



**PERMANENT MISSION OF MONTENEGRO TO THE UNITED NATIONS
AND OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA**

No. OHCHR/59-4

The Permanent Mission of Montenegro to the United Nations office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and with reference to the letter of Mr. Felipe Gonzalez Morales, Special Rapporteur on the human rights of migrants dated 3 May 2019, has the honor to enclose herewith responses to the questionnaire of the Special Rapporteur.

The Permanent Mission of Montenegro to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nation High Commissioner for Human Rights assurances of its highest consideration.

Geneva, 4 June 2019



**Office of the United Nations High Commissioner for Human Rights
Geneva**

**MONTENEGRO ANSWERS TO THE QUESTIONNAIRE OF THE SPECIAL
RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS ON GOOD
PRACTICES AND INITIATIVES OF GENDER-RESPONSIVE MIGRATION
LEGISLATION, POLICIES AND PRACTICES**

- **How does your Government define „gender responsiveness“?**

In the field of migration, two new laws have been adopted, fully harmonized with European and international standards: the Law on Foreigners and the Law on International and Temporary Protection of Foreigners. Establishing gender equality is an integral part of the development policy based on respect of human rights. In that sense, the Law on International and Temporary Protection of Foreigners defines the term "social group" and explicitly stipulates that membership of a particular social group may also be based on the gender of a foreigner seeking international protection, including gender identity and sexual orientation. This unconditionally means that women seeking asylum and subjected to certain forms of gender-based violence have the right to seek international protection based on membership of a particular social group. Montenegro has established a normative and institutional framework to manage migration in a manner that reflects gender responsibility in respecting human rights.

- **Please provide information on any existing or forthcoming good practices or initiatives of gender-responsive migration legislation, policies or practices in your country. (Should you provide information on legislation or policy, kindly submit the original text, accompanied by an English translation if it is in a language other than the six official UN languages.)**

The Parliament of Montenegro has adopted the Law on Changes and Amendments to the Law on Foreigners (Official Gazette 3/19). One of the reasons for adopting this law is the harmonization of the Law with the Council of Europe Convention on the Prevention and Suppression of Violence against Women and Domestic Violence - Istanbul Convention.

Proposed changes relate to the fact that a temporary residence permit for the purpose of family reunification can be extended to a foreigner who is a victim of a domestic violence crime or violence in a family community, regardless of the length of the marriage.

Also, the law stipulates that a foreigner whose permanent residence has terminated may be re-issued if it is established that he stayed outside Montenegro longer than one year as a victim of trafficking in human beings (illicit marriage).

Gender-sensitive Migration Practice: In the Center for the Reception of Foreigners seeking International Protection, since the opening of the Center, the practice of separate accommodation of unaccompanied women is implemented for the purpose of their safe accommodation, sense of security - separate from single males. In such a way, women are provided with special privacy and security in their collective accommodation. Accommodation is done in accommodation units i.e. blocks - family block, a block for women and a block for men. Special treatment with regard to accommodation also includes disabled persons and unaccompanied minors / adolescents.

Also, the definition of a refugee in proceedings upon request for international protection in Montenegro is generally interpreted with awareness of possible gender aspects and on the basis of which the refugee status is determined in a precise manner. With such an

interpretation, the definition of a refugee also includes gender-based requirements for international protection.

This law also contains a number of principles that ensure gender-sensitive treatment of foreigners seeking international protection. These principles, as well as the principles that applied in the previous Law on Asylum, include, inter alia, the guarantee that men and women, or each applicant for international protection, are separately examined during the proceedings, which is a rule, and which is very important in all, especially in cases where women are victims of domestic violence or when there are other reasons to assume that family members do not want each other to state their personal circumstances as the basis for persecution on which international protection requests are based.

Firstly, these persons were informed that the proceedings are completely confidential and that all the facts and circumstances collected during the proceedings constitute confidential information. The hearing takes place without the presence of family members, except in exceptional circumstances when an Section for Asylum officer assesses that it is necessary for other family members to be present. The hearing takes place under conditions in which confidentiality of information is provided. This is especially important, and special conditions have been created in Montenegro, i.e. special rooms intended for interviewing these persons, and in that way it was possible to present in a comprehensive manner the reasons for seeking international protection. Officials are competent enough to take into account general and personal circumstances related to the request, such as the cultural origin of the applicant, gender, vulnerability. Hearings with minors are conducted in a children convenient way. Also, during the hearing procedure, the officials of the Section for Asylum provide applicants with an opportunity to present information that support their international protection requirements, including the ability to provide the necessary clarifications. In particular, the interviewers have in mind that gender and cultural norms can affect the overall course of the hearing.

In this way it is ensured that the asylum procedure, in particular the hearing, is conducted in an atmosphere that fosters confidence and promotes a sense of security, especially in cases where women apply for international protection.

The interviewers pay particular attention if the demands for international protection are based on gender-based violence, that credibility is an important aspect of determining refugee status and in such cases the credibility assessment is carried out in a particularly sensitive way.

Although the minor number of requests for international protection are based on persecution on this basis, particular reference is made to the guidelines of the United Nations High Commissioner for Refugees on persecutions related to gender determination in the context of Article 1A (2) of the 1951 Convention on the Status of Refugees and its The 1967 Protocol.

Positive Practice: A foreigner seeking international protection is required, if necessary, to fully explain the request for international protection or for other justified reasons, ex officio or at his request, if possible, a translator of the same gender. If a foreigner seeking international protection requests this, the Ministry, if possible and justified, ensures that the proceeding upon the request for international protection is conducted by an authorized officer of the same gender as the applicant. Taking pregnant women to a female gynecologist was a reflection of women's request to respect the cultural difference in the customs of women of African descent or the Middle East by providing them with the support to ensure that this kind of health care is achieved in an acceptable cultural way.

- **Please indicate any challenges and/or obstacles in the implementation of gender-responsive migration legislation and/or policies?**

Montenegrin national legislation and regulations concerning women migrants are fully adapted to international standards and in the practice so far there have been no obstacles to its implementation.

- **Based on the experience accumulated with these interventions so far, as well as the lessons learned, what would you have to do differently to maximise the gender responsive impact of these interventions?**

Raising employee awareness of protecting users and providing help and support based on gender.

The Ministry of the Interior, in cooperation with the United Nations High Commissioner for Refugees, organized training of the officials of the Section for Asylum, the Section for Acceptance and Accommodation of Foreigners, Section for Foreigners, Migration and Readmission, and the Regional Units for Civil Status and Personal Documents on the topic "Guidelines of the United Nations High Commissioner for Refugees on Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees" and the granting of residence to migrant women, victims of gender-based violence.

The aim of the workshop was to raise awareness of the needs of certain protection of women seeking asylum and who are victims or at risk of gender-based violence.

Training on this subject has been planned continuously.

- **What support could other stakeholders (other than your Government) provide to make your migration policies, legislation, and practices more gender responsive?**

An Implementation Program for the 2019 and 2020 of the Plan of Action for Gender Equality for the period 2017-2021 was adopted. In this document, the Ministry of the Interior is in charge of producing and distributing informative material with gender-sensitive guidelines aimed at raising the awareness of relevant actors on the special needs of protection for women seeking asylum, who are victims or at risk of gender-based violence, for officers dealing with issues of international protection and approval of residence in Montenegro. This kind of education and training will significantly influence awareness raising on this issue. The implementation of the migration policy of the Ministry of the Interior is recognized by international organizations such as UNHCR and IOM, with whom the MoI has many years of experience and successful cooperation in the field of social inclusion of migrants and protection of human rights, primarily to improve and promote gender equality policies.