for 2009, the Labor Power Survey, Women and Men in Montenegro publication.





9. WOMEN IN MONTENEGRO AND EXERCISE OF EMPLOYMENT RIGHTS

INTRODUCTION

According to the Constitution of Montenegro, the state shall guarantee the equality of women and men and develop the policy of equal opportunities (Article 18). The Constitution envisages prohibition of gender discrimination (both direct and indirect). On the other hand, measures aimed at creating conditions for the exercise of gender equality are not considered as discrimination (Article 8)¹. Special protection of women at work place is envisaged by the Law on Labour of Montenegro- starting from physical characteristics of women and function of motherhood.

Apart from addressing the basic concepts which are connected to prohibition of discrimination and principle of equal opportunities at work, this paper will also address protection of women in the process of employment as well as in the course of employment. In that context, emphasis is placed on special protection of women at work place and protection of her employment status, while taking into consideration physical characteristics of women and function of motherhood. Also, some new solutions envisaged by the draft amendments and changes of the Law on Labour are discussed. Moreover, some answers are provided to the questions from additional corpus of rights from employment and for the persons who are taking care of the child (father, foster parents, guardians). Also, the paper gives

¹ "Official Gazette of the Republic of Montenegro", No. 1/2007, from 25 October 2007.



an overview of some of the procedures women can use in order to seek protection of their labour-based rights, regardless if it is from discrimination or some other illegal behaviour in a work place or if her employment status is threatened in some way.

9.1. NOTION AND FORMS OF UNWANTED BEHAVIOUR AT WORK

When speaking of employment rights of women, primarily we have in mind their protection against discrimination, harassment and sexual harassment, as well as psychological harassment in the workplace.

The word “discrimination” has origin in Latin from *discriminare* meaning: to divide up, separate, deny rights. Discrimination according to the Law on Labour has a meaning of producing a difference that can be manifested in the forms of exclusion, giving precedence or some other form, which can have grounds in some congenital or acquired property: gender, race, religion, ethnicity, illness, disability, social background, political opinion, membership in union or else. A person, according to labour law, can be discriminated in: selection of the calling, employment and exercise of the derived labour rights (both individual and collective) and rights of labour (rights on healthcare and pension-insurance)

Discrimination can be direct and indirect. The difference between these two forms of discrimination is that in direct discrimination in addition to subjective elements, i.e. intent to discriminate against a person, there are objective elements, which include making a difference by non-professional grounds, i.e. grounds unrelated to professional qualifications or work conducted by a person who is discriminated against. On the other hand, indirect discrimination, although the legal norms have no discriminatory character, their application in practice results in some categories of persons at a disadvantage

Gender equality means equal participation of men and women in all spheres of public and private life, equal status and equal opportunities

to exercise all rights and freedoms and the use of personal knowledge and skills for the development of society as well as benefit equally from the fruits of labour.

Gender as a basis for discrimination as a rule applies to cases of discrimination against women. Gender discrimination usually occurs as indirect discrimination, the most common cases are in employment, allocation of employees, exercising the right to remuneration, career advancement and so on. Statistics show that the indirect discrimination on grounds of gender specifically expressed by women who conclude a contract of employment for a specified time. In this sense, is an interesting case from the European Court of Justice Ingrid Rinner-Kuhn (C-171-88), which is indirectly confirmed the existence of indirect discrimination against women in the German legislation. In fact, German labour law prescribed one of the conditions for entitlement to remuneration based on inability to work due to illness or injury that the employee spent employed at least nine hours per week, and 45h during the month. While this legal norm does not explicitly include gender as a basis of discrimination, the ECJ found that it was contrary to one of the basic principles of Community law - the principle of equal pay for men and women labour. This is because the statistics confirm that women due to the need to reconcile professional and family obligations more often sign contracts to work part time than men, thus the norm in German laws had indirectly discriminatory character against them.

In addition to discrimination, Law on Labour also prohibits other unwanted behaviours in the workplace that may have grounds in gender. Therefore, harassment is prohibited, as well as harassment via audio and video surveillance, which has the purpose or undermining the dignity of persons seeking employment, as well as an employed person, and which causes fear or creates a hostile, humiliating or offensive environment. The Law on Labour prohibits particularly gender-based harassment - sexual harassment. In legal terms, sexual harassment is any unwanted verbal, nonverbal or physical conduct which has the purpose or undermining the dignity of persons seeking employment, as well as an employee in the sphere of sexual life,



and which causes fear or creates a hostile, humiliating, embarrassing, aggressive or offensive environment. It should be noted that in our Labour Law, in the spirit of European standards, the problem of sexual harassment is treated in terms of gender (in) equality and discrimination. This means that the solution of problems related to this type of prohibited behaviour should be sought in the consistent implementation of the principle of equal opportunities for women and men in employment and labour.

Draft law on amendments and changes to the Law on Labour introduces another form of protection in the workplace, and that is protection against psychological harassment in the workplace (mobbing). We can define mobbing as a specific form of behaviour in the workplace where one or more persons are systematically psychologically abusing another person, endangering his or her reputation, dignity and integrity, with the aim of eliminating from the job. However, the Draft does not address regulation of protection against mobbing closely, but only gives its definition of and includes referring norm that issues related to mobbing, the measures for its prevention, protection procedures and other issues of importance to prevent and protect against abuse of work in relation to work shall be addressed more precisely by separate law .

“Affirmative Action” is a permissible form of discrimination (also called “positive discrimination”) and it means distinction, exclusion or giving precedence, which is aimed at mitigation of the effects of gender discrimination against women and increase their employment rates. Taking measures of affirmative action is especially characteristic of workplaces where women are less represented than men. However, in comparative practice and according to our regulations, the positive discrimination of women is permitted only as an interim measure, while until the full realization of the principle of equality of opportunity and treatment both to men and women.

Montenegrin Law on Labour prescribes to possible situations where gender discrimination in employment is permitted:

- 1) Where the nature of the job is such or conditions of the

work to be conducted is are such that characteristics related to grounds mentioned (gender as one of them) deemed to be real and determining condition in conducting the work and the desired purpose of such action;

2) Provisions of the Law, collective agreement and employment contract, related to special protection and assistance to particular categories of the employees, especially to protection of disabled persons, women during pregnancy and maternity leave and absence to childcare, or special childcare, as well as provisions treating rights of the parent, adoptive parent, foster parent and custodian are not to be considered as an act of discrimination.

Regarding the first case we can say that our law does not follow the comparative experience and practice of the law of the European Court of Justice in this area, because it does not specify what the jobs are where it would be allowed to make distinctions based on gender (e.g. female character in theatrical performances, movies, opera, ballet, etc.). Therefore, European Court of Justice in case of Sabine von Colson and Elizabeth Kamann v. Land NordrheinWestfalen (C-14/83, rec 1891), found unjustified exclusion of possibility of women's employment for position of social worker in institutions for execution of criminal sentences where only men serve their sentences.

We conclude that in the latter case, the law allows the principle of affirmative action, which means that the law provides a greater scope of rights or more favourable conditions for their exercise for certain categories of employees, where due to some personal characteristics (innate or acquired) they are not treated equally. When it comes to women the justification for this approach lies in reconciling professional and family responsibilities of the women.

According to the Law on Gender Equality, a ministry competent for human and minority laws can recommend to agencies introduction of positive measures in those areas of social life where is obvious unequal representation of men and women i.e. obvious discrimination of one gender.



9.2. SPECIAL PROTECTION OF WOMEN IN EMPLOYMENT

The basis for the special protection of women in employment is in the Montenegrin Constitution (Article 64, paragraph 3), and elaborated further through the legal provisions governing the labour rights of labour-based rights. Special protection of women at work means protection in regard to type of jobs that either due to their difficulty or the time interval in which to perform may adversely affect the physical characteristics of women or the development of pregnancy in case of protective provisions that include the protection of maternity. Justification for such protection arises for two reasons, namely: physical characteristics of women and pregnancy, more precisely maternity functions.

Special protection of women in employment foresees legal provisions related to:

- 1) Adjustment of working conditions to physical characteristics of the woman;
- 2) Reconciliation of professional and family obligations;

9.2.2. Protection of women in regard to physical characteristics

Women, along with young people (employees aged 15 to 18 years) and persons with disabilities shall enjoy special protection at work. This protection applies to work at night, and to perform strenuous activities and heavy and underground works. Thus, the Labour Law in Art. 104 provides that women employed and employees under 18 years of age cannot work in the workplace with predominant hard physical labour, work under ground or under water, or in jobs that could affect negatively and with an increased risk to their health and life.

Prohibition of night work for women does not have an absolute character, but only applies to night work in industry and construction. In addition, the prohibition of night work shall not apply to women working in managerial positions or to ones who, employed by an

employer from the fields of industry and construction, are carrying out health, social or other types of protection.

The Law provides for another exception to the prohibition of night work for women in industry and construction, and this is a situation where it is necessary to continue the work interrupted by natural elements or to prevent damage to raw materials or other materials (Article 105 of the Law on Labour). Such provisions on prohibition of night work for women in industry and construction resulted from the ILO Convention no. 89 - Night Work of Women in industry and construction. However, it should be noted that in EU documents related to this issue there is another tendency, that the relevant EU directives provide special protection to women only in relation to pregnancy and motherhood, not the protection of night work in industry and construction. We can say that these tendencies in Europe (communitarian) right in the spirit of the principle of equality of opportunity and treatment, which are based on European standards in employment.

Proposed amendments and changes to the Law on Labour provide one more thing regarding the equalization of status between men and women in terms of exercising the right to remuneration in a manner which provides that the working men and women are guaranteed the equal pay for the equal work or work of the equal value that achieves with the employer. In this sense, the work of equal value means for work that requires the same level of education and qualification level of education or professional qualifications, responsibilities, skills, working conditions and results of operation. Therefore, the employer's decision or agreement with the employee which is contrary to these principles shall be invalid and produces no legal effect. The justification of this provision in the Draft Amendments to the Labour Law is supported by the statistics. Specifically, working women in Montenegro earn less than men, as confirmed by the Republic Bureau of Statistics-Monstat according to which their average income in almost every field was smaller in comparison to men for 23%. Women earn better in agriculture, hunting and forestry, mining and quarrying, transport, and in the real estate business and rental.



9.2.3. Protection of women in relation to maternity

Special protection of women with regard to the duties of motherhood stems from the need for reconciliation of professional and family responsibilities and they include: the protection in the employment, protection in the course of their employment status, and protection in respect of termination of employment.

9.2.3.1. Protection of women in the process of concluding of labour agreement

The main reason for discrimination of women in the process of concluding of labour agreement is the intent of the employer to avoid possible costs due to pregnancy (in case of medical complications during pregnancy), difficulties in finding temporary replacements for employers who are on maternity leave due to pregnancy and childbirth, as well as the obligation to provide additional group of rights which are designed for women in case of pregnancy and the need to care for a child.

Gender may be required as a special condition for employment when this is justified by a nature of work, as for example for jobs with special working conditions. These restrictions are possible for reasons that are connected to protection of public order. One of the examples from comparative practice is restriction of employment of women on specific jobs in army and police. Thus, for example in Greece there are quotas for admission of women in police schools (20%) and officers' schools (15%). In this way, opportunities for women to work in these services are being narrowed, and it is known that discrimination in education is closely connected with discrimination in employment and work. This was confirmed by European Committee for Social Rights, which found the aforementioned provisions to be contrary to European Social Charter. Also, it was noted that the fact that Greek police and military carries weapons is not in itself a valid reason for limiting the number of women which may enrol in police and officers' school².

² Leni Samuel, Fundamental social rights, Case law of the European Social Charter, Second edition, p. 29 – 30.

Law on Labour provides special protection of women in the process of concluding of labour agreement, so it provides that an employer cannot demand from the person who is a candidate for employment to give information about family or marital status and family planning, nor to submit documents and other evidence which are not of direct importance for performing of tasks for which the employment is offered, i.e. labour agreement is being concluded. This issues fall within the domain of privacy of candidates in the process of employment, and the employer cannot ask the candidate answer them, even after the labour agreement is concluded. However, the employee may present information on his marital or family status if he has interest to do so in course of his employment (for example in order to achieve some right after he has been employed, such is the right to a flat). In addition, the employer cannot condition employment, i.e. conclusion of labour agreement with evidence of pregnancy (Article 28 of the Law on Labour), nor can he refuse to conclude a labour agreement with a pregnant woman. The exception to this prohibition is designed in cases of jobs where there is a significant risk to health of women and children, which was established by competent health authority. However, this solution in our law is not acceptable from the aspect of protection of women from discrimination, especially when it comes to future employment for an unlimited period. This is because in these cases the harm to health conditions of women and children were limited in time- only during pregnancy, and after this period women would be able to continue working on such job without any problem. This is confirmed by European Court of Justice ruling, in the case *Mahlberg* (C-207/98), who was employed in a medical institution. *Mahlberg* was employed for specific time period in the department of radiology, and her employer did not allow her to get employed for an indefinite time period arguing that working conditions could have detrimental effects on her pregnancy³. However, the European Court of Justice found that in this case the employer discriminated against the employee, i.e. he made an unfair distinction between the employees who are not pregnant and employee who was pregnant, as she applied for employment for an unlimited period while being pregnant.

³ See: Lubarda, Branko, p.. 254.



9.2.3.2. Protection of women during employment

Article 11 of the Law on Labour stipulates that employed women are entitled to special protection during pregnancy and childbirth. This protection envisages a special group of rights: during pregnancy, right to maternity leave, leave for care of child, prohibition of night work and prohibition of overtime work, prohibition of deployment to another post, as well as prohibition of termination of the employment.

Employed women enjoy additional protection at work during pregnancy, until exercise of the right to a maternity leave. This protection applies to the possibility of temporary assignment to other duties if it is in the interests of her health or health of the child, with the right to earn the same salary as before the deployment. If the employer is unable to provide such a deployment, a woman has the right to paid leave, and she is entitled to the same earnings she would make at her workplace. Thus, the wage compensation during maintaining of pregnancy shall be provided at 100% of the compensation basis. The wage compensation based on temporary incapability for work while maintaining pregnancy shall be provided from the Fund's means for compulsory health insurance from the very first day of temporary incapability for work. Also, during pregnancy woman cannot be assigned to night work or overtime work.

The employed woman shall be entitled to the maternity leave in the duration of 365 days from the date of the birth of the child. An employed woman may initiate the use of the maternity leave 45 days before the childbirth, i.e. no later than 28 days before the childbirth, based on opinion of competent medical institution. Also, these 45, i.e. 28 days are not calculated in a total number of days foreseen for maternity leave, since maternity leave starts from the day of the birth of the child. Existing Law on Labour envisages a possibility that the employed woman may start working prior to expiration of the maternity leave, but not prior to expiration of 45 days from the day of the childbirth.

Draft amendments and changes of the Law on Labour envisage important novelties in the part regulating maternity leave. Namely,

the draft discusses protection of rights of the employees who care for children. In this way, according to the principle of reconciliation of professional and family responsibilities, protection is provided to both parents, and besides the institute of maternity leave, parental leave is introduced. Maternity leave, as before, is foreseen for the employed mother – and it starts 45 days before the childbirth, i.e. no later than 28 days before the childbirth. Thus, maternity leave lasts until the day of birth, after which a parent is entitled to parental leave. We can conclude that this solution is more acceptable both in the linguistic sense and in terms of protection of interests of both parents.

Parental leave can be used for a period of 365 days from the day of birth, and both parents are equally entitled to use this right⁴. We can say that this is significant improvement in comparison to previous solutions, according to which father could have used this right only in cases when mother abandons the child, dies, or is for some other justified reasons prevented from exercising this right (sentenced to imprisonment, in case of severe illness, etc.) However, the draft law, unlike some parallel solutions in this field, does not foresee „exclusive right“ for parental leave for women in the first 45 days after birth, what would be logical, considering the fact that this period is essential to a women after childbirth to recover. Instead, the draft law stipulates that parents can begin working prior to end of parental leave, but not before the lapse of 45 days from birth. This solution is acceptable if parental leave is used by mother and not if the father used this right. In any case, after the interruption of use of parental leave, said parent has no right to continue using the leave, but the other parent may continue using the remaining part of parental leave (for example: if mother used five months of parental leave, father of the child may continue using the remaining seven months).

Draft law provides for some better solutions in relation to the existing law, when it comes to protection of women’s rights in the event that she interrupted the use of parental leave. Namely, in case that mother starts working prior to expiration of parental leave, she is entitled to use in addition to daily break a 90 minute break (until now it was 60

⁴ Of course, only employed parents can exercise this right.



minutes) for breastfeeding, in agreement with the employer. So, the employer cannot deny her this right, but the time schedule of this break can be agreed with the employer.

Law on Labour also provides for the right to absence from work in case of adoption of the child. One of the adoptive parents of the child under the age of eight shall have the right to absence from work, for the period of one year uninterruptedly from the day of adoption, upon written notification the employee is obliged to submit to the employer one month prior to initiation of use of that right.

In the event of interruption of use or expiration of maternity or parental leave or leave for adoption, the employer shall ensure that employee returns to the same or similar position, with at least the same earnings. In addition, the employee who used the right to parental leave, i.e. leave for adoption shall be entitled to additional professional training, if there are technological, economic or other changes in the manner of work of the employer.

If an employed woman gives birth to a still-born or the infant passes away before the expiration of the maternity leave, she shall be entitled to extend her maternity leave for the period of time which is, by the findings of an authorized medical doctor, needed for her to recover from the childbirth and psychological condition caused by the loss of a child, but no less than 45 days during which time she shall be entitled to all rights based on the maternity leave. Draft amendments and changes of the Law on Labour does not provide for the same opportunity if the father used the parental leave, although this is not in the spirit of the previous standard of equalization of the rights of both parents. On the other hand, the draft provides the right of the father to absence from work in case of birth of a child. This solution represents an improvement in comparison to the existing Law on Labour, which predicted this right only in cases where wife was giving birth. However, since children from marriage and out of wedlock children have the same rights, the Draft law gives the father the right to be absent from work in the event of the birth of child- regardless if it was born in or out of wedlock. According to current general Collective Agreement duration of this absence is three days.

During parental leave and leave for adoption, the employees shall be entitled to reimbursement of wages in the amount he would otherwise earn, in accordance with the law and collective agreements. Also, Law on Social and Child Protection stipulates that the right to earn compensation on full amount belongs to the parent, i.e. adoptive parent who, prior to exercising this right, was employed for at least six months continuously. If the parent or adoptive parent was employed for less than six months continuously, he/she will be entitled to compensation amounting to 70% of his/her earnings. The employer shall make payments of these compensation, and calculation and payment of earnings is made at least once a month. This right is exercised if the person is engaged in entrepreneurial activity as the sole employee. In doing so, the person who is engaged in entrepreneurial activity will receive payments of earnings at the Centre for social work, and bases for payment will be determined by the amount based on which taxes and contributions have been paid.

It should be noted that the right to compensation of earnings can be exercised only by parent or adoptive parent who is employed. Parent who is unemployed, and is registered at Employment Bureau or is a regular student, in terms of the Law on Social and Child Protection⁵, may be entitled to another type of compensation, compensation for birth of the child, if he/she submitted a request for this compensation within 30 days from the day of delivery. This compensation amounts to 25 EUR per month and is continuing until the child reaches one year of age, if the request was submitted within 30 days from the day of birth, or- if the request was not submitted in time from the day the request was submitted. In any case, this right cannot be used after the expiry of 12 months from the day of birth of the child.

One of the rights in connection to birth of child is the right to financial assistance for equipment for new born child. This right belongs to the sphere of children rights and is exercised by parents for every new born child. In accordance with the Law on Social and Child Protection, this financial compensation amounts to 100 EUR and the parents are

⁵ Article 56 of the Law on Social and Child Protection("Official Gazette of the Republic of Montenegro", No. 78/05)



entitled to it as long as they submit a request for this compensation by the time their child is one year old.

According to the current Law on Labour, women enjoy the right to protection based on maternity and after the expiration of maternity and parental leave in some cases special protection is also provided to the father of the child. In that regard, we should distinguish between 3 situations, and these are:

- Protection of a single parent;
- Protection of a parent whose child is younger than three years;
- Protection of parents who have child with development difficulties.

Article 11, paragraph 3 of the Law on Labour stipulates that the employee has the right to special protection in order to care for the child in accordance with this law. This formulation implies that the right to social protection in this case belongs to both mother and father of the child. This provision is further elaborated in the law, and it makes distinction between regular care for the child and care for a child with development difficulties.

In the first case, the difference is made between protection at work for single parents and situation where a child has both parents. Protection of the employment status was designed for a single parent with a child younger than seven years and is reflected in form of prohibitions, as follows:

- prohibition of assigning to work in another place outside the place of permanent or temporary residence;
- prohibition of overtime and night work (unless the employee gave a written consent);
- prohibition of cancelling the labour contract by the employer (unless the contract was for a limited time period), as well as proclaiming the employees redundant due to introduction of technological, economic and restructuring changes (Article 108, paragraph 2).

Apart from this, the Law stipulates additional rights for one of the parents who have children younger than 3 years of age. These rights are as follows:

- right to be absent from work until the child turns three years of age. During the absence from work, an employee shall be entitled to health and pension-disability insurance, while other rights and obligations shall be suspended;
- one of the employed parents is entitled to work half of the full time hours until the child turns three years of age, if the child needs additional care.

Woman who has a child younger than five years of age cannot be assigned to work in another place outside of the place of her permanent or temporary residence. This situation should be differentiated from protection of woman as single parent (given that the law provides for prohibition of assignment to work in another place of the single parent with a child younger than seven years). In addition, overtime and night work for women who has a child younger than three years is forbidden. However, the law makes an exception in respect to night work- in a way that it allows night work to women who has a child order than two year, only if she gives her written consent to such a work.

One of the parents of a child having severe development difficulties may work longer than full time hours or in night shift only on the basis of a written consent. (Article 110paragraph 3 of the Law on Labour). Apart from this, this parent cannot be assigned to work in another place outside the place of permanent or temporary residence (Article 42 of the Law on Labour).

Special protection of parents in this case is envisaged through the right of the parent to work half of the full working hours. The key point of this protection is the fact that parents who have children with developmental difficulties, and on that basis are entitled to half of the full working hours, have all the rights from the employment they would if they worked full working hours.

Protection of women due to pregnancy and child care envisages prohibition of cancelling the labour contract during pregnancy and use of the maternity leave. The same prohibition exists in relation to proclaiming such an employee redundant due to introduction of technological, economic or restructuring changes. Draft amendments



and changes of the Law envisage this protection for both parents, which means for father as well if he uses parental leave. Of course, this prohibition is envisaged only for parents who are employed for unlimited time period, since the employment for a limited time period expires on the date designated by the employment contract. An exception exists for trainees, since the internship is prolonged in case of absence from work due to: temporary inability to work under the regulations on health care and health insurance and maternity leave.

9.3. PROTECTION OF THE RIGHTS OF WOMEN IN EMPLOYMENT

Protection of rights in case of discrimination can be ensured by submitting a petition to the Ministry for Human and Minority Rights, which would indicate existence of discrimination (for example: that some regulation, criterion or action brings women in disadvantage position compared to men in same or similar circumstances). Apart from this, the Ministry has an obligation to inform state body, or local self-government body, employer, political party or other legal or natural person about whom the petition was submitted about the arrival of the petition, its content and procedure that needs to be followed, and ask them to respond within a specified time period. If this body fails to submit an explanation, the Ministry has to decide on the complaint based on the information at its disposal, and it submits a report and an official note about it, in which it warns about the existence of discrimination on grounds of gender, recommends ways to eliminate causes of discrimination and sets a deadline before which the submitter of the petition and the opposite side should inform the Ministry about undertaken measures. It is important to note that there is no possibility to submit anonymous report, in case of direct discrimination, because in this case the petition can only be submitted by a woman who was discriminated against or some other legal or natural person can submit the petition on her behalf with her consent. Acting on an anonymous petition is possible if it

points to indirect discrimination on grounds of gender, if it contains sufficient information for determining existence of discrimination on grounds of gender.

Also, women may seek protection of their rights in case of discrimination at court. Basic courts are first instance courts for labour relations disputes. There are no special councils for labour disputes, but they are settled by civil judges. The employers are required to execute final court decision within 15 days from the receipt of the decision of the court, unless the decision in itself provides a different deadline. If case of disputes regarding unlawful termination of the employment, in addition to damages (actual and lost profit) the employee is entitled to seek to return to the workplace that matches his/her level of education and working capabilities. In this section, the draft amendments and changes of the Law on Labour envisages additional protection for the employee, since it introduces exception to the rule of proof. Namely, in case of disputes regarding unlawful termination of the employment the burden of proving the justification of the reasons for termination of the employment is with the employer. The burden of proof in cases of discrimination, harassment, sexual harassment and mobbing rests also with the employer.

Labour inspection also plays an important role in protection of labour rights. The labour inspection monitors implementation of labour regulations, especially those concerning the rights of the employees. In case it was established that the employer was violating the laws and liabilities, pecuniary fine is foreseen. In addition to undertaking of administrative measures and actions prescribed by the law, the labour inspector is required to temporarily prohibit the work of the employer, if during inspection he determines the following:

- 1) Employer failed to conclude a labour contract with the person who started working;
- 2) Employer failed to conclude a labour contract with a foreigner (foreign citizen or person without citizenship) under the conditions prescribed by special law and international conventions;



- 3) Employer failed to register a person with whom he concluded a labour contract or special labour contract for health insurance or pension and disability insurance and unemployment insurance;
- 4) Employer failed to pay contributions for health insurance, pension and disability insurance or unemployment insurance to the person with whom he concluded a labour contract or special labour contract.

In addition, the Law on Labour stipulates the obligation of the employer to notify the labour inspectors on introduction of overtime work within three days from the day of adoption of the decision to introduce this work. Labour inspector shall prohibit overtime work if he determines that it was introduced contrary to provisions of the law. And labour inspector may prohibit.

According to current provisions of the Law on Labour, If the labour inspector determines that it is obvious that the employer's decision on cancellation of the labour contract violates the employee's right, and the employee has initiated a labour dispute, he shall, at the employee's initiative, suspend by his decision the execution of that decision on cancellation of the labour contract, until the adoption of the final court decision. The condition for this is that the employee has submitted the initiative within 15 day from the day of initiation of a labour dispute. Administrative dispute cannot be initiated against the decision adopted by the labour inspector. However, in the Draft Law on amendments and changes of the Law on Labour this provision has been deleted, and it is justified by the fact that by providing possibility for delay of enforcement of the decision on termination of the employment the inspectors had the authority, which by its nature cannot belong to it- and that is prejudicing of the court's decision.

Women can achieve protection of their rights through alternative procedures for resolving of labour disputes. The procedure of peaceful settlement of labour disputes is regulated by the Law on Peaceful Settlement of Labour Disputes⁶. The Law stipulates that in case of

⁶"Official Gazette of the Republic of Montenegro", No. 16/07

individual labour disputes an arbitrator⁷ is to be engaged. According to the principle of voluntariness, the parties themselves decide on the engagement of an arbitrator, with the rule that deadlines for initiation of the procedure before the competent court do not run during the procedure with the arbitrator. The procedure for resolving of disputes before the arbitrator is voluntary, and finishes with adoption of a decision which becomes legally binding and final on the day it is submitted to the parties to the dispute. If the decision specifies that the action that is a subject to the execution is to be carried out within a given deadline, the decision becomes final after the expiration of this deadline. The law provides that the decision of the arbitrator cannot be appealed, but an action for annulment of the decision can be brought with before the competent court⁸.

⁷ According to this law, an individual labour dispute is considered as the dispute arising from work and on the basis of work, and parties in individual dispute are employee and employer. While according to this law, collective labour dispute is dispute regarding conclusion, amendments and changes of the collective agreement, the right to union organizing and right to strike.

⁸ Arbitrators decision may be annulled if it is proved: that the agreement on engaging of arbitrators was not concluded or was not valid; or if the party in the dispute was unable to conclude an agreement on engaging of the arbitrator; if there were conditions for disqualification of the arbitrator; if the party in the dispute was not duly informed about the initiation of procedure before the arbitrator or if she/he was unlawfully prevented from appearing before the arbitrator; as well as in the case when the decision of the arbitrator does not relate to the dispute for which an agreement for engagement of arbitrator was concluded.



Summary

The basis for the special protection of women regarding employment is in the Constitution of Montenegro, and it is further extended through the legislation regulating the rights of labour and based on labour.

Law on Labour of Montenegro envisages special protection of women in the process of establishing employment and in protection of rights deriving from employment – having in mind physical characteristics of women and their maternity role. However, it is a tendency in European communitarian legislation that special protection of women is prescribed only when it relates to pregnancy and maternity, but not when it is related with the protection of women from night work in industry or construction, as it is a case in Montenegrin legislation. Special protection of women related to maternity role is a result of a need to reconcile professional and family responsibilities, and it includes: protection in the process of establishing employment, protection during the employment and protection related to termination of employment.

A Draft Law on Amendment of the Law on Labour envisages significant novelties in regards to affirmation, and principle of reconciliation between professional and family responsibilities. In this regard, institute of parental leave is introduced and in this way the role of mother and father equalized in terms of reconciling of professional and family responsibilities. In addition, it envisages solutions that provide additional protection for women employed in the case of pregnancy and childbirth.

Draft Law on amendments and changes of Law on Labour envisages another novelty related to equal status of men and women related to earnings, in a way that it prescribes that employed man and woman are guaranteed to receive the same compensation at the employer for the same work or the work that has the equal value.

Protecting of rights in cases of discrimination can be provided through submission of petition to Ministry of Human and Minority Rights,

through initiating a procedure in front of the competent court of in front of the Agency for peaceful settlement of labour disputes. Labour inspection plays important role in protection of labour rights, and it monitors implementation of regulations pertaining to this field. In case of any dispute regarding termination of employment, the burden of proving the justified reasons for termination of employment lies with the employer. The same rule applies when it comes to protection from discrimination, harassment and sexual harassment in the workplace, as well as in case of psychological harassment at work (mobbing).



10. THE POSITION OF WOMEN IN RELATION TO HEALTH, SOCIAL AND PENSION INSURANCE IN LEGAL SYSTEM OF MONTENEGRO

The position of women in the legal system of Montenegro can be seen from the two standpoints, - a normative standpoint, which shows us how is regulated by current regulations the manner of exercising of certain rights, and the second- practical, which indicated how are in practice realized issues prescribed by norms. In this short study we shall give an overview of regulations prescribed by the legislatures to regulate the issues of health, social and pension insurance, the issues that are of great importance for women in Montenegro.

The issue of the right to the health, social and pension insurance in Montenegro is regulated by a set of regulations, which are partially or in a whole devoted to this issue. Even the Montenegrin Constitution¹ stipulates that social insurance of the employed is mandatory, as well as that the state shall provide material security to the person that is unable to work and has no funds for life (Article 67). There is also a guarantee that everyone shall have the right to health protection, and that a child, a pregnant woman, an elderly person and a person with disability shall have the right to protection from public revenues, if they do not exercise this right on some other grounds (Article 69).

The possibility for women to realize aforementioned rights on the same bases as men is provided by constitutional principle prohibition of discrimination, and by this principle any direct or indirect discrimination on any grounds is prohibited. Special measures which are aimed

¹ Constitution of the Republic of Montenegro, Official Gazette, No 1/07

at creating the conditions for the exercise of national, gender and overall equality and protection of persons who are in an unequal position on any grounds should also serve as an instrument for favoring women in certain areas and situations and for a limited time period, so that they can reach an equal position with men.² The principle of equality, according to which all are equal before the law, regardless of any peculiarity or personal property, and equation by which the state shall guarantee the equality of women and men and develop equal opportunities policy³, should also create a fertile grounds for full realization of all rights guaranteed by the Constitution and the law, both to men and women.

In the text below, we shall give a short overview of existing regulations which allow women in particular to achieve their rights.⁴ The regulations are presented in accordance with their text, without separation of women and men, except where a comment was given to a specific provision, but they should definitely be seen from a male-female prism, i.e. in a such a way that they can help us understand how women as a target group can contact competent authorities and exercise their rights.

Law on Contributions for Compulsory Social Insurance⁵ determines as contributions for compulsory social insurance the following:

- Contribution for compulsory pension and disability insurance;
- Contribution for compulsory health insurance;
- Contribution for insurance against unemployment (Article 2).

As *obligors of contributions for pension and disability insurance*, the Law among other recognizes: persons employed with the employer,

² Ibid, Article 8

³ Ibid, Articles 17 and 18

⁴ The phrase „in particular” was used because situation in our country shows that to achieve full equality between women and men it is essential that women are in many legal situations made equal with men by the law, and along with this there is a need for a general culture and awareness of the overall population to change in the direction of putting women and men in equal context, and not in context of subordinates and superiors.

⁵ Law on Contributions for Compulsory Social Insurance, Official Gazette of the Republic of Montenegro, No. 13/07, 79/08, 86/09 and 78/10



persons performing part-time and intermittent work assignments, persons realizing pecuniary benefit in accordance with the law governing employment, entrepreneurs and persons carrying out professional and other activities as a core profession, clergy, religious professionals, monks and nuns and agriculture producers (Article 5).

Apart from these persons, as *obligors of contributions for health insurance*, the Law among other recognizes unemployed persons entered in the records of unemployed persons, who do not receive benefits in such a respect, users of pensions according to regulations on pensions and disability insurance and other. (Article 6)

And finally, *obligators of contribution for insurance against unemployment* are persons employed with the employer, persons performing part-time and intermittent work assignments, entrepreneurs and persons carrying out professional and other activities as a core profession. (Article 7)

This law stipulates that the contributions are not paid for personal income of natural persons to the amount specified by the law governing the income taxes of natural persons, and exceptionally contributions are not paid for earnings arising from redundancy, solidarity and social benefits, compensations for separate living and jubilee awards (Article 18a). Also, for the employee with approved standstill of employment in accordance with the law governing employment, the contribution payment liability shall also standstill during such period (Article 19).

The Law on Health Insurance⁶ stipulates that health insurance of citizens shall provide implementation of the right to health care. The aim of this Law is to create conditions for provision of compulsory health insurance, as well as to introduce voluntary health insurance. The importance of existence of such regulations can be found in a fact that its implementation allows for women to achieve full and high quality health care, and that emancipation of certain categories of people to use services rendered by the state provides a higher quality of life for all (this particularly applies to female members of RAE population).

⁶ Law on Health Insurance, Official Gazette of the Republic of Montenegro, No. 39/04

Under compulsory health insurance the Law foresees a part of the health insurance system which provides to all citizens of the Republic of Montenegro and to other individuals the right to health care (Article 3). Apart from this, the Law recognizes the institute of voluntary health insurance which provides entitlements that are not included in the compulsory health insurance and which are based on the principle of voluntariness (Article 4).

Under this law, the rights within compulsory health insurance are the right to health care, the right to the wage compensation during temporary incapability for work, as well as the right to compensation for travel expenses related to the use of health care (Article 15). As regards voluntary health insurance, through this type of health insurance the citizens can provide for themselves and members of their families special conditions of health care, within the established standards, in regard to staff, accommodation, and the time of health care provision, as well as rights that are not provided by compulsory health insurance (Article 79).

- Insured persons, i.e. persons who have rights to health insurance and other rights deriving from compulsory health insurance, under the terms stipulated by this Law, are the insured, as well as their family members and other persons. The law provides rather long list of insured persons, and some of them are:
- Individuals *employed* by an enterprise, other legal entity, state authority, local self-government authority's unit or local authority, or by a private person;
- Individuals *performing jobs on the basis of specific employment agreement*, in accordance with the separate law;
- Civil individuals *serving* in the Army or military units and military institutions;
- Citizens of Montenegro *employed by foreign and international organizations and institutions, foreign consular and diplomat representative offices or by foreign legal and private entities*, if it is not regulated differently by an international agreement;
- The employed *referred to work abroad, or individuals employed*



- by an enterprise or other legal entity with its headquarters in Montenegro, that performs its activities abroad, if they are not compulsory insured as per regulations of the country they are referred to or where they are employed, or if it is not regulated differently by an international agreement;*
- *Citizens of Montenegro employed abroad at the household of citizens of Montenegro who are referred to work abroad or who are employed in that country by an enterprise or other legal entity with its headquarters in Montenegro;*
 - *citizens of Montenegro employed abroad if they are not compulsory insured by a foreign insurance company or if they cannot, according to regulations of such country, exercise health insurance rights out of its territory, and they were compulsory insured in Montenegro prior to their departure abroad, or if they had domicile in Montenegro prior to their departure abroad;*
 - *entrepreneurs and individuals independently performing professional activity as their principal occupation;*
 - *individuals performing activities according to job contracts or author's contracts or other agreements for which they have right to wages in accordance with the specific law, if they are not otherwise insured;*
 - *redundant employees or those who have quit entrepreneur activity while they receive cash benefits according to labor regulations and the unemployed exercising their right to benefits in accordance with unemployment regulations;*
 - *individuals who exercise their right to the wage compensation after termination of their employment, in accordance with the specific law;*
 - *the unemployed persons who are included in the list of the unemployed, who do not receive any unemployment benefit;*
 - *pension beneficiaries on the basis of regulations on pension and disability insurance;*
 - *beneficiaries of social protection rights, in line with specific regulations, if they are not otherwise insured;*
 - *individuals performing agricultural activity as their only and principal occupation, in terms of regulations of pension and*

- disability insurance, and *individuals who own farming land* if they are not otherwise insured;
- priests and church employees, as well as monks and *nuns*, if they are not compulsory insured otherwise;
 - *individuals sentenced to imprisonment*, as well as individuals *under the measure of mandatory custody and mandatory treatment of alcoholics and drug addicts*.

The law specifically stipulates that *compulsory health insurance rights shall be provided to family members of the insured*. Family members are considered to be: members of immediate family (*spouse*, children from marriage and out of marriage, adopted children, step-children and foster children) and members of extended family (parents- father, mother, stepparents and adoptive parents, grandchildren and siblings) if they are permanently and totally incapable for work in terms of specific regulations and if they are supported by the insured person.

According to the Law, the divorced spouse shall keep the status of the insured person if: if he/she is entitled to the support by a court's decision, while such support lasts, if he/she was absolutely and permanently incapable for work at the time of divorce, in line with specific regulations, if he/she is entrusted with custody and education of children by court's decision for the period of time during which children enjoy the right of support. In order for the divorced spouse to be entitled to this right, i.e. to keep the status of the insured person, it is necessary that he/she is not otherwise insured and that he/she submits his/her application to the Fund within 30 days after the divorce, i.e. after effective court's decision on the support or on the custody of children (Article 11).

The insured person's child is entitled to compulsory health insurance until termination of compulsory education, and if the child is included in regular or part-time education, then the entitlement lasts until the deadline envisaged for regular education elapses, and not later than the age of 26. The Law stipulates that if the child has interrupted education due to an illness, that child shall be entitled to compulsory health insurance during such illness. If afterwards the child continues education, he/she shall be entitled to compulsory health insurance



even after the age limit established in Par. 1 of this article has elapsed, but not longer than the period of interruption of education lasted due to the illness. If the insured person's child becomes incapable for independent living and work, before deadlines for regular education elapse, then he/she shall be entitled to compulsory health insurance during such incapability as well. The child who becomes permanently incapable for independent living and work shall be entitled to compulsory health insurance if he/she is supported by the insured person as he/she does not have own income (Article 12).

Special protection is provided for children without parents and children for whom the guardianship authority has established that they are without parental care. According to this Law, these children are also entitled to compulsory health insurance, as well as children with one or both parents if their parents are not in position, due to their health condition or other circumstances, to work, i.e. to take care of their children and to support them (Article 13).

When it comes to health care which the insured persons enjoy, the health care includes the following:

- medical measures and procedures for improvement of health, prevention, fighting and early detection of diseases and other health disturbances;
- medical examinations and other types of medical assistance in order to establish, monitor, and check up health condition;
- medical treatment of the sick and injured and other types of medical assistance;
- medical treatment out of the Republic – abroad;
- prevention and medical treatment of mouth and teeth diseases;
- medical rehabilitation;
- medicinal products and medical means;
- medical-technical devices (prosthesis, orthopedic and other devices, dental-prosthetic assistance and dental materials and restorations).⁷

⁷ Law on Health Insurance, Article 16

The following is *not considered* as health care:

- medical examinations in order to establish health condition, body imparity, and disability in the procedures before other organizations and authorities;
- *medical examinations for employment, enrolment in educational institutions and training courses, obtaining medical certificate for driver's license, court and other proceedings, and in other cases when examination is not undertaken in terms of health protection;*
- medical examinations of the employed referred by organizations to work abroad, in accordance with the specific law, as well as measures of preventive health care for trips abroad and medical examinations for such trips (Article 18).

In determining the scope of rights and standards of health care, among other things special attention is given to health care of children, women during pregnancy, childbirth and motherhood and persons older than 65 years of age.

The right to wage compensation during temporary incapacity for work is one of the rights that can be exercised by insured persons who have rights deriving from compulsory health insurance. The wage compensation during temporary incapability to work is established at a minimum amount of 70% of the compensation basis. However, if temporary incapability for work is caused by maintaining pregnancy the wage compensation is provided at 100% of the compensation basis and it will be provided from the very first day of temporary incapability for work.⁸ By this the legislator wanted to give special rights to women in order to encourage and support their right to parenthood.

Finally, right to compensation of travel expenses related to health care is provided by fiving compensation of travel expenses to the insured person and to an escort if needed, and in case when insured person's selected doctor, selected team, or competent panel of doctors refers him/her to another place in relation to the implementation of

⁸ Ibid, Article 28



the health care of for assessment of temporary incapability for work (Article 33).

It is important to emphasize that the insured person status in accordance with this law can only be established based on one criterion and that it can be proved by a special document, i.e. health card. In case that the person cannot prove his/her status of insured person when exercising rights from compulsory health insurance, that person shall bear the incurred costs, with the exception of urgent health condition.

The insured person shall implement his/her health care at health institutions and with other entities, i.e. with the selected team or selected doctor with whom the Fund has entered an agreement in line with the Law (Article 51). In case that the insured person suffers from illness that cannot be successfully treated in Montenegro, that person shall be referred to medical treatment out of Montenegro on the account of the Fund's means (Article 52).

The Law also stipulates that the insured participate in the cost of health care they use (Article 59), as well as that the amount of personal participation in the cost of health care depends on the type of illness, cost of diagnostics, medical treatment and rehabilitation and the level of the health care (Article 50). In any case, children, women during pregnancy, delivery and one year after giving birth and individuals over 65 years of age are not liable to personal participation in the cost of health care (Article 61).

Law on Pension and Disability Insurance⁹ regulates mandatory pension and disability insurance based on generational solidarity. This insurance, that is founded on the principles of reciprocity and solidarity secures rights for participants based on work, time period for which contributions were paid and the amount on the base of which contributions were paid for pension and disability insurance, in the event of old-age, disability and physical impairment, and rights to members of their families in the event of death of the participant

⁹ Law on Pension and Disability Insurance, Official Gazette of the Republic of Montenegro, No. 54/03, 39/04, 79/04, 81/04, 47/07 and Official Gazette of the Republic of Montenegro No. 79/08, 14/10 and 78/10

or beneficiary (Article 4). The significance of this Law is reflected in the fact that it equates women and men in terms of exercise of rights, which is on one hand considered as justified, bearing in mind that it is a consequence of harmonization with standards and practice of European Union, but on the other side it represents a significant change compared to our previous practice and certain “preferential position” of women as regards their right to retirement.

According to this law, the participants are employees, persons performing independent activities and farmers, but if a person is eligible for insurance on several bases at the same time, the base of insurance shall be determined in such a manner that the existence of insurance basis according to previous point shall exclude the insurance base from the following point (Article 9).

Bearing in mind the fact that agricultural activity is one of the activities that should be favored and encouraged in Montenegro, it is important to emphasize that persons engaged in agricultural activities (farmers, members of farmers’ households and members of a mixed household) as the only or main profession have the rights of participants in accordance with this law, but they cannot be insured employees, insured self-employed professionals, users of pensions or persons at school and having overall working capacity (Article 12).

The Law on pension and disability insurance regulates achievement of the rights in the event of disability and physical impairment (Articles 14 and 15).

The Law also regulates entitlements arising from pension and disability insurance, and these are the following:

- in the event of old age – entitlement to an old-age pension and early old age pension;
- in the event of disability – entitlement to a disability pension;
- in the event of death - entitlement to a survivor’s pension and entitlement to funeral cost compensation;
- in the event of physical impairment caused by injury at work or professional disease – entitlement to subsidy for physical impairment.



Perhaps the biggest novelty in our legal system when it comes to this segment of human rights is equalization of men and women when it comes to the right to old-age pension. Thus, the Law stipulates that participants become entitled to an old-age pension upon reaching the age of 67 and accruing at least 15 years of pension service, i.e. upon reaching 40 years of insurance service. The right to old-age pension can be achieved upon 30 years of insurance service, with a minimum of 20 years working effectively in working positions for which the insurance service period is calculated at accelerated rate (Article 17). The participant shall become entitled to early old-age pension upon reaching the age of 62 and minimum 15 years of pension service (Article 17a).

A disability shall be deemed to exist when a Participant (due to health changes that cannot be eliminated by treatment or medical rehabilitation) suffers complete loss of working capacity. This type of participant shall be entitled to full disability pension. A disability shall also be deemed to exist when a Participant (due to health changes that cannot be eliminated by treatment or medical rehabilitation) suffers a partial loss of working capacity of 75%. This type of participant shall be entitled to partial disability pension (Articles 30 and 31).

Entitlement to a survivor's pension may be realized by family members of a deceased Participant who had at least five years of accrued insurance service or at least ten years of pension service or who was eligible to old-age or disability pension, a deceased Beneficiary of an old-age or disability pension. Where the death of a Participant arose as a consequence of an injury at work or professional disease, members of his/her family shall become entitled to a survivor's pension, regardless of the pension service length of the Participant, or the person (Article 42). Family members of a deceased Participant, or a Beneficiary under Article 42 of this Law shall be deemed to be the spouse and the children (born in wedlock or out of wedlock or adopted and stepchildren who were the Participant's or Beneficiary's dependents). A spouse from a divorced marriage may also be entitled to a survivor's pension (Article 43).

A widower, i.e. a widow shall be entitled to a survivor's pension, pro-

vided that he/she reached the age of 50 prior to the death of his/her spouse or prior to the death of his/her spouse or within one year following the death of his/her spouse he/she became totally incapable of working. Also, they can achieve this right if following the death of his/her spouse, there is one or more children who are entitled to a survivor's pension based on that spouse, and the widower, i.e. the widow is performing the parental duty for them. A widower, i.e. a widow who has become totally incapable of working while exercising his/her right on the above mentioned basis shall remain entitled to a survivor's pension as long as the incapability exists. A widower, i.e. a widow who has reached the age of 52 in the course of the exercise of entitlement to survivor's pension shall remain permanently entitled to a survivor's pension (Article 44).

The Law also guarantees survivors pension to a widow who is pregnant, as well as to a widow who gave birth to the child of deceased Participant or beneficiary after his death. Where the child was stillborn or dies prior to reaching the age of six months, the widow shall be entitled to a survivor's pension until expiry of the six months following the birth (Article 45).

Children are also entitled to a survivor's pension up to the age of 19. Beyond the age of 19 the child shall become entitled to survivor's pension and shall have right to it until completing education, but until reaching the age of 24, if attending university studies, the latest. Exceptionally, if the child is attending university studies with duration of more than four years he has the right to receive survivor's pension until reaching the age of 25. A child shall become entitled to a survivor's pension and shall have right to it over the period of inability for independent life and work, occurred until reaching the age up to which children are entitled to survivor's pension. A child shall become entitled to a survivor's pension and shall have the right to it over the period of inability for independent life and work, occurred after reaching the age up to which children are entitled to survivor's pension, and prior to death of the Participant or the Beneficiary, provided that the Participant or Beneficiary supported the child until his/her death. A disabled child shall become entitled to a survivor's pension and shall have a right to it as of the day of termination of



employment, or self-employment (Article 46). Children without both parents, in addition to a survivor's pension on the basis of one parent, shall also be entitled to a survivor's pension on the basis of the other parent (Article 49).

A person with physical impairment caused by an injury at work or professional disease of at least 50% shall be entitled to a subsidy. Physical impairment is deemed to exist when a Participant experiences a loss, a severe injury or a considerable disability of certain organs or parts of the body, making the normal activity of the body difficult and requiring more effort in realizing living needs, regardless of the fact whether it causes disability or not (Article 52).

According to the Law, in the event of death of Beneficiary, the person who settles the funeral costs shall be entitled to funeral cost allowance (Article 57).

Finally, it is important to note that the Law stipulates that for the children she gave birth to, a Participant – woman shall have six months per child calculated as special service (Article 74a). Bearing in mind previously discussed equalization of men and women, it can be argued that by this solution the legislator gave special rights to women, i.e. put them in favored position, which should aim to replace a formal request for the same conditions for exercising rights under this law.

Law on Employment and Unemployment Insurance Rights¹⁰ regulates the issue of unemployment insurance and the manner in which it is determined as a share of employed persons and share of employers, through payment of contributions in order to provide funds for the exercise of rights arising from unemployment (Article 4). It is foreseen that this law should also apply to unemployed person, employed person seeking change of employment, employers and other persons seeking information and advice on conditions of employment and employment opportunities (Article 2). For the purpose of this law, an unemployed person shall mean: a person between 15 and 65 years of age, a Montenegrin citizen or a foreigner with a working permit, who

¹⁰ Law on employment and unemployment insurance rights, Official Gazette of the Republic of Montenegro, No 14/10

is registered with the Employment Bureau, and is capable for work or partially disabled, and who is unemployed and is actively seeking employment (Article 3). Unemployed person is not considered to be a student, employed person whose rights arising from employment are suspended, a retired person and a farmer who is entered in the register of farmers kept by the competent authority (Article 3).

This Law provides that rights arising from unemployment are exercised *on principles of non-discrimination, gender equality, affirmative action directed towards less employable persons*, free of charge activities pertaining to employment and similar (Article 5).

The Law foresees the following list of activities pertaining to employment, which are of public interest:

- providing information on possibilities and conditions of employment;
- assistance in providing employment;
- professional orientation and counseling on career planning;
- adult education and training;
- vocational rehabilitation of persons who have difficulty obtaining employment;
- public works;
- assistance in providing employment of citizens of Montenegro in other countries;
- issuing work permits to foreigners;
- implementation of other active employment policy measures (Article 7).

Rights of unemployed persons are as follows:

- to get information with the Employment Bureau and employment agencies about possibilities and conditions of employment;
- to use their services free of charge;
- together with them, to create his/her individual employment plan;
- to participate in programs and active employment policy measures, in accordance with his/her individual employment plan;



- to get cash benefit during unemployment in accordance with the Law;
- to get financial help during education, training and vocational rehabilitation or persons who have difficulty obtaining employment (persons with difficulty to obtain employment have an advantage in implementation of active employment policy measures).

In the event that an unemployed person gets employed for indeterminate period of time out of his/her place of residence, he/she shall be entitled to one- off payment of cash benefit to cover travel costs and reallocation expenses (Article 23).

On the other hand, the Law foresees certain *obligations of the unemployed person*, and these pertain to active employment seeking, performing of obligations established by the individual employment plan, accepting employment deemed suitable, reporting personally to the Employment Bureau in order to get information about conditions of employment and employment possibilities and assistance they offer in providing employment and similar (Article 24).

Under this Law, the *employers* have the *right* to participate in programs and active employment policy measures, use services of the Employment Bureau free of charge, i.e. exercise other rights stipulated by the Law, but also they have an *obligation to notify the Bureau about any open vacancies*, in order to monitor supply and demand on the labor market (Articles 25 and 26).

In order to achieve the employment policy, a set of measures are foreseen and they are as follows:

- providing information on possibilities and conditions of employment
- assistance in providing employment (providing professional assistance in connecting persons seeking employment with employers, in order to conclude an employment relationship);
- professional orientation (providing assistance to unemployed, employed or other person to in a more objective manner perceive, plan and realize his/her professional career, as well as alignment of individual needs and abilities of unemployed

- persons with the needs and demands of the labor market);
- financing of work of interns;
 - support to self-employment (financial and technical support to an unemployed person who establishes one of the forms of conducting of economic activities, if as a founder he bases his/her employment through this activity; providing financial and technical assistance to the employer who creates new jobs and employs an unemployed person);
 - subsidies for employment (in favor of employer who hire interns, and after the completion of internship hires them for indefinite time, etc.);
 - adult education and training;
 - vocational rehabilitation of persons who have difficulty obtaining employment (measures and activities that are implemented in order to make a person who has difficulty obtaining employment capable to get employed, retain employment and advances in his/her career);
 - public work (is organized in order to employ for a definite time period persons who have difficulty obtaining employment in order to preserve and improve their working abilities, as well as to achieve a particular public interest);
 - scholarships;
 - other measures aimed at increasing the employment, i.e. reduction of unemployment.

Through unemployment insurance an unemployed person is provided with the right to financial compensation and the right to health insurance, as well as pension and disability insurance for the duration of use of rights to financial compensation (Article 46).

* * *

Taking into account the key regulations governing exercise of rights from social, pension and disability insurance, we can conclude that these rights are fully guaranteed by those regulations, but that implementation of these rights needs to be assessed based on information from practice.



11. DISCRIMINATION AGAINST WOMEN AT WORK AND IN RELATION TO WORK

Nowadays, when we talk about the position of women in the labor market, then the word discrimination has become completely normal, and one could almost say that it is a domesticated term. However, even this can be considered as progress, if we take into account the fact that we, in the not too distant past, had a very strongly expressed vision that a woman's place was primarily in the private sphere, not in public life. Highlighting the foreground image of woman as a wife and mother, with consistently underreported and not socially valued work in the household and family, for a long time has made the picture of the situation and needs of a working woman marginal, and even more her contribution in this area. Therefore, the competitiveness of women in the labor market has been a neglected fact for a long time. However, the situation has gradually changed, so in Montenegro, despite the complex tangle of relations that was caused by the transition, war environment, establishing a market economy, the independence of the state and the need for creating a legislative and overall environment for the fulfillment of the conditions on the path towards European integration, and finally by the world economic crisis, however, we have come into a position where a growing number of women is engaged in the education process and labor, that the educational structure has significantly altered, and that awareness of the need to establish a different relationship between genders both in the private and public sphere is slowly changing. The progress in this area is slow but evident. The government has improved this area both institutionally and normatively, so that first of all the Committee for Gender Equality was established in the Parliament of Montenegro¹,

¹ The Committee for Gender Equality of the Parliament of Montenegro was established in 2000.

followed by the government mechanism, which was first operated as the Office for Gender Equality², which was established at the Government session held on 27 March 2003³. At the moment of its establishment, the Office was positioned as part of the General Secretariat of the Government. Later on it was transformed into the Department for Gender Equality of the Ministry for Human and Minority Rights.

The legislative basis relating to the issues of gender equality was regulated by passing a special law, so in that sense, the first anti-discrimination law in Montenegro was precisely the Law on Gender Equality.⁴ After that, under the Constitution of Montenegro, the explicit prohibition of any direct or indirect discrimination on any grounds was established, whereas the regulations and the introduction of special measures aimed at creating conditions for the realization of national, gender and overall equality and protection of persons who are on any basis in an unequal position will not be considered as discrimination. Under Article 18 of the Constitution, the State made a commitment to guarantee the equality of men and women and develop a policy of equal opportunities.

From these principles and definitions, it is clear that the State is obliged to provide both male and female citizens, not only formally and legally but also actually (as prescribed by the Law on Gender Equality), an equal participation in all spheres of public and private sectors, equal status and equal opportunities to exercise all the rights and freedoms and the use of personal knowledge and skills for social development, as well as to have the same benefits of operating results. Although the Montenegrin legislation makes no clear distinction between the terms equality and equity, in the theory dealing with this issue, there is a fundamental difference between the two terms, in addition to the terminology one. Thus, gender equality is defined as a concept

² The Office for Gender Equality of the Government of the Republic of Montenegro was established by the Decision of the Government (Official Gazette of the Republic of Montenegro 20/2003)

³ The Decision was published in the Official Gazette 20/03, and it regulates the competencies of the Office.

⁴ The Law on Gender Equality was adopted in July 2007, and published in the Official Gazette of Montenegro 46/07



which means that all human beings have the freedom to develop their personal abilities and make choices without any limitations imposed by strict gender roles; that the different behavior, desires and needs of women and men are equally taken into considered, valued and supported, while gender equity is explained as a just relationship based on gender, which includes equal treatment or treatment that is different, but that is considered equivalent in terms of rights, benefits, obligations and opportunities. Translated to the field of practice, this would mean that when assigning a man and a woman to work at a job position requiring the same qualifications, all elements of this relationship should be analyzed, both benefits and obligations, as well as problems that arise and which are conditioned by gender, the conditions for their resolution and etc. For instance, a woman and a man are assigned to the same job position of an Advisor for labor relations. The initial requirements (level of education, years of service, a decision on the assigned job position, as well as a decision on the salary) are the same. However, after that some problems arise. The salary of the woman is lower, because she never goes on a business trip, is not a member of a committee or any other bodies whose work is remunerative, etc. She is not offered to go on a business trip, because she has a small child and no place to leave him or her. It is assumed that she will not even want to go. She is not offered to work in any committee, because her presence there may also be an issue (she may be on sick leave because of the child), and then it becomes the practice, which turns into a habit. Overtime pay, or compensation for unused vacation, is also not available to most working women. This is followed by training, congresses, conferences, etc. "Probably" becomes an unwritten rule, so that the aggregate earnings of the female colleague are much lower. So, the treatment appears to be the same, but it is actually different, because the conditions under which they work and live, men and women, are not evaluated, there are no services that will facilitate the nursing care of children and the elderly, there are no ethical rules in the companies that no person is subscribed to a particular "paid" engagement, etc.

The Constitution also establishes the primacy of international law over domestic law, if the relations are regulated differently than by

the national legislation, while the Chapter on Economic, Social and Cultural Rights guarantees the freedom of entrepreneurship, the right to work, prohibition of forced labor, in addition to the rights of employees. The protection of youth, women and disabled persons is particularly emphasized by the provisions regulating employee rights. Furthermore, Article 64 paragraph 2 of the Constitution of Montenegro stipulates that employees shall be entitled to limited working hours and paid holidays. This should be especially born in mind when considering discrimination against women at work and in relation to work on various grounds, because these provisions are further developed by the labor laws establishing the same norms that oblige both parties to the labor and legal process, both the employers and employees. The Labor Law⁵, which is the *lex specialis* in the field of labor, also includes some anti-discrimination standards⁶. The protection on these grounds is not yet fully operational because the jurisdiction of the court is provided as the protection on this basis, while women are often conditioned by their weak financial position to dismiss the charges in advance, because they have no money to pay a lawyer. On the other hand, labor disputes can also be long lasting and exhausting, while a special impact resulting in very rare requests for providing protection on this basis is due to the fact that many women lack confidence in the institutions and courts, because they are convinced that whoever has the money has the power and can avoid justice even in court.

This is also addressed by the authors of the Manual on Gender

⁵ The Labor Law, Official Gazette of Montenegro 49/08

⁶ Article 5 of the Labor Law prohibits any direct or indirect discrimination against persons seeking employment and employees with regard to gender, birth, language, race, creed, color, age, pregnancy, health, disability, nationality, marital status, family responsibilities, sexual orientation, political or other belief, social origin, property, membership in political or union organizations or other personal characteristic. Article 6 of the same Law provides a definition of direct and indirect discrimination, and Article 7 prohibits discrimination on several grounds. Article 8 addresses sexual harassment and harassment, while Article 9 allows for “positive” discrimination. Article 10 stipulates the jurisdiction of the Court for the protection against discriminatory treatment.



Equality in the Judiciary⁷, noting that: “ It is also significant for the judicial process to observe in a gender-sensitive manner the constitutional principle that every person, including both women and men, shall be guaranteed *the right to equal protection of their rights and freedoms, right to a remedy against the decision to decide on his/her rights or lawful interests and right to legal assistance*⁸. This is because examples of indirect discrimination⁹ can best be seen when exercising these rights, and where it is particularly important to take special measures to protect the rights of women who belong to the poor class of the population in higher numbers than men. For example, despite the constitutional guarantee of legal protection, the court may be unavailable for a woman due to her inability to pay court fees and lawyers without whose expertise her rights cannot be exercise and/or due to other costs of litigation. Even when she can certainly assume that the court procedure will end in her favor, she may be prevented from even initiating the proceedings by a lack of financial resources. Of course, this problem is not faced only by women, but it is evident that the number of women who do not own property, do less paid work, are not in management positions or functions, or belong to marginalized social groups discriminated on several grounds is higher or disproportionately large compared with men. From this, precisely, follows the conclusion that these cases must be recognized in the practice, or to put it better, inherited conditions due to which women, regardless of the formal and legal equality, cannot gain access to the court, legal protection and justice in the same way as men, and these cases or situations, aiming at full implementation of these constitutional principles, have to be resolved by applying relevant normative solutions and practices by responsible authorities. In other words, the State is obliged to provide the right to legal protection to be equally enjoyed by both women and men. This could be greatly contributed by quality solutions of the Law on

⁷ Nada Drobnjak, and Slavica Bajić

⁸ Articles 19, 20 and 21 of the Constitution of Montenegro.

⁹ The definition of indirect discrimination, in addition to direct discrimination, is provided by Directive 2002/73/EC of 23 September 2002, which amended Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women in employment, vocational training, promotion and working conditions.

Free Legal Aid ..."¹⁰. With regard to judicial protection, it should be noted that no final verdict has been passed in our country yet on the grounds of discrimination due to sex, because no proceedings have been initiated on these grounds yet, and lawyers still recognize a small number of such disputes and mostly quote standard violations of labor rights and working principles. In addition, even in rare cases relating to these disputes, the judges are not sufficiently sensitive to these issues, and no international norms are applied either. All this also leads to a form of discrimination against women in access to the protection, which is a constitutionally guaranteed principle. The constitutional principles that guarantee *human rights and freedoms*, such as, inter alia, the basis of equality, gender equality, the right to equal protection, then the economic, social rights, and cultural rights,¹¹ clearly imply that men and women must be treated in the same way and equally protected in the exercise of these rights, and that no one can be exempted from the obligation to respect them. Much attention is paid to this by international law also, and in particular care must be taken of women, as a category of persons who are often marginalized in the society (due to lack of economic and political power, the traditional relationship of subordination, biological characteristics, etc.). The group that is discriminated against and requires special protection includes women with disabilities, women belonging to the Roma, Ashkali and Egyptian nationality, elderly women, and women in rural areas. Their case involves multiple discrimination, meaning different forms of discrimination which are intertwined. It is therefore important that, in addition to the regulations, relevant norms prohibiting discrimination based on gender are fully implemented in practice, in addition to detailed procedures that will facilitate access

¹⁰ The explanation of the proposed Law on Free Legal Aid stated: The right of access to court is one of the aspects of the right to court trial, which is an international legal standard. The availability of the courts and the equality of the parties are essential principles of a fair trial and protection of citizens who, though different in legal terms, have a common purpose, and that is the provision of legal equality, which is the basic principle of the rule of law. In the strict sense, this implies the right of everyone to address the court to exercise and protect their rights and the obligation of the court to act within the jurisdiction stipulated by law. All must be equal before the court, regardless of any particularity or personal attributes.

¹¹ Articles 17, 18, 19, 58, 59, 62-64, 67-69, 73 and 75 of the Constitution of Montenegro.



to the protection and make the procedure acceptable to those who are vulnerable. In addition to this approach, simultaneous activities have to be conducted towards the establishment of affirmative action that will be used in a given period to eliminate the causes that lead to discrimination against women at work, or in access to work.

The need for a broad and coordinated activity to combat discriminatory behavior towards women at work, and in relation to work is the fact that is evident also today, in the fourth year following the adoption of the Law on Gender Equality.

The Labor Inspectorate, which operates under the Ministry of Labor and Social Welfare, has no records at all sorted by gender, including information on submitted initiatives, inspection visits *ex officio*, joint inspections with other inspectorates, the situation found, the measures taken, the situation of employees by companies, such as the number of employees classified by gender, paid wages, overtime, absence from work due to injury or illness, absence due to child care, information on parents with children with special needs, etc. Additionally, the Labor Inspection, when the redundancies are declared, does not look for or follow the termination of employment statistics disaggregated by gender, the question why mothers with children with special needs are among the first to be declared redundant is not asked, and the declaration of redundancies is even not regarded as intentional discrimination and deprivation of rights acquired on the basis of employment in a situation where the company employs a younger workforce throughout the period of laying off workers, involving further discrimination against women.

Information provided by Trade Union Legal Services showed a very wide range of violations of the rights of working women:

- Some employers are constantly employing female workers as fixed-term workers, for the same job for many years, preventing them from using any proprietary rights arising from employment, such as bonuses, reimbursement for transportation, meals, while a compensation for overtime work is only wishful thinking for fixed-term workers, though they are constantly forced to work longer hours than full time;

- In order to avoid payment of compensation due to designated redundancies, employers very often, at own discretion, not complying with any procedure, organize “retraining” of female workers, not respecting any regulation. One such example concerns the former employees of a printing press, who, after 20 years of service in the printing industry or more, were designated to be trained as waitress, and the training went on for two hours a day in a facility located more than twenty kilometers from their place of residence, with no organized or paid for transportation, with wages calculated based on the time spent at work, an unfair treatment by the managers acting as trainers, which consisted of belittling, ridiculing, etc., which included all the elements of mobbing. In fact, the intended end result was for the female workers to leave the job, which finally happened. The Labor Inspection carried out an inspection within the legal deadline (of two months!!!), and the findings were absolutely no longer important because all the employees had left the job, not being able to withstand the abuse. Otherwise, the employer torture began much earlier with the threats of expulsion from the premises where they worked, and by issuing a decision on the termination of employment, that said that they had received severance pay. Because they refused to accept such a decision, and complained both to the Trade Union and Labor Inspectorate, and since it was established that they had received no compensation, they were returned to the job subject to the described “retraining”, which ended in the said way. This raises the logical question why the Labor Inspectorate failed to follow the events occurring in that company to the end, when it was clear that the employer was acting against the law, and that the intent to violate laws and rights of employees was involved??? The response that the action was taken within the legal deadline (!!?), and that the Inspectorate was not adequately staffed, so that it could not immediately respond to any request, seemed frivolous. The losers in this case, multiple losers, are both the State and employed female workers and their families.



- The employer in a commercial company took disciplinary action against employees because of an alleged short balance established by the inventory, and on that basis their employment was terminated. This concerned female workers with over thirty years of service, who knew how to perform an inventory, who were deceived to sign a computerized report, because they were told that it would be subsequently reconciled with the existing goods in the facility, and they were not in a position to determine what commodity had been entered into the computer at the head office of the company, because they could have no influence on that. Thus, for instance, when they used to sell a certain daily newspaper, the computer read the “ruler”, and they informed the head office accordingly. Then they were advised that a crosscheck would be carried out. After that, the employees asked to have their working hours and basic working conditions regulated, as they had previously worked overtime for a long period of time, were unable to use the vacation for the previous year, had no basic conditions in the workplace (using daily break, handover of daily proceeds, etc.), and demanded payment of overtime and unused vacation days. Instead of a response, this was followed by the foregoing control and the alleged inventory which had been performed unannounced by the sector manager and a female worker who was employed by the Company at the time. She also took the facility over from the employees. Disciplinary proceedings were conducted without any representative of the Trade Union which was established in the Company, without the prescribed notification and not complying with the procedure. After the court proceedings had been initiated by the employees, the inspection was requested to suspend the implementation of the decision on termination of employment, pending litigation, because their rights arising from employment were clearly violated, but the inspection did not find it necessary to do so. Even the date when the new female worker who exercised the control had been employed was not determined, which was very easy to do, because her application included the date when

it was filed, although her reported employment covered one month before, not to speak about the falsified signature on the letter of invitation to the Trade Union's president, or illegal inventory procedure!!! The workers were told to go to court. The procedure lasted for a year because the employer used all options for its obstruction.

When this situation occurs in one might say "ordinary" cases, and when the discriminatory behavior against women and older workers because of their sex is so pronounced and remains without an adequate and timely response, then it is not surprising that a small number of women want to report discrimination, much less harassment or sexual harassment. An example of this is the case of a female employee of a trading company, who sued the owner for sexual harassment and bullying. Later on it turned out that other employees knew that younger female workers were sexually harassed by the employer, but everyone kept silent about it. As one of the girls after an attempt of sexual harassment in the workplace (with customers present) reported the case to the police and prosecutor, none of her colleagues appeared to testify, but the witnesses were the customers who happened to be present at the place, and they knew very little of the whole story. The explanation was that they could not do so, because it was a shame to be pulled around in the court, what they would be told at home, and how the environment would react.

One of the problems is the incompetence of the Protector of Human Rights in the proceedings in connection with commercial entities, although an amendment to the regulations is expected and their adjustment to the actual needs and standards of the European Union in this area.

This proves that the right indicators of discrimination should be developed which will be helpful in determining the appropriate affirmative action on the basis of adequate indicators. For these reasons, the Department of Gender Equality of the Ministry of Human and Minority Rights, recognizing the significance of the problem, while working to strengthen both economic and social rights of women in



Montenegro, with the support of the Development Fund for Women at the United Nations, inter alia, published a Manual to be used by the Labor Inspectorate entitled "Discrimination against Women in the Workplace." The manual also contains some indications of discrimination in the workplace, in addition to some of the causes of non-recognition of this phenomenon, such as, inter alia:

- ❖ Studies dealing with this issue are scarce and very rare.
- ❖ We are very often not even aware that women are discriminated against in the workplace.
- ❖ Some of us think that women are fairly equal with men, and the others believe that the different treatment of men and women in the workplace is the result of differences between women and men, suggesting that there is actually no discrimination.
- ❖ Protection procedures are difficult, lengthy and uncertain.

For this reason a list of questions was drawn up to be taken into account during an inspection control, which could help identify discrimination, because it is of utmost importance to ask the appropriate questions and pay attention to all the relevant details, but also to view the problem from the right angle.

It is certain that no one expects that all these will be checked daily, that the protection will be established immediately, and that all principles will begin to apply at once. However, what is the most important is that the problem is continuously monitored and access relieved of prejudice, and thus of the potential "silent" discrimination by those who are supposed to help suppress it.

Reminder of questions pertaining to gender equality at work and in relation to work would be as follows:

1. Are the vacancies publicly announced? Ask to see the ad and check whether women are denied the option of applying or not and if there is any other kind of inequality.
2. Are there more women or men working in the Company?
3. Is there any internal advertising in the Company and opportunities for everyone interested to change their job positions or be promoted under the same conditions?
4. Review the employment contracts and pay attention to con-

- firm if there are any differences between women and men.
5. Who among the employees works part time, and who has a contract for a shorter period of time, the majority of women or men?
 6. Are mostly women or men employed by contract, temporary or periodical?
 7. Who works part-time - more women or men?
 8. Are the managers female or male?
 9. Who is promoted faster: a woman or a man?
 10. Who makes the majority of those who are provided professional training and education?
 11. Do men or women, on average, have higher wages?
 12. Who works overtime more often, and to whom this work is recognized and paid, and who works in the redistribution of working hours or receives no overtime payment?
 13. Is any bonus paid, when and who receives it?
 14. Are the internal rules of conduct available to all on equal terms, and whether those are equally applied to everyone?
 15. Low paid jobs are performed mainly by women or men? Check whether the job classification that affects the determination of the amount of earnings is such that women are discriminated, i.e. if the same criteria are not applied for both sexes.
 16. Have you noticed if any provocative pictures of naked women (or men) are exposed in the working areas? Does this make even one person feel bad?
 17. Have you noticed the presence of any “vulgar” comments, insults and jokes at the expense of or for belonging to a particular gender in the work environment?
 18. Have you noticed at any particular workplace that women are exposed to verbal conduct of a sexual nature (casual sexual comments and suggestions, exposure to pornographic materials, nasty remarks about appearance or clothing, nasty insinuations and incitement to sexual intercourse, etc.)?
 19. Who are the usual victims of sexual harassment?
 20. Check if there is any practice of an employer to refuse to hire, refer to training, or promote pregnant women, or women of childbearing age.



21. Does any pregnant woman work in the Company, or have there ever been any at all?
22. Is the employer late with payment of wages to pregnant women and mothers?
23. Are the jobs appropriate in terms of working conditions to be performed by pregnant women as well (if any)?
24. Does the employer pay maternity leave allowance to new mothers only after a refund?
25. Are there cases that fathers use leave to care for the child, and what is their status in the Company, as they are paid compensation earnings?
26. Has an assessment of risk in the workplace been carried out for all workplaces in accordance with the Law on Occupational Safety and what impact does it have on women and job opportunities?

The conclusion of obtained responses would be: If the answer to any question is such that women would be placed (or members of under-represented sex) in an unfavorable position, we can speak of the existence of discrimination in the workplace. It should be borne in mind that men may be discriminated also, in addition to women. Only by doing so, noting discrimination against either sex, we can talk about equality. And, of course, one should continue with questions. More specifically, one should never stop asking questions.

This is because equality is precisely the result of asking questions and making an assessment.

During 2010 and 2011, the seminars held for labor inspectors and safety inspectors, representatives of the Trade Union Legal Service and the Union of Free Trade Unions, resulted in some specific conclusions supporting the findings of the study entitled Gender Differences in Personal Income and Income, developed by the European Movement, and already defined position regarding the institutional mechanisms that should be one of the segments in the fight against discrimination on all grounds, including on the basis of discrimination based on gender. Specifically, it is clear that the Labor Inspectorate is the weakest link, due to an insufficient number of inspectors and

the lack of technical equipment (this refers to the lack of adequate computer equipment, with no system of data processing still in place, lack of mandatory procedures and a genuine desire to apply the Law on Gender Equality and the classification of statistics by gender, including measuring the frequency of certain violations of the rights that are labeled as discriminatory, and the impact of measures taken, which would certainly enhance the protection, and also communication with both social partners, the Trade Union and employers. However, this aspect of attitude towards this issue is taking root very slowly. Yet another very unusual feature emerged from the analysis of seminars for labor inspectors, which were supposed to provide a particular input for their further work, and for the Ministry of Human and Minority Rights, together with the Ministry of Labor and Social Welfare, to establish the most affordable and most effective procedures for acting on appeals. In fact, far more self-initiative and desire to make the approach of inspection control gender-conscious was demonstrated by inspectors from the northern part of Montenegro, unlike another group composed of inspectors from the southern and central – Podgorica region. It might even be argued that the most difficult and least successful change of an inherited stubborn attitude involving purely administrative and very rigid approach to inspection control concerned the inspectors from Podgorica.

Due to a rather pronounced “gender blindness” and very insensitive relation to the requirements that are placed before them in applying the Law on Labor Relations, Law on Gender Equality and the Law on prohibition of discrimination in areas related to the protection against discrimination¹² or gender equality issues, in addition to a lack of promptness in collecting and collating data from the so-called

¹² It is characteristic that labor inspectors, which is especially pronounced for Podgorica, see the activities related to gender-consciousness of inspection approach and collection of data under Article 14 of the Law on Gender Equality only as an additional and new responsibility which is very hard for them to accept because they are dissatisfied with their status and number of employees, which in part, can be accepted as an explanation, but it has to be noted also that there are some traditionalist and inherited attitudes on the issues of gender equality, which is difficult to change. One of the basic attitudes is that everyone has equal rights under law, but the issue of general women's access to these rights is not addressed at all.



“green line” and demonstration of no will at all for any self-initiative or to prove it self-sustainable, as well as deviation from the original agreement, the financier - UN WOMEN withdrew from this part of the Project so that a portion of funds will be diverted to other activities.

At the same time, it should be stressed once again that this is not the attitude of all labor inspectors, and that great cooperation was demonstrated by the other group, which was hampered by technical and human resources limitations that had to be overcome.

Also, all the inspectors confirmed that it was necessary to have the Manual on discrimination against women in the workplace for the purposes of inspection work, because it included in one place all the most important regulations and listed indicators of discrimination that could certainly be helpful, and were formed on the basis of inputs by inspectors from the previous seminar.

As indicated, the Manual on discrimination against women in the workplace, for the purposes of Labor Inspectorate, also listed the **indicators of discrimination**, according to the type, as follows:

- I. **Indicators of gender discrimination in employment**, which include an analysis of whether the vacancy announcements are discriminatory or not, if there is equal treatment during the testing and interviews for employment;
- II. **Indicators of gender discrimination regarding the conditions of work** should answer the question whether the working conditions are equal for employees of different sex, whether the benefits are equally available, whether the working tools and their handling during the work are adapted to the workers of both sexes, whether the protective equipment is tailored to employees of both sexes and whether it is adequate for physical constitution of women, and whether the conditions of maintenance of the work area are adequate or not;
- III. **Indicators of gender discrimination that occurs due to pregnancy** are the most recognizable form of discrimination against women at work and in relation to work in our society, and often

appear in the form of refusing to hire a woman because she is pregnant, dismissal because of pregnancy, transfer to another workplace because of pregnancy, unless this is done for the reasons and in the manner prescribed by law in order to preserve the health of mother and child, transfer to another workplace after returning from maternity leave, preventing advancement in the service during and because of the pregnancy, prevention of professional development during and after pregnancy;

IV. Indicators of gender discrimination in terms of earnings and other income.

a) When in conjunction with this indicator it is said that the same wages are not paid for the work of equal value, we must bear in mind that our gender legislation includes no clear and explicit provisions on this subject. The Manual on gender equality for the judiciary includes a list of possible aspects of this problem and its grounding in international and domestic law:

“Equal benefit from the results of work for women as for men is also guaranteed by the key documents of the European Union¹³

¹³ The principle of equal wages for men and women for work of equal value was introduced by the Treaty of Rome in 1957. The First Directive 75/117/EEC on the application of the principle of equal treatment for men and women in relation to access to employment, vocational training, promotion at work and working conditions provided the following: “1. Each Member State shall ensure the application of the principle of equal earnings for male and female workers for equal work or work of equal value.

2. For the purposes of this Article, »earnings« shall mean the ordinary basic or minimum weekly or monthly salary or any other remuneration, whether in cash or in kind, paid to the employee, directly or indirectly, for his or her work, by the employer.

Equal earnings, without any discrimination based on sex, shall mean:

a) that earnings for the same segment of work shall be determined on the basis of the same unit of measurement;

(b) that earnings shall be the same for the same job.

3. The Council, acting in accordance with the procedure referred to in Article 251, after consultation with the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal earnings for equal work or work of equal value.

4. In terms of ensuring full equality in practice between men and women in



and case law of the European Court of Justice.” The case of Ms. Gabrielle Defrenne in front of the European Court of Justice which referred to the principle of equal earnings for the work of equal value was very important for a number of elements where an important role was played by the timing of events (the case came before the ECJ in the early '70s), which was important because it was one of the earliest cases concerned with these issues, and was therefore important for future cases as it established the case law in such cases.

In addition to the foregoing, what one should bear in mind here is the following¹⁴: “One of the important elements of gender equality is the achievement of equal benefit from the results of work. Although there is no objective or justifiable cause for a woman to gain less benefit from the results of her work than a man, *inter alia*, to receive lower earnings than men for equal work and results, it happens in practice. This is even despite the fact that this right is also guaranteed by the key documents of the European Union and case law of the European Court of Justice. The case of Ms. Gabrielle Defrenne¹⁵ before the European Court

working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing specific advantages in order to facilitate under-represented sex to engage in some occupation or to prevent or compensate for disadvantage in professional careers. »

¹⁴ Adapted from the Manual on Gender Equality in the Judiciary, by Nada Drobnjak and Slavica Bajic, issued within the framework of the Department for the Gender Equality of the Ministry for Human and Minority Rights - “Strengthening Economic and Social Rights of Women”, funded by the UN Women

¹⁵ Case C 43/75 [1976] ECJ 455: Ms. Defrenne, in the period 1951-1968, worked as a stewardess for the Belgian airline Sabena. Her employment was terminated in 1968, when the lady turned 40 years old, because according to the contract signed with the Company a woman could not be a member of the crew after the age of forty. Also, during her work, Ms. Defrenne, as well as other flight attendants, received a lower salary than her male counterparts, stewards. Ms. Defrenne, after the termination of employment, initiated three lawsuits: 1) She sued the Kingdom of Belgium because of the discrimination that existed in the pension system in that country (the dispute is known as Defrenne I-Case 80/70, Defrenne State v. Belgium), 2) She sued the airline Sabena, demanding that she be compensated for the difference in pay that existed between her salary and the salaries of her male colleagues (Defrenne II-Case 43/75, Defrenne Anonume v. Societe Belge de navigation aérienne Sabena);

of Justice, in terms of the principles of equal earnings for work of equal value, is one of the most important cases.”

Accordingly, when talking about equal earnings for equal work, one has to take into account that the national legislation on the subject is largely gender neutral, and we know that new gaps and differences are created by equal treatment of the unequal. This means that the legal system of Montenegro adopted the general principle of non-discrimination, but does not define specifically the principle of equal earnings for the work of equal value. The Constitution of Montenegro, Article 62, stipulates that “Everyone has the right to work, to free choice of profession and employment, to just and humane working conditions and the protection during unemployment.”

The Constitution also provides that “Employees shall have the right to adequate earnings”, Article 64. The Labor Law of Montenegro includes no specific provision on the issues of gender discrimination in relation to earnings and other income, but this Law provides the protection against discrimination by prohibiting discrimination under Articles 5, 6 and 7, as well as positive

3) She also sued the airline Sabena for the compensation of damages suffered due to loss of income upon termination of employment (Defrenne III-Case 149/77, Defrenne v. Societe Anonyme Belge de Navigation aérienne Sabena).

The proceedings were initiated before the national courts in Belgium and forwarded to the interpretation of the ECJ..

The court responded as follows: 1) With respect to the case Defrenne I, the Court found that Article 119 of the EC Treaty could not be applied to pension systems of the Member States (according to the Directive adopted in 1979, the area of the pension systems was subsumed under the principle of equal remuneration) and therefore this claim was rejected. 2) In respect of claims against Sabena requesting indemnity for employment termination (Defrenne III), the claim was also rejected by the court, arguing that Article 119 regulated only the issue of equal remuneration, which was apparently not the case there. 3) The third complaint of Mrs. Defrenne (Defrenne II) was found well grounded by the Court, and the verdict on this claim was the one that made the turning-point.

Thus, the Court in respect of Defrenne II, following the formulation of „equal remuneration for equal work”, rules that both male and female flight attendants as members of crew performed equal work, and therefore should receive the same compensation for this work. Accordingly, Ms. Defere ne had the right to demand compensation for the difference in salaries.



discrimination under Article 9

The Law on Gender Equality does not address this issue directly, but provides under Article 2 the same benefits for the results of work.

The Anti-discrimination Law of July of 2010¹⁶, recognized the payment of unequal wages and unequal remuneration for the work of equal value as discrimination in the area of labor.

b) The classification of jobs can also affect the determination of the amount of earnings, and may be such that women are discriminated, that is, the same criteria are not applied for both sexes.

For all the foregoing, the first empirical research in Montenegro, which shed some light on the issue of differences in earnings between men and women, and that was carried out on behalf of the European Movement in Montenegro by the Agency IP-SOS, showed a series of structurally dependent elements which caused these differences. In addition, the fact of having a deep – one could say network discrimination was proven, manifesting itself in the subjective view of the relationship between men and women burdened with traditionalism, including an internal discrimination by the women (some of them) against themselves and other women because of accepting the situation and not taking any action to change anything, and the one at the institutional level, which was reflected in the adoption of regulations that were not enforced, and also including an open discrimination in the labor market and in the sphere of economic relations.

V. Indicators of gender discrimination in education and promotion

Before any development of these indicators it should be noted that due to inherited relationships and responsibilities of women in the household, maternal, and child care and care for the elderly members of the household, women have much less time to devote to serious training and education in addition to work, which brings them in the situation of being at a disadvantage.

¹⁶ Article 16 of the Anti-Discrimination Law (Official Gazette of Montenegro 64/2010),

Considering these indicators, attention should be paid to whether women and men are provided the same access to the educational process and resources necessary for training, and if everyone is equally familiar with and has access to the requirements for advancement, if the criteria are discriminating, and if the process itself is transparent.

VI. Indicators of gender discrimination regarding harassment and sexual blackmail

This type of indicators refers to the conditioning of employment of women by sexual contact, where the transfer to another job, promotion, raise wages, etc., is also conditioned by sexual contact, the presence of “vulgar” comments in the workplace, insults and jokes at the expense of one gender, and where the working environment is such that it encourages such behavior, the women are exposed to verbal harassment of a sexual nature, or physical conduct of a sexual nature in the workplace.

VII. Indicators of gender discrimination in terms of proclamation of redundancy, i.e. no further requirement for the work of employees.

When designating redundancies and termination of employment due to economic, technological and reorganizational changes, the actual criteria are not determined on the basis of need, expertise, years of service, special skills and other elements, but the first ones whose jobs are terminated are women, while in the case of training or retraining for other jobs women are exposed to far worse conditions at the time of training, and potential subsequent assignment to work.

The issue of discrimination in the workplace, which should also be born in mind, involves a considerable feminization of professions in particular, lower-paid occupations, such as trade.

According to official statistics, which unfortunately cannot be considered completely reliable, in 2008 the retail sector employed a total



of 31,854 workers, of whom 17,424 women. This number is certainly considerably higher, especially when it comes to female labor force, because it is fair to say that the field of trade, other than the construction industry, is a real "nursery" of "illegal" employment. This is encouraged, in addition to some impromptness of the inspection bodies, by a large number of workers living at the edge of poverty, so that they are, in particular women, forced to accept any job, because of the bare survival. Is important to note another category, which is, so to speak, a "lag" from the previous period. These are former employees of companies in bankruptcy (which lasts for an enormously long time), or whose employers have not met the commitments owed to them. They are neither employed nor registered by the Employment Office, and in most cases their employment is not officially registered. Their discrimination on all grounds is particularly pronounced, especially with regard to discrimination because of pregnancy, in connection with maternity or marital status, and it goes back to the blackmail and harassment, and often with health consequences, because they work in harsh conditions, carry heavy loads, with inadequate or non-existent room heating or cooling, with no break during work, and a vacation being only wishful thinking; they look for no protection because they believe that "it must be so."

However, the situation changes slowly but surely, nevertheless.

One of the certain indicators is the very fact that at first the issue of discrimination against women in the labor market was discussed with much shyness, especially in the workplace every day, and now this is talked about much more, though still at a distance, saying that it happened to someone else, whom we know, as revealed by the study "Gender Differences in Personal Earnings and Revenues."

However, this is also progress, because the changes were initiated, and an awareness of the need to seriously examine and change the situation becomes more and more mature. It is notably the most important, however, that women began to seek information about their rights, even though it has no sustained and organized character; however, need to be familiar with the basic regulations concerning labor and employment is expanding. The following observations can

be increasingly heard at public meetings: “Women work in the lowest paid job positions and in the poorest industries, and the hardest-hit categories of women are single mothers, Roma, rural women, middle-aged women, therefore, those women who just cannot find a job after the age of forty and cannot be employed regardless of the level of education.” For these reasons, the Parliamentary Committee for Gender Equality, the Government’s mechanism for equality – the Department of Gender Equality of the Ministry of Human and Minority Rights, civil sector, especially women’s NGOs, but also important international factors such as UNDP, UN Women, and the European Commission, identified and set as a priority the economic empowerment of women and creating the preconditions for the elimination of all forms of discrimination, where the majority of analysis and research had shown that the strongest discrimination existed precisely on the labor market.

Therefore, a comparative analysis of the most common violations of employee rights, as well as of discriminatory behavior, is very important especially if one bears in mind that due to insecurity in the labor market, lack of trust in official institutions and pressures by employers (who are favored by the current legislation), working women are rarely organized in a union organization, so that there is no organized protection even from that side, which is why such projects represent a refreshment and much-needed input to recognize and determine an appropriate action, and even the Government’s Strategy for the protection against discriminatory behavior towards women at work and in relation to work, which would then also have the power to combine several institutional factors.



12. FEMALE ENTREPRENEURSHIP

12.1 GENDER EQUALITY, DEMOCRACY AND ECONOMIC POLICY

Gender equality, as a part of the system of universal human rights, the United Nations Millennium Development Goals and other key international documents understands democratization of the entire society. Accordingly, only an open society can be regarded as a free and democratic society, the one that is aware of both the opportunities and obligations to use own resources, meaning the resources of both women and men, as well as the society enabling efficient implementation of a policy of equal opportunities for all. Thus, equal participation of men and women in social processes is a key factor for the development of society and clearly indicates the degree of political maturity of society. However, for the fruits of democracy to become an integral part of life for both men and women, they have to enter the economic sphere. Women's economic legacy and social framework in which women progressed as both legal and economically independent entities is scientifically under investigated especially in our region. The position of women was monitored through the social position of the family, and only with a more powerful influence of feminism in anthropology more attention was paid to this issue. However, the lack of documentation and sources, in addition to a large time distance, resulted in a dominant presence of patriarchal observing of the position of women mostly only within the dialectics of oppression of the patriarchy or privileged position in the matriarchy. This deep and complex issue is particularly important in monitoring the financial rising of women as independent and autonomous individuals and the economic, social and moral consequences thereof. No matter how marginal and distant this seems to be today, this history of

women carries some elements based on which we can understand the centuries-old process and an important link between the legal and economic status of women since the Middle Ages until the present civil society. This economic thread woven into the economic process of the emancipation of women and the overall society now forms the basis of economic development conditioned by human capital, time and material resources. Although women make up half the population and, therefore, are an economic pillar of any society, however, the thread of economic development evidently binds the history of female development lagging after the development of male population precisely in the segments of available time and available resources. Thus the female citizens of Montenegro today, thanks to their education, employment and emancipation are more independent, with the need to express that independence in intimate relationships, sex, marriage, family, society, politics, economics.... However, in addition to progress in terms of education, work engagement and the like, they did not fully manage to achieve a parallel progress in the family. Thus the household jobs, implying the maintenance of hygiene, preparation of meals, care for the children and the elderly still remains predominantly the work of women. This unpaid and usually invisible women's work in the house, according to a survey conducted by NGOs, requires on average 3.5 hours for an urban household, while in rural areas this figure goes up to 5 hours. Recognizing the time as an economic resource, the economic position of women in a society is significantly affected by the historically inherited uneven division of labor in the home. American women, through their feminist activism, used different means of advocacy for changes and inter alia calculated the cost of unpaid female work at home, which amounted to the value of a smaller property or midsize car. In Montenegro, women's work in the house brings in at least three additional market wages for the following job positions: cleaner, cook, chef, educator, trainer... Of course, some of you will immediately calculate the present monthly value of this work expressed in money, and I invite you to keep calculating and see how much money a woman would make by cashing her work at home for a period of 10 years, 20 years, and how much money would be collected until her retirement. Then, the manner in which this affects the family, educational and economic



prospects of children. It would be especially interesting to calculate in monetary terms how much is contributed both to the micro and macro economics by women working at home.

The third pillar of economic development includes tangible property where a significant role is played by the inherited socio-economic values and culture. Also here, women are traditionally in an unfavorable and unequal position. In fact, nowadays in the 21st century, the women having the ownership of movable and immovable property are significantly fewer. This is mostly because of the traditional norms of customary law which prevail in relation to the current legal framework, so that any land or “patrimony” is inherited only by male heirs as the successors, since the heiresses relinquish their respective shares in favor of male descendants. Additionally, the property acquired in marriage, which is considered to be joint property, is mostly registered in the name of only one partner, the husband, so that women, in the event of any dispute, are placed in a position of proving their participation in the creation of assets no matter for the assumption that the property acquired in marriage is joint property. This situation and many others would be resolved by introducing an automatic registration of any property acquired during marriage in the name of both spouses as joint owners. However, there are some comments that such claims for a half of real property to be registered in the wife’s name are too “ambitious” and “emancipated”, and in effect men remain the formal holders of property rights. This is important to consider because in the world of developing market economy, small and medium-sized enterprises, it is not only required to set high goals, but also to have a real overview of the social context and complexity of the starting basis for competition among all those who participate in it. These patriarchal frameworks result in only 5-6% of women who have some property registered in their name and may independently enter into a financial-market racing and fit into economic development programs. In order to start her own business, a woman has to have the financial support for which she needs to have some real property as a guarantee of the loan. How many women in Montenegro can do this today? How many of them, unburdened by historical-economic-cultural patriarchal legacy, would engage in

entrepreneurship and invest their personal capacity into social capital?

Accordingly, of the three pillars of economic development, the capacity of women is unlimited only in the first one, meaning in the sense of human capital. This is mainly due to the previous communist system under which women gained mass education, so that today they are equally well educated as men in Montenegro. The other two segments, time and material resources, leave a lot of room for a more detailed analysis of both segments which are highly complex. Consideration of these and appropriate gender-sensitive policies in this regard will guide to socially responsible policies and striving for standards and best practices not only in the European Union but also beyond. Therefore it is important to return for a moment to the beginning of this story and emphasize that a society can only prosper if the discrimination is legally sanctioned, politically unacceptable and, most importantly, economically not profitable.

The success of society democratization will depend on a genuine partnership between women and men in the conduct of public policy - Universal Declaration on Democracy, 1997.

It was unequivocally confirmed by the survey of the European Movement in Montenegro on the difference in earnings between women and men that the difference in wages and other income was conditioned by perceptions, attitudes and value concepts and gender conception, in addition to the lack of public policies addressing the issue and preventing any segregation and discrimination on any grounds. Accordingly, in nowadays Montenegro women's earnings make up 86% of male earnings while the price of work of women per hour makes up 87.5% of the price of work of men per hour. Female expert earns 85.3%, and expert associates 82.9% of the expert pay. Women employed in trade and catering services earn 78% of their male colleagues' wages. However, a PR Company which would design an invitation for employment of women would have the easiest task in the field of entrepreneurship and self-employment, because the



net average wage of women makes up 94% of men's salary in this population.

A part of the answer to such complex issues of gender aspects in the economy, which reach back centuries, lies in a change in a public speech on human rights, so that "ordinary" male and female citizens would be fully aware of the socio-economic dynamics and the impact thereof on their lives. Accentuation of economic freedom and the importance of understanding the concept of small and medium-sized enterprises create the opportunity of entrepreneurship which is exactly the area with the smallest difference in income.

The second part of the answer lies in understanding the circumstances, as well as both visible and invisible barriers in the development of female entrepreneurship. Consideration of these and gender-adjusted economic policy that will in the time ahead minimize any negative economic impact of patriarchy, will create the preconditions for an accelerated economic development, which is precisely the goal of everyone, both of "neo-liberal" economists and those who are more socially sensible, but also of those who are not dealing with the economy but live it every day seeking both personal and family financial stability.

12.2 FEMALE ENTREPRENEURSHIP

Female entrepreneurship has been spoken about more extensively since the nineties. Developed European countries have recorded a growth in the number of private women's business, which had great importance in resolving the issue of unemployment and improving the quality of human life.

The researchers attracted to this phenomenon carefully followed the developments in the economic arena and focused special attention on examining the similarities and differences between male and female businesses. The issues of personal characteristics, motivation and requirements for starting a business in different social contexts

were some of the questions to which the responses were searched for. At the same time, the same questions were the subject of numerous professional and scientific debates some of which I shall try to introduce in this paper. Unfortunately, no similar studies were conducted in Montenegro, so that we have no clear, locally defined and recognized motivational elements, the characteristics of entrepreneurs, etc. However, since all the European and international studies, such as the UN study in 41 countries of the world, one general trend is confirmed, in addition to the universal property of women when it comes to entrepreneurship, we shall start from a simple logical premise that similar or the same patriarchal patterns and the same economic rules applying lay logic indicate that the women in Montenegro though perhaps are not significantly different from the women in Hungary, Cyprus, Serbia, Spain, Portugal, Greece, Bulgaria, etc. Until a similar study is locally developed, it remains for us to follow the investigated trends in similar societies and economies and compare them with unique indicators and economic parameters.

Entrepreneurship may be understood as an attitude towards life. Entrepreneurship is defined as a special energy that encourages a person to go on, make progress and create. Readiness to cope with problems, to resolve any issues, to take the initiative and demonstrate innovation, is considered as entrepreneurship. We are linked by entrepreneurship to a number of initiatives taken on daily basis to improve ourselves. Unfortunately, a large portion of these activities creates no resources for a new, larger investment cycle, but those are spent on mere surviving, or just the current improvement in living conditions.

Often women are not in any way encouraged to think of themselves as entrepreneurs, and it is known that the development of entrepreneurship requires not only individual readiness, but also a favorable and supporting entrepreneurial climate, which in turn requires a lot of elements to be established. Entrepreneurship is predominantly present in highly developed and rapidly developing countries, rather than in the developed ones, while the men are those who are significantly more present in entrepreneurship, not including Japan, Thailand, Peru and Brazil, where the participation of women and men is equal.



General characteristics of entrepreneurs are that they are well educated and on average about 40% of women in business have higher education, and about 50% of them have secondary vocational education. It is interesting to note the countries with the most educated female entrepreneurs, and those are the female entrepreneurs of Malta, Cyprus, Hungary, Ireland, Polish, Belgium and Germany.

With regard to occupational structure, there is no rule about what profession or occupation is more or less supportive of entering into entrepreneurship. It can be concluded that women of all professions and occupations entered private business and work in all areas as well as men. The difference is evident only in the segment of business organization where women are more likely establish family businesses than men. Also, women more often rely on own skills when starting the business than the skills of potential employees, unlike men. At the same time, it is a general characteristic of female entrepreneurship in the world, which was confirmed through a number of studies, that women more often opt for business and especially the type of business where there is already an example of a successful female entrepreneur.

Although well-educated, women take time to decide on starting a business. It takes significantly longer for “women’s business ideas” to “mature” than in the case of men. This period may last from 1-5 years. It means the period between the clear definition of a business idea and its realization at approximately the same decisive socio-economic conditions.

There is an interesting fact about the age at which women opt for entrepreneurship and it differs from those in medium-developed and large emerging economies, where women begin businesses at the age between 25 and 34, and those in highly developed countries where women begin businesses at the age of 25 and up to 46 years. These data coming from the Association of European Chambers of Commerce indicate the different motivational factors for the initiation of independent businesses, depending on the degree of development of society.

In most cases and countries where the research was conducted, the initiative to establish a business came from the women - future entre-

preneurs, where some personal comparative advantages, experience in employment and business relationships were used, in addition to household skills.

More than 60% of female entrepreneurs working in the textile industry, manufacturing clothes, bags, materials for interior decoration, decorations, food and beverages; 13% were involved in producing foodstuff: honey, mushrooms, herbs; 11% were engaged in trade and services (16% of women entrepreneurs were involved in beauty services and beauty, tourism, secretarial and administrative work and services to help in households); only 11% of entrepreneurs established own business in accordance with previously researched market needs.

Furthermore, women entrepreneurs mostly work in the formal sector of the economy, on the basis of obtained licenses, rights and other requirements. Larger companies usually operate as Limited Liability Companies. Typically, women's companies are established with initial capital from their own savings. The phenomenon of new entrepreneurs has so far depended mostly on sporadic and informal sources of funds, with very difficult access to capital.

Entrepreneurs have a limited market access, mainly oriented to their domestic, local area. Few female entrepreneurs have succeeded in entering the international market, especially in comparison with men in similar economies. The reasons lie in the limited opportunities for travel, lack of information on export requirements and demand, competition, supply conditions, etc., so that the desire to enter the export market is the next challenge also in terms of administrative procedures related to exports.

12.3 MOTIVATION

Empirically, motivation of women entrepreneurs is often associated with a variety of factors and classifications vary from author to author, so that these factors were classified by Bartholomew and Martin (1998) into three groups, as follows: (i) personal characteristics; (ii)



living conditions (iii) natural factors of the environment and natural resources.

The most commonly investigated motive is the motive of “taking care of others”, implying that women enter into entrepreneurship in order to do something for their families, most often children. A large number of women enter into entrepreneurship when they are “forced” to do so, or when they see no other way out, so that this form of entrepreneurship is defined by Professor M. Blagojevic as “entrepreneurship out of necessity,” where the high motivation is potentially linked with possible low level of skills and knowledge.

A significantly small number of women enter the entrepreneurship in order to achieve a personal goal which is linked to self-realization. Women entrepreneurs are characterized by being less inclined to risk taking, particularly to financial risks. On the other hand, women are faced with a much higher number of objective obstacles related to potential “risk taking”, as they usually own no property on the basis of which they could take a loan. On the other hand, entrepreneurship offers to women an opportunity of making profit and the financial motive is often tied to a motive of self-realization. Entrepreneurship provides better reconciliation of professional and family responsibilities. Entrepreneurs who have children or are single mothers can organize their working day in accordance with family responsibilities and thus lessen the conflict of roles. Thus, the motivation for entrepreneurship is also associated with psychological gain and can dramatically change in time becoming very rewarding for a woman, not only in financial terms.

The studies of motivation for women entrepreneurship recognize the so-called “decisive” and “encouraging” factors for female entrepreneurship.

The decisive factors are those that primarily motivate a woman to start her own business where mainly the following elements are recognized: frustration due to economic uncertainty; long lasting unemployment; divorce; independent for children and dissatisfaction with the workplace and pay.

Encouraging motivational factors related to female entrepreneurs with already established businesses who highly appreciate the following elements: independence, autonomy, education, financial security of the family.

By comparison, it is interesting to see what the “decisive” and “encouraging” factors for male entrepreneurship are, as also determined by the study of GEM.¹ In fact, men defined the following motivational elements of entrepreneurship: economic independence, financial capability, the desire for personal achievement, financial security for the family, community respect, the so-called “peer pressure” or generation pressure, loss of job and inability to finally advance in the state sector. The motivational factors that influence the entrepreneurship of both women and men include an evident gender dimension and gender roles of both men and women.

12.4. THE CHALLENGES FACED BY FEMALE ENTREPRENEURS

Although female entrepreneurs have a significant impact on and make a major contribution to the economy, which is not disputed by any male of female economist, it is evident that there are still some barriers and challenges in the development of female entrepreneurship. Some of the obstacles faced by entrepreneurs include the government’s economic policies, lack of accessible funding mechanism, equipment, information technology, infrastructure and other improvements necessary to facilitate the efficient development of entrepreneurship.

The 2006 report of the United Nations rightly criticized the insufficiently stimulating economic environment for women which still contained some insurmountable obstacles for female entrepreneurs. The lack of systematic and institutionalized approach to this problem negatively affected the female entrepreneurial potential and instead of being strengthened, female entrepreneurs usually cope

¹ GEM Global Entrepreneurship Monitor 2009 – by authors PhD Elaine Allen, PhD Amanda Elam, Assistant Professor PhD Nan Langowitz, and Ms. Monica Dean

with problems such as poor financial management, problems with liquidity, management experience and incompetence, bad bookkeeping, marketing and sales problems, staffing issues, limited social and business networks, additional engagement to care for the family, the obstacles in accessing finance, lack of work experience and skills and lack of role models. Other obstacles faced by women include those of cultural nature that have an impact on the lack of motivation, which is, inter alia, affected by the loss of benefits and stability provided by "government employment".

Providing their expert opinion on female entrepreneurs and the problems faced by them, economists Gould and Perzen (1990) divided female entrepreneurs into two groups, the so-called "better-off" or "better positioned" and "low-income women", i.e. "women with low revenues. According to this division, the "better-off women", i.e. better positioned women face the following problems:

- Under-promoted female entrepreneurship;
- Education and society;
- Exclusion from traditional business networks ;
- Unavailability of capital;
- Discriminatory behavior of leaders;
- Gender stereotypes and expectations such as those that female entrepreneurs are amateurs or do that purely in order to be engaged in something like hobbies and mergers of beautiful and useful;
- Socially rooted and supported ambivalent behavior of women in relation to market competition for profit;
- Lack of self-esteem and self-evaluation;
- Inability to develop the business endlessly because the circles of power are headed by men.

On the other hand, another group of women includes "low-income women," i.e. women with low revenues who face the following problems:

- Lack of savings or very little savings;
- Working longer hours because of the kind of job performed;
- A longer period of time devoted to the care and concern for

the family (due to lack of funds to pay for potential support in this area);

- Lack of education;
- Lack of management skills;
- Cultural barriers;
- Poverty, etc.

In an era of global economy, some indicative data can be found in the study by Kizilaslan (2007) who notes that: "Despite an increase in business activity in the global economy, it is sad to note that 88-93% of all businesses owned by women never exported any goods or services because of problems encountered in the management of business operations."

Bearing in mind the policy of developing small and medium-sized enterprises in the context of European integration, Montenegro has to carefully consider to what extent the female entrepreneurial potential is supported in a sustainable way, and whether Montenegro will gain or lose in the process. Professor Marina Blagojevic portrayed the gender dimensions of public policy with an example of an interview she had with a female academician who she asked about the cost of emancipation of society in order to conduct a policy of gender equality. The Professor replied: - It costs much less than non-emancipation and lack of gender-arranged economic policies.

12.5. MOTIVATIONS AND BARRIERS AS TWO SIDES OF FEMALE ENTREPRENEURSHIP

Motivational elements for women entrepreneurs in a certain way affect the type and size of barriers faced by women. If we start from the assumed division of factors into the decisive and encouraging ones, we help to put the focus exactly on this link between the motives and barriers for a single female entrepreneur.

Specifically, women who are "pushed" or "captives" found in the business require plenty of time to gain confidence and they also



take considerable time to convince the others of the quality of their products or services. For female entrepreneurs in this group, there is also a characteristic lack of skills and managerial capabilities before establishing a business. Precisely for these reasons, female entrepreneurs are predominantly located in the lowest position in the pyramid of entrepreneurship and leadership. Economic analysts Kuratko and Hodgetts (2005) start in their analysis of female entrepreneurship from the motivational variables as important factors in coping with entrepreneurial challenges and barriers. Most women "suffer" from the lack of resources, resulting in the setting of insufficiently high goals. This is mainly conditioned by the type, organization and the way in which women manage the business from the start.

Personal characteristics and motivations may certainly strongly contribute to the strengthening of women entrepreneurship in removing barriers that may affect women's businesses individually. Thus the history of female entrepreneurship recorded the so-called forms of women cooperatives that proved very successful and finally had an impact on increasing employment rates of women and their connecting and protecting the interests of, which happened for example in Sweden. A study of some large female companies in the Scandinavian countries explained their branching out, i.e. business diversification as a way to avoid the risk of investing only in one sector.

Women in business focused their dominant characteristics of gender on mutual agreement and cooperation in business, recommending customers to each other, agreeing on common prices, etc. However, very often women follow their instincts in business.

Some authors argue that women in management have a more humane and human approach, showing a greater creativity than men. Also the flexibility and paying attention to social and cultural goals, as well as financial ones, while keeping their businesses, is another important social and political feature of female entrepreneurship.

Women businesses are much more diverse religiously, ethnically, racially and sexually, and more tolerant than those managed by

men². Many women believe that the fact that women as business owners are much more generous in the payment of employee social contributions and significantly more tolerant to employees, which in turn has its advantages that can be benefited from in the market. Employees are thus motivated to work and this approach leads to the policy of reduced movement of staff within the firm, which in turn significantly reduces the capital invested in training.

12.6. SOCIALLY SENSITIVE ECONOMIC POLICIES AND RESPONSIBLE DEVELOPMENT OF FEMALE ENTREPRENEURSHIP

Female entrepreneurship depends on the specific policies that may provide a more complete response to the socio-economic environment and social legacy that is still maintained in the patriarchal organization of society in all spheres of private and public life. A survey of the United Nations showed that 70% of small businesses run by women lasted up to five years precisely because of the lack of special measures such as cheap and long-term loans, coordinated support of institutions, systematic elimination of stereotypes and creating a positive environment for female entrepreneurship.

The example of business incubators is an excellent model applicable for the local communities with the aim of focused support to women's entrepreneurship.

Business incubators were first established in the United States with the aim to encourage the development of small and medium-sized enterprises which would be locally formed in an effort to encourage the development of entrepreneurship, and consequently the development of a specific environment. At the end of the 60s, when the process of closure and transformation of steel mills and heavy industry, metallurgy was initiated in Pittsburgh, the problems of high costs of removing buildings, machines, all equipment and facilities came up,

² Source: Grozdanić R., Female Entrepreneurship, Chamber of Commerce, Belgrade



and of course the greatest one of all - the problem of unemployment. In the framework of resolving the problems of a large number of laid-off workers, the initial idea was to use the existing office space, specific tools, machinery, equipment and facilities for starting new businesses based on entrepreneurial ideas of laid-off workers.

A problem that was noted immediately was that the former metal workers had some relevant technical and technological skills, but that did not have the necessary know-how and experience in management, bookkeeping, administration, in addition to insufficient knowledge of market patterns and characteristics.

Taking into account these facts, an idea of restructuring business operations was approached according to which business incubators seemed to be ideal for the development of entrepreneurship because already at an early stage of establishing small and medium-sized enterprises they eased the observed lack of knowledge on one side, and tied together all functions of enterprises through shared services, on the other side.

From this example of establishing a business incubator, it can be concluded that business incubators are in fact business centers providing expertise to entrepreneurs, in addition to networks and tools required for a successful business venture. Accordingly, business incubators are a catalyst between the processes of establishment and development of enterprises or simply put, business incubators support the development of small and medium-sized enterprises in the most needed manner at the time of starting a business.

Bearing in mind all the gender aspects of entrepreneurship, it is particularly important to consider a more significant use of business incubators for local authorities in Montenegro, which, with is a carefully thought-out policy, may substantially facilitate and support the development of entrepreneurship and especially female entrepreneurship in Montenegro. Today in Europe, which we aim for, there are business incubators for women's entrepreneurship in the UK, Italy, Ireland, Slovenia and Croatia, Hungary, Slovakia, Czech Republic, Poland, etc.

These experiences suggest that for the setting up of incubators partnership is necessary in different stages of the incubator, a partnership among the State, nonprofit, scientific and private sectors. All have a significant role in this partnership, but it is also an interest of national importance.

Besides the model of business incubator development, dominant recommendations for improvements in female entrepreneurship are related to the policy in this area. Accordingly, the most frequent requirements in Europe include³:

- Improved education and training of women for entrepreneurship;
- Better legal frameworks and regulations;
- Availability of expert support;
- Improving on-line access and operations;
- The higher utilization of market potential;
- Gender-sensitive tax policy and other favorable financial duties;
- Strengthening the technological capacity of small female businesses;
- Successful building of e-business models and support to the establishment of the same model;
- Developing and enhancing the efficiency in the representation of entrepreneurs in professional associations and institutions in which decisions are made and economic policy designed.

However, the complexity of female entrepreneurship and teaming with democratic development and economic policy implies the necessity of dealing with this phenomenon at the local level with a particular attention paid to the monitoring of economic, market and monetary trends affecting the female population.

A gender-sensitive analysis will enable the programs of support actually respond to real needs of women, both in rural and in urban areas, which will again lead to rapid local, hence the regional development of Montenegro.

³ OECD SME Bologna Process



CONCLUSIONS AND RECOMMENDATIONS

1. Female entrepreneurship has a special significance in the development of any society. Women initiate and lead their own businesses around the world, both in very similar, and in completely different circumstances. Female entrepreneurial force is essential for many emerging economies which can be key holders of economic development in developing countries.
2. Gender dimensions are strongly present in the business sphere and depend on social dynamics, emancipation and economic trends. Gender gap is not a negligible economic and social phenomenon. It is systemic in character and depends on the measures (not) introduced by the creators of economic policy, i.e. (not) adopted by a society. Traditionally, the gender gap is more present in underdeveloped societies, both in political and economic terms.
3. Employment and social networks that include entrepreneurs can be more powerful generators of female entrepreneurship than the acquired education or household income.
4. Perceptual factors that reflect the optimism, confidence and lack of fear of failure are an important prerequisite for a successful operation of women's business.
5. Gender-responsible conduct and creation of economic and all other policies were confirmed as the only good starting point in resolving the gender gap. This approach, as a corporate position, was adopted by many prestigious international organizations, starting from the UNDP, the Council of Europe, Canadian, Swedish, Norwegian and many other development agencies.
6. A number of studies focusing on the creation of an amended and gender-sensitive business environment as well as policies and support programs of social institutions and organizations to women's entrepreneurship, through employment programs, facilitating access to financial resources and the introduction of training programs and direct support to individual entrepreneurs;

7. Spreading awareness about the importance of entrepreneurship to the economic prosperity of the community as a whole, and for improving personal both economic and family position, to confirm individual skills and increase the autonomy;
8. It is necessary to establish working funds to encourage female entrepreneurship;
9. Domestic and foreign institutions, organizations and donors should be lobbied for projects/ programs supporting women's entrepreneurship;
10. It is necessary to establish business incubators for women;
11. In the process of affirmation and encouragement of entrepreneurship, a partnership between the governmental and nongovernmental sector needs to be established.
12. It is necessary to work on empowering women to engage in entrepreneurship and female entrepreneurs (in schools, through business associations and chambers, local communities, etc.)
13. One should work on educating both women and men in socially responsible business conduct and ethical business principles;
14. It is necessary to define the tax exemptions provided for parental and marital status of women entrepreneurs in accordance with the Constitution of Montenegro and the Law on Gender Equality;
15. Encourage the development of women's business clubs at the local level and the creation of entrepreneurial women's networks at the local, intrastate and international levels.
16. To promote successful entrepreneurs, as a positive example.
17. Using public forums, media and other means to provide continuous information about the existing opportunities to start a business, particularly on loans and subsidies, and especially with a focus on women in rural areas.



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13. THE LAW ON GENDER EQUALITY AND ITS APPLICATION

The existence of different gender roles in the society, including Montenegro, resulted in different degrees of human rights enjoyed by men and women, meaning that women are more discriminated against than men. The unequal position of women compared to men prevents them from fully enjoying both human and minority rights under the same conditions as men, even when the law makes no distinction in the exercise of these rights when it comes to income, that is generally stipulates that the rights and freedoms shall be equally implemented for all.¹

The legal system of Montenegro cannot be said to contain any laws or regulations that restrict equal rights of men and women. However, the actual situation shows that a full equality in the achievement of established rights is not present in practice. This occurs because the laws and other regulations that contain a neutral standard, i.e. which are not gender-sensitive and provide no specific guarantees for the equality of men and women, due to predetermined gender roles in

¹“No real equality between men and women will be achieved only by passing laws or adopting rules that are declaratively gender-neutral. In the implementation of Article 3 of the International Covenant on Economic, Social and Cultural Rights, signatory States should take into account that such laws, rules and practices cannot succeed in preventing or even make inequality between men and women permanent, because they do not take into account the existing economic, social and cultural inequalities, particularly those suffered by women.”- reads the General Comment no. 16 (2005th) in Article 3 - Equality between men and women to enjoy all economic, social and cultural rights, annexed to the International Covenant on Economic, Social and Cultural Rights.

the society, do not provide equal enjoyment of human rights and freedoms for men and women.

By passing the Law on Gender Equality, Montenegro expressed its willingness and political will to establish appropriate mechanisms for achieving equality between men and women at all levels and in all spheres of life and society. The Law, itself, represents the major mechanism for the elimination of discrimination on the grounds of gender and establishing gender equality.

It should be noted that this is the first anti-discrimination Law in Montenegro and its adoption represents a major step in the further development of democracy, rule of law and human relations in society, based on the principles of nondiscrimination and equality of men and women.

Article 3 of the Law is one of the key provisions, because it establishes an explicit commitment of the authorities, both at the national and local level, and all other entities that exercise public authority (state bodies, bodies of state administration and local government, public institutions, public companies and other legal entities that exercise public authority), in order to achieve gender equality in all phases of planning, decision making and implementation, as well as when undertaking any activities within their respective jurisdiction, to assess and evaluate the impact of those decisions and actions on women and men.

The basis for the introduction of such a strong and comprehensive commitment is Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, which obliges the States, Parties to the Convention, to condemn discrimination against women and to eliminate it through constitutional, legal and other appropriate means. This obligation implies the Government's duty to: 1) ensure that public authorities and institutions, individuals, companies and other legal entities refrain from and eliminate discrimination against women; 2) eliminate the legal basis for discrimination, by reviewing the existing legislation in this direction; and 3) ensure the realization of the principle of equality of women in practice through legal and other appropriate means.



This obligation also arises from the Platform for Action of the Fourth World Conference of Women (Beijing, 1995), which stresses that the work on tackling inequalities between women and men in the distribution of power at all levels of government and other factors should promote an active and visible policy of targeting a gender perspective in all policies and programs, so that before making a decision, an analysis of the consequences for women and for men is developed.²

Article 3 of the Law on Gender Equality, in fact, provides for the obligation to introduce mainstreaming of gender equality and gender mainstreaming³ in all state bodies, bodies of local self-government and all other authorities and legal persons with public authority so that they will assess and evaluate the impact of their decisions and actions on the status of women and men, both before and after their passing or taking, therefore, in all phases of planning, decision making and implementation, as well as when undertaking any activities within their respective jurisdiction.

The adoption of gender equality and improving access of women and men in all projects and policies of action is in close conjunction with the justice and equality for all as the supreme principles of a democratic society. The respect of these principles is specifically binding by international instruments and generally accepted rules of international law, reminding the states that they are a part of an international (or regional) community, which includes the cultivation of similar values. On the other hand, the fact that one half of the population are women and the other half are men obligates all those who decide, at any level and in any field, to take this into account

² The Beijing Platform for Action, paragraph 185

³ “According to the United Nations’ definition, “gender mainstreaming” means: “... the process of determining potential consequences of any planned action on women and men, including legislation, policies or action programs in all fields and at all levels. This is a strategy that allows the requirements and experiences of women and men to be embedded in the process of creating, implementing, monitoring and evaluation of policies and programs of action in all areas of politics, economy and society, so that both women and men have an equal benefit from that, in other words that no inequality is maintained.”

and have in mind that every policy and all the data and recommendations which do not take into account both sexes, or do not treat them equally, will inevitably be wrong, i.e. will not match the reality. In addition, each State is responsible for ensuring social justice and sustainable human development. In democratic countries, government must be accountable to the citizens and represent the interests of all its citizens - both men and women. Neglect of social justice or equality between men and women is at the same time ignoring a responsibility that the government has towards its citizens. Gendering may provide concrete mechanisms for introducing a higher level of accountability in governance.

In addition, equal inclusion of both men and women in all aspects of development and society is profitable for the entire State. Therefore, one should concentrate on recognizing and proper evaluation of the contribution by both women and men. The goal is not to put an additional burden on women, but to seek for redefining the roles of women and men in society, which will eventually result in higher levels of development and prosperity, which was also the subject of global surveys. The States must not ignore the contribution, or economic and social abilities of both men and women in all areas. The countries that neglect this will inevitably face a negative impact on overall development.

National Program for Integration of Montenegro into the EU for the period 2008-2012 (NPI) is a detailed plan of activities necessary for Montenegro to be "internally" ready to assume the obligations of EU membership by the end of 2012. That way the NPI becomes one of the key documents of the Government in the future. (...) The National Programme for Integration will be the strategic framework of the overall democratic and economic reforms in the country."⁴ Demonstrating a sincere commitment of Montenegro to democratic principles as the superior value of the international community, the NPI includes the gender equality as an integral part of Chapter 1.2. Human Rights and Minority Protection, the Political Criteria Section,

⁴ National Program for Integration of Montenegro into the EU for the period 2008-2012. (NPI), a document adopted by the Government of Montenegro on 5 June 2008.



and Chapter 3.19. Social Policy and Employment (3.19.7. Discrimination and Equal Opportunities), in the Section entitled the Capacity to Assume the Obligations of EU Membership. It is important to note that the activities of the NPI, in both the short and medium term, include the introduction of the trend of gender equality in all areas of national policy, i.e. gendering of all government policies and the implementation of the Action Plan for achieving gender equality. (See comments to Article 21).

The process of gendering is particularly supported by the adoption of action plans whereby positive measures are established by the state bodies, bodies of state administration and local self-government, public institutions, public enterprises and other legal entities that exercise public authority, with the consent of the Ministry responsible for human and minority rights.

Accordingly, this Law must be viewed in the context of the entire legal system of Montenegro, because it is designed as a lever that will be set into motion and gender all mechanisms (laws, strategies, policies, plans ...) in all sectors. It supports the view that everyone, each body or natural person, shall be responsible for its respective scope of work and it addresses no issues that need to be addressed by systemic laws. This Law belongs to the set of European legislation adopted to promote and establish gender equality, defining terms, introducing and describing the measures to be adopted, obligations of the authorities (in this case national state bodies, bodies of state administration and local government, public institutions, public enterprises and other legal entities that exercise public authority), as well as the mandate of the national mechanism responsible for gender equality.

Regarding the rights of women to maternity protection, and special protection of women at work due to biological characteristics, the Law on Gender Equality (Article 4 paragraph 2) provides that those are not considered as discrimination under this Law and international documents. In fact, this kind of protection of human rights of women based on biological characteristics is therefore permanent, not temporary like the special measures for ensuring and enhancing gender equality.

An example of the protection of women at work because of the biological characteristics in the legal system of Montenegro is the Labor Law which provides that is not considered as discrimination when making a distinction, exclusion or giving preference in relation to the job when the nature of work is such or the work is performed under such circumstances that characteristics associated with some of the basis of this Law prohibit discrimination (sex, birth, language, race, creed, color, age, pregnancy, medical condition or disability, nationality, marital status, family responsibilities, sexual orientation, political or other belief, social origin, property, membership in political and union organizations or other personal property) represent a real and decisive condition of doing business and the objective which is intended to be achieved is justified. Also not considered as discriminatory are the provisions of laws, collective agreements and employment contracts relating to special protection and assistance to certain categories of employees, especially those on the protection of persons with disabilities, women during pregnancy and maternity leave and leave of absence from work to care for the child, or special care for the child, as well as provisions relating to the special rights of parents, adoptive parents, guardians and foster-parents.⁵

Specific solutions of positive measures are contained in Articles 105, 108, 110-112 of the Law, which provide specific protection of women employed in industry and mining, during both pregnancy and child care, against working longer than full-time or at night, during pregnancy, childbirth and child care and in the case of stillbirth.

A clear sense of protecting the rights of pregnant women was also identified by case law of the European Court of Justice. The European Court of Justice, in the case *Silke* (C-297/98), which originated from a dispute before the German court, brought to a state of equilibrium the right of pregnant women to special protection and the right to work. The plaintiff worked at a hospital as a part-time nurse. The hospital announced an internal vacancy for a full-time position for an indefinite period time in surgical ward for which she applied. Her application was refused by the hospital management on the grounds

⁵ Article 9 of the Labor Law ("Official Gazette of Montenegro" 49/08)



that she was pregnant, so that she was not capable of performing the tasks listed in the vacancy announcement, i.e. could not work on the surgical ward where the night shifts were mandatory, which was also prohibited by German law during pregnancy. Although the special protection of pregnant women, including a ban on night work, is one of the principles of the EU, the European Court of Justice ruled that the decision of the hospital was ineligible because the state of pregnancy and maternity was not to be taken into account when assessing the ability to perform the job, and that the pregnancy could absolutely not serve as the basis for making a decision on obtaining long-term employment status.

Is it direct discrimination when it comes to less favorable treatment based on pregnancy and motherhood, as according to the definition of direct discrimination under the Law on Gender Equality (Article 7 point 5) it exists when a person is treated, or may be treated less favorably in relation to a person of opposite sex, in the same or similar situation, only on the grounds of sex? At first glance, no. However, the European Court of Justice in Luxembourg, in the case of *Brown v. Rentokil* (1998 IRLR 445) (ECJ), took the view that the dismissal of workers in case of absence from work due to health problems caused by pregnancy was direct discrimination, because it affected only women. Specifically, Ms. Brown was employed as a utility driver for the Company R Ltd. In August 1990 she became pregnant. She was absent from work due to health problems caused by to pregnancy as of 16 August 1990, until he was fired in February 1991. B was fired by R, because under the applicable rules of labor law, an employer could terminate the employment of an employee who remained on sick leave for more than 26 consecutive weeks. B filed a complaint for discrimination based on gender.

The ruling of the ECJ: the dismissal of the worker on account of her pregnancy is direct discrimination, since it affects only women. Complications during pregnancy and disorders that may arise may sometimes cause the incapability of women to work. These risks are related to pregnancy and therefore of specific nature and cannot be separated from the pregnancy. Dismissal of a worker during the

pregnancy because of her temporary inability to work as a direct result of pregnancy is direct discrimination. If the employment contract provides that an employer can dismiss an employed person, after a period of absence from the workplace, a woman absent during her pregnancy for health reasons related to pregnancy cannot be compared with a man who is absent due to illness during the same period. So, this was the case of direct discrimination based on gender.

Examples of direct discrimination on grounds of sex known by the case law of the European Court of Justice, inter alia, include the cases of: *Marcel Dekker v Stichting C-177/88* (1991 IRLR 27) (ECJ), *Webb v. EMO Air Cargo (UK) Ltd. C-32/93*, *Hertz v Aldi Marked* (1991 IRLR 31) (ECJ), *Pedersen v. Kvickly Skive* (1999 IRLR 55) (ECJ), *Gillespie and Alabaster v Woolwich plc* (2004 IRLR 486) (ECJ).

One of the important elements of gender equality is the achievement of equal benefit from the results of work. Although there is no reasonable or probable cause for a woman to achieve less benefit from the results of her work than a man, *inter alia*, also to receive lower earnings than men for equal work and results, this happens in practice. Even despite the fact that this right is guaranteed also by the key documents of the European Union and the European Court of Justice. The case of Ms. Gabrielle Defrenne before the European Court of Justice, from the aspect of the principle of equal earnings for the work of equal value, is one of the most important cases. First of all, the very time frame (the case found itself before the ECJ in the early '70s) makes the case important because it was one of the first cases which referred to such an issue, on which the Court was supposed to make a stand.

Ms. Defrenne, in the period 1951-1968, worked as a stewardess for the Belgian airline Sabena. Her employment was terminated in 1968, when she turned 40 years old, because according to her contract with the Company, women could not be members of the crew after the age of forty. Also, during her employment, Ms. Defrenne, as well as other female flight attendants, received a lower salary than her male counterparts, stewards. Ms. Defrenne, after the termination of employment, initiated three lawsuits: 1) She sued the Kingdom of



Belgium because of the discrimination that existed in the pension system in that country (the dispute is known as Defrenne I-Case 80/70, *Defrenne State v. Belgium*), 2) She sued the airline Sabena, demanding that she be compensated for the difference in pay that existed between her salary and the salaries of her male colleagues (*Defrenne II-Case 43/75, Defrenne Anonume v. Societe Belge de navigation aérienne Sabena*); 3) She also sued the airline Sabena for the compensation of damages suffered due to loss of income upon termination of employment (*Defrenne III-Case 149/77, Defrenne v. Societe Anonyme Belge de Navigation aérienne Sabena*).

The proceedings were initiated before the national courts in Belgium and forwarded to the interpretation of the ECJ.

The Court responded as follows: 1) With respect to the case *Defrenne I*, the Court found that Article 119 of the EC Treaty could not be applied to pension systems of the Member States (according to the Directive adopted in 1979, the area of the pension systems was subsumed under the principle of equal remuneration) and therefore this claim was rejected. 2) In respect of claims against Sabena requesting indemnity for employment termination (*Defrenne III*), the claim was also rejected by the court, arguing that Article 119 regulated only the issue of equal remuneration, which was apparently not the case there. 3) The third complaint of Mrs. Defrenne (*Defrenne II*) was found well grounded by the Court, and the verdict on this claim was the one that made the turning-point.

Thus, the Court in respect of *Defrenne II*, following the formulation of “equal remuneration for equal work”, ruled that both male and female flight attendants as members of crew performed equal work, and therefore should receive the same compensation for this work. Accordingly, Ms. Deferenne had the right to demand compensation for the difference in salaries.

Logically, this attitude opened the way for other similar cases.

“Stabilization of a dominant gender regime in Montenegro will depend on the specific national measures aimed at achieving a balance

between work and life (work-life balance), as well as increase the quality and availability of services for families. The biggest factual gender inequalities in the private sphere are related to inequalities in the performance of domestic labor, which is exploitation of women's resources in the private sphere. There is a direct negative relationship between family commitments of women and their position in the labor market and parenting is transformed very slowly in terms of working."⁶

Passing of the Law on Gender Equality was very important for creating a legal framework in this area, but the step which is even more significant for the realization of gender equality is its implementation.

Therefore, the Committee for Gender Equality of the Parliament of Montenegro, as the working body of the Parliament, providing its control function in the parliamentary system, which is carried out in addition to the Parliament by Parliamentary Committees, implemented a project related to monitoring implementation of the Law on Gender Equality as well as international documents regulating the area of gender equality.

The main findings of empirical research by institutions show that the majority of interviewees (73%) in institutions had information that the government, in its normative activities, dealt with the issue of gender equality and adopted some instruments regulating this matter with the intent to take actions to achieve gender equality. However a significant number of them (46%) could not specify any instrument under which the state regulated the issue of gender equality. When asked to list three instruments, 54% reported at least one, 27% specified two, while only 13% of participants in the survey cited three instruments. Among the cited instruments, the following were singled out: the Law on Gender Equality (45%), action plans and strategies (12%), the Law on the Prohibition of Discrimination (10%), international instruments (7%), the Constitution (4%) and the Labor Law (4%).

⁶ "The Gender Barometer of Montenegro, Social Status and Quality of Life for Women and Men," by Professor PhD Marina Blagojevic, edition of the Office for Gender Equality of the Government of Montenegro, 2008.



A number of interviewed participants (49%) were not able to specify any action considered as discrimination under the Law on Gender Equality (54% men and 45% women). Asked to list three actions considered as discrimination under the Law, 51% provided at least one response, 32% provided two, only 15% three responses.

When asked which actions were considered discriminatory under the Law, the responses especially distinguished discrimination in employment (29%), any legal or factual distinction, or privileging by gender (14%) and the disproportionate representation of women in political and public life when appointed to any leading political office (12%), followed by unequal treatment and unequal opportunities (9%), unequal pay for equal work (8%), discrimination in the family (7%), the use of words in the masculine as a generic neutral form both for male and female gender, discriminatory hiring for management positions and career advancement (6%), and unequal treatment of property rights and in inheritance (1%).

Regarding the statutory obligation in Article 3 (evaluation of the impact of decisions on the status of women and men), only 48% of participants in the survey acknowledged the existence of such actions in their respective institutions. A smaller number of them confirmed that such actions existed at all stages of decision making (39%, 38%, and 38% in planning, adoption and implementation of decisions, respectively).

One third (33%) of participants in the survey knew that some general measures to achieve gender equality were prescribed. All who claimed to know of the prescribed general measures were not been able to name at least one of them.

The survey results led to the conclusion that most participants in the survey had only general knowledge of the Law on Gender Equality, the Action Plan for achieving gender equality and the Program for its implementation. They had significantly less knowledge about the specific legal arrangements and mandatory obligations. However, approximately 71% of the total number of participants in the survey gave an affirmative answer to the question if the Law was applied

properly and fully. 15% of participants in the survey responded that they were not familiar with the extent and manner of application of the Law.

Most of the participants in the survey claimed that women were less equal (52.4%), though a significant number of them claimed that women were equal to men by all rights (42%), while 3% of them believed that women enjoyed more rights. This shows that the attitudes regarding the position of women in the society's reality were completely divided.

Four years after the adoption of the Law on Gender Equality, it can be concluded that there have been some results of its application, and still it is necessary to invest a lot of additional effort in order to be satisfied with the results of its application and use.



14. POSITION OF WOMEN ON THE LABOR MARKET IN MONTENEGRO

ABSTRACT

Gender statistics pertains to statistical data that reflect reality of women and men in all areas of life, including relations between sexes. However, as gender issues are becoming more important, both on national and global level, new challenges occur also when it comes to official statistics. UN recommendations as well as the practice of EU countries indicate that there is a need to separate between “statistic based on “gender”” and “gender statistics”. Gender statistics means not only statistical research regarding the sexes, but also relates to the differences in problems and challenges men and women are facing with. It is the purpose of this work to offer integrated review of development of official statistics based on sexes, as well as to use it as a basis for analyzing the position of women on the labor market in Montenegro.

Key words: official statistics, gender equality, creation of policies

14.1. OFFICIAL STATISTICS IN MONTENEGRO BASED ON GENDER

Statistics based on sex, or gender statistics isn't isolated statistics or simply discrepancy by sexes regarding the phenomena that are subjects of the survey. Development of the gender statistics requires first of all to identify all information needed to understand problems related to gender issues, because this is a resource that would facilitate change and creation of policies based on quantified differences.

This sort of information is vital when it comes to informing policy creators and also to measure progress in achieving gender equality. Also, quantifying gender related differences in certain areas helps raising awareness and facilitates public discussion and changes; official statistics also serves to support researchers in testing of theories regarding understanding of gender equality; as well as to evaluate the efficiency of development policies.

Because the connection between simple presentation of statistical data based on gender and creators of equality policies needs to be strong, Statistical Office has started developing statistics based on gender in 2005, in cooperation with Governments' Office for Gender Equality. Development of statistics based on gender meant going through the same steps as with other surveys: selection of topics that need to be explored, identifying of statistics that needs to be obtained and that would reflect gender issues in the society, forming of concepts and definitions that adequately reflect on differences between men and women in the society, as well as developing methodology for gathering of data. Official statistical office – MONSTAT, when analyzing data based on gender uses traditional approach – no special survey to this topic is conducted, but instead it uses the data regarding gender from all regular statistical surveys that contain data that are classified according to the gender. With available information, publication called "Women and Men in Montenegro" is being published biannually. Three of them were published until now (in 2006, 2008 and 2010). Statistics based on gender in Montenegro is being applied in all areas where the disaggregation of data regarding genders is possible, and that is regarding:

- Population
- Health
- Education
- Social protection
- Judiciary
- Employment and salaries
- Politics

Increased demands on both national and international level are creating new challenges, as well as new areas where the statistics based on gender is needed.



First, on national level, besides creating policies of gender equality, statistics based on gender is also necessary for other policies that influence aspects of relations between men and women in different ways. It is often necessary to research gender aspect, even when the policy doesn't directly relate to this topic.

Second, on global level, statistics based on gender is used to measure progress in achieving Millennium goals and other global policies that have as aim achieving of gender equality. Third goal of MDG explicitly calls for gender equality and empowerment of women, and indicators related to education, employment and decision making are linked with it. Also, achieving of gender equality is important for other policies, why the countries are required to provide data based on gender as much as possible.

Third, Lisbon Strategy commits participating states to increase participation of women on labor market, and to bridge the gap between men and women until 2010, while strategy EU 2020 stipulates as the first goal "75% of the population aged 20-64 should be employed", and indicator upon which the progress is measured is employment rate according to gender, for the age group 20 to 64;

With accession to European Union Montenegro commits to speed up the process of harmonization of system of official statistics with statistics of the EU, which requires differentiation of all data about individuals according to gender and continued development of indicators for evaluation of gender equality.

14.2. POSITION OF WOMEN IN MONTENEGRO ACCORDING TO THE OFFICIAL STATISTICS

„Gender equality means that women and men equally participate in all spheres of public and private life, and that they have equal status, equal opportunities to enjoy and exercise all their rights and freedoms, make use of their individual skills and capability for the development of society and equally benefit from achieved results.¹ Constitution

¹ Law on Gender Equality of Montenegro (Article 2)

guarantees everyone's right to work, free choice of occupation and employment, fair and human working conditions and to protection during unemployment (Article 62). Having this in mind, and through analyzing the official statistical data we put special emphasis on labor market where, despite legal and institutional preconditions, there are evident inequalities when speaking about men and women.

Analysis of gender inequality in the labor market is based on the data from the official statistics regarding the survey on work force. The survey was realized on a sample consisting of 9258 households in the territory of Montenegro. The survey collected data on demographic characteristics and for persons over 15 years of age about their work activities. The data were for 2010 and sorted by gender. In the Survey on work force population over the age of 15 was monitored by activity in the monitored period, and not by formal status of participants in the survey. The term employed in this survey include the persons who perform any work for salary or profit during the monitored week, even when that was less than an hour. Payment includes payment in cash or "payment in kind" (payment with goods or services), regardless of whether the salary was received during the week when the work was done or not. It also included persons that receive payment for attending training (interns and apprentices) that includes production of goods and services.

14.2.1. General demographic characteristics

The gender ratio of the population of Montenegro in favor of women, who constitute 50.7% of population, while men constitute 49.7%. Seen in relation to age, women's participation in population of age 0 to 29 is lesser in comparison to men and is approximately 48%, while participation of men is by three percent larger and is 51%. Already in population older than 30 years, ratio grows in favor of women. Average age of women in Montenegro according data from 2009 is 38.1 and men 35.7.

According the aging coefficient (percentage in participation of persons older than 60 years in overall population), participation of women is more significant (19.03%), while the participation of men



is 15.07%. This is a consequence of demographic changes, because later phase of demographic transition is usually associated with higher percentage of women, because lower rate of mortality of women. Life expectancy at birth for women is 76.1, and for men 71.2 years, while average age of deceased women is 73.5, and for men 67.7 years. Average age of women at the time when they get married is 25.9, and men 29.9.

14.2.2. Structure of the population by activity and gender

Women participate with 51.36% in overall population over the 15 years of age. Data from 2010 about employment of women in Montenegro indicate that the labor market is characterized by low employment rate of women, which amounts to 33.8%, while the rate of employment of men in the same year was 47.09%. When compared with the data of countries of European union or countries candidates for accession, only Turkey has a lower rate of employment of women (26.2%) than Montenegro. Macedonia (34.0%) and Malta (39.2%) have similar rate of employment of women.

Table 1: Structure of the population, according to economic activity by gender, year 2010

	WOMEN	MEN
Active population ³	43.65%	56.35%
Inactive population	59.14%	40.86%
Employed	43.12%	56.88%
Unemployed	45.81%	54.19%
Rate of activity ⁴	42.62%	58.09%
Rate of employment ⁵	33.82%	47.09%

² Active population consists of persons over 15 years of age that are employed, as well as unemployed persons that are seeking for employment and persons that have temporarily suspended their employment because of military service (active persons that are not employed). Inactive population consists of all persons over 15 years of age that do not belong in the active population.

³ The activity rate represents the percentage of active population in total population over 15.

Rate of unemployment ⁶	20.65%	18.92%
Rate of inactivity	57.42%	41.87%

Source: Labor force survey, 2010, Office for Statistics, 2003 Census

The employment rate of women compared to men in Montenegro, was lower by 13.3 percentage points. Similar differences are evident in the EU countries, so that the aggregate for the EU (27) employment rate of women compared to men is lower by 11.9 percentage points. Differences similar as in Montenegro are noted in the Czech Republic, Romania, Spain, Cyprus and Slovakia.

Table 2: Employment, activity and inactivity rates, 2010

	Employment rate		Activity rate		Unemployment rate	
European Union	70.1	58.2	83.9	68.9	9.7	9.6
European Union (27 countries)	70.1	58.2	83.9	68.9	9.9	10.3
European Union (25 countries)	70.4	58.6	83.9	68.9	9.8	9.8
European Union (15 countries)	71.4	59.5	83.9	69.0	9.6	9.6
Belgium	67.4	56.5	77.8	67.1	8.1	8.5
Bulgaria	63.0	56.4	:	:	10.9	9.5
Czech Republic	73.5	56.3	91.4	68.7	6.4	8.5
Denmark	75.8	71.1	84.9	81.2	8.2	6.6
Germany (including former GDR from 1991)	76.0	66.1	81.8	66.1	7.5	6.6
Estonia	61.5	60.6	:	:	19.5	14.3
Ireland	63.9	56.0	86.2	67.5	16.9	9.7
Greece	70.9	48.1	85.7	65.7	9.9	16.2
Spain	64.7	52.3	84.8	70.1	19.7	20.5
France	68.3	59.9	80.6	67.1	9.4	10.2
Italy	67.7	46.1	87.7	65.4	7.6	9.7

⁴ The employment rate represents the percentage of employed in the total population over 15.

⁵ The unemployment rate represents the percentage of unemployed in the total number of active population.

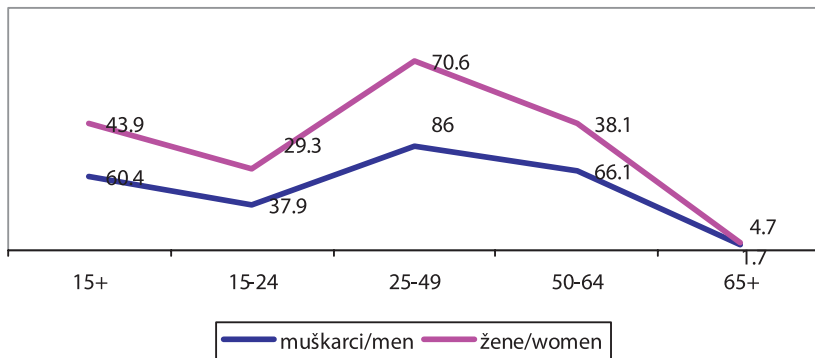


Cyprus	76.6	63.0	87.2	72.1	6.2	6.5
Latvia	59.2	59.4	:	:	21.7	15.7
Lithuania	56.8	58.7	:	:	21.2	14.5
Luxembourg	73.1	57.2	80.0	68.0	3.9	5.3
Hungary	60.4	50.6	77.6	62.4	11.6	10.7
Malta	72.3	39.2	:	:	6.7	7.2
Netherlands	80.0	69.3	85.6	73.7	4.4	4.5
Austria	77.1	66.4	81.5	71.7	4.6	4.2
Poland	65.6	53.0	70.5	:	9.3	10.0
Portugal	70.1	61.1	80.2	77.1	11.8	12.2
Romania	65.7	52.0	:	:	7.9	6.5
Slovenia	69.6	62.6	:	:	7.5	7.1
Slovakia	65.2	52.3	76.4	:	14.2	14.6
Finland	69.4	66.9	86.9	68.5	9.1	7.6
Sweden	75.1	70.3	87.5	76.0	8.5	8.2
United Kingdom	74.5	64.6	87.0	73.4	8.6	6.8
Iceland	80.1	76.2	94.4	90.7	:	:
Norway	77.3	73.3	89.6	80.5	4.0	3.0
Switzerland	84.6	72.5	90.5	78.5	:	:
Croatia	59.5	48.8	:	:	11.4	12.3
Former Yugoslav Republic of Macedonia, the	52.8	34.0	:	:	:	:
Turkey	66.7	26.2	:	:	10.4	11.4
Montenegro	47.1	33.8	58.09	42.62	18.9	20.6

Source: EUROSTAT

Inactivity rate (it represents the percentage of inactive population over the age of 15), is significantly higher when women are compared to men and it is 57.42, while the activity rate is 42.62.

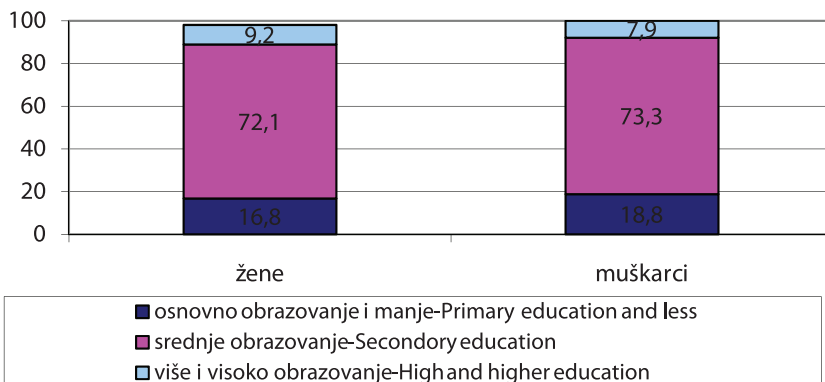
Graphic 1: Activity rate by gender and age group, 2008



Source: Work force survey, 2010, Statistical Office of Montenegro

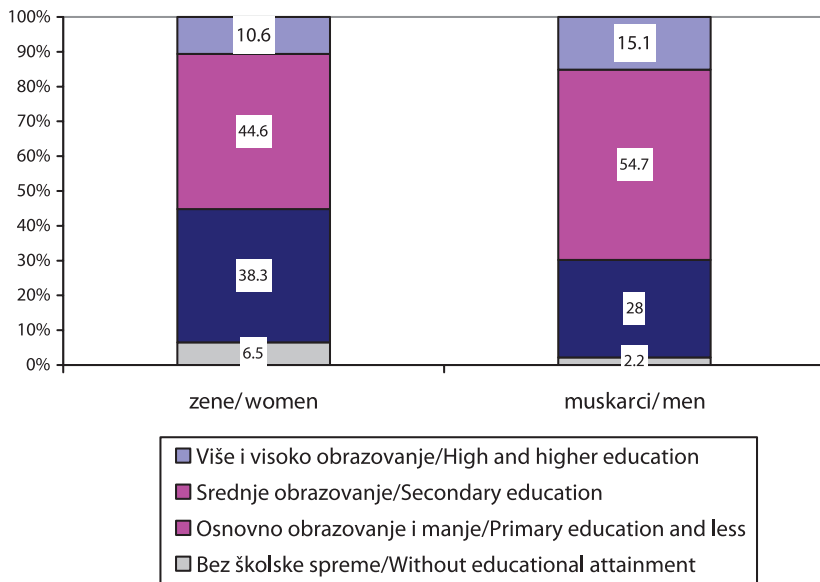
The unemployment rate of women is higher than average rate for Montenegro for one percent and is 20.65%. Seen in comparison with the unemployment rate of countries of European Union, high unemployment rates of women are also present in Spain (20.5%), Greece(16.2%), Latvia (15.7%). Overall unemployment rate, as well as unemployment rate of women in Montenegro is influenced by the world's economic crisis. Unemployment rate of women is 1.7% higher than that of men, which is approximately the same as in countries of European Union.

Graphic 2: Unemployed persons by education and gender



When observing the education, as it is an important factor on labor market, and based on the data from 2003, conclusion can be made that 38.3% of women has primary education, which in a way conditions lower rate of employment of women as well as employment at less paid jobs.

Graphic 3: Population over 15 years of age by the level of education, Census 2003



In recent years, and according to data from 2008, when it comes to the higher education, women have achieved more of a success than men. Namely, out of the total number of those that received BA degree 63.6% were women, and 36.4% men. When it comes to obtaining a Master of Science degree, the ratio is practically equal when it comes to women (49.3%) and men (50.7%). There are still stereotypes present when it comes to the selection of scientific field that women aren't fit to deal with technical studies, but instead they are more than men directed to social sciences. Regarding the scientific work that relates to technical, technological and construction studies, out of the total number of MA holders 29.2% are women, and 70.8% men.

Regardless of their achievements in the field of education, data suggest that women in Montenegro still do not have access to better and well-paid jobs.

Table 3: Employed by occupation and gender, 2008

	MEN	WOMEN
Legislators, officials and managers	76.6%	23.4%
Experts	42.1%	57.9%
Associates and technicians	46.1%	53.9%
Civil servants	46.8%	53.2%
Service providers and merchants	41.9%	58.1%
Qualified workers in agriculture and fishing	62.4%	37.6%
Craftsmen and related occupations	88.2%	11.8%
Machinery operators and assemblers	96.4%	3.6%
Basic – simple occupations	52.7%	47.3%
Military	100%	

Source: „Women and men in Montenegro“, (2006-2010), MONSTAT

The most significant difference between men and women has been noted when it comes to occupation “Legislators, officials and managers”. Data shows that there are culture differences that condition unequal participation of women and men on managing positions and that they are present in every country. On EU (27) level participation of women on managing positions is 32.7%.

Differentiation of employees by sector in Montenegro shows that women and men are differently distributed, where the highest percentage of women is employed in wholesale and retail sale 19.9%, education 11.4%, health and social welfare 22.7%, while the largest number of men is employed in agriculture 10.1%, manufacturing industry 15.7%, as well as in state administration and defense 15.1%.



Regardless to the legally prescribed equality in employment, similar educational structure, salaries of women, when compared to men, are 13.8% smaller in average. The most significant difference in terms of difference in salaries between men and women is present in sector of financial intermediation where the salary of women is 21% smaller than that of men. Also, a significant inequality in terms of difference in earning is present in health and social welfare sector, where women are participating with 74.4%, and men with 25.5%. Salaries of women, in relation to men, are smaller by 17.1%.

Data indicate that women are most often employed in poorly paid jobs, as well as in those sectors such as education that leave them enough time for family, and in those sectors that require attention, patience and offering social service, such as health sector.

14.3. CONCLUSIONS

Economic and social changes in recent times in Montenegro have contributed to significant empowerment of women. However, when it comes to labor market, gender inequality is still present, especially when speaking about the positions and salaries. Women are usually employed at lesser paid jobs, and in those fields with less paid occupations.

Even though in certain sectors women make participate with more than 60%, their salaries in comparison to men's are smaller by 20%. Lower salaries in the same sector that men is a consequence of positions women occupy. According to data from 2008, only 23.4% of women are in positions of managers, officials and this is the reason for lower salaries. Unequal participation of men and women when it comes to management positions is present in all countries, and according to EUROSTAT on EU(27) level participation of women in managerial positions is approximately 33.0%.

When speaking of labor market, the most important dimension of equality is equal earnings as well as participation of women in political decision making. In this respect, in order to increase gender equality proactive approach of policy makers is needed. Practice of EU countries envisages motivational measures to stimulate positive discrimination of genders, in terms of salaries and position of women when it comes to managerial positions, as well in terms of participating in those occupations where they are underrepresented.

As availability and accessibility of gender-sensitive data is a precondition for the implementation of politics, and it also facilitates measurement of achievement of national and international goals, national statistical offices are expected to show the facts, but not to analyze them politically. Even though Statistical office is not directly responsible for creation of the policy, but as the way of presenting, availability and timeliness of data influences creation of policies, for the future period there are plans to use two biggest statistical activities, namely Census of Agriculture that was conducted in 2010,



and Census of population and households that was realized in 2011, in order to develop special publications that would contain cross-section of all the data in relation to gender. In this way, integrated statistics- information database about the entire female population of Montenegro will be created. The responsibility of policy makers, civil sector, scientific institutions and media would be to use these data and facts for creation of policies, initiating of new researches and thus improvement of gender equality.

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