

**MONTENEGRO – SOGI LEGISLATION COUNTRY REPORT**  
**PRODUCED: MARCH 2013**

Please note: This document was prepared by law students and highlights publicly-accessible information about legislation available at the time it was prepared. It is not exhaustive, nor is it updated on a regular basis. The information provided here is not a substitute for legal advice or legal assistance, and the International Human Rights program at the University of Toronto Faculty of Law cannot provide such advice or assistance.

***Summary***

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Gender identity and sexual orientation are prohibited grounds of discrimination ([Law on the Prohibition of Discrimination](#)).

The [Media Law](#) prohibits the publication of information inciting discrimination, hatred or violence against persons on the basis of gender or sexual orientation.

Same-sex sexual activity was decriminalized in 1977.

The age of consent (14) is the same for same-sex and opposite-sex sexual activity as of 1977 ([Criminal Code](#), c 18, art 206 and c 13, art 142(7))

The [Asylum Law](#) stipulates that “asylum shall be given to aliens in need of international protection in accordance with the 1951 Convention Relating to the Status of Refugees” and further that discrimination is prohibited on any ground (though sexual orientation and gender identity are not explicitly enumerated in Art. 7).

80% of the costs of gender reassignment procedures are covered by the universal healthcare system.

***Legal Provisions***

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**ANTI-DISCRIMINATION**

**Law on the Prohibition of Discrimination (2010)**: Prohibits discrimination on the basis of gender identity or sexual orientation.

*Article 1*

Prohibition and protection from discrimination shall be exercised pursuant this Law. The prohibition of and protection from discrimination shall be, also, exercised pursuant provisions of other laws regulating prohibition of and protection from discrimination on particular grounds or related to exercise of particular rights, if they are not contrary to this law.

*Article 2*

Any form of discrimination, on any ground, shall be prohibited. Discrimination is any unjustified, legal or actual, direct or indirect distinction or unequal treatment, or failure to treat a person or a group of persons in comparison to other persons, as well as exclusion, restriction or preferential treatment of a person in comparison to other persons, based on race, colour of skin, national affiliation, social or ethnic origin, affiliation to the minority nation or minority national community, language, religion or belief, political or other opinion, gender, gender identity, sexual orientation, health conditions, disability, age, material status, marital or family status, membership in a group or assumed membership in a group, political party or other organisation as well as other personal characteristics...

*Article 19*

Any differentiation, unequal treatment or bringing a person in an unequal position based on gender identity or sexual orientation, shall be deemed to be discrimination. Everyone has the right to express their gender identity and sexual orientation. Gender identity and sexual orientation are personal matters of every person and no one can be invited to publicly declare its gender identity and sexual orientation.

<http://legislationline.org/topics/country/57/topic/84>

## **HATE CRIMES**

**Media Law (2002)**: Prohibits the publication of information inciting discrimination, hatred or violence against persons on the basis of gender or section orientation.

*Article 23*

It is forbidden to publicise information and opinions that instigate discrimination, hatred or violence against persons or group of persons based on their belonging or not belonging to a certain race, religion, nation, ethnic group, sex or sexual orientation.

<http://www.osce.org/montenegro/19724>

## SEXUAL ACTIVITY AND AGE OF CONSENT

***Criminal Code* (1977)**: The age of consent (14) is the same for same-sex and opposite-sex sexual activity.

See <http://legislationline.org/documents/section/criminal-codes/country/57> for an English translation of the *Criminal Code*.

## IMMIGRATION AND ASYLUM

***Law of Asylum* (2006)**: Sexual orientation is not explicitly recognized as a ground for asylum. Although Article 7 does not explicitly list the grounds of sexual orientation or gender identity, Article 1 of the *Law on the Prohibition of Discrimination* (included under the “Non-Discrimination” heading, above) stipulates that “the prohibition of and protection from discrimination shall be ... exercised pursuant provisions of other laws regulating prohibition of and protection from discrimination ... if they are not contrary to this law.” Since discrimination based on sexual orientation is prohibited under *Law on the Prohibition of Discrimination*, this suggests that such discrimination is also prohibited under the *Law of Asylum*.

### *Article 2*

An alien shall be guaranteed the right to file an application for asylum in Montenegro. Asylum shall be given to aliens in need of international protection in accordance with the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and other ratified international agreements and universally accepted rules of international law, pursuant to this Law.

### *Article 7*

Discrimination in the asylum procedure is prohibited on any basis, and in particular on the basis of race, color, sex, citizenship, social origin or birth, religion, political or other opinions, country of origin, economic status, culture, language, age, or mental or physical disability.

<http://www.lexadin.nl/wlg/legis/nofr/eur/lxwemnt.htm>

## GENDER IDENTITY RECOGNITION

In 2012, amendments to the national healthcare law stipulated that the universal healthcare system would cover 80% of the gender reassignment procedures.

[http://www.ilga-europe.org/media\\_library/euro\\_letter/2012/march/trans\\_issues/the\\_state\\_is\\_now\\_financing\\_gender\\_reassignment\\_procedures\\_for\\_transgender\\_persons](http://www.ilga-europe.org/media_library/euro_letter/2012/march/trans_issues/the_state_is_now_financing_gender_reassignment_procedures_for_transgender_persons)