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Factsheet Montenegro

2017 Update



1. HIV EPIDEMIOLOGY AND RESPONSE

1.1 HIV epidemiology in brief

Montenegro is a low HIV prevalence country with a concentrated HIV epidemic, with 228 officially registered people living with HIV (PLHIV), which is 50% of the estimated number¹. In 2016, 115 people living with HIV were receiving antiretroviral therapy (coverage 25% of the estimated and 50% 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) and sex workers (SW) is around 1%, but it is high with 12.5% among men who have sex with men (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)².

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

The National Strategy for the fight against HIV/AIDS for 2015-2020³ 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 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

¹ Data by Jaunary. Source: Republic of Montenegro, Institute for Public Health, presentation at the National HIV/AIDS Conference, March 2017.

² UNAIDS, Montenegro Country Progress Report (2015).

³ Montenegro, National Strategy for Combating HIV/AIDS 2015-2020 (2015).

⁴ Strategic Operative Goal 2.2 Activity 2.2.3, deadline for implementation is end of 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	0.47
Coverage of HIV testing in	18.7 ^a	35.0	17.0 ^b
Prevention programme coverage (%) ^d	N/A	N/A	32.0

^a 17.6% those who had HIV test and know result.

^b 15.0% those who had HIV test and know result.

Source: *Integrated Bio-behavioural Surveys reports 2013, 2014, 2015.*

The National AIDS Committee (NAC) 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 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 (2012)⁵** includes HIV infection. In providing and implementing the protection of the population against infectious diseases the Law foresees participation of associations and citizens among other. The same apply in the new **Draft Law on Protecting Citizens from Communicable Diseases⁶**.
- ▶ The **Law on Health Protection (2017)⁷** recognizes licensed state and private health care institutions as providers of health services.
- ▶ According to the **Law on Health Insurance (2017)⁸**, people living with HIV are fully covered by the state-funded health insurance and do not need to cover any costs of their

⁵ Montenegro, Zakon o zaštiti građana od zaraznih bolesti (2012).

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. Also, the Law envisages earnings compensation during temporary incapacity for work related to HIV and AIDS conditions in the amount of 100%.

According to the 2016 Country Progress Report⁹ issued by European Commission, health inequalities are omnipresent in Montenegro. Access to health protection must be improved for people with disabilities, people living with HIV, children and adults who use drugs,

prisoners, sex workers, LGBTI people and other vulnerable groups. Montenegro completed several legislative reforms to further align with the EU and international human rights standards and ensure that adequate mechanisms are in place to protect vulnerable groups from discrimination. Implementation of the legislation remains weak. Amendments to the overall legislative framework, to ensure a coherent sanctioning policy for human rights violations, have not been adopted yet. Institutional capacity needs to increase further. Efforts were made to implement the National HIV Strategic Response but sustainable funding is still not ensured.

⁶ Montenegro, Draft Law on Protecting Citizens from Communicable Diseases.

⁷ Montenegro, Zakon o zdravstvenoj zaštiti (2017).

⁸ Montenegro, Zakon o zdravstvenom osiguranju (2017).

⁹ European Commission, Montenegro 2016 Report (2016).

2. SOCIAL CONTRACTING OF NGOS IN THE NATIONAL HIV RESPONSE

2.1 NGO landscape in Montenegro

The **Law on Non-Governmental Organizations** (last amended in 2017)¹⁰ (hereinafter: NGO Law) regulates two forms of NGOs, namely associations and foundations. According to publicly available official data, (last assessed in October 2017), there were 4,602 registered NGOs, including 4,421 associations, 170 foundations, and 11 branch offices of foreign NGOs.¹¹

The **Strategy for Development of Civil Society Organizations** and an **Action Plan**¹² expired in 2016. Currently, the working group on the preparation of a draft of the new NGO Development Strategy 2017 - 2020 is formed by the Government and the public discussion around its priorities is ongoing.

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 criteria¹³.

In Montenegro, NGOs can engage in economic activities as long as these are envisaged by their statutes and they are registered. 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 year¹⁴. There are tax deductions for donations but not for social or health care services¹⁵. NGOs do not pay real estate tax, which they use to achieve their objectives as a part of their mission. Otherwise, a tax is levied at a rate of 0.10 to 1.00%, depending on the decision of the local self-government unit.

2.2. Social contracting of NGOs under Global Fund grants

During the 2012-2015 grant phase, six NGOs were financed by the Global Fund to fight AIDS, Tuberculosis and Malaria, 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).

For the 2017-2019 period, the Global Fund allocated 556,938 EUR (app. \$649,991) to Montenegro for the interventions in response to HIV. In its allocation letter, the Global Fund set the conditions “on the functionality, in form and substance acceptable to the Global Fund, of a social contracting mechanism for engagement of non-governmental organizations, through which Montenegrin

¹⁰ Montenegro, Zakon o nevladinim organizacijama (2017).

¹¹ Portal of the Ministry of Internal Affairs for NGO records. Available at: <http://www.dokumenta.me/nvo/>

¹² Montenegro, Strategija razvoja nevladinih organizacija u Crnoj Gori 2014-2016 (2013).

¹³ USAID, The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia (2015).

¹⁴ 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).

¹⁵ 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).

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

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

^a Prison inmates, merchant marines, tourist workers, poor Roma, Ashkali and Egyptians.
Source: UNDP Montenegro.

governmental institution(s) and the Global Fund will finance HIV prevention, care and support activities.”¹⁶ The Montenegrin Country Coordination Mechanism (CCM) plans to submit its funding request by early 2018.

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

The new amendments to the **Law on Non-Governmental Organizations** adopted in 2017 introduce the special procedure for state financing of NGOs. According to the Law, the state provides funds for financing projects and programmes in the areas of public interest implemented by non-governmental organizations, in the amount of at least 0.3% of the current annual budget. Social and health protection are listed among other public interest areas. Additionally, state funds are provided for co-financing and inter-financing of projects of NGOs supported by EU funds in the amount of at least 0.1% of the current annual budget.

The allocation of funds for financing projects

and programmes of non-governmental organizations in a particular priority area of public interest shall be decided by the Commission for the allocation of funds to non-governmental organizations formed by the state administration body competent for the area, on the basis of a public competition.

The allocation of funds is based on the following criteria:

- ▶ Contribution of the submitted project or programme to the realization of the public interest and realization of strategic goals in a particular area;
- ▶ The quality of the submitted project or programme;
- ▶ The capacity of a non-governmental organization to implement the submitted project or programme;
- ▶ Transparency of the work of a non-governmental organization.

The evaluation of each proposed project and programme is carried out by two independent assessors from the list which, based on the public invitation, is determined by the Ministry. These provisions will apply from the 1st January 2018.

¹⁶ 2017-2019 Global Fund Allocations.

In addition to this special procedure that should secure state funding for NGOs, in parallel, some other legal provisions may be used for this purpose.

The Law on Local Self-Government (2016)¹⁷ states that cooperation between local self-government and NGO is realized through "financing of NGO projects 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 NGOs¹⁸. 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 decisions and use the suggested model decision.

Local plans for improving social inclusion - development of local social welfare services are developed as a tool to enable efficient provision of services to citizens and ensure that they are accessible to everyone. Planning at the local level and the establishment of social services in the community, with NGOs as natural partners, should respond to the needs of vulnerable groups and contribute to their greater social inclusion and to improving the quality of life. Currently, local plans for improving social inclusion are adopted in 15 municipalities and are under development in others.¹⁹ Certain local self-governments also finance NGOs with special financing status, such as charity organizations (Red Cross), veterans associations and associations of per-

sons with disabilities, in accordance with the general regulations and strategic documents of local self-governments.²⁰

Law on Social and Children Protection (2017)²¹ determines that public and private sector including NGOs may be providers of social services. There is a possibility of direct contracting for the service, where the user of the social welfare system has the opportunity to choose the provider who will provide the service. Although the general government plan is to decentralize social services and that local self-governments are involved not only in the planning and contracting process but also in the financing of social protection services, currently, financing and planning financial resources for social services are centralized and are financed from the state budget.²² **The Rulebook on the amount of funds for the development, or financing of services on social and child protection and criteria for their distribution**²³ defines the amounts and criteria for allocating funds for social services, as well as criteria for local participation self-government and the dynamics of the transfer of funds.

According to the **Law on Public Procurement (2017)**²⁴, any legal entity, including NGOs, may compete for procurement contracts at both local and national levels. It clearly provides for the types of procedures for funding services²⁵. 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

¹⁷ Montenegro, Zakon o lokalnoj samoupravi (2016).

¹⁸ 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 the objective of raising transparency and accountability in allocating and using the public local funds.

¹⁹ NGO Juventas, "Primjenjivost standard za pružanje socijalnih servisa u organizacijama civilnog društva u Crnoj Gori" (2016).

²⁰ Technical Assistance for Civil Society Organisations, Montenegro Needs Assessment (2013).

²¹ Montenegro, Zakon o socijalnoj i dječijoj zaštiti (2017).

²² UNICEF, "Srednjoročni pregled programa saradnje Unicefa i Vlade Crne Gore u periodu 2012- 2016" (2014)

²³ Montenegro, Pravilnik o visini sredstava za razvoj, odnosno finansiranje usluga socijalne i dječije zaštite i kriterijumima za njihovu raspodjelu (2015).

²⁴ Montenegro, Zakon o javnim nabavkama (2017).

²⁵ 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.

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.

Based on the the Law on Game of Chance and Regulation on the Criteria for Determining the Beneficiaries and Manner of Distribution of the Revenues from Games of Chance, part of the state revenues from games of chance were used to support NGOs. However, with the latest amendments to this law these provisions cease to be valid on December 31, 2017.²⁶

2.4. Quality control and assurance

Different possibilities for organizations to provide social services also requires the necessary mechanisms for maintenance and improvement of quality system and regulatory mechanisms, which enable the proper functioning of such a system. These mechanisms are: standards of social welfare services; licensing organizations that provide social services; licensing professional workers who provide services; accreditation of the training programme and programmes of social services.²⁷

The Strategy for Developing System on Social and Children Care (2013-2017)²⁸ included 'Establishing a quality system' specifically as Goal 4, with measures for introducing the licensing system for organizations and staff providing social services by the end of 2014. It also envisages that municipalities

will adopt strategic and action plans for social and child protection on local level in cooperation with NGOs and ensure mechanisms for their development.

The **Rulebook on Conditions and Standards for Conducting Expert Work in Social and Children Protection** (2013)²⁹

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.

Based on the Law on Social and Children Protection, the Ministry for Labour and Social Care has adopted Rulebooks on conditions and minimum standards for some social services (e.g. advisory-therapeutic and social-educational services, accommodation services, etc.).

According to the Law on Social and Children Protection, the Institute for Social and Children Protection (hereinafter: the Institute) and the social protection 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 service provision. It checks the documentation, work processes and effects of services 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 protection inspection. Inspection can, among other measures, ban the work of provider for a certain period of time, ban the work of a certain employee, ban

²⁶ Montenegro, Zakon o igrama na sreću (2017).

²⁷ NGO Juventas i SOS Telefon Podgorica, "Primjenjivost standarda za pružanje socijalnih servisa u organizacijama civilnog društva u Crnoj Gori" (2016).

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

²⁹ Montenegro, Pravilnik o bližim uslovima i standardima za obavljanje stručnih poslova u socijalnoj i dječjoj zaštiti (2013).

the work of persons without license or propose annulment of persons' license for service provision, if there are reasons for annulment envisaged by the Law.

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

NGOs need to acquire licenses to provide social services and pay an administrative tax for this. According to the Law on Social and Children Protection, 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 the 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 of Social and Children protection licenses the staff working in the field of social protection for a period of six years (and this can be renewed). Conditions include proof of adequate education and expert exam passed, and proof of accredited training for providing specific services. According to the Law on Social and Children Protection, 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 on Social and Children Protection 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.

The Institute of Social and Children protection, as the body in charge of this process, so far did not undertake any accreditation of the training programme, that is, the service delivery programme, nor did it perform any licensing of professional workers.³⁰

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 mostly social-educational and counseling-therapeutic services, including 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 community, and victims of violence.³¹ 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.³² 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.³³ In most cases, services in the field of education, training, research and publishing are contracted directly (without

³⁰ NGO Juventas „Primenljivost standarda za pružanje socijalnih servisa u organizacijama civilnog društva u Crnoj Gori“ (2016).

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

³² Monitoring Matrix on Enabling Environment for Civil Society Development Country Report Bosnia and Herzegovina 2014.

³³ USAID, The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia (2015).

public procurement) as their value is less than EUR 5,000 (\$ 5,578).³⁴

In 2017, the Commission on Allocation of Games on Chance Revenue allocated support for the following areas: social protection and humanitarian activities, meeting the needs of persons with disabilities, development of sports, culture and technical culture, non-institutional education and upbringing of children and youth and contribution to the fight against drugs and all forms of addiction. In total, 641 projects were supported with the total amount of EUR 3,525,597.99 (\$4,140,215.49).³⁵ Under the section 'social protection and humanitarian activities', the government funded 101 out of 228 applications in the total amount of EUR 423,071.76 (\$496,825.86).

Local self-governments, in accordance with the **Law on Local Self-Government**³⁶, are financing non-governmental organizations. Local self-governments individually adopt the Decision on the criteria, method and the process of allocating funds to non-governmental organizations. However, funds at the local level are distributed by direct decision

of the Mayor, which constitutes a violation of the law and disregarding of procedure. Financial support from the local governments to the NGOs are in constant decline according to the data from 2010 to 2015.³⁷ There are also examples of other types of support for the work of non-governmental organizations, such as payments in the form of renting premises to non-governmental organizations or making the premises available for free. However, this practice does not follow a transparent procedure nor include clear selection criteria for NGOs that enjoy this type of support.³⁸

³⁴ Technical Assistance for Civil Society Organisations, Montenegro Needs Assessment (2013).

³⁵ http://www.mif.gov.me/rubrike/konkurs_igre_na_srecu/173834/Odluka-o-raspodjeli-dijela-prihoda-od-igara-na-srecu-za-2017-godinu.html

³⁶ Article 116.

³⁷ NGO CRNVO, "Izveštaj o finansiranju nevladinih organizacija iz budžeta lokalnih samouprava u 2014. godini" (2015).

³⁸ NGO CGO, "Činjenice i predrasude – Finansiranje nevladinih organizacija i političkih partija u Crnoj Gori iz javnih fondova" (2016).

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 and people living with HIV, through state and non-state providers. NGOs have already established themselves as valuable service providers and implementing partners in the areas of prevention, care and support for PLHIV and other key populations, which could be further broadened. The following recommendations should be considered:

- ▶ To continue supporting the implementation of 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 elements that include NGOs as strategic partners and increase the capacity of government and civil society for HIV prevention.
- ▶ NGOs as possible service providers, including in the field of HIV, should be recognized in the respective laws and regulations.
- ▶ Established social contracting mechanism should be made fully operational, proven in practice and further enhanced.

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 ministries³⁹, in particular the measures referring to the reform and the harmonization of the legal and tax framework for NGOs and funding of NGOs.
- ▶ Social contracting mechanism envisaged in Law on non-governmental

organizations has to be fully implemented.

- ▶ The Law on Corporate Income Tax should be reviewed to provide tax deductions for donations to any social protection legal entity, including NGOs and thus increase opportunities for further funding to be invested in the provision of services by the sector.
- ▶ 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 through public procurement open calls.

Social contracting of NGOs for the national HIV response:

- ▶ The legal framework should facilitate NGO engagement as social and health 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 service programmes.
- ▶ The legal framework could be reviewed to abolish administrative taxes for non-profit entities in the process of licensing for social services.
- ▶ Local governments should be encouraged 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.

³⁹ Montenegro, Strategy for Development of Civil Society Organizations 2014-2016 (2013).

NGO Social Contracting: Factsheet Serbia 2017 Update

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Substantive background research for the original factsheet was conducted in collaboration with the European Centre for Not-For-Profit Law (ECNL). The inputs from Eszter Hartay, Katerina Hadzi-Miceva and Vanja Skoric are gratefully acknowledged. Danijela Simić (Institute of Public Health of Serbia 'Dr. Milan Jovanović Batut') provided valuable comments and participated in data collection.

This factsheet is part of UNDP's Eastern Europe and Central Asia Series on Sustainable Financing of National HIV Responses.

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