

Constitutional and Political Analyses

Montenegro

Daliborka Uljarević

1. Overall political environment relevant to Constitutional reforms and processes

Montenegro represents the last republic of the Socialist Federal Republic of Yugoslavia (SFRY) to gain its independence, following the Referendum held on 21 May, 2006¹. The official proclamation of referendum results occurred on 3 June, 2006 through the adoption of Parliamentary Declaration on Independence.

It is the smallest state in the Western Balkans, with a size of 13,812 sq km and population of 620.145² which also influences its position within the wider regional geo-strategic and political context. It has parliamentary democracy as a form of government and it is considered to be partly free according to the Freedom House Democracy rating³ and the Democracy Index of the Economist Intelligence Unit ranked it 58th out of 167 countries⁴.

The multiethnic composition of the society has always been considered one of its main values, even though it, at the same time, often created lines of division within the country. The majority is represented by Montenegrins (43.16%), followed by Serbs (31.99%), then by Bosniaks (7.77%), Albanians (5.03%), Muslims (3.97%) and Croats (1.10%). The majority of the population is of Orthodox religion (74.24%), whereas there are also a considerable number of Muslims (17.74%), and then Catholics (3.54%), other (0.46%) and atheist or those without a statement on religious belief (3.21%)⁵.

The GPD per capita is 2635.6 EUR and unemployment rate is 26.6%. Average net wage is 252.1 EUR, but 12.2% of citizens live with less than 116 EUR per month and there are 4.7% of those living in extreme poverty. Retail price inflation was 2.3% at the end of 2006. Public debt is 644.9 million EUR, or 37% of GDP⁶, whereas domestic debt is 167.6 million EUR (26%) and external one is 477.3 million EUR (74%). The adult literacy rate is 97.5%.

The whole process of independence and subsequent recognition unfolded, compared to the other countries in the region with similar backgrounds⁷, quite peacefully. The

¹ After the dissolution of SFRY, it was a part of the Federal Republic of Yugoslavia, and then of the State Union of Serbia and Montenegro

² Out of this number there are 314, 920 women and 305, 225 of men

³ Report "Freedom in the world 2007" by Freedom House. According to FH a partly free country is a country in which there is limited respect for political rights and civil liberties. These states frequently suffer from an environment of corruption, weak rule of law, ethnic and religious strife, and often a setting in which a single political party enjoys dominance despite the façade of limited pluralism.

⁴ Report "The World in 2007: The Economist Intelligence Unit's index of democracy". The country has a score of 6.57pts (out of 10), and was rated as a "flawed democracy" along with 53 other states with 1.14pts less than the countries classified as "full democracies" and 0.66pts more than the states defined as "hybrid regimes". Regionally, Croatia (51st) and Serbia (55th) were ahead of Montenegro, while Albania and Bosnia were lagging behind being at 83rd and 87th places, respectively.

⁵ Information taken from Montstat (Statistical Office of Montenegro) based on the last census held in 2003

⁶ State of Affairs on 30 September 2006, Institute for strategic studies and prognoses (ISSP) data

⁷ Other republics of ex-SFRY

international community, in particular European Union (EU), facilitated the dialogue between the two opposite sides and contributed to great extent to this outcome⁸.

Nowadays, the key challenge before Montenegro is **state and institution building**. Even though it did not experience serious conflicts on its territory in recent periods⁹, contrary to almost all other ex SFRY republics, Montenegro has its own complex environment which requires a lot of work and dedication to the democratic processes of all decision makers and social sectors.

In addition to this, the **fulfilment of standards and criteria** set by different players within the international community, such as the European Union (EU) and the Council of Europe (CoE) will represent a challenge for the country which still has not finalised its transition phase and which is marked by an absence of rules in many fields.

At the same time, there is a pressing need within the country for **building internal trust, as well as a new system of values and developing its political culture (internal consensus)** which would lead to the stabilisation and effective application of the rhetorically widely accepted European standards and values.

These challenges are part of the same process, heavily influencing each other and therefore have to be understood within the framework of that interaction.

Regionally, Montenegro enjoys well established relations with its neighbours and a developed dialogue on settling pending issues. This especially refers to Serbia, who remained the legal successor of the State Union¹⁰ and who recognised Montenegro as a sovereign state, though a bit later than other neighbours and countries of ex-SFRY.¹¹

In terms of its positioning on the international scene, Montenegro is making constant progress. It became a member of the United Nations, OSCE, IMF, CoE and number of other regional and international organisations. Accession to the EU is proclaimed by the Government to be the ultimate goal and there is overwhelming public support for this¹². At the same time, this represents the common point for all social players regardless their numerous other differences. Starting negotiations on the Stabilisation and Association Agreement (SAA) in October 2005, within the framework of the State Union, Montenegro continued the process following the interruption of negotiations and period of recognition by the EU. Montenegro successfully initialled the SAA on 15 March, 2007; the signing is expected in autumn 2007.

Montenegro has a developed legislative framework, but it needs to be harmonised with European standards and this is an ongoing process. However, one has to make a clear difference between drafting and adoption of new legislation which is mainly done within a reasonable timeframe and in most cases is of good quality, and its implementation for which there is often a lack of sources or political will resulting in either a lack of its

⁸ Amb. Miroslav Lajcak was Personal Representative of EU High Representative for the Common Foreign and Security Policy, Mr Javier Solana, for facilitation of the Montenegrin referendum process in 2006. EU also established the rule of 55% as eligible majority for credible decision

⁹ But Montenegro was not left entirely outside of war events in the early 90s and during the NATO intervention in 1999.

¹⁰ As stipulated by the Constitutional Charter, Art.60

¹¹ On 5 June the Serbian Parliament confirmed the continuity of Serbia as a legal successor of the State Union and on 15 June the Government of Serbia officially recognised Montenegro. Before that, all other ex SFRY republics, currently independent states, recognised Montenegro

¹² According to the latest polls, from June 2007, 78.3% of Montenegrin citizens are in favour of EU accession. Source: www.cedem.cg.yu

application at all or limited application. The administrative capacities are recognised as too weak to address the tasks before them, there is a lack of confidence in the institutions and their effectiveness, and this also extends to the judiciary which is still susceptible to political influence. Corruption remains one of the most serious issues.

Montenegro has signed all the international agreements and conventions that were previously signed and ratified by the State Union. The Law on Minority Rights and Freedoms was passed but one of its crucial provisions was later annulled by the Constitutional Court¹³. A Gender Equality Law has been after years long process passed on 24 July, 2007 whereas the Law on Antidiscrimination and Personal Data Protection Law have still not been adopted even though there were several drafts and initiatives so far by different stakeholders.

Internal mechanisms for the promotion of gender equality exist at two levels: legislative (Parliamentary Gender Equality Committee) and executive (Governmental Gender Equality Office), with clear mandates but quite diverse levels of awareness and activism, and whereas the Office has much better image based on achieved in comparison with quite negative assessments of the work of Committee.

2. Nature and status of constitutional processes on the national level

Following the process of dissolution of ex-SFRY, Montenegro adopted its Constitution on 12 October, 1992, which defined it as a member of the newly formed Federal Republic of Yugoslavia (FRY).

It was realised a few years ago that this Constitution in many aspects needed to be changed or that a new one should be drafted in line with the international standards which the current one does not entirely meet. However, there were no serious initiatives to start this process, mainly due to the fact that the referendum was announced several times before and political parties apparently agreed to not open this matter before the statehood issue was entirely solved¹⁴.

After the referendum held on 21 May, 2006 which resulted in the independence of Montenegro, the debate on a new constitution was not immediately unfolded. Due to the fact that that the parliamentary elections, as well as local elections in 14 municipalities¹⁵ were held only a couple of months later, political elites focused more on the election campaign. Estimating that the rhetoric used for the referendum was acceptable for the elections as well they hardly spoke about the constitution at all, with rare exceptions¹⁶. Once the elections were finished on 10 September, 2006 and the new Constitutional Assembly constituted on 2 October, 2006 the first announcements on the drafting of new constitution were made public.

The Assembly has 81 MPs, out of which 9 are women. Within the 11 Parliamentary Committees, only 1 (Gender Equality Committee) is chaired by a female MP.

¹³ The provision defining positive discrimination towards of minorities through the election procedure. Note: by the term, „minorities” only national minorities are understood in this Law.

¹⁴ This unwritten agreement could be supported by the passing of the Law on Protector of Human Rights which did not have any base in the Constitution, but contrary to some other similar examples none of the political parties submitted the request to the Constitutional Court to decide on constitutionality of this act.

¹⁵ Out of 21 municipalities existing in Montenegro

¹⁶ The Movement for Changes (MfC) incorporated the issue of the writing of a new Constitution into its programme and this was underlined in its election campaign. Source: www.promjene.org

However, the Parliamentary Council for Constitutional Matters¹⁷ has been obviously working earlier and at the end of October 2006, the public was able to learn about some parts of the so called “expert version” of the new Montenegrin Constitution which dated from 8 September, 2006.¹⁸ This material was used as a starting point for different debates and the President of the Council often publicly presented and defended its content.¹⁹ The opposition parties were in the majority against this version, however, arguing that it was a draft of only one political option. They also voiced concerns regarding its content.

The drafting phase of the “expert version” was not inclusive, it remained a privilege of the members of the Council appointed by the ruling coalition, nor representative since it excluded civil society and many political stakeholders and this was heavily criticised by opposition parties. Also, the process was neither participatory nor credible, and it raised a number of criticisms as regards its content.

Still, this expert version had its value in several aspects. It served as a basis for a series of round tables, seminars and panel debates that produced quality recommendations for diverse chapters of the constitution and opened up the possibility of wide participation of not only political parties, but the civil sector as well. More importantly, this was formally the starting point of the work on the Draft Constitution that, after the initial parliamentary procedure. In addition to this, the drafters used in their work the current Constitution as well as some other materials and drafts developed by individual parties.

Parliament resumed work on the Draft Constitution upon the agreement of all political players and on 16 January, 2007 the Parliamentary Constitutional Committee²⁰ started work on the new version. To make the drafting more effective 3 Subcommittees, within the Committee, were formed as follows: on human rights and freedoms, economic structure, and organization of the state and constitutionality and legality. This Committee finalised its work on 9 March with version that included a number of alternatives for specific articles. These alternatives represent major lines of division amongst political opponents. This version was sent to the Parliament for discussion that was opened on 26 March and voting on the final version, which was later on made available for public debate occurred on 3 April. Initially, the deadline for public debate was the end of April but was extended until 28 May.

This phase of the constitution building process was more transparent than the previously described one, inclusive, representative and to a certain extent participatory. It was only a question whether it will be credible both in terms of popular support and political party buy-in since after the public debate. Unfortunately, this promising tendency has not been followed until the end. Over 500 written comments were submitted after the public

¹⁷ This refers to the Council of the previous composition of the Parliament and the experts who are also members of this body, as follows: PhD Mijat Šuković, PhD Slavko Lukić, PhD Milorad Ivović, PhD Srđan Darmanović, PhD Gordana Jeknić-Paović, PhD Sefer Mededović and Ljubomir Spasojević.

¹⁸ The material was made entirely public on 14 October, 2006 on the Parliament web site with the title „Preliminary document for consideration in expert and scientific circles“. Source: www.skupstina.cg.yu

¹⁹ PhD Mijat Šuković

²⁰ It is an ad hoc body and one should make distinction between this one and the Parliamentary Committee for Constitutional Matters and Legislations, as the regular working body. The first one is composed as follows: Ranko Krivokapić (as President of the Parliament and President of the Committee), Miodrag Vuković, Mevludin Nuhodžić, Ivan Kalezić, Dragan Kujović and Ljuid Škrelja (DPS), Srđan Brajović and Maja Kostić Mandić (PzP), Velizar Kaluderović (SNP), Andrija Mandić and Zoran Žićić (Serb list), Vaseļ Siništaj (AA), Kemal Purišić (BS), Rifat Rastoder and Borislav Banović (SDP). The later has 12 members and President: Miodrag Iličković (President), Miodrag Vuković, Mevludin Nuhodžić, Luid Škrelja, Ivica Kalezić, Husnija Šabović, Zarija Franović, PhD Maja Kostić Mandić, Srđan Brajović, Vuksan Simonović, Dragan Šoć, Zoran Žićić, Dobrilo Dedeić.

debate and disappointingly most of these were not even read since these were estimated as without political party support regardless their quality²¹. Consequently, the whole process ended up being non-transparent, non-inclusive and non-representative, and having in regard the fact that opposition did not supported the latest version its credibility is questioned as well as needed 2/3 majority support for its passing²².

Throughout the duration of this process, civil society has organised a number of events where different aspects of the Constitution have been discussed. Also, the most influential daily paper *Vijesti* gave considerable space to attitudes of various people in regards to the new Constitution. Other national and local media devoted a lot of time to update its audience on developments concerning the Constitution drafting and to present different views on its content. This especially refers to the period of public debate, which was followed by numerous panel programmes using electronic media²³. Unfortunately, only a limited number of people were able to get hold of updated version of the draft Constitution before the parliamentary debate was officially opened. Even at the moment when MPs for a week held a debate on it, it was not made available to the wider public through the internet or some other media in its integral form. Also, the entire debate was not organised by the authorities and the state did not invest anything into that process leaving it rather to other subjects interested in particular aspects of the Constitution or the whole content then leading this process. The final version of the adopted Draft Constitution by the ruling coalition to be passed in the Parliament remained unavailable to the public for quite a while.

Women groups started to be active in Constitution building following the appearance of the Expert version. This was strengthened by the governmental Gender Equality Office that organised, with the support of UNIFEM, one of the first events where this version was discussed on 2 and 3 November, 2006.²⁴ This conference produced valuable conclusions which were a useful basis for the further formulation of requests concerning gender issue within the new Montenegrin Constitution, but also some promises that failed to be respected²⁵. The request for gender issues to be visible in the Constitution was one of the key messages of the women groups' campaign "16 days against violence" and a number of accompanying activities.

In regards to these initiatives and actions, it is important to stress that the Gender Equality Office has been extremely proactive whereas that level of dynamism could not be identified within the Parliamentary Committee for Gender Equality whose President²⁶ even went into open conflict with women's groups representatives. This was unfortunate given the importance of this issue and the mandate of this Committee to advocate for

²¹ Statements of the members of the Parliamentary Constitutional Committee, daily "Dan" and "Vijesti"

²² The opposition MPs left the Parliamentary Constitutional Committee on 30 July, 2007 when ruling coalition refused to have the session open for public (even though previously agreed to be). It ended with the text passed solely by the ruling coalition and deletion of opposition alternatives.

²³ The PBS RTCG organised even regular programmes in form of topic oriented debates

²⁴ The first round table on the expert version of the Constitution was organised by the Centre for Development of NGOs with the support of FOSI ROM focusing on human rights provisions

²⁵ Mr Miodrag Vuković, leader of the ruling Democratic Party of Socialists (DPS) Parliamentary club: "I dare to say that equality of women and men will in new Constitution be defined from the first to the very last article or explicitly ensue from them", pg. 133, "The Constitution and Gender Equality", ed. Nada Drobnjak

²⁶ This refers to Ms Ljubica Beba Džaković, MP on behalf of the ruling DPS. Women's groups have often requested her replacement; the latest initiative included the collection of signatures of citizens to be submitted to the Parliament to strengthen their request. They criticized her for lack of sensibility to gender issues and her publicly expressed attitudes that are rather controversial.

positive change. Still, women groups through its informal network produced set of proposals and delivered it to the public and relevant parliamentary bodies.

It is worthwhile to underline that the general constitutional process was marked by issues relating to statehood identity, including the name of the official language, the position of church, the image of state symbols (coat of arms, flag and national anthem). These issues dominated a large part of the election programme of the main political players, and, in order for political players to appear to be addressing their voters by honouring their electoral promises, these issues also played a large role in the constitutional process, in place of constructive debates on the substance of the Constitution itself. This was unfortunate, especially knowing these issues are far away from being really of crucial importance for the welfare of the country. There were parties who tried to come to a compromise, but this was usually immediately rejected by the two sides holding the most radical positions²⁷.

The whole constitutional process was closely monitored by international organizations, and some of them came with a precise set of requirements. This particularly refers to the CoE, who changed its starting position which originally conditioned Montenegrin membership on the passing of the new Constitution²⁸. Instead, it listed 7 principles, as follows: the definition of Montenegro as a civic state, the avoidance of political interference in the election of judges and prosecutors, guarantees that prosecutors will not represent the state in civil proceedings, the protection of human rights at least on the level of Small charter of State Union (retroactively as well), the guarantee of a no death penalty clause, the regulation of status of armed and security forces as well as intelligence including parliamentary control over these, and the prescription that the commander in chief should be civilian. The CoE proposed if these principles are taken as binding by the Parliament, the procedure of accession of Montenegro will be continued regardless the fact that the new Constitution has still not come to the force. Also, Venice Commission produced its opinion on the draft Constitution²⁹.

These requirements of the CoE were integrated in the Declaration on minimum principles that the Constitution shall incorporate signed on 8 February, 2007 by all parliamentary clubs except the Serbian List and the Club of Bosnian Party.³⁰

The EU seems to support the stance of the CoE at the moment, limiting its involvement. However, the European Partnership for Montenegro³¹ for 2006 clearly states within the key short term priorities that Montenegro must: „Adopt a new Constitution, based on broad consensus, in line with European standards, in particular in the areas of human and minority rights, organisation of the judiciary, audit, defence and security structures.”

In principle, the international community is playing a positive, facilitating role while stipulating certain basic principles and guidelines, but not leading the process or pushing for it to be finalised faster than current internal political dynamics allow.

²⁷ By two sides one should understand the ruling majority and the opposition that tends to present itself as protector of Serb interests, and therefore most of the disagreements basically have roots in national identity. MfC tried to come up with compromise solutions which were not acceptable at this stage by any of these parties addressing the identity issue.

²⁸ This was proposed firstly by the Special Rapporteur of the Parliamentary Assembly of the CoE for Montenegro, Mr Jean Charles Gardeto as a prerequisite of Montenegrin accession to the CoE

²⁹ See [http://www.venice.coe.int/docs/2007/CDL-AD\(2007\)017-e.asp](http://www.venice.coe.int/docs/2007/CDL-AD(2007)017-e.asp)

³⁰ The major objection of these parties referred to the concept of „civic state“ since they would prefer the constitutional people to be listed within this act

³¹ Council Decision of 22 January, 2007 on the principles, priorities and conditions contained in the European Partnership with Montenegro

Concerning gender issues, it looks as though the debate initiated by women NGOs and strengthened through several conferences and seminars has influenced the process. Of course, the fact that only one female MP was included in the work of the Parliamentary Constitutional Committee had its effect and basically most of the gender issues included in the Constitution are amendments introduced by the political party represented by this MP³². During the parliamentary debate another female MP took an active part in trying to turn the general course of the debate on gender issues³³ and later on there was a joint stance of all female MPs concerning freedom of giving birth.³⁴

Note-worthy, the church reacted for the very first time as regards the constitution-building process after the viewpoint was expressed in the Parliament that “freedom of birth should be defined by the Constitution” with a statement issued by the Metropolitan Amfilohije Radović who condemned this. He stated that it is equal to the attitude that “freedom of killing should be defined by the Constitution³⁵” and he further strongly criticized the possibility of making abortion legal through Constitutional means. Similar attitudes were publicly expressed by representatives of other churches and religious communities.

3. Gender perspective in the Constitutional process

The main actors of the process were MPs and members of the Parliamentary Constitutional Committee; hence their work was solely defined by the interests and positions of the political parties they represent. None of the drafters had specific gender expertise, but they did take part when invited in public and internal seminars or conferences related to this or other issues of interest in certain sectors.

The gender issue was not presented as one of the crucial ones, with both positive and negative consequences: on the one hand there was no general awareness of a need to incorporate it into the Constitution, but at the same time there was not much resistance to including certain provisions or alternatives. This resulted in the improvement in comparison to the existing Constitution. Still, the expert version offered better solutions in many aspects as regards gender equality. Therefore, the opportunity should not be missed to align the Constitution with some of the best practises and conventions in this direction.

4. Analysis of draft constitution

The draft constitution³⁶ is composed of the following categories:

- Preamble
- Chapter I – Basic provisions
- Chapter II – Human Rights and Freedoms
 - 3.1. Common provisions
 - 3.2. Personal rights and freedoms

³² PhD Maja Kostić Mandić, MP from MfC

³³ Ms Hidajeta Bajramspahić, MP from the Social Democratic Party (SDP)

³⁴ Ms Branka Tanasijević, MP from the DPS had a speech on this on behalf of all

³⁵ Metropolitan Amfilohije Radović, statement published in daily „Vijesti“ on 31 March, 2007

³⁶ This refers to the text adopted in the Parliament which was subject of the public debate

- 3.3. Political rights and freedoms
- 3.4. Economic, social and cultural rights and freedoms
- 3.5. Local self-government
- 3.6. Protector of human rights and freedoms
- Chapter III – Economic structure
- Chapter IV – Organisation of the state
 - 5.1. Parliament of Montenegro
 - 5.2. President of Montenegro
 - 5.3. Government of Montenegro
 - 5.4. Army of Montenegro
 - 5.5. Council for Defence and Security
 - 5.6. Court
 - 5.7. State prosecutor
- Chapter V – Constitutionality and legality
- Chapter VI – Constitutional Court of Montenegro
- Chapter VII – Change of Constitution
- Chapter IX – Provisional and final provisions

For the purpose of the analyses the presented structure of the draft Constitution will be categorised into: preamble; civil and political rights; economic, social and cultural rights; and international responsibilities/oversight mechanisms/customary law.

1) Preamble

The main Preamble as defined, including four alternatives,³⁷ does not make any specific reference to the gender issue. There is one general provision referring to the “determination of the citizens of Montenegro to live in state in which fundamental values are freedom, peace, tolerance, respect of human rights and freedoms, multiculturalism, democracy and rule of law”.

The alternative submitted by one of the opposition parties³⁸ uses the phrase “equality among people”, whereas the expert version had “national equality”.

Knowing that gender equality has been promoted “as a fundamental value of Montenegro” through the extensive campaign led last year by the Gender Equality Office and reaffirmed as such by all political players at least rhetorically, it is strange that this has not been reflected in the set of values of which the Preamble is comprised. It would reinforce the importance of other respective provisions of this Constitution and consequently strengthen the legislative framework, and moreover follow the best practices and standards, especially those set by the EU which incorporates this into Article I-2 and I-3 the as yet unratified EU Constitution. In regards to the overall social and cultural context, it would certainly improve the development of Montenegro’s modern political culture.

It is important to note that starting from the Preamble the whole Draft Constitution is written in a language which is not gender sensitive at all, meaning that masculine forms of (pro)nouns and verbs are dominating (citizen, voter, functions in masculine form, etc.), with a few exceptions when neutral expressions are in place (e.g. everybody, all,

³⁷The main text sometimes expresses the will of all parties, sometimes only ruling parties, or is the result of compromise amongst the majority. Therefore, often there are alternatives submitted by other parties.

³⁸ Alternative of Serbian List

person)³⁹. Also, the subject matter of the draft constitutional alternatives reflect the same lines of divisions as for the referendum, and consequently these mainly refer to the ethnic/national identity and the manner this is defined within the various provisions.

Recommendations:

- To include gender-sensitive language throughout the Constitution
- To refer specifically to gender equality in addition to national equality in the Preamble

Civil and political rights

2) Basic Provisions

In principle, the basic provisions included in the Draft constitution provide a solid democratic framework. These define state, sovereignty, state territory, state symbols, capital city and administrative centre, general human rights and freedoms, rule of law, limitations of freedoms, division of power, Montenegrin citizenship, language and alphabet, separation of religious communities from the state, relation with other states and international organisations⁴⁰. However, taking into the account that some of the listed categories are defining identity issues⁴¹, there have been many alternatives to the main text and space for significant improvement of these categories.

Knowing the general political background which is still heavily burdened by the hesitance of polarized political elites to move from their positions and interests, the overall framework would be enhanced if some of these controversial issues would be defined in less precise terms or if these would represent a result of compromise and include the interests and needs of other parts of the society.

Within Chapter II on Human Rights and Freedoms, the Draft Constitution includes basic right provisions such as: the inviolability of life (Art. 23), the prohibition of cloning (Art. 24), the inviolability and dignity of person (Art. 25), the right to personal liberty (Art. 26), the right to respect of human dignity (Art.28), the right to a fair trial (Art. 29), the prohibition of torture and degrading treatment (Art. 28), judicial protection of human rights and freedoms and right to legal aid (Art. 17, 18, 19, 26, 27, 30, 31, 33, 34, 35), presumption of innocence (Art. 32), freedom of movement and residence (Art. 36), data protection (Art. 39), and also others which are elaborated upon in subsequent parts of the analysis. Art. 48 on the prohibition of censorship does not include gender-based hatred, within a long list that refers to the “prevention of promotion of racial, national and ethnic hatred or discrimination”. As media represent a powerful means of influence this should be amended to include also gender based hatred.

This chapter could be improved by the introduction of a prohibition of human being trafficking and sexual and economic exploitation of persons, as it was already done in the

³⁹ The native language is gendered and it makes a clear distinction between the male/female forms both in nouns and verbs. Hence, gender sensitive language is not incorporated into existing legislation but it is in the process of becoming used by the media and others in an appropriate manner, thanks to the work of women's groups.

⁴⁰ The Basic Provisions are not dealing with Human rights and freedoms except for two articles on very general base (Art. 6 and 7)

⁴¹Identity here is understood as national/ethnic identity

expert version (Art. 27: “No person shall be held in slavery or servitude. Every form of trafficking in human beings shall be forbidden and punishable. Force labour shall be forbidden. Sexual or economic exploitation of persons in unfavourable position shall be forbidden. Work or service requested, in line with the law, from convicted persons after a final Court order, from persons in military, and work during the state of emergency cannot be considered as forced labour.”).⁴²

Recommendations:

- To incorporate gender-based hatred on equal footing as other reasons for justified censorship in media
- To include prohibition of human beings trafficking, sexual and economic exploitation in respective provisions
- To reduce the emphasis on identity issues and to increase basic human rights provisions that protect all citizens

3. Citizenship/Nationality/Political participation

Citizenship is defined by Article 11, but in rather broad terms, as follows “Montenegro shall protect the rights and interests of Montenegrin citizens. A Montenegrin citizen cannot be sent into an exile or deported to another state, except in line with the international obligations of Montenegro.”

However, in Art. 96 regarding within the decision making of the Parliament it is outlined that the Parliament with a majority of votes of all MPs passes laws defining amongst the other issues “Montenegrin citizenship”.

The expert version prescribed that “A person is entitled to Montenegrin citizenship based on birth within the territory of Montenegro, if the individual does not have another citizenship” and that no one can be deprived of the right on citizenship (Art. 58).

Since the citizenship issue, obviously, represents the one from the set of those marking lines of division amongst political players they have chosen rather to avoid its clear definition then to agree upon mutually-acceptable solution. This may be problematic in future given the previously expressed strong and rather different standpoints of parties and the fact that the law could be passed only by the will of the ruling majority.

Throughout the entire text the wording is based on “citizen” or “person”, since the content of the Constitution basically sets up Montenegro as a civic state. Nevertheless, these terms as well as other parts are in masculine form.

There is no specific reference to the political participation of women and the general provisions shall apply to everybody. The provision granting equal opportunities is included in the part on political rights. This is surely an advance compared to the existing legislation and to a certain extent represents inclusion of principles outlined in Art. 7 of CEDAW which says that:

“States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms

⁴²Criminal Code incorporates these acts, e.g. Art. 159 on violation of sex freedom, Art. 204 on rape, Art. 205 on rape against disabled, Art. 206 on rape against children, Art. 207 on rape through the misuse of position, Art. 208 on forbidden sex acts, Art. 209 on solicitation and abetting of sexual intercourse, Art. 210 on prostitution, Art. 444 on human beings trafficking

with men, the right: a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; ...“

However, the Draft Constitution does not elaborate these obligations of the state as stipulated by CEDAW nor the respective provisions of Convention on the Political Rights of Women. Being aware of the societal context and serious under representation of women in politics, the suggestion is to introduce more precise measures of affirmative action in order to secure higher level of women participation in public affairs at the decision- making positions.

It is interesting to stress that in Art. 98 on the introduction of laws and other acts, this right is guaranteed to “Government and MP”, but also to “six thousands voters, through the MP they authorize for that ”which leaves additional space for civic initiatives. But, this represents a limitation in comparison with the current Constitution that leaves open this opportunity to “six thousand voters” but without the condition that an MP has to take it further into Parliamentary procedure.

Recommendations:

- To define clearly who is entitled to the citizenship
- To encourage political participation of under-represented sex and minorities in all decision-making/political processes
- To preserve already obtained rights of citizens to initiatives legislation without conditioning this on the support of an MP. This is particularly important in a society such as Montenegro in order to strengthen genuine civic initiatives.

4) Gender Equality Provisions

In the part defining Political rights and freedoms, within Chapter II, Art. 42 refers specifically to gender equality stipulating that the “State shall guarantee equality of woman and man and develop a policy of equal opportunities.” There is no definition of what “equal opportunities” stands for and the existing legislation does not recognise this expression. It is recommended to strengthen this part with clear obligation of state to work in this direction.

In addition to this, as prescribed by CEDAW the state could adopt special temporary measures to speed the process of establishing gender equality.

This is the very first time that such a formulation is a part of the highest act of Montenegro, consequently it represents a solid base for development of legislation in that direction in line with best practises and existing international standards. Unfortunately, the same or similar provision does not exist concerning economic rights. Also, the fact that the gender equality law was for years in preparation and just recently passed in the Parliament reflects the lack of serious will of Government to consider this as one of its priorities, as well as a lack of interest of political parties to push for this. There were two drafts submitted to the Constitutional Assembly in short period: one of the Liberal Party (LP)⁴³ and the other by the Government⁴⁴ the latter was adopted.

⁴³To a great extent, their draft is similar to the one developed by the Government (according to the Head of the Gender Equality Office even identical) and the LP stated that they only wanted to support the whole

Recommendation:

- To pass relevant legislation that elaborates on what equal opportunity means, provides mechanisms of this proper implementation and outlines procedures of appeal, review, submitting complaints, etc.

5) Non-Discrimination Clauses

Within the Basic provisions, Art. 6 on Human rights and freedoms within IV paragraph states “Every direct or indirect, discrimination based on sex, nationality, race, religion, language, ethnic and social origin, political and other convictions, wealth or any other personal attribute shall be forbidden”⁴⁵.

Gender is not recognised as separate category and it is recommended to expand this in that regard. Being aware of general social attitudes that consider sexual orientation as taboo subject and as anything that is not considered as mainstream is likely to be seen in a rather discriminatory perspective, a clause on gender equality could provide the impetus to positive change.

Also, compared with the expert version, this one seems to be making a step back. Namely, the expert version had in Chapter II, on Human Rights and Freedoms, a specific Article on Equality and Prohibition of discrimination (Art. 19) prescribing among other provisions that “The equality of women and men shall be guaranteed in all aspects of life”. Although, it is important to note that Article 8 prescribes the direct supremacy of international law.

There are no specific prohibitions on grounds of gender or sex. It should be also noted that the Constitution does not make difference between gender and sex.

Art. 6, within Basic provisions, does mention both direct and indirect discrimination, but does not refer to gender which should be included in order to improve the entire provision.

Recommendation:

- To introduce recognition of discrimination based on gender as the social and political category that position women and men in traditional roles, in addition to the one on sex which defines the biological attribute of an individual. This is of crucial importance in further implementation of non-discrimination as a normative principle
- To include other grounds, such as sexual orientation, through which to prohibit discrimination, in order to promote a positive change in societal attitudes.

6) Equality before law the Law Provisions

In the Chapter on Human rights and freedoms, Art. 11 on Equality explicitly says “All people shall be equal before the law, regardless of any particularity of personal attribute.”

process by using the opportunity initiative through 1 MP to speed the procedure which dragged on for quite a long time within Government bodies

⁴⁴ The drafting of this one has been coordinated by the Governmental Gender Equality Office

⁴⁵ The Criminal Code already prescribes sanctions against acts that jeopardize equality (Art. 159)

Also, within the same Chapter there are number of provisions specifying in detail equality in terms of protection of his/her rights and freedoms (Art.17), right to the appeal and other legal remedies (Art. 18), right to legal assistance (Art. 19). The wording is done in neutral manner (e.g. everyone). But, it is important that men and women have equal access to resources in addition to the equal treatment before the law as stipulated by Art. 15 of CEDAW - without equal access to resources, it is impossible to guarantee equal treatment.

Recommendation:

- To use wording “men and women” instead of “people” in order to stress the notion that women are entitled to the same rights

7) Positive / Affirmative Action Provisions

Within employees’ rights, Art. 57 of paragraph IV prescribes that “Youth, women and disabled shall enjoy special protection at work” but without further elaboration on the content of special measures. Art. 4 of CEDAW endorse the principle that the:

“Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved”. It also adds in Paragraph II that “Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory”.

This issue needs to be understood within the wider discussion of the need to encourage de facto equality. Clearly, the Constitution already acknowledges that structural inequality exists, due to its incorporation of both direct and indirect discrimination. A special measures clause would constitute one step further to redressing structural inequality and provide for actual practices to ensure this.

In addition to this, within the health protection, Art. 61, after the general provision that enacts the principles according to which “Everybody has a right to health care”, it states: “Children, pregnant women and the elderly have a right to health protection from public revenues, if they do not enjoy that right on some other base. ”

However, further on, Art. 65 focuses on protection of mother and child in general terms stipulating that “mother and child shall enjoy special protection.” Clearly, woman is perceived only as mother and that role reserves her special status.

Recommendations:

- To introduce general clause permitting special measures for those placed in an unequal position in society.
- To introduce a broader provision which would be helpful in highlighting the temporary nature of special measures aiming at addressing historical, structural inequality.

8) Rights of Women

There are no provisions outlining rights of women as such, except for those elaborated in “*Positive / Affirmative Action Provisions*”, and within those woman is conceptualized as a mother. In other aspects women are invisible in this act.

9) Property Ownership

This issue is defined on the level of the principle that “Property shall be inviolable. No person shall be deprived of the right to property, except when so required by the public interest, with remuneration in line with market value”

This provision is far too general and in principle serves to legitimize only a male right to property through this act, rather than enshrine equal rights between men and women. Base for this is in continuing prevalence of customary traditions that limit women’s access to property regardless formal legal provisions.

Recommendation:

- It is essentially important to stipulate who can own property and the following wording would be recommendation “Men and women have an equal right to own property”.

10) Freedom of Association

The freedom of association is guaranteed by Art. 51, including the provision stipulating also that the “State shall assist political and other associations, when there is a public interest for that.”

It is interesting to note that within the reasons for prohibition of political and other organisations, even though there is an extensive list of violations regarding expressed hatred that are prohibited, the draft Constitution does not recognise as such gender-based hatred, if these are not included within “other”.

Recommendation:

- To include gender-based hatred within these provisions, since it would strengthen the entire clause and provide additional civil protection to men and women alike, as gender-based hatred can be directed at both men and women. This clearly shows how gender refers to social roles and perceptions, and is therefore not limited to “women” alone.

Economic, social and cultural rights

There is no statement on guaranteeing the protection of already-obtained rights, which would be important to incorporate being aware of the affirmative actions that protected these rights in regard to maternity leave. Namely, the European standards⁴⁶ provide a minimum set of standards meaning that Montenegro could use the already existing provisions that are more favourable for its subjects. To be precise, existing Labour Law, Art. 82 enables women to take maternity leave for 365 days which is much more than EU Directives prescribe. Additionally, Art. 23 of CEDAW states that international law trumps domestic law, unless the latter is more advance. (“Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women”.)

All citizens are entitled to economic, social and cultural freedoms and rights prescribed by the Constitution regardless of their sex and gender.

⁴⁶ Directive 95/85/EEC on employed pregnant women and mothers, Directive 86/623/EEC on protection of self-employed women during pregnancy and motherhood, Directive 94/34/EEC on parental leave

11) Employment Equality/Equal Pay for Equal Work

The general provision of Art. 56 guarantees the “right to work, free choice of profession and labour, fair and human working conditions and protection during the unemployment period”. Art. 57 within rights of employees defines that “all employees have a right to adequate pay”, but it is not explained whether it refers to pay for work or value and what “adequate” actually means. The wording is in masculine plural. This clause should be put in more specific terms indicating that “men and women are entitled to equal pay for equal work”⁴⁷ and it ought to be strengthened by guaranteeing respect for maternity leave (this was included in the expert version in Art. 68)⁴⁸. The expert version also stated “Everybody freely chooses vocation and employment, and each employment is available to everybody under the same conditions” (Art. 67).

The same article stipulates that “Youth, women and disabled shall enjoy special protection at work” but there are no detailed provisions regarding job protection, job security for pregnant women, etc. The expert version contains these clauses guaranteeing “the right for a mother to material help provided by the state for a certain time limit, prescribed by the law, before and after childbirth” (Art. 66). Also, the same text endorses job security through a clause that entitled “employed mothers to special protection during the pregnancy, rights for maternity leave which will be prescribed by related law, salary during the maternity leave and other rights as prescribed by the law”.

Recommendation:

- To use these solutions from the expert text as the model for the new Constitution in regards to employment equality since the expert text provides for more detailed rights to women during pregnancy and clearly portrays pregnancy as a temporary state. This formulation does not place women in a permanent role of mother that is incompatible with working life.

12) Marriage/Family/Pregnancy/Inheritance

The Draft Constitution provides equal rights concerning marriage which “can be contracted only upon a free consent of both woman and man” (Art. 63). The Constitution does not recognize marriage between those of the same sex and since Montenegro is in a position to modernize its Constitution in line with international standards this should be included.

The provision concerning family stipulates that the “Family shall enjoy special protection. Parents shall be obliged to care for their children, for their up-bringing and education. Children shall be obliged to care for their parents whenever they should be in need of care. Children born out of wedlock shall have the same rights and obligations as children born in wedlock” (Art. 64). The inheritance right is guaranteed (Art. 82) but this clause is problematic taking into account the practice and prevalence of customary law, which will be discussed in more detail below. The wording recommended in *Property Ownership* should be used in order to ensure a women’s right to inheritance is guaranteed despite the strong influence of customary law.

⁴⁷ Based on CEDAW and draft Constitution for Europe Art. 214

⁴⁸ Art. 68 of the expert version, para II „Everybody has the right to protection from firing in case of maternity and exercising parental rights after the birth of child“

The same part of the act stipulates that “Mother and children shall enjoy special protection. The State is obliged to create conditions for encouragement of childbearing.” (Art. 65). Obviously, woman is perceived only as mother in this context which is rather problematic for gender equality. Also, it is not clear what exactly “special protection” stands for but it is expected that related laws will define it in more detail. Moreover, the second part of the quoted article seriously minimises a women’s right to reproductive choice and does not reinforce gender roles but places the burden squarely on women, rather than addressing the societal roots of a decrease in population (economic, political, social, etc). Unfortunately, this has also its implications for access to abortion as discussed above.

Art. 12(1) of CEDAW that states

“1. State Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.”

should serve as model of best practice of how the state can intervene in matters regarding motherhood and consequently incorporated into text.

However, there are no provisions concerning domestic violence.

Recommendation:

- To include a provision that the state can and should be encouraged to support family planning initiatives, social services in the form of child care, but should not encourage childbearing itself
- To include a specific right guaranteeing to both men and women an equal right to inheritance.
- To include a provision prohibiting sexual and gendered violence.

13) Children/Abortion

Abortion is not defined by the Draft Constitution, and the impression exists that drafters intentionally avoided this issue since the discussion on it opened in the Constitutional Assembly by one female MP⁴⁹ has not provoked them into an argument-based debate. Art. 65 includes only the encouragement of childbearing, which is a step back compared to the expert version which stipulated that the “Decision on childbirth is free, and could be limited only for the sake of protection of health of the mother.” (Art. 63).

Recommendation:

- To include a clause guaranteeing equal rights to parents to decide upon the number of children and to strengthen other parts that refer to the possibilities of the state to provide adequate conditions for childbearing (i.e. access to family planning information/education, access to day care, adequate parental leave, job protection during pregnancy, etc.)
- To include a clause concerning reproductive health

14) Religious/Customary Law

There are no provisions on religious or customary law vis-à-vis national/constitutional law. But, it is worthwhile noting that in the Montenegrin reality customary law is implemented in certain cases at the expense of national law. This specifically refers to property and inheritance rights, where it is considered as socially desirable that a sister

⁴⁹ Ms Hidajeta Bajramspahić, from the SDP argued that women should be granted the right to decide on abortion

gives up her inheritance rights for the benefit of brother or that joint property is listed on husband name.

The current draft stipulates that “The property right shall be granted. No person shall be deprived of the property rights unless when this is required by the public interest, with the compensation of the market value. Natural wealth, goods in general use and assets of special historical importance shall be state owned.” (Art. 80) and that “The succession right shall be granted” (Art. 82)

Furthermore, it is still often socially non-acceptable if she holds these rights over land or something similar that symbolically belongs only to the direct male successor who keeps the name of the family.

Therefore, it is recommended to re-emphasize the supremacy of international law and the importance of making both property and inheritance rights able to be brought before a court of law. Best practices of societies with similar tradition in this aspect should serve as a model and the phrasing recommended in *Property Ownership* should be used.

Recommendation:

- To regulate by legislation the specifics of property ownership and inheritance

15) International responsibilities/oversight mechanisms/customary law

International Treaty Obligations:

This Draft Constitution made a step forward by clearly stipulating in Article 8 concerning the Rule of Law that “Confirmed and publicised international agreements and *jus cogens* of international law shall represent a part of the rule of law and shall have supremacy over domestic legislation and shall be directly implemented when regulating relations differently than it is prescribed by the domestic legislation”⁵⁰. The expert version even prescribed that principles for interpretation of human rights and freedoms provisions should be based “taking into the account their essence and sense, democratic values and in line with the standards contained in decisions of international courts and other institutions dealing with human rights and freedoms and their protection” (Art. 20)

It is important to note that the draft Constitution introduces within the chapter on courts, Art. 123, paragraph II, that the “Court shall decide on the basis of the Constitution, laws and confirmed and publicised international treaties.” A similar provision applies to the state prosecutor, where Art. 132, paragraph III reads the “State prosecutor shall perform this function on the basis of the Constitution, laws and confirmed international treaties.”

As defined by the Constitution, the Parliament “shall decide on capacity of units of the Army of Montenegro within international forces”, “ratifies international treaties” (Art. 87). Also, the President “shall represent Montenegro in the country and abroad and concludes international treaties within its competencies” (Art. 100) and the Government shall “(1) determine and conduct interior and foreign policy and ... (4) conclude international treaties..” (Art. 105)

Lastly, but in fact confirming the above and strengthening it, within the chapter on Constitutionality and legality, Art. 133 reaffirms the principle of international law stating

⁵⁰ This is especially important in light of the fact that Montenegro has ratified CEDAW, and in the coming period will also have to follow related CoE recommendations and EU directives.

“The Law must be in conformity with the Constitution and confirmed international treaties, and other regulations must be in conformity with the Constitution and law.”

Remedial and Oversight Mechanisms

The Constitutional Court is the body granted to decide “on the conformity of the Constitution with confirmed and publicised international treaties”. The initiating procedure of assessing the constitutionality and legality before the Constitutional Court is granted to everyone (wording is in neutral form).

The Constitution provides a legal basis for the institution of the Protector of Human rights and freedoms as a “self-governing and independent body” and the functions of the Protector shall be applied “on the basis of the Constitution, laws and confirmed international treaties”, taking into the account “principles of justice and fairness” (Art.76)

16) States of Emergency/Non-derogation of Human Rights

Including a state of emergency clause may represent a good practice since it stresses the temporary nature of such a situation and provides for non-discrimination as well as non-derogability of human rights.

In Art. 22 defining Temporary limitation of rights and freedoms, paragraph II states that “Limitations cannot be exercised based on sex, nationality, race, religion, language, ethnic or social origin, political or other conviction, wealth or any other personal attribute.”

Pursuant to paragraph III it stipulates that the following rights cannot be limited “right to a human dignity; life; inviolability of mental and physical integrity; safety; fair trial; presumption of innocence; punishment only in line with the law; citizenship” nor that it could abolish restrictions concerning “force assimilation, provoking national, race or religious hatred and inequality, force labour, retroactive application of laws and bylaws.” The recommendation would be to include also gender based hatred and inequality.

The Parliament within its competencies promulgates “war and state of emergency” (Art. 87 and 96).

Recommendation:

- To include gender as grounds for prohibiting discrimination during a state of emergency
- To include gender-based hatred as a basis on which to prohibit restrictions during a state of emergency.

Review of political party platforms for commitment to gender, and assessment of the implementation status of these commitments

Mapping of political parties in parliament

After the latest national elections held on 10 September, 2006 the Montenegrin Parliament composed itself as a Constitutional Assembly with 81 MPs.

The absolute majority consists of a ruling coalition formed by the Democratic Party of Socialists (DPS) and the Social Democratic Party (SDP) with 41 Mps (DPS has 33 and SDP 7). Following the pre-election agreement with the Croatian Civic Initiative (HGI), this party has one of the 41 seats representing part of the ruling coalition, as well. Out of this number only 6 MPs are female (5 belonging to DPS and 1 to SDP).

Individually the strongest opposition party is the newly established Movement for Changes (MfC) with 11 MPs, out of which 2 are female MPs.

The coalition of several political parties under the name “Serb list⁵¹” (SL) has 12 MPs, and amongst them 1 female.

The coalition of Socialist People’s Party (SNP), People’s Party (NS) and Democratic Serbian Party (DSS) has 11 MPs and none of them is a woman.

The remaining seats are made up of the coalition of Liberal and Bosnian Parties with 3 MPs, and 3 national Albanian parties⁵² each having 1 MP and none of these included women in their parliamentary representation.

The overall participation of women at the elections in 2006 was less than in 2002, to be more precise 14.6% compared to the last elections, or only 109 out of 747 candidates on the party lists. During the interviews with party leaders, they all justified this considerable under representation of women within their party decision-making posts by highlighting the lack of interest of women. They dismissed the indications that this was the result of any possible discrimination.

Until recently, only two of the listed political parties mention gender within their programmes, in differing degrees. There are no legally binding provisions regarding quotas even though politicians committed themselves before the elections to including 30% of women representatives; clearly none of them respected the taken commitment. All leaders of main political parties are men, and only in few smaller there are women at the positions of vice-presidents.⁵³

Within their parliamentary and party work, nobody questions the principle of gender equality but there is an evident lack of affirmative action and women mainly remain invisible in the governing bodies of the key players which easily transcends to the decision-making positions within the institutions. Gender-sensitive language is not in use, even though there are some steps forward in that direction.

⁵¹ The leading party is the Serbian People’s Party (NSS), but the coalition also gathers: Serbian Radical Party (SRS), Democratic Party of Unity (DSJ), People’s Socialists Party (NSS) and NGO “Serbian National Council” (SNV)

⁵² Democratic Union of Albanians (DUA), Democratic Alliance of Albanians in Montenegro (DSCG)& Party of Democratic Prosperity (PDP) and Albanian Alternative (AA)

⁵³ Both vice presidents of the Democratic Serbian Party (DSS) are women, one of the Liberal Party (LP) vice presidents is woman

Analyses of political parties concerning their position on gender

The subject of detailed analyses are: Democratic Party of Socialists (DPS), Social Democratic Party (SDP) from the ruling coalition, Movement for Changes (MfC) and Socialist People's Party (SNP) from the opposition and Bosniak Party (BS) also from the opposition but here are more in capacity of the largest national party.

The names of the parties do not necessarily reflect their policies in the framework of similar parties or international groupings. The analyses encompass their political platforms and related documents, such as statutes and different declarations accompanied by the interviews with party leaders and those active in the respective area of interest.

Democratic Party of Socialists (DPS)

The party programme adopted at the Congress held on 19 May, 2007 is titled „For European Quality of Life” and comprised of the following parts: for European quality of life; for present and future – for Montenegro as the society of progress; for Montenegro as the society of European and Euro-Atlantic integrations, multilateralism, traditional friendly and good neighbouring relations; for Montenegro as the society of further democracy development; for Montenegro as legal and efficient state; for Montenegro as the society of employees; for Montenegro as the building society; for Montenegro as the society of high level tourism; for Montenegro as the society good households; for Montenegro as the society faster regional development; for Montenegro as the society energy efficiency, ecology and economical approach; for Montenegro as the society of higher wages and pensions; for Montenegro as the society of justice; for Montenegro as the society of youth; for Montenegro as the society of knowledge; for Montenegro as the society of health; for Montenegro as the society of multiethnic ad multicultural tolerance; for Montenegro as the society of cultural identity; for Montenegro as the society of successful sports; for Montenegro as the society of gender equality; for Montenegro as decentralised society; for Montenegro for DPS.⁵⁴

In chapter "For Montenegro – a society of gender equality" it is stated: "Men and women have equal status in the society, they are equally present in all spheres of public and private life, and they have equal opportunities for attainment of their rights. Our wish and our aim is that every human being has equal rights and possibilities for success, regardless of his/her differences". Somewhat more general guideline is given in the chapter "For Montenegro- a society of justice" whereat it is stated: "Our devotion to the rule of law and protection of all rights and freedoms of the citizens guaranteed by the law follows the principle of society of justice and equality before the law. All of us are not equal and we cannot do the same, but every person in our society has an equal right and chance to show his/her advantages, work and abilities.”

This is a significant advancement compared to the previous programme from 2001, that hardly had anything referring to the gender and the same goes for the election programme from 2006. In the interviews with interlocutors, conducted before the Congress these changes have been announced, as the part of the efforts to improve the gender equality affairs within the party.⁵⁵

⁵⁴ Source: www.dps.cg.yu

⁵⁵ Interviews were conducted with Mr Milo Đukanović, President of the DPS, Ms Ljubica Beba Džaković, member of the Main Board and Head of the Parliamentary Gender Equality Committee and Ms Nada

New Statute, also adopted on Congress from May uses gender sensitive language and affirmation of gender equality is listed among the basic principles of the party. Although they did not list separately Organization of women in the bodies of the party, it is mentioned in the context of the members of different bodies by function, mainly on lower levels. Also, Article 48 of the Statute states that "Party has an Organisation of women. Name of the Organisation, manner and forms of organising woman are proscribed by a separate decision of the Main Board." It is important to mention that during voting for newly-elected Main Board, which is the highest body of political authority and enactment of party's policies, on the top of the list by the number of votes were women, preceded by the Head of the Gender Equality Office.

DPS is gathering according to their own statements, in terms of membership, 55% of men and 45% women, and they consider that they have more or less same support in the electorate within both men and female. When it comes to the decision making level these figures are much different: amongst 16 members of the party presidency 1 is female (which is an improvement compared to the previous), out of 10 members of the executive board 1 is female, and within 204 members of the main board there are only 24 women. At the local level there is 12,19% of women and no female president of any local branch, within the local executive boards there is 9% of women and 5% of the presidents of local boards are women.⁵⁶

There was a non-formal group "Women Alliance of DPS – ŽAD" within the party and this was formalised at the Congress, as previously announced. Some of the interlocutors stressed that the work of women within the party was important and visible even though they have not been formally organised. They all claim that party is open for women's participation "in the framework of their own interest and readiness to accept the obligations"⁵⁷ and that there is no such issue as gender discrimination in the party, as well as that women were often refusing party and state functions due to their private reasons. Also, they underlined that gender equality is especially promoted within the party youth where the Council of DPS Youth within its internal organisation has a Gender Equality Commission and where both of the membership and leadership contain women which is indicative of some new party tendencies.

Women are present in the Parliament with 15,15%, but there is no precise data concerning councillors in the 21 municipality. There are 3 women in the position of president of local parliaments⁵⁸ and according to the interlocutors the participation of women in the managing board is considerable but there is no precise data on that. One woman is mayor.⁵⁹ In the parliamentary board for constitutional matters all 6 MPs are men and in the gender equality board there are 4 women and 1 man, and they hold as a party position of president of this board.

When it comes to the DPS priorities concerning women and gender, the interlocutors stated that these comprise: protection of women through the equal right to work, special

Drobnjak, member of the Main Board at that period (nowadays member of the Presidency) and Head of Gender Equality Office within the Government of Montenegro.

⁵⁶ Data concerning local composition are given by Mr Milo Đukanović

⁵⁷ From the interview with Mr Milo Đukanović

⁵⁸ Bar, Niksic and Cetinje

⁵⁹ Kotor

protection of woman as mother, advancement of healthcare of woman, as well as creating space for more intensive participation of women in DPS leadership and encouragement of women to use different opportunities within society.

There are no specific actions or policies as regards woman and gender, they prefer to stress that “overall activities and implementation of DPS programme respects the role of woman in society and family and affirms sensibility towards gender equality” and that this represents for DPS “understanding of relations amongst gender and their equality” where the numbers are not of crucial indicators.

The party does not have formal quotas for its internal structures. The expectations that these will be present at the Congress failed. It is interesting to note that this party had in one short but delicate period a female president⁶⁰.

DPS had and still has key role in constitutional process and according to them the “essential orientation of DPS is to have Constitution encompassing the highest European standards in all fields”⁶¹ The gender equality was not their focus of attention, but the interlocutors stressed that their MPs, especially President of the Parliamentary Club⁶², took active part in different events which analysed the draft Constitution from a gender perspective.

Both the President of the Party and one member of the Main Board⁶³ who is at the same time Head of Gender Equality Office make clear distinction between sex and gender, they are aware of the content of CEDAW and obligations that it imposes on the state and state that party is working on its implementation through education of its members and much more work through institutions, as they are the ruling party. It is note worthy that other member of the Main Board and Head of the Parliamentary Gender Equality Board does not find this difference as important, nor does it seem to be familiar with content of CEDAW or other relevant documents in this respect.

There is a clear gap between the statements from the interview and facts. Also, knowing that this party is a ruling one it is difficult to take as granted the expressed dedication to the gender main-streaming compared to the actual results, both within the party and through the decision making positions within institutions, and other accompanying measures.

Social Democratic Party (SDP)

Their programme was adopted at the party Congress in 2001 and it is comprised of the following parts: How did we start, Fundamental Values, Programme Determination (Establishment of Montenegro as independent and internationally recognised state, Democratic Character of state and functions of state bodies, Freedom and rights of citizens, Economic Reforms, Social Policy, Health Issues, Education, Culture, Special Development and Urbanism, Youth as the power of reforms, Equal position of Women).

⁶⁰ dr Milica Pejanović Djurišić

⁶¹ From the interview with Mr Milo Đukanović

⁶² Miodrag Vukovic

⁶³ After the Congress she is elected for the member of the Presidency

Even though it is the last part of the programme, the gender issue received considerable space. It is clearly stated that in the fulfilment of its programme goals and policy SDP reserves a special place for the “activities on establishment of gender equality” based on:

- Respect of the principle that freedom and justice are founded on recognition of genuine dignity of each person, the equal and inalienable right of all citizens – women and men, i.e. that gender equality is a question of basic human rights and freedoms
- Recognition of the need that the structure of representatives in the bodies of authority shall reflect the structure of the voting body within democratic society
- Realistic assessment of the fact that women are not equally represented at the decision making positions

In line with this, SDP obliges itself to:

- Develop public awareness on the importance on gender equality, i.e. fulfilment of women’s rights in the process of democratisation and society development
- Motivate and encourage women to accept political or public engagement
- Provide legal framework that would improve the position of women in the working place and in the family, as well as better status and rights of housewives
- Take action in preventing and eliminating all forms of gender-based discrimination and all forms of violence against women, domestic violence and trafficking in human beings
- Comprehensive protection of rights of women
- Implement documents of OUN on rights of women in domestic legislation⁶⁴.

The statute of the SDP defined as a permanent body within the party an organisation called the Women Forum, whose president is automatically a member of the Main Board and also Presidency of SDP. The branch offices have the same type of organisation within their structure. In addition to this, Chapter VII which stipulates Special forms of the organisation in its Articles 73 and 74 gives precise definition of Women Forum whose goals are: gender equality, higher participation of women in political and public life, improvement of women in society and family, providing assistance to woman and family. The Forum is conducted by the President elected within by the female members of the party and it has its own Rules of Procedure.

In the interviews, all interlocutors expressed their full devotion to the gender equality.⁶⁵

The Vice President recalls that the obligation of the party is to have 30% women in the membership party but does not have exact data on the current structure. The fact that gender-based statistics are not collected was confirmed by the other interlocutor.⁶⁶ In addition to this, he could not provide data on women in leadership positions within the party structures, but he admitted that the number of women is hardly close to the percentage that would be “adequate to the equal position of women” and that it requires further work in order to improve it. The other interlocutor stated that there is 1 woman in the Presidency out of 15 members, and in the Main board out of 73 members there are 11 women. When asked if there are some actions to change this situation, he referred to the

⁶⁴ Source: www.sdp.cg.yu

⁶⁵ Interviews were conducted with Mr Rifat Rastoder, Vice President of SDP and Vice President of the Parliament and Ms Mirel Radić Ljubisavljević. President of Women Forum of SDP and member of Presidency

⁶⁶ Ms Mirel Radic Ljubisavljević.

fact that they were the first party to establish a women's organisation and to introduce the principle that the president of the women's organisation is automatically a member of the presidency of the party and that they have also introduced the obligation that 30% of members have to be women.

There are no analyses on the voter composition in terms of gender nor are there plans to do that.

Within the parliamentary club out of 7 MPs one is a woman, but the Women Forum did not influence the decision on that. It was done by other party organs. When it comes to women's representation within the local governments, they do not have exact data, even though they claim that these could be easily found.⁶⁷ Since they are a "small party with few councillors in municipalities it is difficult to take care about these criteria"⁶⁸ and in practise there are four of them in four different municipalities. The same refers to the managing boards.

They have two male MPs in the Constitutional Committee and one female MP in the Gender Equality Committee.

After elaborating gender equality in the party programme, they believe that this issue should be defined by the constitution as well in order to facilitate the process of real gender equality. The Vice President is not aware of all the details of the activities of the Women Forum.

When it comes to the constitutional process, they spent the most time on human rights and minority rights, issues related to the concept of the state of social justice, education and in this context they dealt with gender equality. Still, the interlocutor did not seem to make a difference between the sex and gender nor did he seem familiar with the content of CEDAW. Other interlocutor has profound knowledge about the issue and international mechanisms in respective field.

Even though this party made a first step in incorporating gender issues in its basic documents, the gap between the proclaimed principles and goals and practice remains, especially taking into the account that they are for quite some time part of the ruling coalition and that they have on disposal more opportunities than opposition parties.

Movement for Changes (PzP)

This youngest party at the political party spectrum in Montenegro evolved out from the NGO "Group for Changes". This is individually the strongest opposition party founded in July 2006, when it has adopted a Programme and Statute at the founding Congress⁶⁹.

The extensive programme comprises: Founding Principles, Declaration about the political activities, Priorities of the new government (Discontinuity with the totalitarian manner of governing, Re-examining the violation of human rights from 1945, Taxing wealth accumulated since 1990, Revising the ongoing privatisation process, Writing the new constitution), Programme (State based on the respect of Law, State administration and

⁶⁷They promised to send them additionally, but failed to do that.

⁶⁸ From the interview with Mr Rifat Rastoder.

⁶⁹ Source: www.promjene.org

local self-government, Economic Policy, Education, Science and Technology, Healthcare, Culture, Media, Sport, Environment, National Strategies and Programmes, Restitution, Social Issues, Religious Institutions and Faith Based Communities, National Question, Relationship with other political parties, Developing Civil Society, National Security, Foreign Policy).

Within the Founding Principles it is outlined “The principle of equality is the foundation of good governance and stable society. The PzP, therefore, strives towards achieving and fully implementing/respecting the principle of equality. This is especially important in the area of gender equality, and the PzP will work tirelessly towards establishing that principle on various levels: within the family unit, in the workplace, and in public life.”

Further on, within the Declaration about the political activities, “equality of all citizens” is underlined as one of the bases of modern and democratic Montenegro.

In the part regarding Social Issues, within the section on Family, a set of affirmative actions are envisaged for mothers and children. According to its programme, PzP stands for “pro-natal policy with regards to the increasing of population”.

The Statute of the Movement for Changes is written in gender-sensitive language. Within Chapter VIII dealing with Special (interest) form of organisation is envisaged the creation of a Women Club and Women Network as voluntarily organisations of female members of PzP. Their aim is to deal with position and rights of woman within society, to work on fulfilment of rights of women in line with European standards, to plead for the active participation of women at all levels and activities of the Party. The organisation and work of the Women Club and Women Network is defined by the Rules of Procedure adopted by the Presidency of the Party, upon the proposal submitted by the Women Club and Women Network.

During the interviews, all interlocutors stressed that the party is giving equal opportunities to all.⁷⁰

They have precise database on membership and potential members and claim that there is a balance between men and women.⁷¹ Within the Presidency out of 15 members there are 2 women and in the Parliament club out of 11 MPs 2 of these are women. More or less the same composition is reflected at the local level in the municipalities they have councillors.⁷²

Within the party there is a Women Network as an autonomous interest organisation, and each municipal board, besides the regular candidates for other bodies, included one candidate from the Women network.

The latest internal research proves that 55,5% of their voters are women and 44,5% men. Still, within the electoral campaign they did not pay any special attention to women as the voting body but addressed this body as one with a general message. During the election campaign at the party conventions, usually there were 7 to 10 speakers, out of which at

⁷⁰ Interviews were conducted with Mr Nebojša Medojević, President of the Party and Dr Maja Kostić Mandić, Member of the Presidency and MP who was also in the Constitutional Board

⁷¹ In that context, the president of the MfC underlined that they used database for the occasion of 8 March to send to all female members a greeting.

⁷² Podgorica, Bar, Kolasin, Bijelo Polje, Pljevlja, Berane, Andrijevica.

least 3 were women. The President of the party stressed that gender equality is a part of the changes that the party strives for.

Within the Constitutional Board there are two members out of whom one is a woman, and 2 female MPs are members of the Gender Equality Board.

In compliance with the party programme and priorities, the MPs in the Constitutional Board were active in incorporating gender equality provisions in the Draft Constitution and in that context they had communication with women NGOs trying to incorporate as much as possible of their inputs. Unfortunately, even though their MP in the Constitutional Board, Dr Maja Kostic Mandic, was very persistent not all of these provisions found its place in the latest version of the Draft Constitution.

There are no defined gender quotas in the party but they signed a Declaration on gender equality which proscribes a quota of 30%. They admit that they lack enough female activists who want to be engaged in politics professionally and stated that reaching this quota will be “depending on women who have professional and expert knowledge to be proposed by the party for their engagement in politics” underlining that they have an understanding of the needs of women towards family and are aiming to address these needs.

The main priority of the party in the constitution-building process was organisation of power in line with European standards, and they claim that the gender equality issue belongs to that as well. In addition to this, they try to focus on giving their contribution in overcoming existing divisions as regards identity and accompanying issues. The special focus for them was re-election of judges and prosecutors and human rights⁷³.

The president does not consider as important the difference between sex and gender but admits that he is not an expert on that topic. However, he stressed that there are others in the party more dedicated to that issue, that he consults them and follows their advice. The party stance is that all international obligations have to be respected and in that context they will assist the process by initiating topic-oriented debates both in the Parliament and in general, supporting NGO initiatives, laws etc. Also, they both mentioned contacts with local and international organisations dealing with these issues. The other interlocutor⁷⁴ is entirely aware of the content of CEDAW and she advocate for some of its part to be directly included in the Constitution. She said that she got the rhetorical support for her proposals as regards to gender equality but not much of it was at the end incorporated.

So far, this party seems to have the best balance between party documents and actual practice, but there is a fact that exists only for a year and it is to be seen in coming period to what extent this balance will be maintained.

Socialist People's Party (SNP)

Their programme dates back from March 1998 and is comprised of the following parts: Party, Main goals, Republic of Montenegro, Federal Republic of Yugoslavia, Civic Society, Democratic Governance, Economic Development, Tradition and Progress,

⁷³ Mr Nebojša Medojević

⁷⁴ Dr Maja Kostić Mandić

Public, International Relations and Activities, Cooperation with other Parties, Means of Fighting for Power.

Within these chapters there is not a line on gender as such.

However, in the part titled as “Republic of Montenegro” it is outlined that “Citizens are equal before the law and they cannot be discriminated against based on their nationality, religion, wealth or any other reason”. Also, within the part “Civic Society” it is stated that the SNP sees the “fulfilment of its programme goals in civic society founded on freedom of citizen as the central value”, and that it stands for “further building of civic society as community of free people whose rights and freedoms are inviolable – guaranteed and protected from the sphere of public authority, e.g. political state.” The SNP underlines its dedication to the “state based on rule of law in which all citizens are legally equal and enjoy effective implementation and respect of legality principles”.

In the Declaration adopted on 26 November, 2006 at the latest SNP Congress, this party is highlighting its “dedication to development of Montenegro as democratic, civic, multiethnic and multi-religious state of free, sovereign and equal citizens.”⁷⁵

The Statute of the SNP, including amendments from the last Congress, does not enshrine any provisions that would enact affirmative action, such as quota or anything similar.

The party recently organised a round table on gender equality within European integrations perspective, but in general there are no other similar activities recorded and they do not have currently an active women's group organised within the party.

In the interviews, all interlocutors underlined the party dedication towards implementation of a gender equality principle.⁷⁶

Still, they admit that within the party membership the current situation does not reach even 30% of women, but do not give more exact numbers. It is interesting that compared to the other parties they have more women at the level of municipal boards than in central structures and one of the “party task in the coming trimester is to bring that number to 30% which will lead to the increase of female members of the main board to 200% in comparison with current state of affairs”. However, the representation of women is dependent on the Women Forum who existed up to now as well but “was not organised in an adequate manner”⁷⁷ This will be changed with its reorganisation which includes organisation from bottom to top⁷⁸

The party never conducted any research on the composition of their voters, but they used those conducted by other organisations⁷⁹. However, the party is entirely open to women⁸⁰ and they believe that 55% of their voters are women.

⁷⁵ Source: www.snp.cg.yu

⁷⁶ Interviews were conducted with Mr Srđan Milić, President of the Party and Ms Snežana Jonica, Secretary of the Executive Board. During the interview with Mr Milić, Ms Rada Đurišić the Head of his Cabinet was present and in several occasions she took active part

⁷⁷ From the interview with Mr Srdjan Milic.

⁷⁸ From the interview with Mr Srdjan Milic and Ms Snezana Jonica.

⁷⁹ Such as National Democratic Institute (NDI) which among the other categories lists housewives as 26% of the voters for this Party.

⁸⁰ Ms Rada Djuriscic

The party does not have female MPs. At the level of local authorities the percentage of the councilors is approximately 30% with a prospect of increasing. As regards membership in the managing boards this is much less than 30%.

The party has 1 MP in the Constitutional board and 1 MP in the Gender Equality Board, but the latter is still not appointed.

The fact that they do not have anything in the party programme and accompanying documents on gender equality is justified by the argument that these have been adopted a decade ago when this issue was not so much in focus, but also by the fact that they “prefer working in practise than simulating that which can be entirely counterproductive”.

They see the huge potential in the party human resources which have been built in this direction through the different NGO programmes as well as those of the Gender Equality Office and there are expectations that these people will work more on the gender mainstreaming within the party.

In the process of constitutional building the focus is on fulfillment of their party programme and aim, meaning that they advocate a state of social justice, economic rights, supremacy of international law, and decentralisation of governance as a precondition of regional development.

They supported proposals of PzP's MP concerning gender equality provisions for the Constitution, but believe that this is not enough. The President of the party, as well as two other interlocutors make a difference between gender and sex, and consider these differences as important. They are aware of CEDAW and its content.

The impression is that the praxis within this party is slightly more advanced as oppose to the basic documents in the field of gender equality, but there is plenty of space left for advancement of both aspects.

Bosniak Party (BS)

This is a newly formed party in 2005, combining several smaller parties gathered around the Bosniak national minority but previously being not enough successful individually to enter the Parliament.

Their programme was adopted in 2005 and amended in April 2007, and is comprised of the following parts: Programme principles and aims of the Party, Manner of acting, Human Rights, Democratic Governance, Rule of Law, Peaceful Conflict Resolution, Sandžak Issue, Serbia and Montenegro – State Union, Bosniak People, Education, Freedom of Religion, Market economy and agriculture, Welfare State, Family and Protection of Women, Fight against social diseases, Freedom of Media, Criminal code and state of law, Ecology, Cooperation with other parties. The Statute of the Party refers to a Women Forum in the part on the composition of the Main board, but there are no other details on it.⁸¹

Apart from general statement on affirmation of human rights and freedoms and equality of “all people and citizens regardless their religion, nation, race, sex, language, social

⁸¹ Article 28 of party Statute.

position and political conviction”, there is no mention of gender equality. The entire programme has prevailing focus on equality of national and ethnic minorities.

The interlocutor does not consider gender as an issue that should be specifically analysed.⁸²

In that direction, the party does not have any exact data about the composition of the membership, but the assumption is that the ration is 80%-20% in favour of men. Still, the interlocutor states that they have more or less the same voting support within the Bosniak ethnic group, regardless of gender. When it comes to the party structure, he admits that due to the strong influence of customs of the population that the party represents, very few women are active. The strongest position which is held by a women is the position of secretary of their strongest municipal board,⁸³ which also has the largest number of women compared to other municipal boards.⁸⁴

The interlocutor claims that the party leaders are aware of this and that they will try to change this in the coming period in order to have this difference decreased to at least 65% to 35% in favour of men, even though he underlined the particularities of the party which have roots in the mentality of the population they represent. It is interesting to note that, during the interview, he referred to women several times using the phrase “those who belong to the prettier sex” or “ladies”.

The party has a Women Forum and it delegates two members to the Main Board. This was formed at the initiative of the party leaders with the aim to get the support of more women, but it seems that the Forum is not really active.

The representation of the Bosniak Party in the Parliament is limited to 2 MPs and none of them is a woman. Moreover, in the municipalities where they have councillors there are no females.⁸⁵ Being a small party they hardly have any representation in the managing boards of the public enterprises, and these rare positions are filled with men.

The party does not have a specifically gender equality designed programme, but he announced that this is in process and the Women Forum will develop its own working plan and programme. Consequently, there are no related priorities or undertaken activities.

There is no quota regarding gender representation within the party but the plan is to have it very soon and to be at least 1:3 in terms of having at least a third of women representatives. The interlocutor expressed his personal view concerning quotas which was negative underlining that quantity should not be the main criteria but that he is aware of the need to have female representation in all structures. However, some of his statements seem to be in contradiction since he further on highlighted that he considers “that the family is the basis of the state, and woman is a base of the family” and asked “who will direct children if the women are not there in the family”. He concluded that “the aim of the party is to have more women included”.

⁸² Interview was conducted with Mr Amer Halilović, member of the Presidency of the Bosniak Party and MP.

⁸³ Municipality of Rožaje.

⁸⁴ He could not provide more detailed information.

⁸⁵ The party has councilors in 6 out of 21 municipalities: Rožaje, Plav, Bijelo Polje, Bar and Tuzi.

The Bosniak Party has one MP in the Constitutional Board and one MP in the Gender Equality Board. In the constitutional process they, as a nationally-oriented party, focused on related issues, such as the constitutional and legal position of the Bosniak people (even though if the state is organised as civic they would advocate that concept as well), guarantees for rights of national minorities, question of language, symbols, organisation of powers, and local self-government since they found these corresponding the most to the party priorities and needs. They did not propose any gender provisions but the “lady” from MfC, and the Bosniak party supported all of these without going into a detailed discussion since they did not find the topic as within their own field of expertise. Interlocutor does not make any difference between sex and gender and does not consider that difference as being significant.

He does not seem to be aware of the content of CEDAW and also asked “if there was any violence against women in Montenegro”. He stated that these issues will be dealt though the Women Forum and that he will support all their initiatives.

It goes without saying that it will take quite a long time before this party seriously incorporates gender equality both into its basic documents and in practice.

Conclusions

It seems that the new Montenegrin Constitution will be at the end sort of the deal amongst the parliamentary political parties in which the experts of diverse profiles could not have contributed in their full capacity due to the complex political relations. Public debate proven to be a performance even though it produced valuable set of suggestions. Still, it is early to make the final judgment and there is a space for this Constitution to bring advanced solutions in number of fields, including gender equality.

Clearly, no matter what lines of divisions exist within the political parties that were subject of this analyses and how different their policies are in many aspects, the common point is that the gender equality issues do not represent the priority of any of these.

However, there are certain nuances in terms of incorporating gender in the main party programmes and practice. Most of the newly or recently adopted party platforms and accompanying documents do have a part referring to gender. In practice, there are rare examples of actual following of the proclaimed gender sensitive politics.

Within the scope of the analyses, the Bosniak Party seems to be the least advanced both in accepting and implementing principles of gender equality. After comparing programmes and other documents with the practice, the best balance is achieved, so far, by the Movement for Changes.

Consequently, this has reflected in their own work at the new Constitution: the most active member of the Constitutional Board in incorporating provisions on gender was MP from Movement from Changes. Most of the others either did not show any interest for this issue, or they supported the proposed provisions rhetorically being more dedicated to other aspects of the Constitution.

BIBLIOGRAPHY

- Archive of daily papers “Vijesti” (www.vijesti.cg.yu) and “Dan” (www.dan.cg.yu)
- Bosniak Party, „ Programme”, Rožaje, 2007
- Bosniak Party, „ Statute”, Rožaje, 2007
- Bosniak Party, „Resolution on culture”, Rožaje, 2007
- Bosniak Party, „Resolution on education”, Rožaje, 2007
- Bosniak Party, „Resolution on resolving constitutional and legal position of Bosniak people in Montenegro”, Rožaje, 2007
- CEDAW, <http://www.un.org/womenwatch/daw/cedaw/>
- CEDEM, “Political Public Opinion June 2007”, <http://www.cedem.cg.yu/opolls/detail.php?id=53>
- Democratic Party of Socialists, „Programme”, <http://www.dpscg.org/5kongres/ProgramDPS.pdf>
- Democratic Party of Socialists, „Statute”, http://www.dpscg.org/images/stories/dokumenta/statut_dps_crne_gore.pdf
- Democratic Party of Socialists, „Election programme of Coalition For European Montenegro 2006”, <http://www.dps.cg.yu/web/izbori2006/pdf/Program-parlamentarni.pdf>
- Democratic Party of Socialists, „Action Programme established at the IV Congress of DPS in 2001”, <http://www.dpscg.org/images/stories/dokumenta/program.pdf>
- Drobnjak, Nada, ed. „EU – Gender Equality in International Documents“, Podgorica, Gender Equality Office of the Government of the Republic of Montenegro, 2005
- Drobnjak, Nada, ed. „Constitution and Gender Equality”, Podgorica, Gender Equality Office of the Government of the Republic of Montenegro, 2007
- European Convention on Human Rights and Freedoms, <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=005&CL=ENG>
- Expert text of the Constitution of Montenegro, Podgorica, September 2007
- European Commission „Progress report of Montenegro for 2006”, Podgorica: Centre for Civic Education, Centre for Development of NGOs and European Movement in Montenegro, 2007
- European Council, „Montenegro: European Partnership for 2006”, Podgorica: Centre for Civic Education, Centre for Development of NGOs and European Movement in Montenegro, 2007
- European Commission for Democracy through Law (Venice Commission), “Interim Opinion on the Draft Constitution of Montenegro, Opinion No 392/2006”, [http://www.venice.coe.int/docs/2007/CDL-AD\(2007\)017-e.asp](http://www.venice.coe.int/docs/2007/CDL-AD(2007)017-e.asp)
- Freedom House, “Freedom in the World 2007”, <http://www.freedomhouse.org/template.cfm?page=363&year=2007>
- Monstat, Census results from 2003, <http://www.monstat.cg.yu/Popis.htm>
- Criminal Code, „Official Gazette of the Republic of Montenegro“, No 71/03, 07/04, 47/06
- Draft Constitution, Podgorica, March 2007
- Movement for Changes, „Programme”, http://www.promjene.org/dokumenti/program_pzp.pdf
- Movement for Changes, „Statute”, http://www.promjene.org/dokumenti/statut_pzp.pdf
- Movement for Changes, „ABC of Changes”, <http://www.promjene.org/dokumenti/abc.pdf>
- Social Democratic Party of Montenegro, „Documents”, Podgorica, 2001
- Social Democratic Party of Montenegro, „Programme”, http://www.sdp.cg.yu/files/program_sdp.pdf
- Social Democratic Party of Montenegro, „Statute”, <http://www.sdp.cg.yu/files/statut.pdf>
- Socialist People’s Party of Montenegro, „Programme”, Podgorica, 1998
- Socialist People’s Party of Montenegro, „Statute“, <http://www.snp.cg.yu/strana.asp?kat=1&id=112>
- The Economist, “The World in 2007: The Economist Intelligence Unit’s index of democracy”. http://www.economist.com/media/pdf/DEMOCRACY_INDEX_2007_v3.pdf
- Constitutional Assembly of the Republic of Montenegro, www.skupstina.cg.yu
- Constitution of the Republic of Montenegro, " Official Gazette of the Republic of Montenegro ", No. 48/92
- Šarčević, Edin, ed. Constitutional framing of the state: towards the new Constitution of Montenegro, Podgorica: Heinrich Boll Stiftung, Regional Office for SEE, 2007
- Law on election of MPs and councilors, „Official Gazette of the Republic of Montenegro“, No 4/98, 17/98, 14/00, 18/00, 9/01, 42/02, 46/02, 45/04, 48/06, 56/06
- Law on minority rights and freedoms, „Official Gazette of the Republic of Montenegro“, No 31/06, 51/06
- Labour Law, „Official Gazette of the Republic of Montenegro“, No 43/03
- Gender Equality Law, „Official Gazette of the Republic of Montenegro“, No 46/07