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**Temporary Child Support through the Alimony Fund -
experience of countries in the region**

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**The contents of this document do not reflect the official views of the Parliament of Montenegro.*

*** All expressions used in this paper for natural persons shall refer equally to both men and women.*

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Foreword

The area of children's rights is comprehensively regulated by the UN Convention on the Rights of the Child adopted in 1989, which provides for every child civil, economic, social and cultural rights, and at the same time envisages that the state shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities (Article 18, paragraph 2), as well as provide appropriate care in the event that children's parents fail to provide the necessary care.

Child's best interest should be the concern of parents and legal guardians, whose primary responsibility is raising a child and its development. However, although it is expected that all the family members within the family environment are safe and enjoy their rights without impediment, experience shows that when it comes to certain family members, particularly women and children, family is the most common place where their rights are being breached, such as the right to life, right to freedom and personal safety, right to human dignity, right to free individual development and self-accomplishment, etc. Among the most common forms of economic violence against family members is the failure to meet the legal obligation of support. This form of economic violence especially affects children, since it reflects negatively on their overall physical and psychological development, and also negatively affects their mothers, especially single mothers who independently fulfill their obligations upon the dissolution of marriage.¹

Child support, in the broadest sense, involves regular participation of a parent who fails to exercise the parental right in terms of providing the financial costs for the child's upbringing, for which the parents exercising their parental right are given a certain amount, respectively parents with whom the child lives.²

Family relations in Montenegro are defined by Constitution, which stipulates that parents are obliged to take care of their children, to bring them up and educate them³. The obligation of child support in Montenegro is a legal obligation which is prescribed by the Family Law of Montenegro⁴, stating that a parent who fails to exercise the parental right shall have a right and a duty to support the child, to maintain personal relationships with the child and to make decision on the issues significantly affecting the life of the child together and by consent with the parent exercising the parental right⁵. In an extra-judiciary procedure, the court may by its decision restrict the parental right to the parent who unconscientiously exercises the rights or duties towards the child. However, through the restriction the parent may be deprived of the exercising of one or several rights and duties towards the child, except of the duty to support the child.⁶

Considering that the majority of single-parents are mothers means that the father is mostly responsible for paying the alimony, as a parent who failed to exercise his parental right. This means that, in the event that the parent who does not exercise the parental

¹ Prof. dr Nevena Petrušić, prof. dr Slobodanka Konstantinovic Vilić, *Ostvarivanje prava na zakonsko izdržavanje pred pravosudnim organima u Vranju, Bujanovcu i Bosilegradu*, Vranje, 2012

² Hakovirta, M., *Child Maintenance and Child Poverty: A Comparative Analysis*, *Journal of Poverty and Social Justice*, Volume 19, Number 3, October 2011.

³ Čl. 72 Ustava Crne Gore, („Sl. list Crne Gore“, br. 01/07 od 25.10.2007, 38/13 od 02.08.2013)

⁴ Porodični zakon, („Sl. list RCG“, br. 01/07 od 09.01.2007)

⁵ Čl. 69 i 79 Porodičnog zakona, („Sl. list RCG“, br. 01/07 od 09.01.2007)

⁶ Čl. 85 Porodičnog zakona

right and fails to pay its share, the burden of dealing with the execution procedure, seeking assistance from the state which guarantees the support for the child and social assistance, mostly falls on the single mother.

There are various systems that guarantee for the payment of child support in the event that the parent who fails to exercise his/her parental right is not able to or declines to fulfill his/her legal obligation. Failure to meet financial obligation of the parent who does not exercise parental right is very often punishable by law, while the consequence of failing to pay is defined by legislation of each country individually, and may be in the form of enforced collection, deduction of a certain amount from the salary, confiscation of property and bank accounts. In some countries, there is even the imprisonment sentence. "When these legal provisions do not result in a satisfactory resolution, child support can be guaranteed in some countries by the State, by local authorities, by special funds, or by a special administrative agency. In most cases, child maintenance is advanced by the appointed body only after exhaustion of legal remedies, such as enforcing payment, sending a bailiff, and seizing and selling of assets."⁷

The aim of the research paper is to provide an overview of legal system of countries in the region, which primarily involves the existence of Alimony fund, i.e. the fund through which the state provides support to single parents, henceforth, it initiates the procedure of collection of the amount from the persons obliged to provide support.

The complete document in Montenegrin language is available at:

<http://www.skupstina.me/images/dokumenti/biblioteka-i-istrazivanje/2015/7.pdf>

⁷ Beaumont, K., and Mason, P., *Child maintenance systems in EU Member States from a gender perspective*, Policy Department C - Citizens' Rights and Constitutional Affairs, 2014