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# *Factsheet*

# Montenegro



# 1. HIV EPIDEMIOLOGY AND RESPONSE

## 1.1 HIV epidemiology in brief

Montenegro has a concentrated HIV epidemic, with 134 officially registered people living with HIV (PLHIV), which is 29% of the estimated number<sup>1</sup>. In 2014, 83 people living with HIV were receiving antiretroviral therapy (coverage 18% of the estimated and 62% of the registered number of people living with HIV). More than 90% of new HIV infections in recent years were caused by sexual transmission, mainly among men who have sex with men (MSM). The HIV prevalence among people who inject drugs (PWID)<sup>2</sup> and sex workers (SW)<sup>3</sup> is around 1%, but it is high with 12.5% among men who have sex with men<sup>4</sup> (Table 1). There are significant gender (e.g. 84% HIV infections have been diagnosed among men) and sub-regional differences (40% in the coastal area, 41% in Podgorica and 19% in the rest of the country)<sup>5</sup>.

## 1.2 Legal and institutional aspects of the national HIV response and the role of NGOs

The **National Strategy for Combating HIV/AIDS for 2015-2020**<sup>6</sup> and its **Action Plan** are based on a multi-sectoral approach and specifically include NGOs as strategic allies. The Strategy recognizes the increase in the cooperation between the government and NGOs in

1 Republic of Montenegro, *Country Progress Report* (2015).

2 Dragan Laušević et al, *Survey on HIV/AIDS Related Risk Behaviour, HIV, HBV and HCV Seroprevalence Among Injecting Drug Users in Podgorica, Montenegro in 2013* (2014).

3 Dragan Laušević et al, *HIV and Risk Behaviour Among Female Sex Workers in Montenegro in 2012* (2012).

4 Boban Mugoša et al, *Survey on Knowledge, Attitudes and Behaviours Related to HIV/AIDS Among Population of Men Who Have Sex With Men in Montenegro* (2014).

5 Republic of Montenegro, *Country Progress Report* (2015).

6 Republic of Montenegro, *National Strategy for Combating HIV/AIDS 2015-2020* (2015).

**Table 1: Indicators for key populations**

	PWID	MSM	SW
Estimated population size	N/A	N/A	N/A
HIV prevalence (%)	1.1	12.5	0.5
Coverage of HIV testing in the past 12 months (%)	17.6	35.0	15.0
Prevention programme coverage (%)	N/A	N/A	32.0

Source: *Survey on HIV/AIDS Related Risk Behaviour, HIV, HBV and HCV Seroprevalence Among Injecting Drug Users in Podgorica, Montenegro in 2013* (Dragan Laušević et al, 2014); *Survey on Knowledge, Attitudes and Behaviours Related to HIV/AIDS Among Population of Men Who Have Sex With Men in Montenegro* (Boban Mugoša et al, 2014); *HIV and Risk Behaviour Among Female Sex Workers in Montenegro in 2012* (Dragan Laušević et al, 2012).

the HIV response in recent years, as well as the important role of NGOs in prevention and care. The Strategy envisages increasing the capacity of the government and civil society sectors in HIV prevention. The Action Plan also mentions NGOs as implementing partners in numerous activities related to prevention, research, training, and awareness raising. For example, it includes NGO participation in capacity building, developing and conducting training programmes for staff on provision of services for people living with HIV, based on good examples of local NGO work. In addition, the Action Plan includes NGOs in analysing the legal framework for improvements of services, including NGO services, for people living with HIV and key populations at higher risk of HIV exposure<sup>7</sup>.

The National AIDS Committee was established in 2001 with a government's decision as a multi-sectoral body to provide overall coordination of a multi-sectoral response. It consists of 15 members coordinated by the

7 Strategic Operative Goal 2.2 Activity 2.2.3, deadline for implementation is end of 2015.

Ministry of Health, including four NGOs (Juventas, Cazas, MHF (CHF) and SOS Telephone PG), as well as representatives of people living with HIV.

HIV prevention and provision of HIV-related medical services is envisaged by the following health related laws:

- ▶ **The Law on Protecting Citizens from Communicable Diseases** (2005)<sup>8</sup> includes HIV infection. There is no mention of NGOs being involved at any stage of prevention, treatment, care and support
- ▶ **The Law on Health Care** (2004)<sup>9</sup> recognises state and licensed private health care institutions, but not NGOs, as providers of health services
- ▶ According to the **Law on Health Insurance** (2004)<sup>10</sup>, people living with HIV are fully covered by the state-funded health insurance and do not need to cover any costs of their HIV treatment and care. The Law states that the Health Insurance Fund and additional government budget funds cover the costs of blood screening and prevention activities.

According to the 2015 Country Progress Report<sup>11</sup>, there has been an increase in outreach workers, opened drop-in/counseling centers for key populations and greater trust between the key population representatives and the NGOs involved in this work. The report emphasizes that the involvement of other sectors and NGOs working together with the government is critical for mitigating the negative consequences of HIV.

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8 Republic of Montenegro, Zakon o zaštiti građana od zaraznih bolesti (2005).

9 Republic of Montenegro, Zakon o zdravstvenoj zaštiti (2004).

10 Republic of Montenegro, Zakon o zdravstvenom osiguranju (2004).

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11 Republic of Montenegro, *Country Progress Report* (2015).

## 2. SOCIAL CONTRACTING OF NGOS IN THE NATIONAL HIV RESPONSE

### 2.1 NGO landscape in Montenegro

The **Law on Non-Governmental Organizations** (2011)<sup>12</sup> (hereinafter: NGO Law) regulates two forms of NGOs, namely associations and foundations. According to official data of the Ministry of Interior for 2014 there were 3,383 registered NGOs, including 3,183 associations, 103 foundations, and 97 branch offices of foreign NGOs.

The government adopted a **Strategy for Development of Civil Society Organizations (2014-2016)** and an **Action Plan** (2013)<sup>13</sup>, which includes creating legal and institutional preconditions for financial sustainability of NGOs. The Action Plan envisages adopting bylaws to prescribe allocation of public funds for NGO programmes and projects.

According to the USAID 2014 CSO Sustainability Index, the lack of funding became a systemic problem for sustainability of NGOs, including in Montenegro, as foreign donor support has declined, and state funds for the sector were still insufficient. In addition, the report cites that allocation of state funds lacks transparency and clear criteria<sup>14</sup>.

In Montenegro, NGOs can engage in economic activities as long as these are envisaged by their statutes and registered in the Central Register of Economic Subjects. In addition, the revenue from economic activities may not exceed EUR 4,000 (US\$ 4,463) or 20% of the organization's annual income from the

previous calendar year<sup>15</sup>. There are tax deductions for donations but not for social or health care services<sup>16</sup>.

### 2.2 Social contracting of NGOs under Global Fund grants

During the 2012-2015 grant phase six NGOs were financed by the Global Fund, with an average of US\$ 54,233 allocated per NGO (range US\$ 3,007 – US\$ 165,111). Funding was provided predominantly for prevention programmes among key populations and services at local levels (Table 2).

### 2.3 Government social contracting to NGOs: Legal and regulatory frameworks

There is no special law or procedure on social contracting and therefore, the **Law on Public Procurement** (2011)<sup>17</sup> applies to contracting NGOs for provision of this type of services. According to the Law, any legal entity, including NGOs, may compete

12 Republic of Montenegro, Zakon o nevladinim organizacijama (2011).

13 Republic of Montenegro, Strategija razvoja nevladinih organizacija u Crnoj Gori – 2014-2016 (2013).

14 USAID, *The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia* (2015).

15 A fine ranging from EUR 500 to 4,000 shall be imposed on NGO if it proceeds to conduct economic activity after crossing the allowed threshold of EURO 4,000 or 20% of total annual revenue within the calendar year (Art. 29 of the NGO Law)

16 The Law on Corporate Income Tax and Law on Personal Income Tax (Republic of Montenegro, Zakon o porezu na dobit (2001)) provide a narrowly defined list of areas of public interest eligible for tax-deductible donations. This list is much narrower than the list of areas of public interest, regulated by the Law on NGOs. Further, the Law on Corporate Income Tax does not include deductions for donations to social or health care activities. The Law on Personal Income Tax includes tax deduction for donations by individuals to 'public interest' services, which include health, educational, cultural, sporting, and religious services (Republic of Montenegro, Zakon o porezu na dohodak (2014)).

17 Republic of Montenegro, Zakon o javnim nabavkama (2011).

**Table 2: Global Fund average annual budget for NGOs (2012-2015)**

Programme	Budget allocated to NGOs (US\$)	% of line budget	National / local level (%)
<b>Prevention</b>			
PWID	98,974	68.3	0/100
MSM	57,783	93.1	0/100
SW	82,300	95.1	0/100
Vulnerable groups <sup>a</sup>	49,924	78.3	0/100
<b>Prevention subtotal</b>	<b>288,981</b>	<b>71.5</b>	<b>0/100</b>
<b>Care and support</b>	<b>16,888</b>	<b>55.7</b>	<b>100/0</b>
<b>Gender issues</b>	<b>5,478</b>	<b>100.0</b>	<b>100/0</b>
<b>Capacity building</b>	<b>45,056</b>	<b>81.4</b>	<b>100/0</b>
<b>TOTAL</b>	<b>356,403</b>	<b>48.3</b>	<b>19/81</b>

<sup>a</sup> Prison inmates, merchant marines, poor Roma, Ashkali and Egyptians.

Source: UNDP Montenegro.

for procurement contracts at both local and national levels. It clearly provides for the types of procedures for funding services<sup>18</sup>. According to the Law, transparency of the procedures should be ensured by publishing procurement plans, tender documents, decisions of candidates' qualifications, decisions on the selection of the best bid, all public procurement contracts, changes or addenda to the plan and any other relevant documents. The contracting authority must ensure equal treatment of all bidders regardless of their legal status and prevent the conflict of interest of the persons participating in a public procurement procedure. There are seven possible types of procedures for contracting services, based on the value of services<sup>19</sup>.

NGOs engaged in social service provision can also obtain funding through government grants. The NGO Law lists nineteen areas for public funding of NGOs' projects and programmes at the state level, including social and health care. According to the NGO Law, NGO programmes can last up to three years, which allows for multi-annual financing and planning. The

envisioned regulation that should detail the criteria and process for allocation of public funding to NGO projects and programmes has not been adopted yet.

Part of the state revenues from games of chance is used to support NGOs. **The Regulation on the Criteria for Determining the Beneficiaries and Manner of Distribution of the Revenues from Games of Chance** (2011)<sup>20</sup> provides that 75% out of the available funds is distributed to plans and programmes of NGOs, including the area of social care and humanitarian activities<sup>21</sup>. The Commission that decides on allocation consists of seven representatives of public authorities and seven representatives of NGOs<sup>22</sup>.

**The Law on Local Self-Government** (2003)<sup>23</sup> states that cooperation between local self-government and NGO is realized through "*financing of NGO projects*

18 Given that the income of NGOs from economic activities in a year may not exceed EUR 4,000 or 20% of the organization's total income in the previous year, NGOs may have difficulties to compete directly for tenders for service provision, as they would breach the legal provision on the percentage of annual income from economic activities. Instead, they would have to establish separate companies to provide services.

19 Only open public procedure allows any interested person to submit bids.

20 Republic of Montenegro, Uredba o kriterijumima za utvrđivanje korisnika i načinu raspodjele dijela prihoda od igara na sreću (2011).

21 Allocation of funds is done on the basis of four criteria: 1) public usefulness, i.e. public interest; 2) quality of the proposed plan and programme; 3) the capacity of the organization to implement the plan and programme; and 4) proposed budget.

22 Since November 2013, the President of the Commission is the Deputy Minister of Labour and Social Welfare. Monitoring of proper use of allocated funds is also conducted by the Commission. For projects over EUR 30,000 the law prescribes a direct inspection in the organization.

23 Republic of Montenegro, Zakon o lokalnoj samoupravi (2003).

that are of interest for the local population, under the conditions and procedures prescribed by a general regulation of the Municipality". Local self-governments may adopt a decision on the criteria, manner and procedure for distribution of funds to NGOs<sup>24</sup>. The above-mentioned Strategy for Development of Civil Society Organizations also envisages that Association of Municipalities will, in cooperation with NGOs, organize consultations for municipalities interested to adopt such decision and use the suggested model decision.

Certain local self-governments also finance NGOs with special financing status, such as charity organizations (Red Cross), veterans associations and associations of persons with disabilities, in accordance with the general regulations and strategic documents of local self-governments<sup>25</sup>.

## 2.4 Quality control and assurance

The **Rulebook on Conditions and Standards for Conducting Expert Work in Social and Children Care (2013)**<sup>26</sup> regulates the standards of social service provision in this area. The standards include:

- ▶ Specific education and qualifications, depending on the type of work
- ▶ License for work in order to provide social services.

According to the Law on Social and Children Care<sup>27</sup>, the Institute for Social and Children Care (hereinafter: the Institute) and the social care inspection are responsible to conduct monitoring of standards and the work of social service providers. The Institute monitors whether all standards of providing services and expertise are met during provider's work. It checks the documentation, work processes and effects of services

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24 Association of Municipalities, Ministry of Interior and Center for Development of NGOs have developed and offered a model Decision on criteria and process for allocating funds to NGOs, with aim to raise transparency and accountability in allocating and using the public local funds.

25 Technical Assistance for Civil Society Organisations, *Montenegro Needs Assessment* (2013).

26 Republic of Montenegro, Pravilnik o bližim uslovima i standardima za obavljanje stručnih poslova u socijalnoj i dječjoj zaštiti (2013).

27 Republic of Montenegro, Zakon o socijalnoj i dječjoj zaštiti (2013).

and compiles a report on its findings. It can initiate the procedure of suspending the provider's license if all legal standards are not met. Service providers are required to maintain high quality of services with occasional checks from the social care inspection. Inspection can, among other measures, ban the work of provider for a certain period of time, ban the work for a certain employee, ban the work for persons without license or propose annulment of persons' license for service provision, if there are reasons for annulment envisaged by the Law.

The **Strategy for Developing System on Social and Children Care (2013-2017)**<sup>28</sup> included 'Establishing a quality system' as a specific Goal 4, with measures for introducing the licensing system for organizations and staff providing social services by end of 2014. It also envisages that municipalities will adopt strategic and action plans for social and child care on local level in cooperation with NGOs and ensure mechanisms for their development by the end of 2014.

## 2.5 Other prerequisites for service provision (licenses, special permissions, etc.)

NGOs need to acquire licenses to provide social services and pay administrative tax for this. According to the Law on Social and Children Care, licensing ensures that the social service providers respect the criteria and standards for specific services (such as location and venue, equipment, expert staff, plan and evaluation of specific services). Licenses are issued by the Ministry of Labour and Social Welfare for a period of six years and can be renewed. In exceptional cases, when there is a pressing need for specific services and potential service provider does not meet all the required standards regarding location and venue, a temporary license can be issued for a period of three years, and can be renewed once.

In addition, the Institute licenses the staff working in the field of social care for a period of six years (and this can be renewed). Conditions include proof of

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28 Republic of Montenegro, Strategija razvoja sistema socijalne i dječje zaštite (2013).

adequate education and expert exam passed, and proof of accredited training for providing specific services. According to the Law on Social and Children Care, details on licensing organizations and staff should be included in the Rulebook on Licensing for Conducting Social Services Work, which has not been adopted yet.

Finally, the Law envisages that the Institute accredits training programmes for service provision through public calls, for a period of five years that can be renewed. Any entity can apply for accreditation of its training programme and, if accredited, can implement it, either directly, or through outsourcing it. The Institute will suspend the accreditation if there is no more need for the programme or the implementation is not conducted according to the accredited plan. In addition, the Institute will issue certificates to all persons who successfully pass the accredited programmes.

## 2.6 Government social contracting of NGOs: The practice

During the last few years, there was a notable increase of NGOs providing a variety of services, mostly basic social services for the homeless and elderly, and counseling and support for people living with HIV or people who use drugs, former prisoners, the LGBTI population, and victims of violence<sup>29</sup>. In 2012-2013, 284 types of social services were provided in the country, out of which 175 (80%) were provided by NGOs. These services were provided mostly through projects funded by foreign donors<sup>30</sup>. According to the USAID CSO Sustainability Index, although the practice is developing, it would be useful to enhance the cooperation between public institutions and NGOs on service provision in a more systematic manner and increase understanding of the benefits from such cooperation<sup>31</sup>. In most cases, services in the field of education, training, research and publishing are

contracted directly (without public procurement) as their value is less than EUR 5,000 (US\$ 5,578)<sup>32</sup>.

In 2014, the government announced contest for grants for NGOs in different fields of activities through its Commission on Allocation of Games on Chance Revenue and, upon the finalization of public contest, adopted a decision on allocating funds from the games on chance revenue. It allocated grants for 417 projects on social care and humanitarian activities, services for physically challenged persons, sport, culture and technical culture, education of children and youth, combating misuse of drugs and other addictions. The total allocated amount was EUR 1,687,800 (US\$ 1,816,945)<sup>33</sup>. Under the section 'combating misuse of drugs and other addictions', the government funded one project related to implementing strategic response to HIV and AIDS<sup>34</sup>. Under the section 'social care and humanitarian activities', the government funded 71 projects out of 153 applications in the total amount of EUR 198,036 (US\$ 213,190).<sup>35</sup>

According to the Center for Development of NGOs on Financing of NGOs from the local budgets for 2012, there is a trend of reducing the allocation of funds for NGOs at the local level. Although good practice is developing, some municipalities did not publish public calls for funding or allocate funds, despite the signed contracts.

29 USAID, *The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia* (2015).

30 Monitoring Matrix on Enabling Environment for Civil Society Development Country Report Montenegro 2014.

31 USAID, *The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia* (2015).

32 Technical Assistance for Civil Society Organisations, *Montenegro Needs Assessment* (2013).

33 Republic of Montenegro, Odluka o raspodjeli dijela prihoda od igara na sreću za 2014. godinu (2014).

34 NGO Juventas, project Implementacija strateškog odgovora na HIV i strateškog odgovora na zloupotrebu psihoaktivnih supstanci kroz intervencije programa smanjenja štetnih posljedica, amount EUR 8,560 (US\$ 9,197).

35 Republic of Montenegro, Odluka o raspodjeli dijela prihoda od igara na sreću za 2014. godinu (2014).

# 3. RECOMMENDATIONS

## Legal and institutional aspect of the national HIV response:

It would be important to continue supporting services for key populations at higher risk of HIV exposure and people living with HIV, through state and non-state providers. NGOs have already established themselves as valuable service provider and implementing partner in the areas of prevention, treatment, care and support, which could be further broadened. The following recommendations should be considered:

- ▶ It is recommended to continue supporting the implementation of the key interventions outlined in the National AIDS Strategy for the Republic of Montenegro 2015 to 2020 and its Action Plan should receive continuous and sufficient support, especially those including NGOs as strategic partners and increasing the capacity of government and civil society for HIV prevention.
- ▶ The Law on Health Care and Law on Protecting Citizens from Infectious Diseases could be revised to include NGOs as possible service providers, including in the field of HIV.

## NGO landscape in Montenegro:

The generally enabling legal framework for NGOs could be further improved in order to strengthen their ability for service provision:

- ▶ There is a need to continuously support the implementation of the key measures from the government's strategic documents by the relevant ministries<sup>36</sup>, in particular the measures referring to the reform and the harmonization of the legal and tax framework for NGOs and funding of NGOs.
- ▶ The Law on Corporate Income Tax should be reviewed to provide tax deductions for donations to any social care legal entity, including NGOs and thus increase opportunities for further funding to be invested in the provision of services by the sector

- ▶ In order to facilitate more systematic funding for social services programmes, the Regulation on Detailed Criteria for Evaluation of Projects and Programmes of NGOs in the Procedure of Allocation of Budget Funds should be adopted.
- ▶ In order for NGOs to be able to participate in public procurement, it is recommended to remove the limitation on the revenue from economic activities or to provide exemption for those organizations that compete for social services on public procurement open calls.

## Social contracting of NGOs for the national HIV response:

- ▶ The legal framework should facilitate NGOs engagement as social services providers on all levels.
- ▶ The ministries in charge could develop and publish a database of available social services in order to facilitate monitoring and evaluation of services programmes.
- ▶ The legal framework could be reviewed to abolish administrative taxes for non-profit entities in the process of licensing for social services.
- ▶ In order for NGOs to be more involved in service provision, government could consider introducing special procedures for social contracting.
- ▶ Local governments should be invited to review public funding challenges and take measures to address them.
- ▶ Additional support could be provided to help raise awareness of local government about NGOs providing social services and implementing social contracting.

36 Republic of Montenegro, *Strategy for Development of Civil Society Organizations 2014-2016* (2013).



**NGO Social Contracting: Factsheet Montenegro**  
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