



WOMEN'S RIGHTS CENTER
CENTAR ZA ŽENSKA PRAVA

MONITORING AND EVALUATION OF POLICIES FOR COMBATING HUMAN TRAFFICKING IN MONTENEGRO 2018-2019



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The report analyzing the legal framework and implementation of anti-trafficking policies in Montenegro was prepared for the Women's Rights Center by an expert consultant, **Dr. Olivera Komar**, in cooperation with members of the working group formed for the project by representatives of the Women's Rights Center and relevant state institutions.

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Glossary

Trafficking in human beings - the recruitment, transportation, transfer, concealment or holding of other persons, through threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of authority, dependency relationship, giving or receiving money or other gain, as to obtain consent from a person which has control over another person for the purpose of exploiting his work. Exploitation, at the very least, includes the exploitation of the prostitution of others, other forms of sexual exploitation, forced labor or services, slavery and acts similar to slavery, servant placement or organ removal.

Engaging, transporting, transferring, retaining or receiving a child for the purpose of exploitation shall be considered "trafficking in human beings", even if it does not include any of the means referred to in paragraph (a) of this Article; Article 3(c).¹

Trafficking victim - refers to any person who is the subjected to trafficking, in accordance with the above definition;

Potential victim of trafficking in human beings - any person considered to be a victim of trafficking in human beings by representatives of institutions responsible for initial identification and civil society organizations.

Identification - the process of determining which persons are victims of trafficking.

Formal identification - the formal process of determining whether a person alleged to be a victim of trafficking, indeed was the victim or was in the process of trafficking, after the initial interview and the information / evidence collected clearly indicate that there has been a suspicion on trafficking in persons². This procedure is conducted by the Team for Identification of Victims of Trafficking in Human Beings (Ministry of Internal Affairs), using the Standard Operating Procedures for formal identification of victims of trafficking in human beings (SOP).³

Exploitation - relates to the purpose of trafficking in human beings and includes "at least the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, including begging, slavery or acts similar to slavery, subordination or exploitation of criminal acts or removal of organs".

Gender - marks the differences between women and men within and between cultures that are socially and culturally built, and change over time. These differences are reflected in: roles, responsibilities, access to resources, constraints, opportunities, needs, perceptions, attitudes, and else, which both women and men have. Therefore, gender is not synonymous with women, but refers to both women and men, and their relationships.

¹ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000),

² Standard Operating Procedures for Formal Identification of Victims of Trafficking in Human Beings, Ministry of Internal Affairs of Montenegro and International Organization for Migration, p. 19

³ Ibid

List of acronyms

BAN – Balkans Act Now

CCM – Criminal Code of Montenegro

CPC – Criminal Procedure Code

CSO – Civil Society Organization

EU – European Union

GRETA – Group of Experts on Action against Trafficking in Human Beings (responsible for monitoring the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, 2005)

MIA – Ministry of Interior Affairs

PD – Police Directorate

SOP- Standard operating procedures

UN – United Nations

WRC – Women’s Rights Center

Introduction

Definitions

Trafficking in human beings encompasses, in legal terms, the offenses prescribed by the following Articles of the Criminal Code of Montenegro ⁴:

- Article 444 CCM - Trafficking in human beings
- Article 445 CCM - Trafficking in children for adoption
- Article 446 CCM - Submission to slavery and transportation of enslaved persons.

If the offense was committed against a minor or by an official in the exercise of official duty, it is considered to be a qualified form of the offense.

Offenses that may be related to the crime of trafficking in human beings are also:

- Article 204 CCM - Rape,
- Article 206 CCM - Sexual intercourse with a child,
- Article 207 CCM - Sexual intercourse by abuse of position,
- Article 209 CCM - Pimping and enabling having a sexual intercourse,
- Article 210 CCM - Mediation in prostitution,
- Article 211 CCM - Displaying pornographic material,
- Article 216 CCM - Extramarital relation with a minor and
- Article 219 CCM - Neglecting or abusing a minor.

Other relevant laws are the Criminal Procedure Code ⁵, especially as regards the protection of witnesses in criminal proceedings, Law on Witness Protection⁶, Law on Courts⁷, Law on State Prosecutor's Office⁸ and Law on Special Public Prosecutor's Office⁹, Law on Mutual Legal assistance in Criminal matters¹⁰, and Law on Public Order and Peace ¹¹ which defines misdemeanor responsibility for prostitution, acts that encourage or mediate prostitution, and begging, organizing, inciting or forcing begging.

In terms of victim protection, significant are also Law on Foreigners¹², Law on International and Temporary Protection of Foreigners¹³, and Law on Compensation of Damages for Victims of Criminal Acts ¹⁴, Law on Free Legal Assistance¹⁵, Law on Social and Child protection¹⁶ and Law

⁴ "Official Gazette of Montenegro", No. 044/17 of 06.07.2017

⁵ "Official Gazette of Montenegro", No. 57/2009, 49/2010, 47/2014

⁶ "Official Gazette of Montenegro", No. 65/2004 and 31/2014.

⁷ "Official Gazette of Montenegro", No. 11/2015 of 12.3.2015.

⁸ "Official Gazette of Montenegro", No. 11/2015, 42/2015, 80/2017 and 10/2018

⁹ "Official Gazette of Montenegro", No. 10/2015 and 53/2016

¹⁰ "Official Gazette of Montenegro", No. 004/08 of 17.01.2008, 036/13 of 26.07.2013

¹¹ "Official Gazette of Montenegro", No. 64/2011 of 29.12.2011

¹² "Official Gazette of Montenegro", No. 12/2018

¹³ "Official Gazette of Montenegro", No. 02/17 and 03/19

¹⁴ "Official Gazette of Montenegro", No. 035/15

¹⁵ "Official Gazette of Montenegro", No. 020/11 of 15.04.2011, 020/15

¹⁶ "Official Gazette of Montenegro", No. 27/2013, 1/2015, 42/2015, 47/2015, 56/2016, 66/2016, 1/2017, 31/2017

on health Protection¹⁷, and Act on the Treatment of Juveniles in Criminal Procedure.¹⁸

Two important legal acts are the Guidelines on the Impunity of Victims, which instruct the competent authorities “if a causal link is established between the (potential) victim and the crime committed, or if a procedure is initiated at the earliest possible stage, or if the proceedings are brought before a court - to end it as soon as possible, and at a way that will result in impunity for the victim.”¹⁹

The institutional framework for combating human trafficking:

- The Office for Combating Trafficking in Persons (OFTIP) within the Ministry of the Interior, headed by the National Coordinator,
- Department for Combating Trafficking in Human Beings, Smuggling and Illegal Migration within the Criminal Police Sector, Police Directorate,
- Senior State Prosecutor's Offices in Podgorica and Bijelo Polje and the Special Public Prosecutor's Office,
- The Operational Team for Combating Trafficking in Human Beings, composed of representatives of the Ministry of Internal Affairs, Police Directorate, High State Prosecutor's Office and Ministry of Justice,
- Formal Victim Identification Team - a working body set up by the Minister of the Interior, which consists of the President - a representative of the MIA / Office for the Fight against Trafficking in Persons and 3 members, representatives of the MIA / Office for the Fight against Trafficking in Persons, a representative of the Police Directorate - the Department for Combating Trafficking in Human Beings, Smuggling and Illegal Migration and a representative of the Shelter for Victims human trafficking. If the person alleged to be the victim of trafficking is a child, the meetings are also joined by a professional from the Center for Social Work - case manager.
- The Supreme Court of Montenegro,
- Ministry of Justice.
- Ministry of Foreign Affairs,
- Ministry of Health,
- Ministry of Labor and Social Welfare,
- Ministry of Education,
- Ministry of Human and Minority Rights
- Ministry of Culture,
- Department of Labour Inspection of the Inspections Directorate and
- Institution of the Protector of Human Rights and Freedoms of Montenegro.

The Agreement on cooperation between state institutions and the non-governmental sector, which defines the basic mechanisms of referral for potential victims and victims of human trafficking in Montenegro, is also in force. The agreement establishes a platform for cooperation in the prevention, education, reporting and prosecution of perpetrators, on the

¹⁷ “Official Gazette of Montenegro”, No. 003/16 of 15.01.2016, 039/16 of 29.06.2016, 002/17 of 10.01.2017

¹⁸ “Official Gazette of Montenegro”, No. 064/11 of 29.12.2011 and 001/18 of 04.01.2018

¹⁹ Strategy for Combating Trafficking in Human Beings 2019-2024, p. 15

one hand, and the protection of potential victims of trafficking in human beings, on the other, with particular emphasis on the treatment of women and children victims of trafficking. The coordination team consisting of representatives of the signatory institutions and one representative of non-governmental organizations is responsible for implementation of the agreement.

In 2016, the Women's Rights Center prepared the Report on *Monitoring and Evaluation of Anti-Trafficking Policies in Montenegro 2014-2015* with an overview of official statistics regarding the number of criminal charges, the number of persons against whom criminal charges were filed, the number of indictments and the number of persons against whom charges were filed, the number of final judgments, and the number of persons convicted of the criminal offense of trafficking in human beings from 2004 to 2015. Also, this report evaluates the national legislative and policy framework in relation to international standards and in accordance with the first part of the manual *Monitoring and Evaluation of Anti-Trafficking Policies: A Handbook for Victims' Advocates*.

In this report, the focus will be on the second part of the policy methodology for combating trafficking in human beings and on evaluating the results achieved within the national framework for combating trafficking in human beings in practice. This means that the basis for preparation of this report are the framework and individual indicators provided in the *Monitoring and Evaluation of Anti-Trafficking Policies: A Handbook for Victims' Advocates*, developed to assess what is happening in reality and how different national and other actors are meeting international obligations to protect the rights of the victims of trafficking in human beings.

This report has two main parts. The first part will summarize and update the findings from the previous report prepared by the Women's Rights Center for the period 2014-2015 relating to the legal and institutional framework of the system for the protection of victims of trafficking in human beings. The first National Strategy for Combating Trafficking in Human Beings was adopted for the period 2003 - 2011, while the first report of the Women's Rights Center was prepared during the validity period of the *Strategy for Combating Trafficking in Human Beings 2012-2018*. In the meantime, the Government of Montenegro adopted a new *Strategy for Combating Trafficking in Human Beings 2019-2024*. Montenegro has ratified the following international instruments concerning the fight against trafficking in human beings: The United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Protocol against the Smuggling of Migrants by Land, Sea and Air, the United Nations Convention on the Rights of the Child, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), United Nations Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)²⁰.

The second part of the report will analyze how the system reacted to cases of trafficking in human beings that were prosecuted in the period covered by this report, from January 1, 2018

²⁰ Source: Strategy for Combating Trafficking in Human Beings 2019-2024, p. 6.

to December 31, 2019.

Reports by relevant international authorities

In the United States (U.S.) State Department's 2019 Trafficking in Persons Report²¹ it is stated that Montenegro does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. This qualification has categorized Montenegro as a Tier 2 country, on the "watch list."²² The efforts noted by the U.S. State Department include the adoption of a strategy and an action plan, as well as the establishment of a multidisciplinary working group to encourage pro-activeness in detecting cases of trafficking in human beings, and modification of procedures that should prevent recategorizing trafficking cases as other (less serious) offenses.

The U.S. report criticizes Montenegro for not having finalized a single conviction for human trafficking for five consecutive years, and for having punished one presumed victim on account of inadequate identification (of victims of trafficking). The report recommends more active prosecution of traffickers in accordance with Article 444 of the CCM, more proactive disclosure of presumed victims, especially women involved in prostitution, migrants, seasonal workers and children who are forced to beg, providing adequate training for judges, prosecutors and prosecuting authorities on the investigation and prosecution of trafficking cases, encouraging the preparation of victims in the investigation and trial process in a manner that is tailored to their needs and situation, increasing access to legal aid and witnesses-protection for victims, involving members of the Roma community in decision-making regarding the protection of victims, creation and funding of an accessible victim compensation fund, and informing them on the right to compensation during the pre-trial procedure and ensuring adequate independence, capacity and influence of the National Anti-Trafficking Office.

The report points out in particular that experts claim that the competent authorities continue to investigate and prosecute possible cases of trafficking for the purpose of prostitution under the terms of lesser offences, such as under Article 210 of the CCM - Mediation in Prostitution (encouraging a person into prostitution and profiting from the prostitution of others). Specifically, the report states that in the previous period (2017) prosecutors stopped investigating after obtaining sufficient evidence to secure a conviction under Article 210 of the CCM and did not investigate further subtle forms of coercion. Criminal qualification procedures have been modified so that all cases that may be related to trafficking in human beings must first be investigated in accordance with that definition and only later may be retrained.

In the latest European Commission report on Montenegro for 2019 ²³ it is stated that Montenegro ""has yet to establish a convincing balance of results with regard to final judgments, especially in combating trafficking in human beings, money laundering, tobacco

²¹ The Report is available at: <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>, accessed on February 1, 2020.

²² Tier 2, watchlist

²³ Report available at: <https://www.eu.me/mn/pregovori-o-pristupanju/dokumenti-pregovori/category/57-izvijestaji-o-napretku>, accessed on February 1, 2020

smuggling, and to increase the number of final decisions on the permanent confiscation of property”.

The report points out that, as of February 2018, the police have "a specialized department for combating trafficking in human beings, smuggling and illegal migration, which now has eight employees." The report emphasizes the existence of an institutional and legal framework (in particular the adoption of a new strategy and accompanying action plan), and states that in the reporting period, a decision of the first instance court was reached against two defendants sentenced to imprisonment of 15 and 17 years. The report also notes that the number of ongoing investigations has increased to three, and four cases are pending investigation. However, the report states that these cases are not related to organized crime and that no trafficking rings have been identified in recent years. Finally, the report notes that "risk assessment and proactive investigations must become common practice in this area, as no signal or complaint can be expected from victims given the nature of this type of crime" and commends formation of a working group to combat trafficking in human beings in December 2018.

Methodology

The report is based on the indicators set out in the second part of the *Handbook Monitoring and Evaluation of Anti-Trafficking Policies: A Handbook for Victims' Advocates* developed through the Balkan ACT Now 2 regional project, implemented by ASTRA Belgrade in cooperation with partner organizations from Bosnia and Herzegovina, Macedonia, Montenegro (Women's Rights Center) and the Netherlands.

Regarding monitoring of the practice, the manual is divided into seven parts:

A: Law and national legal framework for the criminalization of trafficking in human beings;

B: Identification of victims of trafficking;

C: Legal provisions on the protection of victims of trafficking;

D: Help and support to victims;

E: Compensation and damages;

F: Institutional framework, including coordination, capacity and international cooperation;

G: Data availability, data protection and privacy protection.

This pilot report collected data in relation to the first four parts of the monitoring framework - A, B, C and D.

In order to respond to the requests set by the indicators, the members of the working group

used official statistics and official information of the bodies involved in the combating trafficking in human beings in the preparation of the report. Also, legal acts, laws, regulations and other documents containing relevant information on the organization of the protection of victims of trafficking system were used.

In addition, semi-structured interviews were conducted with persons with special knowledge on the subject of the report, representatives of civil society organizations involved in running shelters or assisting and supporting victims and NGOs involved in identifying victims of trafficking. An interview was also conducted with a member of the newly formed Team for Formal Identification of Victims of Trafficking. A complete list of interlocutors is given in the annex to the report.

Unfortunately, direct interviews with victims were not possible, so the working team relied on secondary sources and interviews with persons who had been in contact with victims or had information about them and their experiences.

Cases

As the project team defined the period from January 2018 to December 31, 2019 as the reporting period, the cases that were *at any stage of the proceedings* before the state authorities were included in the analysis. These cases constitute the *population of this report*. For ease of reference, the cases are indicated in letters from A to H. The following cases have been considered:

Case A: Case A was initiated in 2017. It was initially treated by the Police Directorate as a potential *rape* case. Namely, the Police Directorate filed a criminal complaint with the Higher State Prosecutor's Office in Podgorica for the rape case. The prosecution initially investigated the rape and then issued an order to extend the investigation (5/7/2017) to the criminal offense of *trafficking in human beings*. In this case, the injured person was a girl (a female child). Two persons related to the victim (mother and stepfather of the victim) were charged with committing the criminal offense against this person. The victim's legal representative was the father. During the procedure, the opinion of the expert service on the psycho-physical condition of the victim was provided. In 2019, a first-instance verdict was issued in which the defendants were sentenced to 17 and 15 years in prison. The judgment became final on 11 December 2019.

Case B: The investigation in this case was initiated in 2018 and lasted from 26 October 2018 to 24 January 2019, after which an indictment was issued against one person for the criminal offense of Trafficking in Human Beings (Art. 444, para. 6 in connection with paragraph 3 and paragraph 1 of the CCM). In this case, 4 child victims (3 boys and 1 girl) were identified. The victims' father was charged with the crime. Both the accused and the victims were Roma. The accused was charged with having exploited the victims for forced labor and begging. A legal representative for the injured parties was appointed from the list of attorneys specializing on the cases of children. An expert opinion was given on the state of the victims, and one victim resided in a shelter of OFTIP. At the time this report was prepared in early 2020, the proceedings were ongoing.

Case C: In 2018, a criminal charge was initiated by the Police Directorate (PD) against two perpetrators for the criminal offense of *trafficking in human beings*. After the checks were carried out, the case was transferred to the jurisdiction of the Basic Prosecutor's Office, but for processing another criminal offense - the *illegal crossing of the state border and smuggling of people* (Article 405, paragraph 3, in relation to paragraph 2 of the CCM). Two persons were reported as suspected criminals, while six were identified as victims. They were all from Iraq.

Case D: In this case, a criminal complaint was filed against one person by the PD for committing the criminal offense of trafficking in human beings (forced marriage). The case is currently under investigation. An investigation order was issued on 16 October 2019 against one person. The defendant is a male and a Kosovo citizen. The defendant is also related to the victim (father). The injured person is a child. The investigation is being conducted for illicit marriage (Art. 444, para. 3 regarding para. 1).

Case E: In this case, two men were indicted in December 2019 for committing the offense referred to in Article 444, paragraph 1 CCM - labour exploitation. Both defendants were of Pakistani origin. The victims were two adult males, also from Pakistan. The investigation was first initiated against one person (25 October 2019) and then an order to extend the investigation to another person was issued (28 October 2019). The injured parties were staying in a shelter.

Case F: Police are investigating the crime of trafficking in human beings where the victim is a girl child who is housed in a shelter for victims of trafficking. A relative (father) is suspected of committing the crime.

Case G: On the basis of a report by a non-governmental organization, Center for Roma Initiatives from Niksic, a report was made on the possible commission of a criminal offense of trafficking in human beings (forced marriage). Police collected the data and made it available to Kosovo police. The victims were two children, Montenegrin nationals found in Kosovo. One victim (or suspected criminal?) was male and one was female. There are grounds for suspecting that the crime was committed by a relative.

Case H: As part of international cooperation, the police of the Republic of Taiwan and Montenegro implemented an action on 8 January 2020 8th, in which eight Taiwanese citizens were imprisoned on suspicion of having committed a crime of human trafficking for the purpose of labour exploitation and the creation of a criminal organization pursuant to Article 401a of CCM. The action identified 38 victims and 46 potential victims, residing at different locations in Montenegro. All victims were of Taiwanese nationality and 13 were female, while the rest were male. All were adults. The Higher State Prosecutor's Office referred the case to the Special Public Prosecutor's Office.

In addition, in the reporting period, according to the information obtained by the working group for development of this report, the police and prosecution investigated several cases, some of which were still in the investigation phase by the end of 2018, while in other cases the official assessment was that they lacked elements of the criminal offense of trafficking in human beings.

Sources of information

In order to prepare this report, a working group was formed consisting of representatives of relevant state institutions involved in the fight against trafficking in human beings, together with representatives of the Women's Rights Center. The working group included:

- Sonja Perišić Bigović, Independent Advisor at the Ministry of Internal Affairs, Office for Fight against Trafficking in Persons
- Bojana Bandović, Advisor in the Supreme Court of Montenegro
- Dajana Nikpaljević, Advisor at the High State Prosecutor's Office in Podgorica
- Marko Brajović, Senior Police Inspector, Police Directorate, Criminal Police Sector, Department for Combating Trafficking in Human Beings and Illegal Migration
- Maja Raičević, Executive Director of the Women's Rights Center
- Ana Jaredić, psychologist at the Women's Rights Center
- Stefan Popović, Project Coordinator, Women's Rights Center
- Tanja Markuš, Coordinator of the Women's Rights Center
- Olivera Komar, Professor at the Faculty of Political Science, University of Montenegro.

The following sources were used by members of the working group to prepare the report:

- Official statistics of government bodies,
- Information gathered by members of the working group from the Police Directorate, Prosecutor's Office, Judiciary and the Office for Fight against Trafficking in Persons,
- Interviews and consultations with representatives of civil society who have been in contact with victims of trafficking (a list of organizations contacted while drafting this report is provided in the Annex to the report).

The Working Group has met 9 times during the preparation of the report.

A. Law and national legal framework for incriminating trafficking in human beings

A.2 General information on investigation and prosecution

Indicator:

A.b Trafficking cases were prosecuted and adjudicated (judged) fairly in accordance with international criminal justice

This indicator is evaluated through 21 sub-indicators that should serve to form a general assessment of the situation and answer the question whether the cases of trafficking in human beings during the reporting period were prosecuted and adjudicated in a fair manner and in accordance with international criminal law standards. The following are some of the individual information collected during the preparation of this report regarding all sub-indicators.

In general, based on all the information, it can be concluded that in the reporting period great attention and efforts were made by the competent authorities to prosecute and adjudicate cases of trafficking in human beings in a fair manner and in accordance with international criminal law standards. Basic discrepancies have been noted in the area of victim protection, provision of psycho-social and medical support and respect for the right to recovery and reflection. Discriminatory behaviour has been observed in assisting professions, such as the medical profession, and in the treatment of child marriages and begging when it comes to the Roma community.

A.24 Suspected traffickers were processed in accordance with internationally-recognized fair trial standards

Based on the information available, trials during the reporting period were broadly in line with the recognized fair trial standards.

A.25 There were compelling reasons to suspect that one or more public officials were involved in trafficking or assisted traffickers in some way.

According to police sources, there were no cases in the reporting period in which public officials were investigated for involvement in this crime.

A.26 Trials of suspected traffickers respected the rights of victims and witnesses.

According to the information available at the trials, the rights of victims and witnesses were generally respected during the reporting period. Based on interviews with representatives of civil society involved in the care of victims, it remains unknown whether the victims' recovery and reflection period was respected, given that some victims who were contacted by these organizations had been interviewed prior to their accommodation in the shelter. Also, there is

no reliable information on whether the victims used the right to free legal aid. According to official sources, it was offered to them, but in most cases it was not used for an unknown reason. Also, during the reporting period, victims received very limited professional assistance (psychological or reintegration assistance).

A.2.a Investigation phase

A.27 Police did not participate in general raids on female sex workers and justify such operations as a way to combat human trafficking

According to information received from the Police Directorate, there were no such raids in the reporting period. From other sources (civil society sector), no contrary information was received.

A.28 Police officers conducting investigations into trafficking cases also conducted a lawful and supervised financial investigation and executed orders for confiscation of property where appropriate.

A correction should be made in relation to this indicator in the sense that the Prosecutor's Office is responsible for financial investigations in Montenegro. During the reporting period, there were no financial reports pertaining to the offense of trafficking in human beings.

A.29 Quality of interviews conducted by special investigators for trafficking in human beings (not regular police in the field) with potential victims is in line with international standards of "good practice"

According to information from organizations that were involved in the care of trafficking victims during the reporting period, the reflection period was not respected in all cases and some victims were questioned by police before being brought to shelters. Namely, the right to recovery and reflection is defined by the Council of Europe Convention as a time period of at least 30 days for the victim to recover and to make a free and informed decision whether to cooperate or not with the investigating authorities.

Civil society organizations that have been in contact with victims have witnessed aggressive interrogation in one case as well as discriminatory treatment of victims while providing medical assistance by junior medical staff during the procedure.

A.30 Number of cases of newly identified victims during the reporting period, where there was no investigation or investigation was terminated because the victim did not want to cooperate as a key witness

According to the Office for Fight against Trafficking in Persons and the Police Directorate, there were no cases in which the investigation was terminated or was not initiated because the victim did not cooperate as a key witness. All identified victims reportedly cooperated with the authorities.

According to information from civil society organizations dealing with the prevention of forced child marriages, in 2019 alone, six cases were reported in the territory of Niksic municipality that were not prosecuted because the possible victim and perpetrator did not admit, during the investigation, that a cash transaction had occurred or had been promised. After this confession

was not made while giving evidence upon report of an NGO, the cases were not further investigated and the proceedings were discontinued. According to Montenegrin laws, marriage before age of 16 is illegal regardless of presence or absence of financial arrangement in the process. After 16, marriage may be legal with consent of the parents.

A.31 Percentage of investigations in which newly identified victim-witnesses cooperated with the criminal justice system (police and prosecution) during the criminal investigation.

This percentage in the observed period and in relation to the cases that make up the population of this report is 100%. Namely, according to all available information in cases A, B, D, E, F, G and H, the newly identified victims - witnesses have cooperated with the criminal justice authorities.

However, in the example above, we see that in cases of possible illegal child marriages, which were not prosecuted, the reason was that the possible victims and perpetrators did not admit that a cash transaction had occurred or had been planned. The number of such cases cannot be determined because the source was an NGO.

A.2.b Criminal prosecution phase

A.32 Prosecutors ensured appropriate support to victims prior to trial.

Based on information from the prosecution, the victims received support before the trial. Information received from civil society organizations during the course of data collection for preparation of the report does not contradict this assessment, except in the part on psycho-social support for victims' recovery, which was absent in some cases during 2018.

A.33 Trafficked persons were informed about their rights and applicable administrative and judicial procedures.

According to the Office for Fight against Trafficking in Persons, during their stay at the National shelter for trafficking victims, victims were informed by legal counsel about their rights, and relevant administrative and judicial procedures. Information from civil society sources do not contradict this assessment, however, they question the psychological state of a number of victims and consequently their ability at the time to make informed decisions about their actions.

A.34 Trafficking victims were kept informed of relevant court and administrative proceedings.

According to the Office for Fight against Trafficking in Persons, the trafficking victims during their stay at the National shelter were briefed on court proceedings and administrative proceedings by legal advisers. Information obtained from other sources do not contradict this assessment.

A.35 Trafficked persons were informed promptly of the outcome of trials in which they were a victim or witness, both guilty verdicts and not-guilty verdicts.

According to the Office for Fight against Trafficking in Persons, victims of trafficking were timely informed of the outcome of the trials in which they appeared as injured parties or witnesses, no matter whether the verdict was convicting or acquitting.

A.36 Number of cases where there was no prosecution, or the prosecution was stopped as a result of reluctance of a victim as a key witness to cooperate

According to the Office for Fight against Trafficking in Persons and the Police Directorate, there were no cases in which the prosecution was terminated because the victim did not want to cooperate as a key witness. All identified victims cooperated with the authorities.

A.37 There was at least one prosecution under the terms of legislation that establishes the liability of legal persons for direct or indirect involvement in the commission or attempt to commit the crime of trafficking in human beings.

In the reporting period there was no prosecution involving legal persons.

A.2.c Trial and convictions

A.38 The courts imposed effective, proportionate and dissuasive penalties.

In the reporting period, only one conviction was issued for a criminal offense of trafficking in human beings in April 2019 (Case A). This decision became final in December 2019. The judgment sentenced one person to 17 years' imprisonment pursuant to Article 204 - Rape (paragraph 4 in relation to paragraph 1 of this Article) and Article 444 - Trafficking in human beings (paragraph 3 in relation to paragraphs 2 and 1) and one person to 15 years' imprisonment (related to the same, while related to the crime of Rape he was sentenced for aiding and abetting). This was the most severe sentence imposed so far for a criminal offense of trafficking in human beings, but experts agree that the amount of the sentence was more significantly contributed by the crime of rape, than the offence of human trafficking.

A.39 Courts respected the principle of non-discrimination

Although discrimination was not recorded in the trial process, it was present in the earlier stages of the proceedings. Discrimination has been observed in terms of different treatment of persons of Roma and Egyptian²⁴ origin by the competent authorities when it comes to arranged marriages and begging, where these illicit behaviours are attributed to "cultural" and "customary" reasons and thus produce less decisive reactions by the prosecution authorities.

In Case G, the application was almost rejected for discriminatory reasons. Namely, after the victim's mother reported the case to the NGO Center for Roma Initiatives, representatives of the organization, together with the alleged victim's mother, tried to report the case to the police and encountered a discriminatory reaction of a female officer on duty. Namely, she asked whether the marriage of the child came with the consent of the girl, with the insinuation that it was a tradition of the Roma community (and therefore an acceptable practice). After insistence of the representative of the Center for Roma Initiatives that a girl of 11 could not consent to marriage, the application was processed, but this would almost certainly not have happened if the mother had been alone on that occasion.

Also, representatives of civil society organizations involved in the care of victims of trafficking in human beings report discriminatory treatment by junior medical staff during the procedures

²⁴ NB The Egyptian community is regarded as linked to Montenegro's Roma community and is not associated closely to the modern Republic of Egypt.

involving victims of prostitution, in the form of verbal abuse of victims.

Indicator:

A.c Prosecutors and judges understood and, where appropriate, implemented provisions to protect vulnerable victims and witnesses before, during and after trial, as provided by national law as well as by obligations incurred through ratification of treaties and accepted international prosecutorial and judicial good practice

A.40 Number of cases involving in-court protection measures

In at least one case, specific courtroom protection measures were applied in the observed period. The victim's testimony was recorded, and she was protected from encountering the defendant. However, according to the 2019 US State Department Report, the authorities in this case failed to protect the victim from attempted intimidation.

A.41 Number of victims punished for being engaged in unlawful activities they were forced to commit while under the control of traffickers or exploiters

On the basis of the Guidelines on the Impunity of Victims adopted in accordance with Article 26 of the Council of Europe Convention, the authorities in the proceedings are directed that, if a causal link is established between the (presumed) victim and the crime committed, they should, at the earliest possible stage, suspend the prosecution, that is, if the proceedings are pending before a court – to end them as soon as possible in a manner that will result in impunity for the victim²⁵.

According to the information gathered during preparation of the report, no victims were punished in the reporting period.

A.42 Government officials and politicians in the government did not make public statements (or such statements were not recorded) in which they do not differentiate between human trafficking and smuggling of people

In order to fully respond to this indicator it would be necessary to monitor reporting of print and electronic media over the observed period. Based on the information available from the Office for Fight against Trafficking in Persons, there were cases where the media reported that a case of human trafficking was investigated, and that it was in fact smuggling of migrants. However, the sources were not government officials, but it was rather the interpretation of the media itself.

A.43 Percentage of traffickers convicted in two successive calendar years (the period under

²⁵ OSCE and the National Office for Fight against Trafficking in Persons, *Guidelines on the Impunity of Victims of trafficking in human beings for police officers, public prosecutors and judges*, p. 3, online source: <https://www.osce.org/me/mission-to-montenegro/406505?download=true>, accessed on February 1, 2020

review and the previous calendar year) where a penalty imposed on a convicted trafficker was not fully applied by the end of the second calendar year.

In the previous two years, one proceeding was concluded and both defendants in the proceeding were convicted by the final decision (case A). Therefore, the percentage is 100%.

A.3.a Investigation phase

A.44 Number of police reports that a possible crime of trafficking in human beings has taken place

During the reporting period, the Police Directorate filed 5 reports (Cases B, C, D, E, H).

A.2.b Indictment and Proceedings

A.45 Number of suspects indicted for human trafficking

In the reporting period, five persons were indicted for committing the criminal offense of trafficking in human beings. These were Cases A, B and E.

A.46 Number of actions taken for trafficking in human beings and related offenses committed in the territory of a state, a vessel flying its flag or aircraft registered in its territory

During the reporting period, there were three cases in which five persons were indicted (Cases A, B, E).

A.47 Proportion of criminal proceedings for trafficking in human beings for the purpose of sexual exploitation in relation to labor exploitation

During the monitored period, five proceedings were conducted, two of which were related to sexual exploitation (Case A, sexual exploitation and Case D, forced marriage) and three related to labour exploitation (case B, begging and forced labor and cases E and H, labor exploitation).

A.48 Percentage of criminal proceedings for probable trafficking in persons, which have been recategorized as another offence with a lower sentence provided

In one case, there was a re-qualification to the act with lower punishment prescribed. In Case C, in 2018, a criminal charge was initiated by the Police Directorate against two offenders for a criminal offense of *trafficking in human beings*. After the checks were carried out, the case was transferred to the jurisdiction of the Basic Prosecutor's Office, but for processing another criminal offense - the *illegal crossing of the state border and smuggling of people* (Article 405, paragraph 3, in relation to paragraph 2 of the CC).

A.49 Percentage of trafficking trials where the victim / witness testified and where expert witnesses were invited to testify on the psychological state of the victim

In the reporting period, an expert witnesses were called to court in case A. Court called a medical expert who wrote relevant medical analysis while the team of experts wrote a report on manipulation methods the suspect used on the victim.

A.50 Expert witnesses who testified at trials of suspected traffickers (or were otherwise involved in legal proceedings involving trafficked persons) demonstrated an appropriate level of expertise concerning both the psychological status of victims and other issues affecting victims.

According to information received from civil society sector activists involved in providing victim support, during the proceedings in 2018, in at least one case, an expert witness showed appropriate expertise regarding the victim's psychological condition.

A.3.c Court Decision

A.51 Number of convictions (noting the number of people convicted) for trafficking offences committed on a state's territory, on a ship flying its flag or on an aircraft registered in that state.

In the previous two years, one final conviction was rendered finalized and a conviction in first instance was issued for two persons (Case A).

A.3.d General Information

A.52 Average duration of criminal proceedings for trafficking in human beings, and for cases that were officially concluded in the reporting period

Given that this was a single case, it is not possible to draw an average. In this case, the investigation lasted from 17 March 2017 until 7 June 2017. The judgment was delivered on 16 March 2019 and became final in December 2019. This means that the procedure took a total of 33 months, or just under 2 years and nine and a half months.

A.53 Number of (presumed) victims officially identified in a previous calendar year whose alleged trafficker, though reportedly located in your country, is not reported to have been charged or tried by the end of the following year (either in the country or in another country).

In the previous calendar year, two cases were under investigation involving two possible victims, but it was assessed that there were no elements of a criminal offense of trafficking in human beings (Case C). In Case D, an indictment was filed against one person, although there were indications that other relatives of the victim were also involved in the crime of child marriage.

A.54 At least one prosecution and conviction for a trafficking-related offence was reported with the aggravating circumstance of involvement of one or more public officials in the exercise of their functions.

There were no such actions or judgments during the period under review.

A.3.e Litigation (Civil proceedings)

During the reporting period, there were no civil actions brought against traffickers nor there were any cases of compensation paid to the trafficked persons.

A.55 Percentage of (presumed) trafficking victims involved in court cases who pursued a civil claim in the civil courts.

None of the possible victims of trafficking who participated in the court proceedings in the monitored period initiated civil proceedings.

A.56 Percentage of cases involving a civil claim in which any financial settlement was awarded.

Since there were no litigations, the percentage is 0.

A.57 Percentage of cases where there was financial settlement in the litigation and where the victims received the full amount awarded

Since there were no civil proceedings, the percentage is 0. According to all available information, no victims have so far received compensation or settlement either in civil or criminal proceedings.

B. Identification of trafficking victims

B.2 In relation to the persons identified

Indicator:

B.b Trafficking victims were identified quickly and accurately

The extent to which standards are met when it comes to accurate and fast identification of victims of trafficking is measured through fifteen sub-indicators.

B.7 Police and other actors involved follow procedures for identification of victims of trafficking

In one part of the reporting period, victim status was granted by a final judgment. The system of formal victim identification so far has been based on prosecution. Specifically, there was a list of indicators for early identification of victims of trafficking, and the number of actors who had completed the basic training program was increased and they were expected to make a preliminary identification of victims of trafficking. Following preliminary identification, a person suspected of being harmed by the commission of a criminal offense of trafficking was given the status of "potential victim" and could be housed in a Shelter for victims and have access to all support and assistance services as a victim of trafficking, regardless whether a criminal complaint or indictment had been filed for this offense. Statistically, only injured persons by the criminal offense of trafficking for whose case a final conviction has been pronounced, are categorized by the authorities as 'victims of trafficking'.

However, since the act of trafficking in human beings is at the same time a grave violation of human rights, with the aim of improving the system of formal identification of victims of trafficking in human beings and upgrading their protection system, the Working group, composed of representatives of the Ministry of the Interior, the Police Directorate, the Ministry of Labor and Social Welfare and NGO representatives, and with the support of the International Organization for Migration (IOM), has developed Standard Operating Procedures (SOPs) defining the manner and procedure for granting the status of a victim of trafficking to a person identified as a potential victim.

In order to operationalize the application of the aforementioned Standard Operational Procedures, the Minister of the Interior, by Decision No. 01-050 / 19-4043 / 1 of 15 November 2019, formed a Team for the formal identification of trafficking victims, consisting of a president, a secretary and three permanent members. President of the Team is a medical doctor, the members are a psychologist from the Institute for Social and Child Welfare and a representative of the Police Directorate (Department for Combating Trafficking in Human Beings, Smuggling and Illegal Migration), a social worker from the locally competent Center for Social Work, the secretary of the Team is a representative of the Office for the Fight against Trafficking in Persons.

The President has the right to include in the work of the Team representatives of other relevant

bodies or civil society organizations that may have information about the particular person who is a subject of the formal identification procedure. Tasks of the Team are:

- to coordinate the initial referral and protection of persons suspected of having been trafficked;
- to carry out the process of formal identification of victims of trafficking in human beings;
- to communicate and cooperate with local partners;
- to visit locations where vulnerable categories of people reside;
- to inform the Minister of the Interior on a quarterly basis on the results of the Team's activities.

Team members are available 24/7 and go out in support of a specific case if needed. The model provides that victim status can also be obtained on the basis of threats to human rights, and not only if the victims are subject of a human trafficking crime.

B.8 Specialist anti-trafficking CSOs / NGOs participated in identification of the victims

In relation to the population treated in the report, in three cases, on the basis of information provided by non-governmental organizations, criminal charges for trafficking in human beings were filed after investigations (cases D, E and G).

B.9 Total number of persons identified by the public authorities as potential victims, classified by the number of male and female adults and minors, as well as by country of origin

Case	Status	Result
Case A	Victim	1 minor girl
Case B	Potential victims	3 minor boys and 1 minor girl
Case C	-	-
Case D	Potential victim	1 minor girl
Case E	Identified victims	2 adult men
Case F	Potential victim	1 minor girl
Case G	Potential victim	1 minor girl and 1 minor boy
Case H	Identified victims	13 female adults and 27 male adults
	Potential victims	45 persons (no data on gender and age)

B.10 Total number of persons identified by government bodies as officially recognized victims of trafficking in human beings

Case	Status	Result
Case A	Victim	1 minor girl

B.11 Total number of foreign nationals (and proportion of total) identified by the authorities as potential victims, disaggregated by adult women, adult men, girls under 18 and boys under 18. country of origin.

Case	Origin	Result
Case D	Kosovo	1 minor girl
Case E	Pakistan	2 adult men
Case H	Taiwan	13 female adults and 27 male adults
	Taiwan	45 persons (no data on gender and age)

B.12 Total number of foreign nationals identified by government bodies as officially recognized victims

Case	Origin	Result
Case D	Kosovo	1 minor girl
Case E	Pakistan	2 adult men
Case H	Taiwan	13 female adults and 27 male adults
	Taiwan	45 persons (no data on gender and age)

B.13 Number and proportion of the total of identified potential victims reportedly subjected to (or intended for) a form of sexual exploitation, versus the number and proportion reportedly subjected to forced labour (non-sexual forms of exploitation).

Case	Type of exploitation	Result
Case A	Sexual exploitation	1 minor girl
Case B	Labor exploitation	3 minor boys and 1 minor girl
Case C	-	-
Case D	Sexual exploitation	1 minor girl
Case E	Labor exploitation	2 adult men
Case F	?	1 minor girl
Case G	Sexual exploitation	1 minor girl and 1 minor boy
Case H	Labor exploitation	13 female adults and 27 male adults
	Labor exploitation	45 persons (no data on gender and age)
Total	Sex. exploitation = 4	Labour exploitation = 91

B.14 Number of officially identified victims allegedly exposed (or could have been exposed) to sexual exploitation in relation to the number and proportion of victims exposed to labor or other exploitation

Case	Type of exploitation	Result
Case A	Sexual exploitation	1 minor girl
Case B	Labor exploitation	3 minor boys and 1 minor girl
Case C	-	-
Case D	Sexual exploitation	1 minor girl
Case E	Labor exploitation	2 adult men
Case F	?	1 minor girl
Case G	Sexual exploitation	1 minor girl and 1 minor boy
Case H	Labor exploitation	13 female adults and 27 male adults
	Labor exploitation	45 persons (no data on gender and age)
Total	Sex. Exploitation:4	Labour Exploitation: 91

B.15 Number of men identified as victims of trafficking (data on adults)

In the reporting period, 29 persons were identified as victims of trafficking in men and adults. These are cases E and H.

B.16 Number of boys and girls under the age of 18 identified as possible victims, as well as identified victims who have declared that they were trafficked before they turned 18

During the reporting period, 5 minor girls and 4 minor boys were identified as victims of trafficking.

B.17 Number of identified (potential) victims who self-reported the offense to state authorities (i.e. not identified by the police or any other authority during transit, exploitation or recovery)

No cases in the reported period.

B.18 An agency responsible for detecting illegal exploitative working practices (such as a specialist police unit or labour inspectors) investigated at least one case in an unprotected sector, including the sectors in the country where migrant women are reported to work or earn.

To begin with, in the Montenegrin system, the labor inspection cannot conduct an investigation, but only carry out controls. According to the information obtained by the Working Group, the Labour Inspectorate cooperated with all relevant authorities during the reporting period and had a proactive approach to identifying possible victims of trafficking for the purpose of labour exploitation. Cooperation with the Ministry of Interior, i.e. the Police Directorate - Border Police Sector, Department for foreigners, visas and suppression of illegal migration was particularly active, with over 200 joint controls carried out. According to police information, these joint controls of labour inspectors and foreigners' inspectors have resulted in cancellation of a large number of residence permits for foreigners found at work in Montenegro without proper documentation (temporary residence and work permits or certificates for a foreigner's employment).

B.19 An agency responsible for detecting illegal exploitative working practices (such as a specialist police unit or labour inspectors) investigated at least one case in an unprotected sectors, including the sectors in the country where migrant men are reported to work or earn.

First of all, in the Montenegrin system, the labour inspection cannot conduct an investigation, but only carry out controls. An example would be the "Trafficking" campaign, which was also carried out during 2018 at the level of 8 security centers and 13 security departments. In the period from January to December 2018, 89 checks were carried out within the "Beggar" campaign, 284 persons were checked and 53 requests for misdemeanor proceedings were filed. Also, through the implementation of field activities, several outstanding objects and locations were inspected.

As part of the "Trafficking" campaign, officers of the Border Police Sector, inspectors for foreigners, in cooperation with the Labor Inspectorate, carried out a total of 298 checks in the reporting period. The checks included construction sites, hotels, private accommodation, businesses, bus and train stations, taxi stops, tourist organizations and agencies, catering facilities and marinas. These controls aimed to determine the residence, business, work of foreign nationals and possible existence of elements that indicate the labor exploitation of foreign nationals.

B.20 An agency responsible for child protection or for detecting illegal exploitative working practices investigated at least one case involving children working or earning in unprotected sectors.

As with the previous indicators, the centers for social work and inspections do not carry out investigations but only control or monitoring. Based on the information provided by the task force, social work centers have been working to identify begging practices among children.

B.21 Members of minorities did not experience any additional difficulty in being identified or accessing assistance (in comparison to people others who were identified and do not belong to minorities).

According to information obtained from official sources, all persons entering the protection program are treated equally, regardless of their religious beliefs, ethnicity or nationality. Therefore, according to the same sources, minorities did not experience additional difficulties in terms of assistance if they were identified as potential victims or victims of trafficking.

However, some authorities recognize particular problems with the Roma-Egyptian (RE) population. According to them, due to the relative isolation of this community, it is difficult for the competent authorities to obtain information on suspected acts of trafficking in human beings. For this reason, targeted door-to-door campaigns are organized where representatives of the institutions visit once a year RE settlements to enhance mutual trust. Institutional representatives are working to strengthen cooperation with the civil society sector and the Red Cross, that reportedly have good relations with this population.

However, based on information coming directly from the civil society sector working directly with the RE population, they have different experiences. According to them, the competent

authorities do not invest sufficient effort in finding evidence of forced marriages and often dismiss this practice as a cultural and customary characteristic of the RE population. Out of 7 reported cases by a civil society organization working with them, during 2019 only one person was prosecuted in Niksic. In others, victims and persons identified as perpetrators or accomplices were asked to make a statement as to whether a cash transaction took place or not. Whenever the statement was not forthcoming, the cases were not proceeded with. Also, in the monitored period there was at least one case in which processing of the report of the forced marriage was almost disregarded, because the policewoman who was on duty, sought information on whether the minor, who was the victim of the contracted marriage, had consented to the marriage. It was only after the NGO insisted that this information was irrelevant because an 11-year-old child could not consent, that the case was further processed.

B.22 Lesbian, gay, bisexual, and transgender (LGBT) individuals did not experience any additional difficulty in being identified or accessing assistance (in comparison to people others who were identified and are not LGBT).

There were no LGBT persons identified as beneficiaries of assistance programs for victims of trafficking in the reporting period.

B.3 Disputed identification and people categorised inappropriately as not trafficked

Indicator:

B.c CSOs that provide support to victims are not aware of the case where they considered a person was a victim of trafficking, and where the person was not identified as a victim by the relevant services.

B.23 Legal advisers providing support to potential victims of trafficking, irregular migrants, sex workers or unaccompanied children were unaware of the case where they believed that a person was a victim of trafficking, but where the relevant authorities refused to identify him/her.

The Working group considers that there are no conditions to collect information pertaining to this indicator and suggests that it should not be used in the report.

B.24 There is no evidence that criminal or misdemeanor proceedings against sex workers for prostitution involved victims of trafficking or that the competent authorities have not identified those persons as victims of trafficking.

No criminal or misdemeanor proceedings were conducted against sex workers for prostitution during the reporting period.

B.25 CSOs involved in childcare or child support for victims of trafficking were unaware of any type of exploitation as a form of trafficking that had been ignored by government bodies

Civil society organizations dealing with the prevention of juvenile forced marriages have reported a number of cases in which there was no response from the competent authorities due to lack of evidence. Even in the case where the offence was prosecuted (case D), the non-governmental organization had tried for over two years to initiate the proceedings.

B.26 Number of possible victims where the identification of a victim as an adult by the victim or her legal advisor or the CSO providing support is challenged.

No information on such cases.

B.27 Cases of wrong identification are quickly recognized and corrected

No information on such cases.

B.28 Irregular migrant officers (including those working to protect refugees or reviewing asylum applications) have attended at least one training session on trafficking in human beings

The MIA / Office for Fight against Trafficking in Persons, in cooperation with the Human Resources Directorate, organized five trainings under the program "Strengthening early identification skills and referral of potential trafficking victims in Montenegro with special reference to multi-agency cooperation" - three for the central region and one each for representatives of the competent services from the southern and northern regions of Montenegro. The training was attended by representatives of the Shelter for foreigners, officials from the Centre for accommodation of asylum seekers, and Ministry of Interior officials in charge of reviewing asylum applications.

B.29 Part or all of the consular staff have undergone training in trafficking and-or are familiar with identification and referral procedures both in the country in which they are appointed and in their own country.

The MIA / Office for Fight against Trafficking in Persons, in cooperation with the Human Resources Directorate, an institution specialized in providing systematic education to employees of competent state institutions, has developed and realized education program for diplomatic and consular representatives on ways of prevention, identification and referral of potential victims and victims of trafficking in human beings, on the topic "Role and possible actions of the Ministry of Foreign Affairs and the DCM (Diplomatic Consular Missions) in combating trafficking in human beings". Within this program, during the reporting period, two trainings were organized and attended by a total of 21 Ministry of Foreign Affairs officers - from the multilateral and consular sectors. In addition, consultations and exchanges of experience with officials and staff of foreign DCMs accredited in Montenegro are organized and there is regular participation of Montenegrin officials and diplomats at international conferences dedicated to combating trafficking in human beings. Also, a MFA representative is involved in the work of the Coordination Body for monitoring the Strategy for combating trafficking in human beings.

B.30 Appropriate measures have been taken to identify victims of trafficking in human beings during the examination of the asylum application and before the return of persons who have not been granted asylum.

Procedures have been developed to identify and refer victims of trafficking identified among illegal migrants with a particular focus on unaccompanied children, and key actors are trained to follow these guidelines. Also, trainings are being held with people handled by asylum interview officials.

C. Protection of Victims

C.5 Protection of all victims (including those exploited in a foreign country who subsequently returned to the monitored country)

Indicator:

C.d Victims of trafficking (whether presumed or officially-recognised) were protected and assisted adequately during the period under review.

C.28 At least one case in which a trafficking person was offered a special protection measure at the stage of investigation of a possible trafficking case, such as accommodation in a shelter that is under armed guard, or change of identity

In the reporting period, there were no cases where the victims of trafficking had changed their identities.

For potential victims of trafficking in human beings who were housed in the Shelter for Victims of Trafficking in Human Beings in 2018, according to a security assessment, a Closed Shelter was provided. These persons were not able to move independently outside the Shelter's premises without the escort of activists and police.

During 2019, two potential victims of sex trafficking were accommodated in an open-type Shelter in accordance with a security assessment.

C.29 At least one case where the police or other authority were involved in a victim protection operation after the trial was completed (an act that is not contrary, i.e. is based on respect for victims' human rights)

There is no information that during the reporting period police or other authorities were involved in any victim protection work after a trial was completed.

C.30 Number of victims receiving any other "safety protection net"

These measures are implemented to avoid secondary victimization. During the criminal proceedings, the injured party / witness - a child - was questioned in a special room of the SSPO (Supreme State Prosecutor's Office) in the presence of representatives of the prosecution professional service and representatives of the Center for Social Work in Niksic, while the injured party's legal representative - the father and the defence attorneys were located in another room from which they saw and heard the injured party, and while the victim's testimony was being recorded through audio-visual devices.

C.31 At least one victim received some form of protection even though he/she refused to cooperate with the police or other law enforcement agencies (i.e. refused to provide information or evidence to the prosecution), and protection was not withdrawn

During the reporting period, no identified victims refused to cooperate with the police.

C.32 Percentage of victims in contact with a specific organization providing services (such as assistance) who have stated that they do not feel safe six months after contacting that organization

During the reporting period, there is no information that a victim of trafficking who went through the assistance program stated that they felt unsafe 6 months after contacting the organization.

C.33 Percentage of victims in contact with a specific organization providing services (such as assistance), who have cooperated with the police or the judiciary (provided evidence), who have stated that they do not feel safe 12 months after contacting that organization for the first time

During the reporting period, there is no information that a victim of trafficking who went through the assistance program stated that they felt unsafe 12 months after contacting the organization.

C.34 Percentage of victims who have been formally provided protection during criminal proceedings

No such cases.

C.35 Percentage of victims receiving protection such as physical protection, change of residence or change of identity

No such cases.

C.36 Percentage of court proceedings during which victims have been exposed to intimidation or otherwise harmed

NGOs report on attempts of intimidation to which victims were exposed during court proceedings by potential perpetrators.

C.6 Recovery and reflection period

C.37 Percentage of cases where potential victims have enjoyed a recovery and reflection period of at least 30 days

Available information was that, during the reporting period, two victims were granted a recovery or reflection period. The non-governmental organizations involved in the care of the victims claim that there are times when the period was not respected as the victims were brought to the shelters after giving a statement and after evidences were collected.

C.38 Percentage of potential victims who received assistance and support in physical, psychological and social recovery during the recovery and reflection period assigned to them.

According to the information available, both victims who were granted a recovery or reflection period received support in recovery.

C.7 Protection of institutions and individuals who support victims

C.39 Number of cases where members of CSOs were exposed to intimidation and / or retaliation during or after the investigation and court proceedings.

The Police Directorate does not have information on intimidation or retaliation against civil society organizations after investigation and court proceedings. A non-governmental organization involved in the detection of cases of forced child marriages, however, reports a physical assault on a close relative of an activist, which has been reported to police.

C.40 Number of cases where members of CSOs reported intimidation or retaliation at any time, no matter if it was in connection with a specific investigation or a court proceeding.

In at least one case (above mentioned), members of a civil society organization reported retaliation against a relative of one of the activists.

C.41 Percentage of cases where police responded appropriately, after CSO members had reported being exposed to intimidation and / or threats during or after an investigation or court proceeding and reported this to the police, leading to the cessation of threats or punishment of the perpetrators.

According to information from the organization, police responded appropriately in this case.

C.8 Protection of victims of trafficking who have returned to their country of origin

Indicator:

C.e Victims of trafficking in human beings returning from abroad, on which cases the state authorities have been notified, and who have received adequate assistance and support during the reviewing period.

C.42 Number or pre-assessment based on information on the number of victims who returned to the country in a given period, whether it was an assisted or non-assisted return.

In one case (Case D), the victim was returned to Montenegro with the assistance of the police of

another state.

C.43 Procedures followed by consular staff (or other actors involved in return) also including risk assessment.

SOPs apply to the countries that were signatories of bilateral agreements with Montenegro pertaining to referral of victims of trafficking in human beings, which is an integral part of these agreements. Standard procedures apply to other countries pertaining to cooperation between the competent authorities of the two countries.

C.44 Procedures applied by consular staff (or other actors involved in the return) also include inquiries about the family if family reunification was envisaged for a child identified abroad.

No available information to respond to this indicator.

C.45 Percentage of victims - domestic nationals whose return to the monitored country was delayed due to actions or failure to take action by state authorities in their country (i.e. the monitored country).

According to information received from the civil society organization involved in reporting the forced marriage case (Case D), the process of return of the minor victim was two and a half years late due to the failure of the competent authorities to take all necessary steps to find her. Namely, although they had information that the girl had crossed the border illegally, as claimed in the CSO, border police used lack of border crossing certificate to claim that she was not in the territory of Kosovo. According to the Police Directorate, however, they do not have power to investigate in the territory of another state and that, therefore, the omission, if any, cannot be attributed to the police of Montenegro.

C.46 Percentage of forced repatriation (of nationals identified as victims of trafficking) to a monitored country from another country.

There were no cases of forced repatriation in the reporting period.

C.47 Percentage of victims who returned and who declare that a form of protection measure was applied to protect them from harassment (or other harm) by traffickers and their assistants upon returning to the country (and this measure was consistent with respect for the human rights of the victim).

The Working group were not able to interview the victim who was returned from the territory of Kosovo during the reporting period, so it is impossible to respond to this indicator.

C.48 Percentage of victims who returned and who subsequently participated in a formal return program in their country of origin (i.e. the monitored country).

No available information to respond to this indicator.

C.9 Protection of child victims

Indicator:

C.f Child victims (both potential and officially recognized) were provided adequate protection and assistance during the reporting period.

C.49 Percentage of unaccompanied children (both nationals and foreigners) identified as victims of trafficking and who formally were appointed a guardian or legal representative (i.e. not only legal counsel) within one month after being identified as potential victims (or in a different period if so provided by law).

No such cases, so percentage is 0.

C.53 Percentage of child victims- witnesses who were able to provide evidence for court proceedings and did not have to be present in the courtroom or meet with a suspected trafficker.

No child victim or witness had to be present in the courtroom or meet with a suspected trafficker, so the percentage under this indicator is 100%.

C.54 Percentage of child victims - potential or officially recognized, who have received some form of protection not available to adult victims.

All child victims received protection not available to adult victims, so the percentage under this indicator is 100%.

C.10 Protection of victims who are foreign nationals

Indicator:

C.g Identified foreign victims (regardless their citizenship) have in principle received extended residence permits and had at least the same protection as victims who are nationals.

C.55 Even though there were no foreign nationals among the victims identified by the public authorities as possible victims, CSOs were aware of the cases.

Working team is not aware of information on foreign nationals - potential victims known by civil society organizations in the reporting period.

C.56 Percentage of victims who have not received renewable residence permits despite the view that their stay is necessary because of their personal situation.

In Case E, two persons of Pakistani nationality were beneficiaries of the Shelter. After leaving

the Shelter, they were allowed to continue the asylum procedure.

C.57 Percentage of victims who have not received a renewable residence permit despite a request from a competent authority that their residence was necessary for investigation and criminal proceedings.

No such cases in the reporting period.

C.58 Percentage of cases of adult foreign victims where a residence permit has not been issued or renewed and where this is contested.

No such cases in the reporting period.

C.59 Percentage of cases of child victims where a residence permit has not been issued or renewed and where this is contested.

No such cases in the reporting period.

C.60 Percentage of cases where non-renewal or revocation of residence permit did not comply with national laws and regulations.

No such cases in the reporting period.

C.61 Number of asylum applications submitted by foreign nationals - potential victims (if any).

During the reporting period, asylum was requested by two persons of Pakistani nationality, as described in Case E.

C.62 Percentage of successful asylum applications submitted by potential victims - foreign nationals (if any).

The asylum procedure in these two cases was not completed at the time of conclusion of this report.

Indicator:

C.h Identified victims (regardless of citizenship) who left the country had assistance and protection in the return process.

There were no cases in the reporting period which could have been related to indicators from C.63 to C.71

C.63 Number of returns of foreign victims identified in the country monitored over a given period (sorted by gender and age - adults, children).

C.64 Number of returns (and % of all returns) reported to have been preceded by a risk assessment (or, in case of a child, by consideration of the best interests of the child

involving a risk assessment).

C.65 Number of returnees (and % of the total number of returns for both children and adults) reported to have occurred even though the risk assessment showed that there was a risk of return (or in case of a child, determining that the child's best interests were not return to the country of origin).

C.66 Number of returns (and % of total returns) of foreign victims - both children and adults - who have been deported or returned from the monitored country to their country of origin (or other country) which are said to be involuntary or forceful.

C.67 Percentage of foreign victims whose return to their country of origin was delayed due to actions, i.e. failure to take action in their home country.

C.68 Percentage of forced repatriations carried out without communication with national authorities of the country of origin or permanent residence.

C.69 Percentage of foreign victims who have been returned to their country of origin or another country and who are said to have participated in a formal return program to their country of return upon their return.

C.70 Percentage of cases where the return of foreign victims (both children and adults) has been challenged as unsafe.

C.71 Percentage of cases where the return of child victims is challenged because it is not in their best interests.

D. Assistance and support to victims

D.3 Assistance to all victims of all categories

Indicator:

D.c Each person identified as a potential or officially recognized victim of human trafficking is offered direct help and support, including shelter for urgent care, medical assistance, information and legal advice in accordance to their specific needs (e.g. gender, language, ethnicity and age), and the state has provided sufficient financial resources for such expenses.

D.17 Percentage of CSO expenses related to assistance to victims of trafficking (potential and officially recognized) funded by the state budget or by state grants.

100%

D.3.a Shelter and material assistance

D.18 Percentage of victims (newly identified during the monitored period) who were not provided with adequate and safe accommodation within a reasonable time.

No information on such cases in the reporting period.

D.19 Percentage of victims who were offered accommodation, which they considered inappropriate.

There is no official information on such cases in the reporting period. Given that it is not possible to interview victims, only secondary sources remain. Non-governmental organizations that worked with the victims claimed that they found it very difficult to be isolated and unable to get out, even though the space in which they were staying was adequate.

D.20 Potential or officially recognized victims of trafficking received material assistance in the form of multiple cash payments based on the assessment of their needs.

During the reporting period, one victim of trafficking received a one-off financial assistance based on an assessment of her needs by the Center for Social Work.

D.21 Potential or officially recognized victims of trafficking have received material assistance from the state over a period long enough for them to recover and for their need of assistance to cease.

No information that the victims received long-term assistance.

D.22 Percentage of victims who were not provided adequate material assistance within a reasonable time.

Not possible to calculate this data.

D.23 Percentage of victims whose assistance ceased after 1 month / 6 months / 12 months.

Not possible to calculate this data. (?)

D.3.b Medical assistance

D.24 Victims could rely on state health facilities for free (or almost free) treatment.

In accordance with the Agreement on Cooperation between Institutions and NGOs in Combating Trafficking in Human Beings, the annex relating to the obligations of the Ministry of Health stipulates that all victims and potential victims of trafficking in human beings are entitled to completely free health care in Montenegro, with a minimum of identification documents and according to the priority principle.

D.25 Percentage of victims in need of immediate medical attention who did not receive it within a reasonable time.

No information on such cases.

D.26 Percentage of victims who were not provided medical care within a reasonable period of time.

No information on such cases.

D.27 There was no discrimination against non-nationals (foreign nationals) or victims of internal trafficking in human beings (i.e. recruited, trafficked and exploited in their country of origin) related to accessing medical assistance.

Both domestic and foreign nationals are entitled to free health care in Montenegro, as potential victims of trafficking. There is no information that this right has been violated.

D.28 There was no discrimination against women or men identified as potential or officially recognized victims of trafficking in access to medical care.

In one case, members of a non-governmental organization witnessed that a victim of prostitution was insulted by junior medical staff.

D.29 Percentage of victims in need of psychological assistance who did not receive it within a reasonable time.

No information on such cases.

D.30 Percentage of victims where they were required to receive a service to which they did not consent.

No information on such cases.

D.3.c Information

D.31 Percentage of victims who did not receive comprehensive and accurate information about their rights and the services available.

No information on such cases.

D.3.d Vocational training and economic empowerment

D.32 Percentage of victims who were legal residents in the monitored country and who were not allowed to take up employment or participate in vocational training.

No information on such cases.

D.3.e Other

D.33 Percentage of cases where assistance to victims was in any way conditioned on their willingness to appear as witnesses (this did not need to be explicit).

No information on such cases.

D.34 Percentage of foreign victims who did not receive the requested translation services.

No information on such cases.

D.4 Assistance and support to child victims

Indicator:

D.d Child victims are offered immediate assistance and protection adequate to their age, including shelter for urgent care, medical assistance, information and legal counseling, in accordance to their specific needs (e.g. age and maturity, gender, language and ethnicity).

D.4.a Shelter and material assistance

D.35 Average time during which potential or officially recognized child victims received accommodation and food, as well as other forms of material assistance after identification, whether funded by the state or supported by CSOs or other private donor funded organizations.

D.36 Percentage of child victims who were in need of material assistance but were not provided for within a reasonable time.

No information on such cases.

D.37 Percentage of child victims who stopped receiving allowance after a certain time (specify how much).

No information on such cases.

D.38 Percentage of children housed in shelters specifically designed for child victims of trafficking.

Pursuant to the Law on Social and Child Protection, child victims of trafficking in human beings can only be accommodated in a state-run shelter under the auspices of the Ministry of Labor and Social Welfare, where they are handled by persons who hold appropriate licenses for social and child protection. Child victim cannot be accommodated in a shelter / reception center run by NGOs.

D.39 Percentage of child victims who were provided housing in accordance with their age and percentage of child victims who were not provided housing in accordance with their age.

No information on such cases(?)

D.40 Percentage of child victims who were provided services according to their age and percentage of child victims who were not provided services according to their age.

No information on such cases.

D.41 Percentage of child victims who were put up at foster care accommodation.

No information on such cases.

D.42 Percentage of child victims who were provided accommodation in institutions not specialized in the care of children who survived human trafficking or similar trauma (even if they are childcare facilities).

No information on such cases.

D.43 Percentage of child victims who were provided housing in shelters specializing in victims of trafficking, but not children.

No information on such cases.

D.4.b Medical assistance

D.44 Percentage of child victims who had access to psychological counseling appropriate to their age and percentage of child victims who were assisted by organizations which provide support, and which felt they needed psychological help but did not receive this assistance.

All child victims had access to psychological counseling.

D.45 Percentage of child victims who were in need of medical assistance and who were not provided medical care within a reasonable time.

No information on such cases.

D.4.c Education and vocational training

D.46 Percentage of child victims in the age for full-time education, who were not enrolled in full-time education within a reasonable time frame (e.g. one month) upon identification.

No information on such cases.

D.47 Percentage of child victims who did not go to school or attend vocational training or did not have a job three months after identification.

No information on such cases.

D.5 Assistance provided to victims–nationals who have been identified in another country and who, after identification, returned (or were returned) to their country of origin, or who have self-identified with the authorities after returning without assistance to their country of origin

No information was available to suggest there were any such returnee in the reporting period.

D.48 Number of victims known to have returned to the country after being identified in another country during the monitored period (sorted by adult men and women, boys and girls).

D.49 Number of victims not identified as victims while abroad but identified upon their return to the country.

D.50 Percentage of victims who returned to their country of origin (monitored country) and who have received assistance or protection to which they might not be entitled if they were not identified as victims.

D.51 Percentage of victims who have returned to their country of origin who have participated in the reintegration program for integration into the labor market within a reasonable time (e.g. three months) upon their return.

D.52 Percentage of victims who have returned to their country of origin and have participated in a reintegration program for the purpose of education (including vocational training) within a reasonable period of time (e.g. six months) upon their return.

D.53 Percentage of victims who have returned to their country of origin and have brought their medical records from the country where they were identified (i.e. reports on their health needs, information on therapy received so far, etc.).

D.54 Percentage of child victims who have returned to their country of origin and have participated in the reintegration program for their inclusion in formal or informal education and in appropriate care.

D.55 Percentage of cases where the planned reunion of the child victim, who returned from another country, with the family was disputed (upon return of the child to the country of origin) because it was not in the best interest of the child.

D6. Legal assistance and support

Indicator:

D.e Victims of trafficking in human beings (both potential and officially recognized) have been offered and allowed access to legal aid.

D.56 Percentage of cases where adult victims were not immediately informed of relevant judicial and administrative procedures in a language they understand after first contact with government authorities

No such cases.

D.57 Percentage of victims who participated in court proceedings (criminal or other) as injured parties or witnesses and who had access to independent legal advice and / or assistance before or during the proceedings (and% of those who did not).

In the case of one victim, it was only a legal guardian – the father, in the case of 4 victims a legal representative was appointed.

D.58 Percentage of victims who participated in the criminal proceedings and who had support by CSOs during the proceedings, when the state could not provide such assistance.

No information available

D.59 Percentage of requests for free legal assistance and support submitted by victims that have not been heard, or cases where the victim was unable to obtain legal assistance from a lawyer with the appropriate qualifications.

No information available.

D.60 Percentage of cases where child victims, or their parent, guardian or legal representative, upon initial contact with government authorities, were immediately informed of relevant court or administrative proceedings in a language they could understand (and % of those who were not).

No information available.

D.61 Percentage of child victims who were involved in legal proceedings and who received independent legal advice / assistance (and % of those who did not).

None.

Annexes

List of contacted organizations

Center for asylum seekers in Spuz

Center for Roma Initiatives in Nikšić

Red Cross

Institute for Social and Educational Policy in Nikšić

Center for Child and Family Support

Women's Safe House in Podgorica

SOS line Nikšić

Questionnaire for civil society organizations

List of tentative questions:

Have the victims, to your knowledge, received adequate support and protection:

1. Appropriate and safe accommodation?
2. Psychological help?
3. Material assistance?
4. Translation and interpretation services in a language they understand?
5. Advice and information on their rights, including information on free legal aid?

Investigation and trial

To your knowledge, have the following rights of the victims / witnesses been respected during the investigation and the trial:

1. Protection against intimidation;
2. The right to physical protection;
3. Right to protection of privacy ((exclusion of the public, hearing under a pseudonym, hearing with the aid of technical devices (firewall, image and sound transmitters, etc.));
4. Have surveillance measures been imposed on the defendants?
5. Have the defendants been ordered into custody?
6. Does the record of taking statement from the victim / witness show that the person has been instructed on the rights he/she has?
7. The right to protection after trial and the right to protection of a person close to them?
8. How do you evaluate the quality of interviews conducted by special trafficking investigators with potential victims? Have the international standards of "good practice" been respected (protection against secondary victimization, the victim has been given the opportunity to freely tell what happened to her, the psychophysical condition has been taken into account)?;
9. Are you aware that prosecutors provided victims with adequate support prior to trial? What kind of support was it? Was there something missing? If so, what?
10. Has the Victim Support Service working within the competent court informed the victims about their rights and the administrative and judicial procedures applicable during the trial and at which phase?
11. Has the victim been provided with information regarding the work of the court, the criminal proceedings, the place of sitting in the courtroom, the measures of protection offered and the prevention of possible physical contact between the defendant and the victim? Which of the aforementioned?
12. To your knowledge, have the victims of trafficking in human beings been regularly informed of the relevant judicial and administrative procedures?
13. Has the victim regularly received information on all relevant events related to the proceedings in which he/she was involved (for example, that the accused was released from custody or that the trial was suspended)?
14. Were the victims of trafficking immediately informed of the outcome of the trials in which they appeared as injured parties or witnesses, no matter whether the verdict was convicting or acquitting?

15. Have there been any cases where courtroom protection measures were applied? If yes, what measures were taken?
16. To your knowledge, has any victim felt unsafe in contact with authorities providing services or assistance to victims (e.g. in shelters)?
17. To your knowledge, have any victims enjoyed a recovery and reflection period? If so, how long have these rights been enjoyed? Do you know if they received physical, psychological or social support during this period? If so, who supported them?
18. In your judgment, did the expert witnesses who testified at the trafficking trials show adequate expertise in both the psychological state of the victim and other issues concerning the victim?
19. Have you participated in the identification of potential victims? Can you describe for us the steps in the process of identifying the victims that you performed?
20. Do you know if a person was a victim of human trafficking without being identified by the relevant services as a victim?
21. Have you been subjected to any form of intimidation or retaliation during or after the investigation or court proceeding? If so, did you report the actions to the police?
22. Are you aware of any case of any kind of exploitation as a form of trafficking that has been ignored by the state authorities?
23. Are you aware that minorities or foreigners have experienced additional difficulties in the identification process or in accessing assistance (compared to other non-minority identified persons)?
24. Are there any difficulties in the identification process or in accessing assistance for persons belonging to minorities?
25. Are there any difficulties in the identification process or in accessing assistance for gay, bisexual and transgender (LGBT) people?
26. Have any of the expenditures incurred in assisting victims of human trafficking been financed from the state budget? If so, what percentage of the total cost for that purpose has been funded?
27. Do you know whether any person identified as a possible or officially recognized victim of trafficking has been offered immediate assistance and support, including emergency shelter, medical assistance, information and legal advice, according to their specific needs (such as gender, language, ethnicity, and age), and the state has provided sufficient funding to cover such assistance. If not, in which cases and what type of assistance - shelter and material assistance, medical assistance, information, economic empowerment?
28. Do you know whether child victims have been offered immediate help and protection in accordance with their age, including emergency shelter, medical assistance, information and legal advice, according to their specific needs (e.g. age and maturity, gender, language and ethnicity)?
29. What is the average time for possible or officially recognized child victims to receive housing and food, as well as other forms of material assistance after identification, whether funded by the state or supported by CSOs or other private donor funded organizations?
30. Have you informed your beneficiaries that they are entitled to a free lawyer during giving statement and testifying?