



DECENT WORK CHECK **MONTENEGRO** 2023

Ayesha Ahmad
Iftikhar Ahmad

WageIndicator Foundation - www.wageindicator.org

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

The Authors

Ayesha Ahmed, a law graduate, is part of the Islamabad Team and works on Labour Law Database.

Corresponding author: Iftikhar Ahmad works as Labour Law Specialist with WageIndicator Foundation. He is the founder of the Centre for Labour Research which is the global labour law office of the WageIndicator Foundation. He can be contacted at iftikharahmad@wageindicator.org

Acknowledgements

Many people contributed to the development of the Decent Work Check as a tool and to this Check for Montenegro. Those who contributed to the development of tool include Paulien Osse, Kea Tijdens, Dirk Dragstra, Leontine Bijleveld, Egidio G. Vaz Raposo and Lorena Ponce De Leon. Iftikhar Ahmad later expanded the work to new topics in 2012-13 and made the work more legally robust. Daniela Ceccon, Huub Bouma, and Gunjan Pandya have supported the work by bringing it online through building and operating labour law database and linking it to the WageIndicator websites. Special thanks are due to the WageIndicator global labour law office (headed by Iftikhar Ahmad), which works on Decent Work Checks since 2012. The Minimum Wages Database, developed by Kea Tijdens, is supported by Paulien Osse, Kim Chee Leong, and Martin Guzi. Khushi Mehta updated the Minimum Wages Database before 2020.

Minimum Wage Database and Labour Law Database are maintained by the Centre for Labour Research, Pakistan, which works as WageIndicator Labour Law office. The team comprises Iftikhar Ahmad (team lead), Ayesha Kiran, Ayesha Mir, Seemab Haider Aziz, Sobia Ahmad, Shanza Sohail, and Tasmeena Tahir. The country update in 2023-24 was done by Tasmeena Tahir.

Bibliographical information

Ahmad I, Ahmed A (2023) *Montenegro Decent Work Check 2023*. Amsterdam, WageIndicator Foundation, December.

For an updated version in the national language, please refer to <https://mojazarada.me/>

Copyright 2023 by WageIndicator Foundation. All rights reserved.

WageIndicator Foundation, 2023

Address: Mondriaan Tower, 17th floor, Amstelplein 36, 1096 BC, Amsterdam, The Netherlands.

Email office@wageindicator.org

TABLE OF CONTENTS

| | |
|--|----|
| INTRODUCTION | 1 |
| MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR..... | 2 |
| 01/13 WORK & WAGES | 3 |
| 02/13 COMPENSATION..... | 5 |
| 03/13 ANNUAL LEAVE & HOLIDAYS | 8 |
| 04/13 EMPLOYMENT SECURITY | 11 |
| 05/13 FAMILY RESPONSIBILITIES..... | 15 |
| 06/13 MATERNITY & WORK | 18 |
| 07/13 HEALTH & SAFETY | 21 |
| 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT | 24 |
| 09/13 SOCIAL SECURITY | 26 |
| 10/13 FAIR TREATMENT | 29 |
| 11/13 MINORS & YOUTH | 32 |
| 12/13 FORCED LABOUR..... | 34 |
| 13/13 TRADE UNION..... | 36 |
| QUESTIONNAIRE..... | 40 |

INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 12 more countries, thus taking the number of countries with a Decent Work Check to 125!

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Labour Law, 2019
2. Safety at Work Law
3. Law on Pension and Disability Insurance, 2003
4. Law on Health Insurance, 2016
5. Law on Health Care 2016
6. Law on Prohibition of Harassment at Work
7. Constitution of the Republic of Montenegro
8. Strike Act
9. Representativeness of Trade Unions Act, 2010
10. Social Council Act

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Montenegro has ratified the Convention 131 only.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Labour Law, 2019

Minimum Wage

An employee is entitled to minimum wage for the standard performance and full working hours, or working hours equivalent to full working hours in accordance with the Labour Law, 2019, collective agreement and contract of employment. Minimum wage cannot be lower than 30% of the average wage in Montenegro in the preceding semester, according to the official data as determined by the administration body in charge of the statistics. The amount of the minimum wage is determined by the Government of Montenegro upon a proposal from the Social Council of Montenegro, every six months. Minimum wages are also determined at enterprise level (employer's collective agreement) and branch level agreement.

Source: §101 of the Labour Law, 2019

Regular Pay

Salary realized by a worker for the work performed and time spent at work, wage compensation and other earnings determined by collective agreement and contract of employment is considered gross salary under the law.

The salary has to be paid in terms and in the manner determined by collective agreement and contract of employment, and at least once a month. An employer must provide the pay slip to the worker upon payment of the salary.

An employer can collect employee's debts by withholding a portion of his/her salary only based on a final court decision, in cases determined by the law or upon consent from the employee. The withheld portion of an employee's salary based on a final court decision cannot exceed a half of his/her salary, and one third of the salary or wage compensation for other obligations.

The employer sets the manner of salary payment and it is responsibility for employer to pay salary to employee through bank account. This deadline is set at least once a month through collective agreement and employment agreement.

Source: §105 & 106 of the Labour Law, 2019

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Montenegro has ratified the Convention 171 only.

Summary of Provisions under ILO Conventions

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter time (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

Regulations on compensation:

- Labour Law, 2019

Overtime Compensation

Normal working hours are 40 hours a week. Working hours with less than 40 hours a week can be established by a collective agreement. Working hours of an employee can last beyond the full-time engagement provided that an unexpected increased workload cannot be completed through adequate reorganization of work or work schedule. Overtime work can only last for such a period required to eliminate the cause of its introduction, but not longer than 10 hours a week.

As per Labour Law 2019, employees may work overtime if regular work cannot handle the increased workload or in exceptional cases like force majeure however, employers must provide a written decision before introducing overtime work. If it's not possible, they must inform employees verbally and provide a written decision within three days.

The decision must include reasons for overtime work, the list of employees, and the time of commencement.

Furthermore, employers must inform the labour inspector about overtime work within three days of the decision. Overtime work should only last as long as necessary to eliminate the cause, and the weekly working time should not exceed 48 hours on average over four months. However, it can go up to 50 hours a week in exceptional cases. A collective contract may specify a maximum duration of 250 hours of overtime work per year. Employers must provide employees with the right to rest in

accordance with the law and allow unused annual leave after the overtime work ceases.

An employee is required to work overtime in case of prevention of direct occurrence of danger for safety and health of people or larger imminent material damages; natural hazard (earthquake, flood and other); fire, explosions, ionizing radiation and significant sudden breakdown of facilities, equipment and installations; epidemics or diseases threatening human life or health, endangering livestock or herbal stock or other tangible assets; larger pollution of water, food and other objects for human or livestock nutrition; traffic or other accidents that endanger human life or tangible assets to a larger extent; the need to immediately provide urgent medical help or other immediate medical service; the need to perform urgent veterinary intervention; and other cases envisaged by the collective agreement.

The premium for overtime work is determined under the collective agreement or contract of employment.

Source: §61, 64 & 98 of Labour Law, 2019

Night Work Compensation

Work between 10 pm and 6 am is considered night work. The premium for night work is determined under the collective agreement or contract of employment.

A worker who works for at least 3 hours of his/her working hours during night, or a worker who works at least a third of his/her full annual working hours during night, is entitled to special protection.

Source: §70 & 98 of the Labour Law, 2019

Compensatory Holidays / Rest Days

Workers are entitled to a weekly rest of at least 24 successive hours. Weekly rest is to be used on Sundays. Furthermore, an employer is to provide another day for an employee to use his/her weekly rest if the nature of work requires so. In case an employee has to work during his/her weekly rest period, the employer is to allow him/her one day of a leave during the following week for at least 24 successive hours. Collective agreement or labour contract may define compensation for workers engaged in work on a weekly rest day.

Source: §76 & 98 of the Labour Law, 2019

Weekend / Public Holiday Work Compensation

Workers are entitled to a premium payment for working on public and religious holidays. The premium is determined under the collective agreement and contract of employment.

Employer organizes the work on public holidays religious holidays should make a written decision and also informs the employees and labour inspector within 3 days before the commencement of work.

Source: §89 of Labour Law, 2019

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.
In addition, for several industries, different Conventions apply.

Montenegro has ratified the Conventions 14, 106 and 132 only.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week.

Regulations on annual leave and holidays:

- Labour Law, 2019

Paid Vacation / Annual Leave

Workers are entitled to paid annual leave. The duration of annual leave is to be determined in proportion to the time spent at work. A worker is entitled to 1/12 of the annual leave for each month of work with an employer if employment commences or terminates during that calendar year. The length of annual leave is determined under the contract of employment or collective agreement however it cannot be less than 20 working days for a calendar year. The teachers, expert-associates, educators in educational institutions are to entitled to an annual leave during the summer vacation which may not last longer than that vacation. An employee under 18 years of age is entitled to annual leave of at least 24 working days.

If an employee has not used his/her annual leave or a part of annual leave in the calendar year due to absence from work in accordance with the regulations on health insurance, maternity or parental leave and leave from work for the purpose of providing child care, he/she will be entitled to use that leave until June 30th of the following year. The payment during annual leave is determined by collective agreement and contract of employment.

An employee who did not use the right to an annual leave or used it partially due to employer's fault is entitled to compensation for damages. The compensation is to be defined on the basis of employee's remuneration for the month during which compensation is made,

depending on the length of the unused leave.

Annual leave can be taken in one or two parts, but exceptionally it is taken in several parts by the request of the employee. Employee does not use the annual leave due to temporary disability for work, absence from work for child care, the employee can use or enduring annual leave after returning to work. Employee has the right to use the annual leave within 15 months from the date of employee's reappearance to work.

Source: §79-86 of the Labour Law, 2019

Pay on Public Holidays

Workers are entitled to paid absence from work during public and religious holidays. If an employee works during the holidays, he is entitled to increased salary in accordance with collective agreement and contract of employment.

In line with the Law on State and Other Holidays, the state holidays are Independence Day (21 May) and Statehood Day (13 July). Other holidays are New Year's Day (1 January) and Labour Day (1 May). The state and other holidays are celebrated for two days. If a public holidays falls on a Sunday, the public holidays is moved to the next working day.

The law allows certain economic entities, if the nature of the activity or technology requires continuous work, to work on holiday days. The license for the work of these entities is issued by the administrative authority in charge of economic affairs (Ministry) in accordance with the criteria and rules that it prescribes.

Source: §89 of the Labour Law, 2019

Weekly Rest Days

Workers are entitled to a weekly rest of at least 24 consecutive hours. Weekly rest is to be used on Sundays. Furthermore, an employer is to provide another day for an employee to use his/her weekly rest if the nature of work requires workers to work on Sundays. In case an employee has to work during his/her weekly rest period, the employer is to allow him/her one day of a leave during the following week for at least 24 successive hours. Workers under 18 years are entitled to weekly rest of 2 consecutive days of which one is Sunday.

Source: §76 of the Labour Law, 2019

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Montenegro has not ratified the Convention 158.

Summary of Provisions under ILO Convention

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

Regulations on employment security:

- Labour Law, 2019

Written Employment Particulars

Employment relationship is established by conclusion of a contract of employment between worker and the employer. An employment contract is to be concluded prior to commencement of work in written form. If an employer fails to conclude a contract of employment with an employee prior to commencement of work in written form, it is considered that the employee has entered into employment relationship for an indefinite time period, as of the day of commencement of work. In such a circumstance, the employer is to conclude contract of employment for an indefinite time period within three days as of the day of commencement of work.

A contract of employment must contain the name and headquarters of the employer; first and last name of the employee, place of residence, or stay of the employee; citizens' central register number of the employee, or personal identification number in case of a foreign citizen; type and degree of professional qualification of the employee, or the level of education and occupation; type and description of jobs to be performed by the employee; place of work, the duration of employment relationship (fixed-term or contract for an indefinite time period); duration of a fixed-term contract of employment; the date of commencement of work; working hours; the amount of the basic salary; time-frame for the payment of salary and other benefits to which an employee is entitled; and the use of break during work, daily and weekly break, annual holiday, public holidays and other leave from work.

The employment contract mandatory includes duration of paid leave and annual leave, the notice period for the termination of the employment agreement and terms for a collective agreement that applies to the employer.

Source: §30 & 31 of the Labour Law, 2019

Fixed Term Contracts

Employment contracts, as a rule, are concluded for indefinite periods. Similarly, a contract of employment which does not specify the time period of duration of employment is considered a contract for an indefinite period of time. An employment contract can be concluded for a fixed term, for the purpose of performing certain jobs whose duration is predetermined for objective reasons or due to occurrence of unforeseeable circumstances or events. The term of a fixed term contract is extended from 24 months to 36 months. If the employee continues to work for the employer after the expiry of the 36-month limitation, the employment is converted into indefinite engagement.

Source: §25 of the Labour Law, 2019

Probation Period

The probationary period cannot exceed six months except in case of a crew member of deep-sea merchant marine where a probationary period may be negotiated for a longer period i.e. until the return of the ship into the main harbour.

The extent of probationary period and assessment is defined by collective agreement or employment contract. During the probationary period, probationers have all the rights and responsibilities, arising

from the employment relationship. If a worker's performance is unsatisfactory during the probationary period, the employment ceases at the end of probationary term, as defined under the employment contract. Either party may terminate the employment contract during probationary period by giving a written explanation.

Source: §34 of the Labour Law, 2019

Notice Requirement

There are three types of contract termination: first, by virtue of law; second, by mutual agreement between the employer and employee; third, by notice of termination of employment contract by an employer or an employee.

Employment terminates by virtue of law if the employee reaches the age of 67 years and 15 years of pension insurance unless otherwise agreed; employee has suffered from loss of working ability; as per a court's decision, the employee is not allowed to perform particular jobs and cannot be deployed to other jobs; where the employee is absent for more than six months due to serving a prison sentence; if a security, correctional or protective measure of more than six months has been pronounced and because of which the employee will be absent from work; or where because of bankruptcy or liquidation the employer has ceased to exist.

Employment can also be terminated due to mutual agreement of employee and employer. This mutual agreement has to be in written form and the employer can provide severance pay to the employee.

Employment can also be terminated by a notice of termination from the employee. Termination of a contract of employment can also be initiated by a parent or a guardian of an employee under the age of 18. An employee is to deliver notice of termination of the employment contract to the employer in written form at least 15 days prior to the day stated as the day of termination of employment.

An employer can terminate the employment contract if there is a justified reason. The employment contract can be terminated when an employee fails to meet work results; failure to comply with obligations prescribed by the law, collective agreement and contract of employment; if an employee's behaviour is such that he/she cannot continue employment; if the employee refuses deployment to another adequate job; if an employee refuses to allow amendment to the employment contract regarding defining of salary; where an employee abuses the right to temporary inability to work; due to economic problems in operations; or in case of technical, technological or restructuring changes.

An employee has the right and duty to remain working for at least 30 days as of the day of receipt of termination notice. An employee can upon agreement with the relevant body of the employer or upon request of the employer can cease to work even prior to expiry of the time period during which he/she has the duty to remain working, and he/she is provided with a wage compensation during that time period in the amount determined by collective agreement and contract of employment.

The law stipulates that due to valid reason employer terminates the employment

agreement without conducting a disciplinary procedure.

The collective layoff is conducted in case of planned layoff not less than 20 employees in 90 days. The new law stipulates that it is an obligation to initiate consultation with employee's labour union and notify the Employment bureau. Furthermore, the employer cannot hire another employee for the same position period of 6 months.

Source: §163-165 & 172 of the Labour Law, 2019

Severance Pay

In case of a redundancy, the employer is required to deploy the employees to other employment opportunities of the employer or to another employer, and provide additional training if necessary. Where this is not possible, the employer is to pay him/her a severance pay in the amount of at least 1/3 of his/her average monthly pay less the taxes and contributions in the previous six months for each year of employment with the employer, or 1/3 of the average monthly pay less the taxes and contributions in Montenegro, if the latter is more favourable for the employee. The average monthly salary is taken after deducting necessary taxes and contributions.

The severance pay cannot be lower than three average monthly salaries in the last 6 months.

In case of an employed person with disability, the employer is to pay him/her a severance pay of at least 24 average salaries, if the disability was caused by an injury outside work or an illness or at least 36 average salaries, if the disability was

caused by an injury at work or a professional disease.

The employee is entitled to receive the severance pay not less than 3 monthly average salary with the exclusion of social contribution in Montenegro.

Source: §169 of the Labour Law, 2019

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

Montenegro has ratified the Convention 156 only.

Summary of Provisions under ILO Convention

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Labour Law, 2019

Paternity Leave

An employee is to have the right to absence from work with wage compensation (paid absence) in case of parental leave and child birth. The duration of the paid absence is to be determined by collective agreement and contract of employment.

Source: § 87 of the Labour Law, 2019

Parental Leave

Parental leave is entitlement to one of the parents to use absence from work for the purpose of providing care and nursing to child. Parental leave can be used for 365 days from the birth of the child. The parent can start work even prior to expiry of the parental leave but not before the expiry of 45 days from the birth of the child. However, in such a circumstance, the parent will not be entitled to continue to use parental leave. That being said, the other parent will still be entitled to use the remaining part of parental leave. Also, a child's mother cannot interrupt parental leave prior to expiry of 45 days from the birth of the child.

The employee is entitled to wage compensation in the amount of the salary he/she would earn if he/she was at work in accordance with the law and collective agreement.

Source: § 127 of the Labour Law, 2019

Flexible Work-Options for Parents / Work-Like Balance

An employee has the right to absence from work with wage compensation (paid absence) in case of a severe illness of a family member. The duration of the paid absence is to be determined by collective agreement and contract of employment. Furthermore, an employee is entitled to paid absence for seven working days in case of death of a closer family member.

An employee is entitled to a wage compensation in the amount determined by collective agreement and contract of employment for leave for the purpose of caring for a child. Furthermore, an employer cannot terminate the employment contract of a parent who is working half of working hours for providing care to a child with severe developmental disabilities, a single parent with a child up to seven years old or a child with severe disability, or with a person using any of the stated rights. Also, absence from work for the purpose of nursing a child and parental leave cannot lead to termination of the employment contract.

An employed woman with a child over two years of age may work at night only if she accepts such work in a written statement. One of the parents with a child with severe developmental disabilities, as well as a single parent with a child under seven years of age may work overtime or at night only based on a written consent.

Under the updated Labour Law, if a child requires additional care after the expiry of parental leave, the employed parent can work for half of the full-time working hours until the child is three years old. Adoptive parents, guardians, or foster parents are

also entitled to this right. In addition, parents, adoptive parents, foster parents, or guardians of a disabled child or a person with severe disability are entitled to work for half of the full-time working hours. These working hours will be considered as full-time working hours in terms of employment rights.

To use this right, the employee must submit a written request to the employer, and the state authority responsible for social welfare issues will regulate the process for exercising these rights. During this period, the employee is entitled to earnings reimbursement, which must not be less than the reimbursement given during temporary inability to work due to pregnancy maintenance.

In addition, it is important to note that if the disabled child or person with severe disability is placed in a social and child welfare institution, the right to work for half of the full-time working hours cannot be exercised.

Furthermore, under the updated Labour Law, one of the adoptive parents of a child under the age of eight is entitled to a one-year leave from work for the purpose of caring for the child with wage compensation as mentioned above. Similarly, one of the foster parents of a child under the age of eight is also entitled to a one-year leave from work for the purpose of caring for the child with wage compensation.

Source: §132-136 of the Labour Law, 2019

06/13 MATERNITY & WORK

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Montenegro has ratified both the Conventions 103 and 183.

Summary of Provisions under ILO Convention

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

Regulations on maternity and work:

- Labour Law, 2019

Free Medical Care

The Law on Health Insurance, 2016 (amended in 2018) and the Law on Health Care 2016 (amended in 2018) have provisions on medical care during pregnancies. Laws provide for preventive examination of pregnant women; examination and counselling 6 weeks after childbirth and once after 6 months, and 3 weeks after spontaneous or permitted abortion or extrauterine pregnancy respectively; and visiting nurse of pregnant women with counselling on pregnancy lifestyles, and preparation for childbirth and care of a newborn.

No Harmful Work

Upon recommendation of a medical doctor, a woman during pregnancy and breastfeeding a child can be temporarily deployed to other positions, if it is in the interest of preservation of her health or the health of her child. During temporary deployment, the employee is entitled to the salary corresponding to the position where she worked prior to the deployment. Where this is not possible, the employee is entitled to absence from work, with wage compensation in accordance with the collective agreement, which cannot be lower than the compensation she would receive if she were on her position.

An employed woman during pregnancy and a woman with a child under three years of age cannot work longer than full time hours, or at night.

Source: §124 & 125 of the Labour Law, 2019

Maternity Leave

An employed woman can start maternity leave 45 days prior to delivery. The mandatory pre-natal leave is 28 days. Similarly, 45-day leave after birth is compulsory. The maternity leave can be extended to up to 365 days. The employee is entitled to wage compensation in the amount of the salary he/she would earn if she was at work in accordance with the law and collective agreement.

If an employed woman gives birth to a stillborn or if the child dies prior to expiry of the maternity leave, she is entitled to extend her maternity leave for as long as it is necessary, according to the finding of the relevant specialist doctor, to recover from the delivery and the physical condition caused by the loss of the child. This period will at minimum be of 45 days. The employee is entitled to all rights based on maternity leave during this period.

The employed women use the maternity leave of 98 days, 28 days before the expected birth and 70 days from the birth of the child. Exceptionally, maternity leave of 70 days may be taken by both parents at the same time if two or more children are born.

The pregnant employee is entitled to take one day off once a month for prenatal examination. The employee is obliged to inform the employer in writing before the 3 days of appointment for prenatal examination. In case of working employee, she is entitled to salary compensation.

Source: §126 of the Labour Law, 2019

Income

An employee has the right to absence from work with wage compensation (paid absence) in case of maternity leave and child birth. The duration of the paid absence is to be determined by collective agreement and contract of employment. During the leave, the parent is entitled to wage compensation in the amount of the salary she would earn if she was at work.

The amount of the refund from the State Budget cannot be set at an amount lower than the lowest cost of labour or higher than the two average gross wages in the country.

Source: §102 of the Labour Law, 2019

Protection from Dismissals

An employer cannot refuse to conclude a contract of employment with a pregnant woman, or terminate her contract because of pregnancy or if she is on maternity leave. In case of an employed woman whose fixed-term contract of employment expires while she is on maternity leave, the term of employment according to the fixed-term contract of employment is to be extended until expiry of the maternity leave.

Source: §123 of the Labour Law, 2019

Return to the Same Position

There is no provision in law which related to return to the same position. However, since employment of a woman worker is safe during maternity leave, right to return to same position is explicitly provided under the law unless serious breach and the

employer must justify the reasons of termination in writing.

Source: §123 of the Labour Law, 2019

Breastfeeding / Nursing Breaks

The employee is entitled to use, apart from daily break, in agreement with the employer, another 60 minutes for the purpose of breastfeeding her child. The employee is entitled to wage compensation in the amount of the salary he/she would earn if he/she was at work in accordance with the law and collective agreement.

Source: §129 of the Labour Law, 2019

07/13 HEALTH & SAFETY

ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

Montenegro has ratified both the Conventions 81 and 155.

Summary of Provisions under ILO Conventions

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Regulations on health and safety:

- Labour Law, 2019
- Safety at Work Law

Employer Cares

When required by the work process, a new method of organisation of work, and in particular when new methods in organization and technology of work are introduced and applied, the employer is to ensure that an employee receives education, vocational training or further improvement. An employee is to undergo vocational training and further improvement of skills for work according to his/her abilities and needs. Costs of education, vocational training or further improvement is to be provided from the employer's funds and other sources.

Safety at work is to be ensured by applying modern technical, health, ergonomic, social, organizational and other safety at work measures and means, by removing risks of injuries and damages to health or by bringing them down to prescribed extent in actions.

The employer implements the protective measures to avoid risk, evaluate and eliminate the risk associated with work. Comprehensive policy is developed for safety and health at work and replacing the dangerous work to less dangerous or non-dangerous work.

Source: § 15 of Law on Safety and Health at Work (Official Gazette of Montenegro, No. 34/14); §6 of Safety at Work Law

Free Protection

The employer is required to give the employees means for personal safety at work and equipment, and ensure that they use it in accordance with their purpose and to apply the prescribed safety at work measures in the process.

In the case of industrial accidents, occupational and work-related diseases, compulsory insurance for employees is required to be provided by the employer against.

Source: § 30 of Law on Safety and Health at Work (Official Gazette of Montenegro, No. 34/14); §23 of the Safety at Work Law

Training

An employer can sign a contract with a person being employed for the first time as a trainee for a specific level of education or professional qualification.

The employer is obliged to provide training for safe work of employees upon establishing of labour relations, deployment to other jobs, introduction of a new technology or new means for work, changes to the work process and re-deployment to work after an absence which lasted longer than one year. Furthermore, the employer is required to develop a programme of training of employees for safe work in accordance with the risk assessment at the workplace, and make changes to the workplace where necessary.

The training is to be implemented during working hours and the training costs has to be borne by the employer. During the training, the employer has to introduce employees to all types of risk on jobs to

which they are deployed and to specific safety measures. The employer is to provide theoretical and practical training to employees to perform work safely. The employer is to test theoretical and practical skills of employees for safety at work on the work location.

Source: §92 of the Labour Law, 2019; §19 of Safety at Work Law

Labour Inspection System

The enforcement of the Safety at Work Act, the related regulations and other measures related to safety at work is to be performed by the Ministry responsible for labour related matters through the Labour Inspectorate. In addition, the labour inspector is required to inspect general acts, collective agreements, labour contracts, decisions, orders and other individual acts, records and other documents related to safety at work. Also, the labour inspector is required to perform examination of severe injuries at work, collective accidents and death cases.

Furthermore, the labour inspector is required to take administrative measures and actions prescribed in law. Accordingly, the labour inspector is to prohibit work at the workplace if it is established that there is a direct threat to life or that employees' health is endangered; prohibit work if the subject of the supervision does not act in line with the order for removing the threats to safety at work at the workplace; order implementation of generally recognized work safety measure; prohibit work if established that means of work are used where the prescribed work safety measures and equipment are not applied/used; prohibit work if established that the employee works at the work place with

increased risk and not fulfil the requirements prescribed for working at such a workplace, and if the employee has not undertaken medical examination; and prohibit work at the workplace if established that the employee is not trained to perform safe work at the workplace he/she works at.

Source: § 43, 44 & 45 of the Safety at Work Act

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

Montenegro has ratified the Conventions 102 and 121 only.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

Regulations on sick leave & Employment Injury Benefits:

- Labour Law, 2019
- Safety at Work Law

Income

An employee is entitled to absence from work in cases of temporary inability to work, due to illness, injury at work or other cases in accordance with the regulations on health insurance. The duration of the paid absence is to be determined by collective agreement and contract of employment.

Wage compensation for the first 60 days of incapacity to work is paid by the employer from its funds. On completion of first 60 days, the compensation from the Social Security Fund. Wage compensation is paid out by the employer (during first 60 days) and then the employer gets a refund from the Fund.

Workers are entitled to minimum of 70% of the calculation basis and 100% in case of injury at work or professional disease, pregnancy, voluntarily donation of blood, tissues and organs and treatment of the primary disease. The calculation basis is average wage during the last 3 months.

Source: §90 of the Labour Law, 2019

Medical Care

The employer is required to insure employees against injuries at work, occupational illness and work-related illness. The premium for the insurance is to be borne by the employer.

Source: § 26 of the Safety at Work Law

Job Security

Termination on the basis of temporary absence from work due to illness, accident at work or occupational disease is illegal.

Source: § 173 of the Labour Law, 2019

Disability / Work Injury Benefit

Occupational diseases and injuries are covered under the Law on Pension and Disability Insurance, 2003. In the event of temporary incapacity, the benefit is equal to the normal sickness benefit. The temporary incapacity benefit is payable for a maximum period of 10 months.

Workers are considered partially disabled if there is partial loss of working capacity of 75%. The permanent disability occurs if a worker loses 100% of the working capacity.

Full disability pension due to complete loss of working capacity, caused by an injury at work or professional disease, is set at the same level as the old-age pension that an insured person would receive for 40 years of pension service. Partial disability pension is set in the amount of 75% of the full pension amount.

There is also provision of a subsidy for physical impairment for a person who experiences a loss, a severe injury or a considerable disability of certain organs or parts of the body regardless of the fact whether it caused work disability or not and for person who suffers physical impairment at a degree of at least 50%, when caused by an injury at work or a professional disease.

Source: Law on Pension and Disability Insurance, 2003; Law on Health Insurance, 2016; Law on Health Care 2016

09/13 SOCIAL SECURITY

ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

Montenegro has ratified the Convention 102 and 121.

Summary of Provisions under ILO Conventions

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

- Law on Pension and Disability Insurance, 2003
- Law on Contributions for Mandatory Social Insurance, 2007

Pension Rights

In Montenegro, a person is entitled to an old-age pension upon reaching:

- i. the age of 67 (for men and woman) and having accrued 15 years of pension service;
- ii. the age of 66 years (men) or 61 years and 6 months (women) and having accrued 15 years of pension service (2019);
- iii. 40 years of pension service regardless of the age (men and women);
- iv. 36 years and 6 months of pension service and the age of 56 years and 6 months (women) (in 2019);
- v. 30 years of pension service, of which minimum 20 years effective work in the mines for which an insurance record at accelerated rate was attributed

An insured person is entitled to early old-age pension upon reaching the age of 62 and minimum 15 years of pension service. For a person whose years of service are accrued at an accelerated rate, the retirement age is reduced in proportion to the degree of insurance acceleration. The degree of acceleration depends upon the type of occupation.

Old age pension is calculated by multiplying the personal points (PP) with the value of the pension for one personal point as on the day of becoming entitled to it. Minimum and maximum pension is

determined under a formula, provided under the law.

Source: Law on Pension and Disability Insurance, 2003; Law on Contributions for Mandatory Social Insurance, 2007

Dependents' / Survivors' Benefits

There is a provision for survivors' pension under the Law on Pension and Disability Insurance. The eligible beneficiaries are spouse (widower, widow), and divorced spouse if he/she was supported by the deceased; children (born in and out of wedlock or adopted and stepchildren who were supported by the deceased). For entitlement to survivors' pension, a deceased insured person must have at least 5 years of accrued insurance service or at least 10 years of pension service or who was eligible to old-age or disability pension or a deceased beneficiary of an old-age or disability pension.

A survivor's pension is determined on the basis of the old-age or disability pension that the insured person would have been entitled to at the time of death, or on the basis of the pension the beneficiary was entitled to at the time of death, in the percentage that is determined based on the number of family members who are entitled to that pension, as follows:

- i. 70% for one member;
- ii. 80% for two members;
- iii. 90% for three members;
- iv. 100% for four or more members

If both a spouse and a divorced spouse of a deceased insured person or beneficiary are entitled to a survivor's pension, one survivor's pension shall be determined in the amount that one family member is entitled to and shall be divided in equal

shares. Full orphans, in addition to a survivors' pension on the basis of one parent, are entitled to a survivors' pension on the basis of the other parent as follows:

- i. 20% of that pension for 1 child;
- ii. 40% of that pension for 2 children;
- iii. 60% of that pension for 3 children;
- iv. 100% of the old age or disability pension for 4 or more children.

Source: Law on Pension and Disability Insurance, 2003; Law on Contributions for Mandatory Social Insurance, 2007

Unemployment Benefits

An unemployed person aged 15-67, being a Montenegrin citizen, registered with the Employment Office of Montenegro, who is capable or partially capable to work, who is not employed and who is actively seeking employment is eligible for unemployment benefits.

An unemployed worker is eligible for unemployment benefit if he, prior to termination, had continuous insured employment of at least 12 months or with interruptions in the last 18 months, provided that his/her employment was terminated involuntarily. The unemployment benefits starts from the first day after termination of employment provided that the worker registers with the Employment Office.

The amount of unemployment benefits is 40% of the minimum wage determined under General Collective Agreement.

Unemployment benefit is granted to an unemployed person for:

- 1) 3 months if he/she has insured employment from one to five years;

- 2) 4 months if he/she has insured employment from five to 10 years;
- 3) 6 months if he/she has insured employment from 10 to 15 years;
- 4) 8 months if he/she has insured employment from 15 to 20 years;
- 5) 10 months if he/she has insured employment from 20 to 25 years;
- 6) 12 months if he/she has insured employment over 25 years.

An unemployed worker is entitled to the benefit until re-employment, if he/she has over 30 years of insured employment (women), or over 35 years of insured employment (men). Similarly, an unemployed person who has over 25 years of insured employment, and being a parent to a person entitled to personal disability benefit, is entitled to cash benefit until re-employment.

Source: Law on Social and Child Welfare, 2013; Law on Employment and exercising the Right of Unemployment Insurance 2010

Invalidity Benefits

Invalidity benefits are the same as disability benefits. Please see under **Disability / Work Injury Benefit**.

10/13 FAIR TREATMENT

ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

Montenegro has ratified the Conventions 100 and 111.

Summary of Provisions under ILO Conventions

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Convention No. 190 recognizes the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

Regulations on fair treatment:

- Labour Law, 2019

Equal Pay

An employee, a man or a woman, is to receive the same salary for the same work or work of the same value performed with an employer. In case of violation of this right, an employee is entitled to an indemnification in the amount of the unpaid portion of the salary.

Source: §99 of Labour Law, 2019

Sexual Harassment

Harassment includes any unwanted conduct based on discriminatory grounds as well as harassment through audio and video surveillance, intended to or actually undermining the dignity of a person seeking employment, and an employed person, creating an intimidating, hostile, degrading or offensive environment. Sexual harassment, on the other hand, includes any unwanted verbal, non-verbal or physical conduct intended to or actually undermining the dignity of a person seeking employment, and an employed person in the sphere of sexual life, creating an intimidating, hostile, degrading, embarrassing or offensive environment. A person seeking employment or an employee can initiate proceedings before a relevant court. Both harassment and sexual harassment are prohibited. An employee may not suffer harmful consequences in case of reporting, or witnessing harassment and sexual harassment at work. In line with the 2012 Law on Prohibition of Harassment at Work, harassment, mobbing and sexual harassment is prohibited. The 2012 law also

provides for civil remedies in terms of damages.

Source: §10 of Labour Law, 2019; §3 and 10 of the Law on Prohibition of Harassment at Work

Non-Discrimination

Direct or indirect discrimination of a person seeking employment and an employed person, is prohibited on the grounds of gender, birth, language, race, religion, colour of skin, age, pregnancy, health condition, or disability, nationality, marital status, family responsibilities, sexual orientation, political or other belief, social background, financial status, membership in political and trade union organizations or any other personal feature. Similar provisions are found in the Law on Prohibition of Discrimination. Law on Prohibition of Discrimination of Persons with Disabilities prohibits discrimination against persons with disabilities in employment related matters.

Furthermore, discrimination is prohibited in relation to employment requirements and selection of candidates for a particular job; terms of employment and all rights arising from employment relationship; education, training and professional improvement; promotion at work; and termination of contract of employment. A person seeking employment or an employee can initiate proceedings before a relevant court.

Source: §7-9 of Labour Law, 2019

Equal Choice of Profession

In line with article 62 of the Constitution of Montenegro 2007, “everyone shall have the right to work, to free choice of occupation and employment, to fair and human working conditions and to protection during unemployment”.

However, Labour Law, 2019 stated that the employee shall be entitled to protection at work in accordance with the law, the collective agreement and the labour contract. Furthermore, employed persons with disability, employed young persons below 18 years of age and employed women shall be entitled to special protection of rights, in accordance with the law.

Source: §117 & 118 of the Labour Law, 2019

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Montenegro has ratified the Conventions 138 and 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

Regulations on minors and youth:

- Labour Law, 2019

prescribed in the Regulations on Measures of Protection in the Workplace.

Source: §120 of the Labour Law, 2019

Minimum Age for Employment

An employment contract can be concluded with a person who is under the age of 18, with a written consent from the parents or guardians as long as such work does not compromise his/her health, moral and education, or is not prohibited by law. However, a person under the age of 18 can only enter into an employment only based on findings from a relevant health authority determining his/her ability to perform duties covered by the contract of employment and that such duties are not harmful to his/her health.

In line with article 4 of the Law on Compulsory Education, the compulsory education age in Montenegro is 15 years.

Source: §20 of the Labour Law, 2019; §4 of the Law on Primary Education, 2013

Minimum Age for Hazardous Work

An employed woman or an employee under the age of 18 cannot work on positions where mostly very difficult physical work is performed underground or underwater, or positions which may be harmful and increase risk for their health and life.

An employee under 18 years of age may not be ordered to work overtime or at night. However, an employee under 18 years of age can be deployed to work at night when it is necessary to continue work which was interrupted due to natural hazards, or to prevent damage to raw materials or other materials. The hazardous activities, prohibited for children under 18, are

12/13 FORCED LABOUR

ILO Conventions

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Montenegro has ratified both Conventions 29 & 105.

Summary of Provisions under ILO Conventions

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

Regulations on forced labour:

- Labour Law, 2019

Prohibition on Forced and Compulsory Labour

In line with article 63 of the Constitution of Montenegro 2007, forced labour is prohibited.

The following are not considered forced labour: labour customary during the serving of sentence, deprivation of liberty; performance of duties of military nature or duties required instead of military service; work demanded in case of crisis or accident that threatens human lives or property.

Freedom to Change Jobs and Right to Quit

Employment can be terminated by a notice of termination from the employee. Termination of a contract of employment can also be initiated by a parent or a guardian of an employee under the age of 18. An employee is to deliver notice of termination of the employment contract to the employer in written form at least 15 days prior to the day stated as the day of termination of employment.

Source: §163-165 & 172 of Labour Law, 2019

Inhumane Working Conditions

Full-time employment cannot be more than 40 hours a week. Working hours of an employee can last beyond the full-time engagement provided that an unexpected increased workload cannot be completed through adequate organization of work or

work schedule. Overtime work can only last for such a period required to eliminate the cause of its introduction, but not longer than 10 hours a week.

Overtime is induced only if there is a necessary reason. Average working time does not exceed than 48 hours per week and within 4 months. For this instance, the maximum weekly working time may not exceed than 50 hours.

Source: §61, 64 & 98 of the Labour Law, 2019

13/13 TRADE UNION

ILO Conventions

Freedom of association and protection of the right to organize: Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

Montenegro has ratified both Conventions 87 & 98.

Summary of Provisions under ILO Conventions

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

Regulations on trade unions:

- Constitution of the Republic of Montenegro
- Labour Law, 2019
- Strike Act
- Representativeness of Trade Unions Act, 2010
- Social Council Act

Freedom to Join and Form a Union

The Constitution of the Republic of Montenegro guarantees the freedom of political, trade union and other association and action, without approval, by the registration with the competent authority. An employee is entitled to form associations, to participate in bargaining when concluding collective agreements, to settle collective and individual labour disputes amicably, to be consulted, informed and to express their position regarding the important issues in respect of employment.

An employee, or a representative of employees cannot be held responsible or placed in a less favourable position with regard to terms of employment due to aforesaid activities if he/she acts in accordance with the Law and collective agreement and contract of employment.

Sources: §53 of the Constitution of the Republic of Montenegro; §191-197 of the Labour Law, 2019

Freedom of Collective Bargaining

An employee is entitled to participate in bargaining when concluding collective agreements, to settle collective and individual labour disputes amicably.

There are three types of collective agreement. First, there is a general collective agreement. It applies to all employers and employees of the country. It is concerning basic elements for defining salary, wage compensation, other earnings of employees and the scope of the rights and obligations arising from employment. Second, there is branch level collective agreement which establishes minimum wage in a correspondent branch of activity, group or subgroup of activity, elements for determining basic salary and other earnings of employees and regulate the scope of the rights and obligations of employees. Third, there is employer's collective agreement which establishes minimum wage, elements for determining basic salary, wage compensation and other earnings of employees and regulate broader rights, obligations and responsibilities of an employee arising from and based on employment. It is to be signed by be signed between a relevant body of the employer and a representative trade union organization.

Trade union with determined representativeness is entitled to collective bargaining and conclusion of collective agreements; participation in the settlement of collective labour disputes; participation in the work of the Social Council and other tripartite and multipartite bodies; and other rights which are defined by special laws for authorized trade union organization. The general and branch collective agreement shall be registered with the Ministry and published in "Official Gazette of Montenegro". Employees are guaranteed the right to trade union association and activities, without previous approval.

The Social Council is to be founded in order to establish and develop social dialogue

regarding the issues of importance for the achievement of the economic and social status of the employees and employers and the conditions for their life and work, development of the culture of dialogue, encouragement to engage in peaceful resolution of individual and collective labour disputes and other issues derived from the international documents that relate to the economic and social status of the employees and employers.

The Social Council is to be established as a tripartite body, consisting of the representatives of the Government of Montenegro, that is, the responsible municipal authority, representatives of the authorized trade union organization and the authorized association of employers.

The Social Council gives recommendations upon development and improvement of collective bargaining; influence of economic policy and measures for its implementation; wages and prices; competition and productivity; privatization and other issues of structural adjustment; protection of the workplace and environment; education and professional training; occupation, safety and health; social protection; demographic trends and other issues of importance for the implementation and improvement of economic and social policy.

Sources: §181-187 of the Labour Law, 2019; §5 of the Representativeness of Trade Unions Act, 2010; §2, 4 & 6 of the Social Council Act.

Right to Strike

The Constitution of the Republic of Montenegro guarantees that the employed have the right to strike. Where a strike is to

be organized, the strike committee is required to notify the employer of the strike in writing no later than five days prior to the day of the beginning of the strike or 24 hours before the beginning of the warning strike, if some other time period has not been stated in law. The decision for going to the sectoral or general strike must be submitted to the competent representative organisation of employers, the founder and the public administration body of the specific area 10 days prior to the day of the beginning of the strike.

The decision for going to strike in activities related to essential Services, public utility services and public services must be submitted to the competent representative organisation of employers, the founder and the public administrative body or the competent municipality body 10 days prior to the day set for the beginning of the strike.

The employees in defence forces of Montenegro, the police and state bodies, because the protection of public interest, can only organise a strike in a manner that will not jeopardize national security, safety of persons and property, public interest of citizens or the functioning of public authorities. This assessment is to be provided by the competent government authority for national security within 24 hours from the announcement of the strike. Where the competent government authority for national security has made an assessment that the activities would endanger national security, safety of persons and property, public interest of citizens or the functioning of public authorities, the strike cannot be organized.

Organization of a strike or participation in a strike under the conditions set forth by Law do not represent a violation of work duty, cannot be a ground for initiation of the

procedure for determining disciplinary and material liability of an employee, for removing the employee from work and cannot lead to termination of employee's employment. An employee who participates in a strike is not entitled to a wage. An employee who is obliged to work during a strike, for the purpose of ensuring minimum work process is entitled to wage in proportion to the time spent at work.

In line with the Strike Law, employer cannot employ new persons who would replace the strike participants, unless the following is jeopardized: ensuring the minimum work process that provides for security of property and persons, as well as fulfillment of obligations arising from the ratified international treaties. An employer can neither prevent the employees from organizing and participating in a strike, nor use threats and coercion for ending a strike. Labour Law prohibits employer and temporary employment agencies from concluding agreement for substitution of employees during a legal strike.

Sources: §66 of the Constitution of the Republic of Montenegro; §12, 18, 27 and 28 of the Strike Act, 2015; §54(4) of the Labour Law, 2019

QUESTIONNAIRE



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

NR

Yes

No

1. I earn at least the minimum wage announced by the Government
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)

02/13 Compensation

3. Whenever I work overtime, I always get compensation
(Overtime rate is fixed at a higher rate)
4. Whenever I work at night, I get higher compensation for night work
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it

03/13 Annual Leave & Holidays

7. How many weeks of paid annual leave are you entitled to?*
8. I get paid during public (national and religious) holidays
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week

1

3

2

4+

04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature
Please tick "NO" if your employer hires contract workers for permanent tasks
12. My probation period is only 06 months
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)
14. My employer offers severance pay in case of termination of employment
Severance pay is provided under the law. It is dependent on wages of an employee and length of service

05/13 Family Responsibilities

15. My employer provides paid paternity leave
This leave is for new fathers/partners and is given at the time of child birth
16. My employer provides (paid or unpaid) parental leave
This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.
17. My work schedule is flexible enough to combine work with family responsibilities
Through part-time work or other flex time options

06/13 Maternity & Work

18. I get free ante and post natal medical care
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work
20. My maternity leave lasts at least 14 weeks

* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".

- 21. During my maternity leave, I get at least 2/3rd of my former salary
- 22. I am protected from dismissal during the period of pregnancy
Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity
- 23. I have the right to get same/similar job when I return from maternity leave
- 24. My employer allows nursing breaks, during working hours, to feed my child

07/13 Health & Safety

- 25. My employer makes sure my workplace is safe and healthy
- 26. My employer provides protective equipment, including protective clothing, free of cost
- 27. My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident
- 28. My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace

08/13 Sick Leave & Employment Injury Benefits

- 29. My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness
- 30. I have access to free medical care during my sickness and work injury
- 31. My employment is secure during the first 6 months of my illness
- 32. I get adequate compensation in the case of an occupational accident/work injury or occupational disease

09/13 Social Security

- 33. I am entitled to a pension when I turn 60
- 34. When I, as a worker, die, my next of kin/survivors get some benefit
- 35. I get unemployment benefit in case I lose my job
- 36. I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident

10/13 Fair Treatment

- 37. My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination
- 38. My employer take strict action against sexual harassment at workplace
- 39. I am treated equally in employment opportunities (appointment, promotion, training and transfer) without discrimination on the basis of:*

Sex/Gender

Race

Colour

Religion

Political Opinion

* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

Nationality/Place of Birth

Social Origin/Caste

Family responsibilities/family status

Age

Disability/HIV-AIDS

Trade union membership and related activities

Language

Sexual Orientation (homosexual, bisexual or heterosexual orientation)

Marital Status

Physical Appearance

Pregnancy/Maternity

40. I, as a woman, can work in the same industries as men and have the freedom to choose my profession

11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden
42. In my workplace, children under 18 are forbidden for hazardous work

12/13 Forced Labour

43. I have the right to terminate employment at will or after serving a notice
44. My employer keeps my workplace free of forced or bonded labour
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week

13/13 Trade Union Rights

46. I have a labour union at my workplace
47. I have the right to join a union at my workplace
48. My employer allows collective bargaining at my workplace
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination

Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:

is your amount of "YES" accumulated.

scored times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.