



**WOMEN'S RIGHTS CENTER**  
**CENTAR ZA ŽENSKA PRAVA**

# **MONITORING AND EVALUATION OF POLICIES FOR COMBATING HUMAN TRAFFICKING IN MONTENEGRO 2018-2020**



Women's Rights Center

# Monitoring and evaluation of policies for combating human trafficking in Montenegro 2018-2020

January 2022

The report was created as part of the activities of the regional project Balkans ACT (Action Against Trafficking) Now! (BAN phase 3) funded by the European Commission and implemented by the NGO Astra (Serbia), in cooperation with the International Solidarity Forum - Emmaus (Bosnia and Herzegovina), Women's Rights Center (Montenegro), the Center for Legal Initiatives (Albania), the Association for action against violence and human trafficking - Open Gate La Strada (Macedonia) and the Dutch Helsinki Committee (Netherlands).

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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## Terminological remarks

The report covers the period marked by the change in the identification of potential and official human trafficking victims and it is therefore important to make a terminological note at the beginning. Until the establishment of the Team for the Formal Identification of Victims of Human Trafficking, only a person who has been declared as such by a final court judgment was considered a victim of trafficking. Prior to the judgment becoming final, at any stage of the investigation or trial, a person suspected of being a victim of trafficking was referred to as a “potential” or “possible” victim. Potential victims were not statistically recorded, but were entitled to assistance and protection in the shelter.

Since the establishment of the Team for Formal Identification of Human Trafficking Victims in November 2019, a victim is any person identified as such by the Team under the Standard Operating Procedures for the Identification of Victims (SOP). The term „potential victim“ is used to denote a person suspected by the police, civil society organizations or anyone else of being a victim of trafficking until the moment of registration, when that person enters the procedure for granting status by the Formal Identification Team. The team was established in November 2019, so the terms in the report were used in accordance with whether we are talking about the period before or after the establishment of the Team.

## Lista of abbreviations

BAN – Balkans Act Now  
CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women  
WRC – Women's Rights Center  
EU – European Union  
GRETA – Group of Experts on Action against Trafficking in Human Beings  
CO – criminal offense  
CCMN – Criminal Code of Montenegro  
MIA – Ministry of internal affairs  
CSO – Civil society organisation  
SOP – Standard operating procedures for victim identification  
UN – United Nations  
PD – Police Department  
CPC – Criminal Procedure Code

## Summary

In order to improve the position and rights of victims of trafficking, Women's Rights Center (WRC) conducted the Monitoring and Evaluation of Anti-Trafficking Policies in Montenegro 2018-2020, as part of the activities of the regional project Balkans ACT (Action Against Trafficking) Now! (BAN phase 3), funded by the European Commission. The time period covered by the investigation is from January 2018 to December 2020 and includes all recorded cases of human trafficking, including those that at some stage were rejected or reclassified as another criminal offense by the competent authorities. This report is based on the indicators set out in the Handbook "Monitoring and Evaluation of Anti-Trafficking Policies: A Handbook for Victims' Representatives"<sup>1</sup>, and focuses in particular on: the law and the national legal framework for criminalizing trafficking, the identification of victims of trafficking; protection of victims of trafficking and assistance and support to victims. For the preparation of this report, a working group composed of representatives of the competent authorities and the non-governmental sector was organized, which, in accordance with the set indicators, worked on their adaptation to the Montenegrin context and on data collection.

The research showed that in the reporting period, and especially in comparison with the report that Women's Rights Center produced in 2014-2015, there has been a positive shift when it comes to the implementation of policies to combat human trafficking, as shown by international reports in this area. However, it was noted that these efforts were insufficient and that certain omissions were made. The analysis indicated the need to find a more adequate and careful response to the identified problems, especially in the field of support to victims and the exercise of their rights. In some situations, the organizations did not keep detailed records of each case, status and condition of the victims, which made it difficult to see overall progress in combating human trafficking. In addition, conversations with victims about their experience in obtaining and using care and legal aid services are a key factor in improving their treatment after identification.

The key findings of the research indicate the following:

- In a period of two years (January 2018 to December 2020), only one final verdict was rendered for the criminal offense of human trafficking, while in two cases, first instance verdicts were rendered. In all three cases, the criminal proceedings lasted for almost two years.
- Although properly informed of their rights, stages of investigation and trial, victims of trafficking have rarely used their right to free legal aid. The second obstacle is the lack of choice of lawyers, who are assigned ex officio and often not familiar enough with human trafficking. This can greatly affect the quality of legal aid, and given the problems and sensitivity of the crime, in accordance with international standards, it is necessary to offer the possibility of choosing a female lawyer, if the victim wishes so.

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<sup>1</sup> The Handbook "Monitoring and Evaluation of Anti-Trafficking Policies: A Handbook for Victim Advocates", developed in the previous phases of the Balkans ACT Now! Regional project, with the support of the European Union, aims to present comprehensive and detailed indicators that allow monitoring - continuous or occasionally - of national anti-trafficking policies, with an emphasis on victim protection policies. The manual is available here: <https://womensrightscenter.org/prirucnik-za-zstupnike-zrtava-trgovine-ljudima>

- The right to compensation for victims of trafficking continues to be difficult to exercise in practice. No victim of trafficking who participated in court proceedings in the observed period initiated civil proceedings for damages, and therefore there were no financial settlements in either civil or criminal proceedings.
- Montenegrin authorities, in accordance with the Council of Europe Convention, have started to exercise the right to recovery and reflection within a period of 30 days, so that the victim can recover and make a free and informed decision on cooperation with law enforcement authorities. However, the reflection period was not respected in all cases and some victims were questioned by the police before being brought to the shelters.
- Victims of trafficking were generally provided with accommodation in a specialized Shelter for Victims of Trafficking. However, in certain periods the number of victims who were accommodated in the Shelter was higher than the accommodation capacity of the Shelter itself. According to the information received, although in separate rooms, adults of different sexes stayed in the specialized shelter, which is contrary to the minimum standards described in the Rulebook on detailed conditions for providing and using accommodation in a shelter, which provides for victims of trafficking to be placed in special facilities depending on gender. Also, it is questionable whether children of the opposite sex, older than 14, were accommodated in the same room with their parents or in the separate room, and in accordance with the Rulebook.
- Discriminatory behavior was observed in the treatment of the Roma-Egyptian community, especially in cases of contracted marriages in minors, where the authorities characterized these marriages as “normal” and “cultural”. The Roma victims of begging were often removed from the streets only for a short period of time, after which their engagement would then be continued. The authorities did not make sufficient efforts to cooperate with non-governmental organizations working with this population in order to improve the situation.
- The competent authorities, upon the report of the non-governmental organization, did not take all actions to find the two minor victims and ensure their return to Montenegro within a reasonable time. The return of the victims took two and a half years.
- The protection of the child trafficking victims was adapted to their age and in the children’s best interest. During the trial period, no child victim or witness had to be present in the courtroom or meet with the suspected trafficker. The child victims were allowed to continue their education.
- There is no information on the quality of service provided to victims, and in some cases, concerns were expressed that the protection and support was not at the highest level due to language barriers as well as due to the number of cases and the lack of experience of shelter staff working with trafficking victims. Additionally, the anonymity of the victims was compromised in some cases.
- In the so-called “Call Center” case, where 37 victims from Taiwan were formally identified, the victims did not receive the services of an official interpreter, but instead they communicated through one of the English-speaking victims, which is problematic due to the number of victims and control of information that was transmitted to the competent authorities, but also to the victims. An additional problem is the fact that in the past, false victims infiltrated shelters, which then intimidated and deterred victims from testifying.

Based on the findings of monitoring and evaluation, and in order to improve the current situation in the field of human trafficking, WRC has created a set of recommendations, whose implementation would contribute to the fight against trafficking. In the coming period, special attention should be paid to the following recommendations:

- Providing adequate legal assistance to victims and specialization for lawyers representing victims of these crimes, including acts of gender-based violence;

- Ensuring consistent implementation of existing legislation regarding the protection of the rights, safety and integrity of victims of trafficking in criminal proceedings;
- It is necessary to provide a better mechanism and legal support to victims in civil and criminal proceedings in order to exercise the right to compensation;
- Victim care facilities must meet the standards set in the Rulebook on the care of victims in shelters, and the Rulebook itself needs to be improved by introducing ethical and professional codes. In addition, it is necessary to organize periodic supervision from experts, in order to guarantee the quality of service provided and improve the work of the Shelter;
- Special attention should be paid to the identification and processing of contracted marriages between minors;
- In particular, it is necessary to ensure adequate monitoring of data related to the exercise of the right to compensation, as well as the number of victims of trafficking who exercised the right to free legal aid before and during court proceedings;
- Ensuring the effective application of legal provisions concerning the confiscation of property of persons convicted of trafficking offenses;
- Urgent initiation of the preparation of adequate programs of resocialization, reintegration and monitoring of the status of victims after the end of court proceedings and exit from the Shelter for Victims of Human Trafficking;
- Ensuring regular independent monitoring and reporting on anti-trafficking activities and results in Montenegro, either through the activities of the Office of the Protector of Human Rights and Freedoms, or through the establishment of a special body, such as an independent rapporteur on human trafficking.

## Introduction

Human trafficking for the purpose of forced labor, sexual or other exploitation is one of the most serious problems of humanity, affecting individuals, communities, societies and states. Despite the fact that, in recent decades, efforts have been intensified to recognize and prevent this problem in all its dimensions and forms, a large number of people, especially women and children, are becoming victims of the so-called. "Modern slavery." One of the priorities of the international community united around the protection of human rights is the establishment of an effective system that will act preventively, but also effectively if trafficking occurs. Human trafficking knows no borders and is very often hidden in some other phenomena, more or less tolerated by society, and thus the fight against it requires a well-coordinated, efficiently networked system of all state bodies, openly and cooperatively associated with the civil sector and connected with others states and their bodies.

In 2015, NGO "Women's Rights Center" prepared the "Report on Monitoring and Evaluation of Policies for Combating Human Trafficking in Montenegro" 2014-2015.<sup>2</sup>, which provides an overview of official statistics regarding the number of criminal charges, the number of persons against whom criminal charges have been filed, the number of indictments and the number of persons against whom charges have been filed, the number of final verdicts, and the number of persons convicted of trafficking in the period from 2004 to 2015. Also, this report assesses the national legislative and institutional framework in relation to international standards and in accordance with the first part of the handbook "Monitoring and Evaluation of Anti-Trafficking Policies: A Handbook for Victim Advocates".

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<sup>2</sup> Monitoring and evaluation of anti-trafficking policies in Montenegro 2014-2015.  
<https://womensrightscenter.org/wp-content/uploads/2020/09/MEZPTLJ-11.pdf>, accessed December 2020.



In this report, the focus will be on the second part of the anti-trafficking policy manual and on the assessment of the results achieved within the national anti-trafficking frameworks in practice, in the period from 1 January 2018 to 31 December 2020. This means that the basis for the preparation of this report consists of framework and individual indicators provided in the Handbook Monitoring and Evaluation of Anti-Trafficking Policies: a handbook for victims' advocates<sup>3</sup>, developed to assess what is happening in practice and how different countries and other actors meet international obligations to protect the rights of trafficking victims.

Both reports were created within the project "Balkans ACT (Against the Crime of Tracking) Now!", which is being implemented with the support of the European Union. The project is implemented by the NGO ASTRA from Serbia, with partner organizations Open Gate - La Strada (Northern Macedonia), International Solidarity Forum - EMMAUS (Bosnia and Herzegovina), Women's Rights Center (Montenegro), La Strada International and the Dutch Helsinki Committee (Netherlands).

## Report preparation methodology

This 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 Victim 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 and the Netherlands. The Montenegrin partner in the project is the Women's Rights Center.

In the part of report that discusses monitoring the practice, data from the first four units are attached and processed, while the manual consists of seven units:

- A: Law and national legal framework for the criminalization of human trafficking
- B: Identification of victims of trafficking
- C: Legal provisions on the protection of victims of trafficking
- D: Providing help and support to victims
- E: Compensation and damages
- F: Institutional framework, including coordination, capacity and international cooperation
- G: Data availability, data protection and protection of privacy

In order to respond to the demands set by the indicators, a working group was formed which used official statistics and official information of the bodies involved in the fight against human trafficking in the preparation of the report. Also, legal acts, laws, regulations and other documents containing relevant information on the organization of the system for the protection of victims of trafficking were used.

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<sup>3</sup> Monitoring and Evaluation of Anti-Trafficking Policies: A Handbook for Victim Advocates, available at: <https://www.astra.rs/wp-content/uploads/2017/11/Priru%C4%8Dnik-za-zastupnike-%20C5%BErtava.pdf>, accessed December 2020.

In addition, semi-structured interviews were conducted with persons with special knowledge of the subject of the report, representatives of civil society organizations involved in running shelters, or providing assistance and support to victims and non-governmental organizations 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.

It is important to note that, although some of the indicators required percentage expression of data, for the purposes of this research, and given the small number of samples and diversified categorization used by Montenegrin institutions, data were, where possible, expressed in absolute numbers or descriptively.

## Working group

In order to prepare this report, a working group was formed with the aim of adapting the indicators from the manual "Monitoring and Evaluation of Policies for Combating Human Trafficking" to the Montenegrin context. Additionally, the working group worked on collecting data on the basis of which, among other things, this report was made. The working group is composed of representatives of relevant state institutions involved in the fight against human trafficking, together with representatives of the "Women's Rights Center". The working group consisted of:

- Olivera Komar, professor at the Faculty of Political Science, University of Montenegro,
- Sonja Perišić Bigović, Independent Advisor to the Ministry of the Interior, Department for Combating Human Trafficking,
- Bojana Bandović, Advisor at 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 the Suppression of Trafficking in Human Beings and Illegal Migration,
- Maja Raičević, Executive Director of the Women's Rights Center,
- Stefan Popović, project coordinator of the Women's Rights Center,
- Ana Jaredić, psychologist at the Women's Rights Center,
- Tanja Markuš, program coordinator of the Women's Rights Center.

The working group met 10 times during the preparation of the report.

## Review of international reports on human trafficking in Montenegro 2019 – 2021.

Despite the efforts made, international reports, such as those of the State Department<sup>4</sup>, the European Commission for Montenegro and the GRETA Expert Group, which have addressed the issue, have often criticized the lack of a proactive anti-trafficking approach and the lack of tangible and sustainable results. The State Department's report on human trafficking for 2019 points out that Montenegro does not achieve the minimum standards for the elimination of human trafficking completely, but that it is making significant efforts in that direction. With this qualification, for the third year in a row, it was included in the group of countries marked as "supervised"<sup>5</sup>. Among the praised efforts are the adoption of a strategy and action plan, as well as the establishment of a multidisciplinary Anti-Trafficking Operational Team. detecting cases of trafficking in human beings and changing the procedures that should prevent the reclassification of cases of trafficking into other criminal offenses. The State Department's 2021 Human Trafficking report<sup>6</sup> also notes the progress and efforts of the authorities, despite the COVID-19 pandemic, but also concludes that the Montenegrin government has still not fully met the minimum standards for eliminating trafficking. The 2019 report criticizes the fact that for five consecutive years, Montenegro has not had a single final verdict for human trafficking. The report recommends more active prosecution of traffickers in accordance with Article 444 of the Criminal Code of Montenegro (CC of Montenegro), more proactive detection of potential victims, especially women in the prostitution chain, migrants, seasonal workers and children forced to beg; providing adequate training for judges, prosecutors and prosecuting authorities on the investigation and prosecution of trafficking cases; encouraging and preparing victims in the investigation and trial process in a way that is tailored to their needs and situation; increasing access to legal aid and witness protection for victims; integration of members of the Roma community in decision-making regarding the protection of victims from their community; creating and financing an accessible victim compensation fund, and informing victims about the right to compensation during legal proceedings and ensuring adequate independence, capacity and influence of the National Anti-Trafficking Office. The report especially warns that experts claim that the competent authorities continue to investigate and prosecute possible cases of human trafficking for the purpose of prostitution under other qualifications such as the one from Article 210 of the CC - mediation in prostitution. Namely, the report states that in the previous period, prosecutors stopped the investigation after obtaining sufficient evidence to secure a conviction in accordance with Article 210 of the CC of Montenegro and did not further investigate more subtle forms of coercion. The report notes a positive change in the fact that the procedures for qualifying criminal offenses have now been changed, so that all cases related to trafficking must first be investigated in accordance with that definition, and only later can they be reclassified.

On the other hand, the 2021 report commends efforts to indict more people and identify more victims. It also commends the adoption of Standard Operating Procedures and the establishment of a Team for the formal identification of victims. The inclusion of psychologists from the non-governmental sector in the

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<sup>4</sup> The report is available at the following link: <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>, accessed on February 1, 2020.

<sup>5</sup> Tier 2, watchlist. The State Department separates countries on the basis of their compliance with the standards prescribed by the law on the protection of victims of trafficking. The classification is divided into Tier 1, Tier 2, Tier 2 watchlist and Tier 3.

<sup>6</sup> State Department, 2021 Trafficking in persons report, Montenegro, available at: <https://www.state.gov/reports/2021-trafficking-in-persons-report/montenegro/>, accessed on August 5, 2021.

Team is especially commendable. However, the report also identifies a number of weaknesses. For example, it is stated that in the observed period, investigations were conducted on fewer suspects, and that there were fewer convictions. Cases are reported with concern when the police reacted inadequately by referring the victim to a 28-day quarantine during which she was exposed to violence. He also states that the employees of the shelter for victims, in which a lot of money was invested, do not have the appropriate experience, and that they made mistakes that endangered the anonymity of the victims.<sup>7</sup>

The European Commission's report on Montenegro for 2019<sup>8</sup> states that Montenegro "has yet to establish a convincing balance of results when it comes to final judgments, especially in the fight against human trafficking, money laundering, tobacco smuggling and to increase the number of final decisions. on permanent confiscation of property ". The same report points out that since February 2018, the police have "a specialized department for the fight against human trafficking, smuggling and illegal migration, which now has eight employees." The report emphasizes the existence of an institutional and legal framework (especially the adoption of a new strategy and accompanying action plan), and states that in the period covered by the report, a first instance court ruled against two defendants sentenced to 15 and 17 years in prison. The report also states that the number of ongoing investigations has increased to three, as well as those four cases are in the reconnaissance phase. However, the report also states that these cases are not related to organized crime and that no cycles of human trafficking have been detected in recent years. Finally, the report states 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 the establishment of an anti-trafficking working group in December 2018.

The European Commission's report on Montenegro for 2020<sup>9</sup> states that some progress has been made in meeting the recommendations given in previous years, and that coordination between institutions working in the field of combating trafficking in human beings has improved, which has resulted in more investigation and arrests. However, it appears that serious shortcomings in the criminal justice system persist, including the way in which organized crime cases are treated in the courts.

At the invitation of Montenegro, the United Nations Special Rapporteur on Human Trafficking, Especially in Women and Children, Marija Gracija Đamarinaro, paid an official visit to the country from 1 to 8 November 2019 to assess the situation regarding human trafficking, especially in women and children, the progress made and the remaining challenges in combating this form of human rights violations. In its report, published on 22 April 2020, it commended Montenegro's efforts to prevent specific forms of trafficking, in particular child trafficking for the purpose of begging and illegal marriage, through the inclusion of strategies targeting vulnerable communities, and welcomed the establishment of new operational units for identification, investigation and prosecution of trafficking cases, with the aim of establishing a multidisciplinary approach to identification and protection. However, she expressed concern about weaknesses in the support system, in particular insufficient funding for service providers to assist victims of trafficking. The Special Rapporteur also analyzed the situation of Montenegro as a transit country on the

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<sup>7</sup> The State Department's 2021 report is available at: <https://www.state.gov/reports/2021-trafficking-in-persons-report/montenegro/> , accessed on August 5, 2021.

<sup>8</sup> The report is available at the following link: <https://www.eu.me/mn/pregovori-o-pristupanju/dokumenti-pregovori/category/57-izvjestaji-o-napretku> , accessed on the website on 1 February 2020.

<sup>9</sup> The report is available at the following link: [https://ec.europa.eu/neighborhood-enlargement/sites/default/files/montenegro\\_report\\_2020.pdf](https://ec.europa.eu/neighborhood-enlargement/sites/default/files/montenegro_report_2020.pdf) , accessed on 5 August 2021

Balkan route and the need to increase efforts to support vulnerable migrants and to perform early identification of victims of trafficking among them.<sup>10</sup>

In the report of the third evaluation round, the GRETA expert group for combating human trafficking<sup>11</sup> pointed out that Montenegro is a country of origin, destination and transit for human trafficking. The report states that by the end of 2019, the number of identified victims, primarily women and children, was very low. The report states a number of positive and negative aspects of the fight against human trafficking. For example, the report states that after the amendments to the Law on Free Legal Aid, victims were granted privileged access to this institute, but also found that it was poorly used, and that it was necessary for lawyers providing legal aid to undergo adequate training and specialization in this area. GRETA notes that no victim of trafficking has received compensation from the perpetrator, and urges the authorities to provide effective access to the right to compensation. GRETA commended the establishment of the Anti-Trafficking Task Force, as well as participation in international actions in this area. Also, the adoption of the SOP was commended, but it is noted that there are still certain shortcomings in the identification of victims that need to be addressed. Finally, the report emphasizes the need to pay additional attention to the protection of victims, especially children, and to adequate funding for organizations who support victims.

## Strategic, institutional and legal framework

### Strategies and international standards

The first National Strategy for Combating Human Trafficking in Montenegro was adopted for the period 2003-2011, while the first report of the Women's Rights Center was prepared during the period of validity of the second Strategy for Combating Human Trafficking 2012-2018.. In the meantime, the Government of Montenegro has adopted a new Strategy for Combating Human Trafficking for the period from 2019 to 2024. Also, Montenegro has ratified the following international documents related to 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, the Protocol against Smuggling of Migrants by Land, Sea and Air, United Nations Convention on Children's Rights, Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, Council of Europe Convention on Action against Human Trafficking, Council of Europe Convention on Combating Violence against Women and Domestic Violence (Istanbul Convention), International Convention on the Elimination of all forms of violence against women (CEDAW).<sup>12</sup>

### National legal framework

Human trafficking in the legal sense includes criminal offenses prescribed by the following articles of the Criminal Code of Montenegro<sup>13</sup>:

- Article 444 CCM – Human trafficking

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<sup>10</sup> Report of the Special Rapporteur on trafficking in human beings, especially women and children, on her visit to Montenegro, A / HRC / 44/45 / Add.1 of 20 April 2020, Executive summary

<sup>11</sup> GRETA, *Evaluation report Montenegro – Third evaluation round – Access to justice and effective remedies for victims of trafficking in human beings*, June 2021.

<sup>12</sup> Source: Anti-Trafficking Strategy 2019-2024, p. 6.

<sup>13</sup> Official Gazette of Montenegro, no. 044/17,

- Article 445 CCM - Trafficking in minors for the purpose of adoption
- Article 446 of the CCM - Establishment of slavery and transportation of persons in slavery.

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

Criminal offenses that may be related to the criminal offense of human trafficking include :

- Article 204 CCM - Rape,
- Article 206 CCCG – Sexual intercourse with a child,
- Article 207 CCM - Rape by misuse of position,
- Article 209 of the CCCG – Procuring and enabling sexual intercourse,
- Article 210 of the CCM - Mediation in prostitution,
- Article 211 KZCG - Child pornography,
- Article 216 CCM - Extramarital relationship with a minor
- Article 219 CCCG - Neglect and abuse of a minor.

Other relevant laws are the Criminal Procedure Code<sup>14</sup>, especially in the part of witness protection in criminal proceedings, the Law on Witness Protection<sup>15</sup>, the Law on Courts<sup>16</sup>, the Law on the State Prosecutor's Office<sup>17</sup> and the Law on Special State Prosecutor's Office<sup>18</sup>, the Law on International Legal Assistance in Criminal Matters<sup>19</sup>, Law on public order and peace<sup>20</sup> which defines the misdemeanor responsibility for indulging in prostitution, actions that encourage or mediate in the performance of prostitution, including begging, organizing, inducing and coercing into begging.

In the area of protection of victims, the following laws are important: the Law on Foreigners<sup>21</sup>, the Law on International and Temporary Protection of Foreigners<sup>22</sup>, the Law on Compensation to Victims of Violence<sup>23</sup>, the Law on Free Legal Aid<sup>24</sup>, the Law on Social and Child Protection<sup>25</sup> and the Law on Health Care<sup>26</sup> and the Law on treatment of juveniles in criminal proceedings<sup>27</sup> are important.

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<sup>14</sup> Official Gazette of Montenegro, no. 57/2009, 49/2010, 47/2014,

<sup>15</sup> Official Gazette of Montenegro, no. 65/2004 i 31/2014,

<sup>16</sup> Official Gazette of Montenegro, no. 11/2015,

<sup>17</sup> Official Gazette of Montenegro, no. 11/2015, 42/2015, 80/2017 and 10/2018

<sup>18</sup> Official Gazette of Montenegro, no. 10/2015 and 53/2016

<sup>19</sup> Official Gazette of Montenegro, no. 004/08 and 036/13

<sup>20</sup> Official Gazette of Montenegro, no. 64/2011

<sup>21</sup> Official Gazette of Montenegro, no. 12/2018

<sup>22</sup> Official Gazette of Montenegro, no. 02/17 i 03/19

<sup>23</sup> Official Gazette of Montenegro, no. 035/15

<sup>24</sup> Official Gazette of Montenegro, no. 020/11 and 020/15

<sup>25</sup> Official Gazette of Montenegro, no. 27/2013, 1/2015, 42/2015, 47/2015, 56/2016, 66/2016, 1/2017, 31/2017

An important legal act is the *Guidelines on Impunity for Victims*, which instruct the competent authorities that “if a causal link is established between the (potential) victim and the committed crime, or if it is suspended at the earliest possible stage, ie if the procedure is conducted before the court - to end the procedure as soon as possible and in a way that will result in impunity for the victim.”<sup>28</sup>

## Institutional framework

Institutions involved in the fight against human trafficking are: Ministry of Interior - Department for Combating Human Trafficking<sup>29</sup>, Police Directorate, State Prosecutor's Office, Supreme Court, Ministry of Justice, Human and Minority Rights, Ministry of Foreign Affairs, Ministry of Health, Ministry of Finance and Social Welfare, The Ministry of Education, Science, Culture and Sports, the Directorate for Inspection Affairs and the Institution of the Protector of Human Rights and Freedoms of Montenegro.

The Department for Combating Human Trafficking is headed by the Chief<sup>30</sup>, who also manages the Coordination Body for Monitoring the Implementation of the Strategy for Combating Trafficking in Human Beings<sup>31</sup> and related action plans, as well as the Coordination Team for Monitoring the Agreement on Cooperation between State Institutions and NGOs. This Agreement defines the basic referral mechanisms for potential and victims of trafficking in Montenegro and establishes a platform for cooperation in the prevention, education, reporting and prosecution of perpetrators and protection of potential victims of trafficking, with special emphasis on treatment of women and child victims of trafficking. The members of the Coordination Team are representatives of the signatory institutions and one representative of each of the non-governmental organizations that are signatories to the Agreement.

Also, part of the institutional framework is the Department for the Suppression of the Crimes of Smuggling, Trafficking in Human Beings, and Illegal Migration, within the Criminal Police Sector of the Police Directorate. The criminal prosecution of perpetrators of the criminal offense of human trafficking is conducted by the higher state prosecutor's offices in Podgorica and Bijelo Polje and the Special State Prosecutor's Office, if the act was committed in an organized manner.

The system also includes the Operational Team for Combating Trafficking in Human Beings, formed by the Supreme State Prosecutor and the Director of the Police Directorate. The operational team is led by the state prosecutor in the High State Prosecutor's Office in Podgorica, which includes representatives of the Ministry of the Interior, the Police Administration, the High State Prosecutor's Office and the Ministry of Justice, Human and Minority Rights.

In order to improve the system of formal identification of victims of trafficking and upgrade their protection system, the Working Group, composed of representatives of the Ministry of Interior, Police Directorate, Ministry of Finance and Social Welfare<sup>32</sup> and NGO representatives, and with the support of the International

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<sup>26</sup> Official Gazette of Montenegro, no. 003/16, 039/16, 002/17

<sup>27</sup> Official Gazette of Montenegro, no. 064/11, 001/18

<sup>28</sup> Anti-Trafficking Strategy 2019-2024, p. 15

<sup>29</sup> In the past, this Department functioned as the National Anti-Trafficking Office

<sup>30</sup> In the earlier period, when the Department functioned as the National Anti-Trafficking Office, the Office was managed by the National Coordinator

<sup>31</sup> In the past, this Coordination Body was called the Working Group for Monitoring the Implementation of the Anti-Trafficking Strategy

<sup>32</sup> At the time the documents were made, the ministry functioned as the Ministry of Labor and Social Welfare



Organization for Migration (IOM), developed the **Standard operational procedures (SOPs)** which define the manner and procedure for granting the status of a victim of trafficking in human beings to a person identified as a potential victim. In the first part of the reporting period, victim status was granted exclusively by a final judgment, and the system of formal identification of victims was based on criminal prosecution. Statistically, only injured persons from the criminal offense of trafficking in human beings for whom a final verdict has been pronounced are presented as victims of trafficking in human beings.

In order to implement the SOP, the Minister of the Interior, following a Decision of 15 November 2019, formed a **Team for the formal identification of victims of trafficking in human beings**, consisting of a president, a secretary and three permanent members. At the time of its formation, the President of the Team was a doctor of medicine, the members were a psychologist from the Institute for Social and Child Protection and a representative of the Police Directorate (Department for Combating Trafficking in Human Beings, Smuggling and Illegal Migration), a social worker from the local Center for social work. The secretary of the team is a representative of the Department for Combating Trafficking in Human Beings. Since September 2020, a representative of the non-governmental sector, who is a psychologist by profession, has been included as a permanent member of the Team.

The President of the Team has the right to include in the work the representatives of other relevant bodies or organizations of civil society who may have information about a certain person who is the subject of formal identification. The tasks of the Team are to coordinate the initial referral and protection of persons suspected of being trafficked, conduct the process of formal identification of victims of trafficking, establish communication and cooperation with local partners and visit locations where vulnerable categories reside.

Team members are available 24 hours a day and, if necessary, engage in field work to support a specific case. The team can also grant a victim status on the basis of human rights violations, and not only if the victims are the subject of a criminal offense of trafficking in human beings. The Team for Formal Identification of Victims of Trafficking acts according to the National Plan for Formal Identification of Victims<sup>33</sup>, which sets out in detail the steps that the Team is obliged to take in order to identify the victim and provide adequate support. In particular, the plan envisages five steps: initial referral and records, initial assistance, support and information, initial interview and risk assessment, referral to support services and formal identification.

## I CASES OF HUMAN TRAFFICKING IN MONTENEGRO 2018– 2020.

The report covers the period from January 1, 2018 to December 31, 2020, therefore, the analysis includes cases that were in any phase of the procedure before the state authorities during that period. For ease of reference, cases are described and capitalized from A to J. Each case is briefly described in relation to the following criteria:

- Who initiated the case and when;
- Regarding which possible criminal offense the case is being conducted;
- What stages of the procedure did the case go through and at what stage is it currently;

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<sup>33</sup> National Plan for Formal Identification of Trafficking Victims, October 2020



- What gender and citizenship is the suspect or defendant and what is his / her relationship with the injured parties;

- Who are the victims, of which gender and citizenship they are, and what form of help and protection was provided to them.

These are the following cases:

**Case A:** Case A was initiated in 2017 based on operational data from the Police Directorate. It was initially treated by the Police Directorate as a potential case of rape. Namely, the Police Directorate filed a criminal complaint with the High State Prosecutor's Office in Podgorica for the criminal offense of rape. The prosecution initially investigated the rape, and then issued an order to extend the investigation (July 5, 2017) to the crime of trafficking in human beings. In this case, the injured person is a minor and female. Two persons related to the victim (mother and stepfather of the victim) are accused of committing a criminal offense against this person. The victim's legal representative in the proceedings was the father. During the procedure, the opinion of the expert service on the psycho-physical condition of the victim was given.

**Case B:** The investigation in this case was initiated on 26 October 2018 and lasted until 24 January 2019, after which an indictment was filed against one person for the criminal offense of trafficking in human beings (Article 444, paragraph 6 in conjunction with paragraph 3 and paragraph 1 KZCG). In this case, 4 juvenile victims (3 boys and 1 girl) were identified. The father of the victims is charged with the crime. Both the accused and the victims are Roma persons, residing in Montenegro. The accused is charged with exploitation of the victims through forced labor and begging. The legal representative of the injured parties was appointed in the order of the list by a lawyer for minors. The Expert service gave an opinion on the state of the injured, and one victim was staying in the shelter. During the main trial, the court examined the minor victims directly. Prior to examination, at the agreed proposal of the parties the court presented the finding and opinion of the Expert Service of the Supreme State Prosecutor's Office for juvenile victims as evidence. This statement was given in order to assess and prepare the minor victims for the eventual testimony before the Supreme State Prosecutor's Office in Podgorica. Based on the testimony, it was determined that the injured minors understand the purpose of the criminal proceedings against the suspect and their participation in the proceedings and are ready to give their testimony before the state prosecutor for minors.

At the time of concluding this report, the first instance conviction of the High Court in Podgorica (K.no 4/19 of 17 July 2020) rendered the accused as guilty and sentenced him to ten years in prison. The sentence was changed to eight years in prison on November 6, 2020 by the Court of Appeals. The mitigating circumstances of the perpetrator were stated as the reason for the reduction of the sentence.

**Case C:** During 2018, criminal charges were filed by the Police Directorate against two perpetrators for the crime of trafficking in human beings. After reviews were performed, the case was transferred to the jurisdiction of the Basic Prosecutor's Office, but due to another criminal offense - illegal crossing of the state border and smuggling of people (Article 405, paragraph 3, in conjunction with paragraph 2 of the CC). Two males were reported, and six victims were identified, all of Iraqi nationality. The case was initially investigated by the Operational Team, after which it was handed over to the Basic State Prosecutor's Office in Bar for action in relation to the criminal offense under Article 405 - Illegal crossing of the state border and human trafficking.

The head of the Anti-Trafficking Operational Team instructed the basic state prosecutor's offices that, if they identify the elements of human trafficking in a case, they should immediately inform the High State Prosecutor's offices.

**Case D:** In this case, the Police Directorate filed a criminal complaint against one person for committing the crime of trafficking in human beings (arranged marriage). The order to conduct an investigation against one person was issued on October 16, 2019. The defendant, a male citizen of Kosovo, is the father of the victim. The injured party is a minor child. The investigation is conducted for illegal marriage (Art. Trafficking in human beings 444, paragraph 3 in conjunction with paragraph 1). The indictment was filed on June 15, 2020. year and the case is at the trial stage at the time of the conclusion of the report. Along with the indictment, a motion was filed to order custody for the accused. The first hearing was held on September 21, 2020. A conviction was passed in the case, finding the defendant guilty of imprisonment for a term of 2 years. At the time of concluding the report, this case was in the second instance procedure in the phase of deciding on the appeal.

**Case E:** In December 2019, two males were charged with committing criminal offense under Article 444, paragraph 1 of the Criminal Code of Montenegro - labor exploitation. Both defendants are of Pakistani origin. The victims are two male adults, also from Pakistan. The investigation was first initiated against one person (October 25, 2019), and then the Order on extending the investigation to another person was issued (October 28, 2019). The victims stayed in the shelter (Public Institution Center for Support of Children and Families Bijelo Polje). The case was identified in the process of seeking asylum by the victims.

At the time of concluding the report, the case is in the trial phase under the business code K no. 190/19, and the defendants have been in custody since October 25, 2019. The main trials that were supposed to take place on July 8, 2020, October 21, 2020 and April 29, 2020 were postponed due to the corona virus pandemic, and the main trial on November 25, 2020 was postponed due to the absence of a Pakistani interpreter. The main trial was held on December 9, 2020, and the announcement of the verdict acquitting the defendants was held on December 30, 2020. If no appeal is lodged, the acquittal decision will become final.

**Case F:** The Police Directorate has filed a criminal complaint for the crime of trafficking in human beings where the victim is a minor female person placed in a shelter for victims of trafficking. The High Prosecutor's Office opened a case against one male for the criminal offense of Trafficking in Human Beings (444, paragraph 3 in conjunction with paragraph 1 of the CC of Montenegro) committed to the detriment of a 13-year-old female from Serbia. The order to conduct an investigation was issued on March 13, 2020. and on July 072020. the case was submitted for competent proceedings to the Basic State Prosecutor's Office in Nikšić for the criminal offense of extramarital union with a minor under Article 216, paragraph 2 in conjunction with paragraph 1 of the CC of Montenegro. A relative (father) is suspected of committing the criminal offense. The criminal complaint was filed on March 11, 2020.

The formal identification team conducted the formal identification procedure and in this case granted the status of a victim of human trafficking. The form of trafficking crime was illicit marriage to one female person.

The victim was provided with assistance and protection at the Shelter for Children Victims of Domestic Violence in Bijela. Cooperation was established between the Center for Social Work Nikšić, who appointed the guardian for the case in question, and other institutions responsible for providing assistance to the

victim. When the conditions were met, and in cooperation with the competent authorities of Serbia, it was agreed that she would return to her home country, where the process of her reintegration into society continued.

**Case G:** Based on the report of the non-governmental organization "Center for Roma Initiatives" from Nikšić, a reconnaissance was carried out on the possible commission of the criminal offense of trafficking in human beings (arranged marriage). The police collected the data and provided it to the Kosovo Police. The initiative to find the children was passed through Interpol twice.

The victims are two minors, Montenegrin citizens who were found in Kosovo. At the time of identification, these persons were not citizens of Montenegro. However, upon their return to Montenegro, they were granted Montenegrin citizenship in the reintegration process because there was a basis for it. One person is male and one is female. The team for the formal identification of victims of trafficking granted the status of a victim of forced begging to the male person, and the status of a victim of forced begging and illegal marriage to the female victim. Both victims were placed in the Shelter for Children Victims of Domestic Violence in Bijela.

There are grounds to suspect that the crime was committed by a relative.

**Case H:** As part of international cooperation between the Taiwan and Montenegrin police, on January 8, 2020, an action was carried out in which 8 persons of Taiwanese citizenship were deprived of liberty on suspicion of committing the act of trafficking in human beings for the purpose of labor exploitation and creation of a criminal organization, CCMN 401a. The identification team identified 37 adult victims based on the Standard Operating Procedures in force at the time. All the victims were are of Taiwanese nationality and 12 of them were female. The case was formed in the High State Prosecutor's Office in Podgorica, which submitted the case to the Special State Prosecutor's Office. The anti-trafficking operational team recorded the case. On January 10, 2020, the special state prosecutor's office issued an order to conduct an investigation against 3 persons for the criminal offense of creating a criminal organization under Article 401a and the criminal offense of trafficking in human beings under Article 444. At the request of the prosecutor, detention was ordered for 2 months, after which on 9.3.2020., the criminal prosecution in this case was taken over by Taiwan.

**Case K:** After the victim contacted the Center for Roma Initiatives, this NGO reported a case of trafficking for the purpose of contracting a marriage to the Police Directorate. On April 29, 2020, the Police Directorate filed a criminal complaint in cooperation with the High Prosecutor's Office (Operational Team for Combating Trafficking in Human Beings) against one male for the criminal offense of Trafficking in Human Beings under Article 444, paragraph 1 of the CC of Montenegro. The victim was a a female adult person. The order to conduct the investigation was issued on July 1, 2020, and an indictment was filed on June 18, which was confirmed by the High Court. The case is currently pending before the High Court in Podgorica. The first main trial was held on October 23, and the next on November 16. The defendant is stateless, born in Kosovo, and the victim is an adult Kosovo citizen.

The team conducted a formal identification process in relation to one person who had been granted the status of a victim of trafficking. After providing initial assistance and protection, a decision was made to place this person in a specialized shelter for victims of human trafficking, where their further recovery and integration continued. The victim initially expressed a desire for the further course of her reintegration to continue in Serbia, but in November she changed her mind and expressed a desire to return to her

husband, to Kosovo. The Anti-Trafficking Department of the Ministry of the Interior initiated procedures in accordance with the bilateral Protocol on Cooperation between Montenegro and the Republic of Kosovo, and helped her return to her home country.

**Case L:** The team conducted a formal identification procedure in relation to one person who was granted the status of a victim of trafficking in the form of forced begging. On 6.7.2020. the victim, a male minor child, was placed in a specialized shelter for victims of human trafficking. The Department for Combating Trafficking in Human Beings of the Ministry of the Interior worked on the reintegration of the victim, in cooperation with the shelter staff and guardians from the Center for Social Work Berane who are assigned to victims. The Police Directorate filed a criminal complaint for Article 444 of the CCMN Trafficking in Human Beings – in form of forced begging. The defendant is the father of the victim. The High Prosecutor's Office in Bijelo Polje, to which a criminal report was filed, did not find elements of the criminal offense of trafficking in human beings and issued a decision rejecting the criminal report.

**Case LJ:** The Police Directorate has filed a criminal complaint for a criminal offense under Article 444 of the CCCG trafficking in human beings, in form of illegal marriage, against an adult citizen of Montenegro. The victim is 17 years old and is the daughter of the defendant. The order to conduct an investigation was issued on July 17, 2020, and the indictment was filed on September 28, 2020. The indictment has been confirmed and the case is at trial. Defendant was not remanded in custody.

In this case, the Team conducted a formal identification process and granted trafficking status in form of illicit marriage. The victim is in a specialized shelter for victims of human trafficking.

**Case M:** On 8.7.2020. the Police Directorate filed a criminal complaint for the criminal offense under Article 444 of the CCM with trafficking in human beings, a form of forced begging, against two males. All four injured parties are the children of one of the defendants. The order to conduct an investigation was issued on July 15, 2020. The investigation is still ongoing. The team conducted a formal identification procedure in relation to 4 persons who received the status of a victim of trafficking in human beings in the form of forced begging. The victims are minors, three female and one male child. The victims are in the Shelter for Victims of Trafficking.

**Case N:** The Police Directorate, in cooperation with the officers of the Bar Security Center and the Ulcinj Security Department, filed a criminal complaint on November 19, 2020. with the High State Prosecutor in Podgorica against an adult female due to a well-founded suspicion that she had committed two criminal offenses under Article 444 of the Criminal Code - trafficking in human beings and one criminal offense under Article 210 of the Criminal Code - mediation in prostitution.

The formal identification team identified two adult victims of trafficking in sexual exploitation. One victim is a citizen of Serbia, and the other is a citizen of Montenegro.

The suspect was deprived of liberty on November 18, 2020. and with a criminal report conducted on 19.11.2020. to the Senior State Prosecutor in Podgorica. The order to conduct the investigation was issued on November 20, 2020.

**Case J:** In the course of 2020, criminal proceedings were instituted for the criminal offense of trafficking in human beings (arranged marriage) against an adult male person who is a citizen of Montenegro, while a

minor female person was injured. Until the conclusion of this report, the case was in the trial phase, and the main trial is scheduled for March 2021.

In this case, the working group did not have information on who initiated the case and when, what stages the procedure went through, in what connection the suspect was with the injured person, and what form of assistance and protection was provided to the victim.

In addition to the above, in the observed period, according to the information obtained by the working group for drafting this report, the police and the prosecution investigated several cases, some of which are still in the reconnaissance phase, while some were found to have no elements of trafficking.

## II OVERVIEW OF THE SITUATION IN MONTENEGRO BY INDICATORS FOR MONITORING OF TRAFFICKING IN HUMAN BEINGS

### A. Law and national legal framework for the criminalization of human trafficking

#### A.2 General information on investigation and prosecution

Indicator:

A.b Trafficking cases have been prosecuted and adjudicated in a fair manner and in accordance with international criminal law standards

This indicator is the starting point for assessing the law and the national legal framework and its compliance with international standards. It is assessed through 21 sub-indicators<sup>34</sup> that should serve to form a general assessment of the situation and answer the question of whether cases of trafficking in human beings were prosecuted and adjudicated in a fair manner and in accordance with international criminal law standards. The following is each information gathered during the preparation of this report regarding all sub-indicators.

In general, based on all collected information, it can be concluded that in the reporting period, attention was paid to the efforts of the competent authorities to prosecute and adjudicate trafficking cases in a fair manner and in accordance with international criminal law standards. The system has undergone a series of institutional reforms that should enable a more active fulfillment of these standards.

There is no information that standards were not respected during the victim trial process, although some problems were noted in the protection of victims, the provision of psycho-social and medical support, and respect for the right to recovery and reflection. Discriminatory behavior has been observed when dealing with contracted underage marriages and begging when it comes to the Roma-Egyptian community. The question also remains as to why victims do not use free legal aid, if it is offered to them.

In the early stages of the COVID-19 pandemic, the system was not ready or flexible enough to adequately respond to specific trafficking situations, including the identification, reporting, and accommodation of victims. From the conversations with the representatives of non-governmental organizations dealing with the protection of victims of human trafficking and gender-based violence, information was obtained about the lack of coordination between police stations, social work centers and sanitary inspections, to the detriment of victims who did not receive adequate and timely assistance. Th victims and their accompanying persons from NGOs were threatened with punishment for non-compliance with epidemiological measures. In some cases, the pandemic also affected the dynamics and delay of the trial.

According to police sources, there were no cases in the reporting period in which one or more public officials were investigated for involvement in trafficking or for assisting traffickers in committing this crime.

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<sup>34</sup> A list of all indicators and sub-indicators is available in Annex 3 of the report

### *International Standard of Fair Trial*

Article 14 (3) of the International Covenant on Civil and Political Rights summarizes the minimum standards of a fair trial, including that every person charged with a criminal offense has the right to the following guarantees:

- To be informed as soon as possible, in a language they understand and in detail, of the nature and reasons for the accusation brought against them;
- To have the necessary time and facilities in connection with the preparation of their defense and to communicate with counsel when they choose;
- To be tried without great delay ;
- To attend the trial;
- To be provided with a counsel whenever the interests of justice require so;
- To be able to hear or suggest that others examine the witnesses against them and to arrange for the arrival and examination of defense witnesses under the same conditions as the prosecution witness;
- To receive free assistance from an interpreter if he or she does not understand or speak the language of the hearing;
- Not to be forced to testify against themselves or to admit guilt.

In the reporting period, and based on available information, the trials of suspected traffickers were in accordance with recognized fair trial standards. Information obtained from the civil sector does not contradict this conclusion. In addition, according to the information available at the trials of suspected traffickers, the rights of victims and witnesses were respected.

### *The right to free legal aid to victims during the trial*

Under Montenegrin law, victims of trafficking are entitled to free legal aid, regardless of the victim's financial situation. The research showed that the victims had access to assistance and protection in accordance with the assessment of social services and in accordance with the assessment of the prosecution. However, in most cases **there is no reliable information on whether victims have exercised their right to free legal aid.** In In case B there is information that the victims used free legal aid and that a lawyer was appointed. When it comes to international standards in this area, according to Montenegrin law, **there is no possibility to select female lawyers, but lawyers are assigned automatically, from the list of lawyers providing free legal aid and are often not sufficiently familiar with the crime of human trafficking as well as the trauma victims of this type of crime are exposed to, which can all affect the quality of legal aid.**

### *Investigation phase*

According to the information received from the Police Directorate, in the reporting period there were no general raids to detect prostitution, which would justify it as a way to combat human trafficking. No contrary information was received from other sources, including the civil sector. The police controlled the facilities for

which there was a suspicion that prostitution was taking place, and identified persons for whom there was a grounded suspicion that they were engaged in the provision of sexual services, but no procedure was initiated against them. On this occasion, the Police Directorate offered the identified persons protection services and the opportunity to file charges against potential exploiters, but no person took advantage of this opportunity.

According to the Council of Europe Convention, potential victims of trafficking have the right to recovery and reflection defined as a period of 30 days that serves to recover the victim and make a free and informed decision to cooperate with law enforcement authorities. The practice is to inform the person at the first meeting about their rights, including the possibility to use the shelter and the right to a period of reflection, and to provide medical assistance (including the help of a psychologist). However, according to NGOs involved in the care of victims of trafficking during the reporting period, it was noted **that the reflection period was not respected in all cases and some victims were questioned by the police before being brought to shelters**. According to the explanation from the Police Directorate, all victims are aware of their right to reflection and those who choose not to exercise their right are interviewed.

The competent prosecutor's office in Montenegro is in charge of financial investigations and the implementation of orders for confiscation of property. During the reporting period, two financial investigations were initiated due to human trafficking (case D and E), which are still ongoing at the time of concluding this report. There is no information on whether the prosecution initiated and implemented orders for confiscation of property.

Since the establishment of the Victim Identification Team on November 15, 2019, there have been no cases of newly identified victims where there was no investigation, or where the investigation was terminated because the victim did not want to cooperate as a key witness. However, during 2019, the "Center for Roma Initiatives" reported at least **six cases of underage marriages in the municipality of Niksic** on suspicion of forced marriages. These cases **were not prosecuted because the potential victim and the perpetrator did not testify during the investigation that a money transaction had been promised or performed**. After this confession did not occur during the testimony, the cases were not further investigated and the proceedings were suspended in all six cases. Such treatment is contrary to the best interests of the minor. Juvenile arranged marriages represent a kind of labor and sexual exploitation and a form of gender-based violence and therefore require the greatest possible attention and protection of victims.

According to the available information, in all cases the newly identified victim-witnesses cooperated with the bodies of the criminal justice system (police and prosecution). However, in the above example, we see that in cases of possible underage marriages, the reason for suspending the investigation was that the possible victims and perpetrators did not give a statement that a money transaction had taken place or was planned. The example lists six unprocessed cases, while the total number of such cases cannot be determined.

### *Prosecution phase*

Based on information from the Prosecution, prosecutors provided victims with adequate pre-trial support. Civil society organizations confirmed this statement, although they expressed concern regarding the provision of adequate psycho-social support to the recovery of victims, which was lacking in some cases during 2018.



According to the Department for Combating Trafficking in Human Beings, during the victims' stay in the shelter for victims of trafficking, the legal counsel regularly informed them about their rights, administrative and judicial procedures, as well as about the outcome of trials in which they participated as victims or witnesses, whether the verdict is convicting or acquittal. Information from civil society does not contradict this assessment, and a member of the Team for Formal Identification of Victims stated in an interview we conducted with her that she witnessed informing potential victims about their rights.

On the other hand, **the civil sector has questioned the ability of a certain number of victims to make informed decisions about their actions**, so when informing victims about their rights, it is necessary to take into account their mental state, in order to ensure that the victim can rationally and calmly decide in the proceedings.

#### *Liability of a legal entity for participation in the commission of the criminal offense of trafficking in human beings*

Article 444 of the Criminal Code, which refers to trafficking in human beings, does not prescribe the responsibility of a legal entity for direct participation in the execution or attempt to commit the criminal offense of trafficking in human beings. However, the Law on Liability of Legal Entities for Criminal Offenses<sup>35</sup>, regulates the conditions of liability of legal entities for criminal offenses, criminal sanctions applied to legal entities, as well as the criminal procedure in which they are imposed. According to this Law, a legal entity is responsible for the criminal offense of a responsible person who committed a criminal offense acting on behalf of a legal entity within its powers, with the intention to gain any benefit for that legal entity or when the responsible person's actions were contrary to business policy or orders of the legal entity (Article 5).

Also, the Law on Confiscation of Property Gains Acquired by Criminal Activity<sup>36</sup> (Article 7, item 4) explains that the meaning of the term "third party" also means a legal entity. "A third party is a natural or legal person to whom the proceeds of crime have been transferred free of charge or with compensation that clearly does not correspond to the actual value of the proceeds, who knows or should have known that the proceeds of crime are or were acquired through criminal activity". Furthermore, Article 2 states that property may be confiscated in the case of criminal offenses such as kidnapping and offenses against sexual freedom. Thus, the investigation in the case of trafficking in human beings with elements of abduction or an act against sexual freedom can and must be extended to a legal entity if there are grounds to suspect that the profits from such an act have been transferred to the legal entity.

In the reporting period, there were no cases in which the responsibility of a legal entity for acts of trafficking in human beings was determined.

#### *Trial and convictions*

**In the reporting period, only one final verdict was pronounced for the criminal offense of trafficking in human beings** in April 2019 (case A)<sup>37</sup>. This verdict became final in December of the same year. The verdict sentenced one person to 17 years under Article 204 - rape (paragraph 4 in connection with paragraph 1 of this Article) and Article 444 - trafficking in human beings (paragraph 3 in connection with

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<sup>35</sup> Official Gazette 2/2007, 13/2007, 30/2012 and 39/2016

<sup>36</sup> Official Gazette 58/2015 and 47/2019

<sup>37</sup> Judgment of the High Court in Podgorica, K. no. 87/17 of 16 April 2019

paragraphs 2 and 1) and one person to 15 years in prison (on the same basis, except that the criminal offense of rape involved aiding). To this point, this is the most severe punishment imposed for the crime of trafficking in human beings, with **experts agreeing with the assessment that the amount of punishment was significantly contributed by the act of rape in relation to the act of trafficking in human beings.**

The High Court in Podgorica passed a conviction on 17.07.2020. K.br. 4/19 by which the defendant was sentenced to imprisonment for a term of 10 years (case B) which is the lowest sentence that can be imposed for this type of criminal offense. The sentence was changed and reduced by the Court of Appeals to 8 years in prison. The Court of Appeals cited mitigating circumstances, including the number of family members, the poor health and poor financial condition of the accused's family, as the reason for the modification and reduction of the prison sentence. This case indicates that even **in the criminal offenses of trafficking in human beings, when determining the punishment of the perpetrator, the courts apply the general case law of mitigating circumstances** such as financial circumstances, unemployment, age and the like. This practice calls into question the adequacy of penal policy. Namely, **the sentences imposed must be effective and proportionate to the crime committed, in order to deter potential perpetrators from committing the crime of human trafficking.**

#### *The principle of non-discrimination*

Discrimination was not recorded in the trial process, but it was noted in the earlier stages of the proceedings, which will be described below. Based on the available adjudicated cases in the reporting period, no differences in penal policy can be identified, and therefore the principle of discrimination in the trial process remains to be monitored in the coming period.

#### Indicator:

A.c Prosecutors and judges understood and, where necessary, applied the provisions for the protection of vulnerable victims and witnesses before, during and after trials, in the manner prescribed by national law and obligations arising from ratified agreements and accepted international judicial and prosecutorial good practice.

In most cases, the police, prosecutors, and judges applied provisions to protect vulnerable victims and witnesses before, during, and after the trial. Namely, a practice of applying special protection measures in the courtroom exists, the Guidelines on Impunity for Victims have been adopted and are being applied, and experts are being invited to testify about the psychological state of the victim at trial.

#### *Protection measures in the courtroom*

In the observed period, in at least one case, special protection measures were applied in the courtroom. The victim's testimony was recorded, and the victim was protected from facing the suspect. However, according to the report of the State Department from 2019, the competent authorities in the mentioned case **failed to protect the victim from the attempts of the accused to frighten her.**

### *The principle of impunity for victims*

If a cause-and-effect connection is determined between a (potential) victim and a criminal offense, based on the Guidelines on Impunity for Victims committed in accordance with Article 26 of the Council of Europe Convention, the authorities are instructed to suspend the proceedings as soon as possible if initiated, ie if the procedure is conducted before the court - to be completed as soon as possible and in a way that will result in impunity for the victim.<sup>38</sup> According to the information gathered during the preparation of the report, in the observed period, no victim was punished for participating in illegal activities that they were forced to perform while under the control of a trader or exploiter.

### *Investigation phase, indictment, proceedings and verdicts*

In the reporting period, **the Police Directorate filed 13 criminal charges on suspicion of trafficking, and nine persons were charged with the criminal offense for human trafficking.** A total of four proceedings were conducted in which these persons were charged with trafficking in human beings and related acts committed in the territory of the state, on a ship flying under its flag or on an aircraft registered in its territory.

**Table 1:** Overview of the number of filed criminal charges, suspects and initiated proceedings

|               | <b>Criminal charges</b>                | <b>Suspects</b>      | <b>Proceedings</b>  |
|---------------|--|----------------------|---------------------|
| <b>Number</b> | <b>13</b>                              | <b>9</b>             | <b>4</b>            |
| <b>Cases</b>  | B, C, D, E, F, G, H, K, L, LJ, M, N, J | A, B, E, D, K, Lj, J | A, B, E, D, K,Lj, J |

The ratio of criminal charges for trafficking in human beings for the purpose of sexual exploitation in relation to labor exploitation is expressed in Table 2. As can be seen from the table, out of 12 criminal charges, two were related to sexual and labor exploitation. On the other hand, according to official statistics, begging and contracted marriages are recorded as two different categories, although contracted marriages represent a kind of sexual exploitation. In relation to that, it can be concluded that in the observed period, **the number of criminal reports of sexual exploitation is higher than labor exploitation.**

**Table 2:** Overview of criminal charges by type of exploitation

| <b>Type of exploitation</b> | <b>Number</b> | <b>Cases</b> |
|-----------------------------|---------------|--------------|
| Sexual                      | 2             | A and M      |
| Labor                       | 2             | H and E      |
| Labor - begging             | 3             | M, L, B      |

<sup>38</sup> OSCE and National Anti-Trafficking Office, Guidelines on Impunity for Victims of Trafficking for Police Officers, State Prosecutors and Judges, p. 3, online source: <https://www.osce.org/me/mission-to-montenegro/406505?download=true>, accessed 1 February 2020

|                         |   |                   |
|-------------------------|---|-------------------|
| Ellicit marriage making | 5 | LJ, K, F, G, D, J |
|-------------------------|---|-------------------|

**In two cases where criminal proceedings were initiated on suspicion of trafficking in human beings, there was a requalification into criminal offenses provided with a lower sentence, while in one case (case L) the High State Prosecutor's Office in Bijelo Polje rejected the criminal report.** In the two mentioned cases, in which the crime was reclassified, the prosecutor's offices assessed that it was an illegal crossing of the state border and smuggling of people, ie an extramarital union with a minor. Namely, in case C, in 2018, the Police Directorate filed a criminal complaint against two perpetrators for the criminal offense of trafficking in human beings. After the inspections, the case was transferred to the jurisdiction of the Basic Prosecutor's Office, but as another criminal offense - illegal crossing of the state border and smuggling of people (Article 405, paragraph 3, in conjunction with paragraph 2 of the CC). In case F, the investigation was transferred to the Basic State Prosecutor's Office in Nikšić, and the crime was reclassified as an extramarital union with a minor.

In one of the two trials taking place during the reporting period, regarding Case A, an expert witness from the medical field was called to testify about the victim's health. In the same case, a team of experts made a written finding on the ways the victim was manipulated by the defendant. According to information obtained from civil society activists who were involved in securing the victim during the proceedings conducted in 2018, in at least one case, the hired expert showed appropriate expertise when it comes to the psychological state of the victim.

When it comes to verdicts for the criminal offense of trafficking in human beings, **in the period from 2018 to 2020, one court trial was finalized** in which both offenders were convicted. Two more verdicts were handed down during the reporting period, one acquitting (case E) and the other convicting (case B), but according to the information available at the time of the report, these verdicts were still not final. Average duration of criminal procedures in **cases that received a judicial epilogue in the reporting period, was 21 month.**

**Table 3:** Cases in which verdicts were rendered and their duration

|                       |             |           |
|-----------------------|-------------|-----------|
| Case A                |             | 25 months |
| Investigation started | 17.03.2017. |           |
| Verdict rendered      | 16.04.2019. |           |
| Case B                |             | 25 months |
| Investigation started | 26.10.2018. |           |
| Verdict rendered      | 06.11.2020. |           |
| Case E                |             | 14 months |
| Investigation started | 25.10.2019. |           |
| Verdict rendered      | 30.12.2020. |           |

In the observed period, no procedure or verdict for trafficking in human beings or a related act was recorded in which the involvement of one or more public officials during their official duty appears as an aggravating circumstance.

### *Lawsuit*

#### **The right to compensation for victims of trafficking continues to be difficult to exercise in practice.**

According to all available information, no victim of trafficking who participated in court proceedings in the observed period initiated civil proceedings, and therefore there was no compensation for victims, either in civil or criminal proceedings. Although there is a legal possibility to decide on the victims' compensation claim during the criminal proceedings, a practice has been established in which the court directs the victim to exercise property rights through litigation due to the acceleration of the criminal proceedings. On the other hand, this litigation can be costly, time consuming and requires the presence of the victim, which can contribute to their re-victimization.

## B. Identification of human trafficking victims

### B.2 About identified persons

Indicator:

B.b Victims of trafficking have been identified quickly and accurately

Through fifteen sub-indicators, this indicator questions the compliance with the procedure for identifying victims of trafficking, the participation of the specialized NGO sector in the identification, the number of victims identified by state authorities as victims of trafficking, divided by the number of male and female adults and minors and by the country of origin.<sup>39</sup>

According to official sources, the police and other actors involved follow the identification of the victims of trafficking procedures. Since November 2019 and the establishment of the Team for formal identification of victims for each reported case, the procedure of formal identification has been conducted in accordance with the SOP for identification of victims, ie the National Plan for Identification. In an interview with a member of the Formal Identification Team, it was confirmed that in the first case they worked on after their establishment (Case X), the police invited them to perform a formal identification, after which this practice continued.

In the first period of operation of the Formal Identification Team, representatives of civil society organizations were not involved, although the National Identification Plan provided this. Following the official report of the State Department for 2019, where this issue is specifically addressed, a call was published to propose a civil sector candidate to join the team. There were no applications for the call for candidates, and after the repeated call, from September 2020, the representative of the "Women's Rights Center" became a permanent member of the Team for formal identification of victims of human trafficking.

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<sup>39</sup> A list of all indicators and sub-indicators is available in Annex 3 of the report

In the reporting period, the role of NGOs in identifying victims was recorded in three cases. Based on the information provided by non-governmental organizations, the procedure of formal identification of victims was conducted and after the investigation, criminal charges for human trafficking were filed (cases D, E and G). It can be concluded **that in the reporting period the role of NGOs in the identification of victims increased, although there is a fear that the NGO sector is not adequately involved in all cases, especially when it comes to suspicion of minor contracted marriages. In addition, NGOs are not involved in the follow-up of cases and victims reported by these organizations.**

In the reporting period, state authorities identified a total of 10 persons as potential victims and 47 as victims of trafficking. After the establishment of the Team for Formal Identification of Victims, potential victims received formal victim status, **and therefore in the reporting period there were a total of 58 victims, including 9 female minors, 7 male minors and 42 adults - 27 male and 15 female.** Also, the Team, in relation to two persons - female minors, made a decision that they are persons at high risk of becoming victims, and therefore the Center for Social Work became responsible for conducting further monitoring of the family and circumstances to prevent their victimisation. One of the identified victims in case N, reported the crime to the state authorities herself, ie she was not identified by the state authorities.

**Table 4:** Overview of cases by status, gender and age (adults and minors)

| Case                 | Status                  | Result  |
|----------------------|-------------------------|---|
| Case A               | Victim (final judgment) | 1 underage girl                                   |
| Case B               | Potential victims       | 3 underage boys and 1 underage girl               |
| Case C <sup>40</sup> | -                       | -   |
| Case D               | Potential victim        | 1 underage girl                                   |
| Case E               | Potential victim        | 2 adult men                                       |
| Case F               | Potential victim        | 1 underage girl                                   |
| Case G               | Potential victim        | 1 underage girl and 1 underage boy                |
| Case H               | Victim <sup>41</sup>    | 12 female adults and 25 male adults <sup>42</sup> |
| Case K               | Victim                  | 1 adult female                                    |
| Case L               | Victim                  | 1 underage male person                            |
| Case LJ              | Victim                  | 1 underage female person                          |
| Case M               | Victim                  | 4 minors, 2 males and 2 females                   |
| Case N               | Victim                  | 2 adult females                                   |
| Case J               | Victim                  | 1 underage girl                                   |

When it comes to the origin of the identified victims, the state authorities have identified 43 victims who are foreign nationals. The largest number of victims of foreign nationalities was identified in case X, known as

<sup>40</sup> In case C, the criminal charges were rejected.

<sup>41</sup> Once the Team for the identification of victims has been established, the term victim is used even before the final judgment.

<sup>42</sup> Information obtained at the time of concluding the report, although the identification process has not been completed.

the "Call Center", and the largest number of victims was from Taiwan, while in other cases the victims were from Pakistan and neighboring countries Serbia and Kosovo.

**Table 5:** Number of identified victims of foreign nationalities by gender and age (adults and minors).

| Case    | Origin   | Result                       |
|---------|----------|------------------------------|
| Case D  | Kosovo   | 1 underage girl              |
| Case E  | Pakistan | 2 adult men                  |
| Case F  | Serbia   | 1 underage female person     |
| Casej H | Taiwan   | 12 female and 25 male adults |
| Case K  | Kosovo   | 1 adult female               |
| Case N  | Serbia   | 1 adult female               |

**Table 6: Overview of cases by type of exploitation**

| Case    | Type of exploitation                | Victim                             |
|---------|-------------------------------------|------------------------------------|
| Case A  | Sexual exploitation                 | 1 underage girl                    |
| Case B  | Labor exploitation - forced begging | 1 underage boy                     |
|         | Labor exploitation - forced begging | 1 underage boy                     |
|         | Labor exploitation - forced begging | 1 underage boy                     |
|         | Labor exploitation - forced begging | 1 underage girl                    |
| Case C  | -                                   | -                                  |
| Case D  | Ellicit marriage                    | 1 underage girl                    |
| Case E  | Labor exploitation                  | 2 adult men                        |
| Case F  | Ellicit marriage                    | 1 underage girl                    |
| Case G  | Ellicit marriage and begging        | 1 underage girl                    |
|         | Begging                             | 1 underage boy                     |
| Casej H | Labor exploitation                  | 12 female adults<br>25 male adults |
| Case K  | Arranged marriage                   | 1 female adult                     |
| Case L  | Begging                             | 1 underage boy                     |
| Case LJ | Arranged marriage                   | 1 underage girl                    |
| Case M  | Begging                             | 2 underage boys                    |

|        |                              |                 |
|--------|------------------------------|-----------------|
|        | Begging                      | 1 underage girl |
|        | Begging and illicit marriage | 1 underage girl |
| Case N | Sexual exploitation          | 2 female adults |
| Case J | Ellicit marriage             | 1 underage girl |

*Investigation of the services responsible for detecting illicit exploitative forms of work among migrants*

In the Montenegrin system, the Labor Inspectorate cannot conduct an investigation, but only perform control. According to the information obtained by the working group for drafting the report, the Labor Inspectorate cooperated with all relevant bodies in the reporting period and had a proactive approach in order to identify potential victims of human trafficking for the purpose of labor exploitation. The cooperation with the Ministry of the Interior, ie the Police Directorate - Border Police Sector, the Department for Foreigners, Visas and Suppression of Illegal Migration, was especially active - over 200 joint controls were performed. According to information from the police, these joint controls of labor inspectors with inspectors for foreigners resulted in the cancellation of the stay in Montenegro of a large number of foreigners caught at work without proper documentation (temporary residence and work permits or certificates of registration of foreigners).

In addition, the joint activity of the Police Directorate with the aim of consolidating activities against human trafficking, established in 2014 under the name "Trafficking", was carried out in 2018 at the level of 8 security centers and 13 security departments. In the reporting period, as an integral part of the "Trafficking" operation, the officers of the Border Police Sector, inspectors for foreigners, in cooperation with the Labor Inspectorate, performed a total of 298 controls. Controls included construction sites, hotels, private accommodation, businesses, bus and train stations, taxi stands, tourist organizations and agencies, restaurants and marinas. These controls are aimed at determining the residence, management, work of foreign nationals and the possible existence of elements that indicate the labor exploitation of foreign nationals. We did not receive information on whether any of these controls resulted in the initiation of misdemeanor or criminal proceedings.

*Investigation of services responsible for detecting illicit exploitative forms of labour among children*

In the period from January to December 2018, within the action "Beggar", whose goal is the prevention of begging, 89 controls were performed, 284 people were controlled and 53 requests for initiating misdemeanor proceedings were submitted. Also, by conducting activities in the field, control of several facilities and locations was performed. We did not receive information on whether any of these controls resulted in the initiation of misdemeanor or criminal proceedings.

*Identification of children*

When it comes to children, social work centers and inspections do not conduct investigations but only control or supervision. Based on the information obtained by the working group, the centers for social work worked on identifying cases of child begging. Also, professional workers in the centers for social work can report the suspicion of the criminal offense of human trafficking. We have no information on whether any of these controls resulted in the initiation of misdemeanor or criminal proceedings during the reporting period.



## *Identification of minorities*

When it comes to members of minorities, according to information obtained from official sources, all persons who enter the protection program have equal treatment, regardless of religion, nationality and citizenship. According to the same sources, persons belonging to minorities have not experienced additional difficulties in providing assistance if they have been identified as potential victims of trafficking. However, **certain authorities acknowledge special problems with the Roma and Egyptian populations.** According to them, **it is difficult for the competent authorities to obtain information on the suspicion of committing acts in the field of human trafficking** when it comes to this community. For this reason, targeted door-to-door campaigns are organized, where representatives of institutions visit Roma-Egyptian settlements once a year to boost mutual trust. Representatives of the institutions are working to strengthen cooperation with the civil sector and the Red Cross working with this population.

Civil society organizations working directly with the Roma and Egyptian populations shared different experiences. Namely, according to them, **the competent authorities do not invest enough effort in finding evidence of contracted minor marriages and often write off this practice as a "cultural" and "usual" characteristic of the Roma and Egyptian communities. Of the 7 cases reported by civil society organizations, only one case of contracted underage marriage was processed in 2019.** In others, victims and persons identified as perpetrators or accomplices were required to provide a statement of financial transaction. Due to the omission of the statement, the cases were not further processed. Furthermore, in the observed period, there was at least one case in which the application of a minor contracted marriage in the Roma community was almost not processed, because the policewoman to whom the crime was reported asked for information on whether the 11-year-old victim voluntarily agreed to the contracted marriage! Under Montenegrin law, a person under the age of 18 cannot marry. An exception can be made only with the permission of the court, for a child older than 16 years. The mentioned case was further processed only at the insistence of the non-governmental organization.

No homosexual, bisexual or transgender persons were identified as beneficiaries of assistance programs for victims of trafficking in the reporting period.

### [B.3 Disputed identification and the persons who were wrongly categorized as non-victims](#)

Indicator:

B.c CSOs that provide support to victims are not aware of a case where they considered a person to be a victim of human trafficking and that the competent services did not identify him/her as a victim.

Civil society organizations reported that there were cases in which they considered a person a victim of human trafficking, but the competent services did not react and launch an investigation. The analysis showed that in this domain, cases of underage forced marriages are predominant, which most often affect girls in the Roma community. According to the information received, in a number of cases, during 2019, the police failed to identify the victim of human trafficking in cases of underage marriages. Discrimination was observed when it came to contracting underage marriages and begging, in terms of different treatment of persons of Roma and Egyptian origin by the competent authorities, resulting in less decisive reactions by the prosecuting authorities. In addition, **in cases of underage begging, victims are often not registered as victims of trafficking, but would often be returned to their foster families or guardians, for whose purposes they were involved in begging, and after some time the begging would continue.**

In case G, the charges were almost rejected for discriminatory reasons. After the victim's mother contacted the NGO "Center for Roma Initiatives", the representatives of the organization together with her tried to report the case to the police and encountered a discriminatory reaction from the duty officer. Namely, she asked the question whether the minor marriage took place with the consent of the girl, with the insinuation that it was a tradition of the Roma community. Although the girl was 11 years old, **a representative of the Center for Roma Initiatives had to insist that the 11-year-old girl could not consent to the marriage.** After the intervention, the report was processed, which could not have happened if the mother had been without CSO support on that occasion.

Underage contracted marriages is one of the dominant forms of sexual exploitation reported by civil society organizations, for which there was no appropriate response from the authorities due to lack of evidence. Even in the case that was prosecuted (case D), the NGO tried to initiate proceedings for a long time before the initiation took place.

In the reporting period, according to available information, no criminal or misdemeanor proceedings were conducted for prostitution in a public place or against acts that incite prostitution<sup>43</sup>.

#### *Training and identification measures among irregular migrants and asylum officers*

Irregular migrants have been identified as one of the groups at risk of trafficking. An important link in identifying potential victims is the staff working with this group, including those working on refugee protection or considering asylum applications. The analysis showed that procedures have been developed to identify and refer victims of trafficking identified among illegal migrants with a special focus on unaccompanied children, and key actors have been trained to follow these guidelines. Also, trainings are held with officials who process and conduct asylum interviews.

In the reporting period, and in accordance with the action plan for the implementation of the Strategy for Combating Trafficking in Human Beings, MIA / Department for Combating Trafficking in Human Beings in cooperation with the Human Resources Administration, an institution specialized in providing systemic training to employees in authorized national institutions conducted five trainings. The trainings were implemented within the program,, "Strengthening the skill of early identification and referral of potential cases of trafficking in human beings in Montenegro with special emphasis on multi-agency cooperation" – Three trainings were held for central region and one for representatives of competent services from the southern and northern regions of Montenegro. The trainings were attended by representatives of the Shelter for Foreigners, officials from the Center for the Reception of Asylum Seekers and officials of the Ministry of Interior who are in charge of reviewing asylum applications.

Also, the Ministry of the Interior / Department for Combating Trafficking in Human Beings, in cooperation with the Human Resources Administration, has developed and implemented an education program for diplomatic and consular representatives on the ways of prevention and identification of potential victims and victims of human trafficking and their referral. The topic of the training was "Role and possibilities of action of the Ministry of Foreign Affairs and the DCM in the fight against human trafficking". Within this program,

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<sup>43</sup> Article 27 Law on Public Order and Peace: "Whoever engages in prostitution in a public place or engages in activities that incite prostitution, will be fined from 200 euros to 1,000 euros or imprisoned for up to 30 days"

during the reporting period, two trainings were realized, which were attended by a total of 21 officials of the Ministry of Foreign Affairs - from the multilateral sector and the consular sector. In addition to the above, consultations and exchanges of experiences with officials of foreign DCMs accredited in Montenegro are organized, as well as regular participation of Montenegrin officials and diplomats in international conferences dedicated to the fight against trafficking in human beings. Moreover, a representative of the MFA is involved in the work of the Coordinating Body for Monitoring the Strategy for Combating Trafficking in Human Beings. It is necessary to increase the number of trainings in order to educate all consular staff with the issue of trafficking in human beings and the procedure for identification and referral.

## C. Protection of victims

### C.2 Protection of all victims (including those exploited in a foreign country and subsequently returned to the monitored country)

Indicator:

C.d Victims of trafficking (possibly or officially recognized) received appropriate assistance and protection during the monitoring period

Until August 1, 2019, the Shelter for Victims of Trafficking was under the jurisdiction of the Ministry of the Interior. The Ministry financed the Shelter run by the activists of the NGO "Montenegrin Women's Lobby" since 2004. After that, the accommodation service for victims of human trafficking was transferred to the Ministry of Labor and Social Welfare,<sup>44</sup> and the previous shelter did not receive a license to provide accommodation services for victims of human trafficking, which resulted in the closure of the shelter.

The Law on Social and Child Protection<sup>45</sup> stipulates that the protection of victims of human trafficking, but also victims of other forms of violence, in the shelter can be performed only by those service providers who have a license to perform activities in the field of social and child protection - a license to provide accommodation in a shelter. The Rulebook on Detailed Conditions for Provision and Use, Norms and Minimum Standards of Shelter Accommodation<sup>46</sup> (Rulebook) stipulates that shelter accommodation is provided to a child victim of trafficking and an adult and elderly person who is a victim of trafficking.

According to the law and the Rulebook, four organizations on the territory of Montenegro received a license for accommodation services in a shelter. The social worker from the center for social work in charge of the specific case assessed which of the 4 licensed shelters is the best place to accommodate a victim of human trafficking. Thus, for men, potential victims of labor exploitation from Pakistan, it was estimated that it is best to be accommodated in the Center for Support of Children and Families in Bijelo Polje, because they have adapted separate accommodation for men.

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<sup>44</sup> Since December, this ministry has been functioning as the Ministry of Finance and Social Welfare

<sup>45</sup> Law on Social and Child Protection, "Official Gazette of Montenegro", No. 027/13 of 11 June 2013, 001/15 of 5 January 2015, 042/15 of 29 July 2015, 047/15 of 18 August 2015, 056 / 16 from 23.08.2016, 066/16 from 20.10.2016).

<sup>46</sup> Official Gazette of Montenegro ", No. 076/19 of 31 December 2019

In December 2019, non-governmental organization "Institute for Social and Educational Policy" was licensed to provide accommodation services, ie shelters exclusively for victims of human trafficking. From that moment on, all victims of this crime are given priority in this specialized Shelter, and if the spatial capacities are limited, they can be sent to the 4 previously mentioned facilities. **However, in certain periods the number of victims who were accommodated in the Shelter was higher than the accommodation capacities of the Shelter. According to the received information, although in separate rooms, adults of different sexes stayed in the same specialized shelter, which is contrary to the Rulebook which stipulates that victim of human trafficking are provided with accommodation in special facilities depending on gender.** It is also questionable whether children older than 14 of the opposite sex were placed with their parents in the same or different room. In this area, Article 10 of the Rulebook stipulates that parent with children are placed in a separate room, except in the case of a child of the opposite sex, older than 14 years of age.

**Discontinuity of the functioning of the Shelter run by NGOs specialized in working with women and children, as well as granting a license for operating the Shelter to an organization that had no experience in working with victims of trafficking, and thus, allowing to create a "track record" of specialised service provider, causes serious concern when it comes to quality services for victims, but also an example of "shrinking space" for the work of specialized women's non-governmental organizations. Unadapted and gender-insensitive process of licensing of social and child protection services was an issue of concern in many international reports (GREVIO, CEDAW. Furthermore, The State Department's report on human trafficking in Montenegro for 2021 calls into question whether employees in licensed shelters, especially those who have no previous experience in caring for victims, have enough experience and knowledge.<sup>47</sup> Specialized shelters for women and children victims of sexual exploitation and trauma need to be provided and run by women's organizations specializing in working with victims of gender-based violence.**

#### *Special measures for protection*

A special protection measure in this case is protection, such as accommodation in a shelter with an armed guard or a change of the victims' identity. According to the security assessment, a closed Shelter was organized for potential victims of human trafficking who were accommodated in the Shelter for Victims of Human Trafficking in 2018. These persons did not have the opportunity to move independently without escort. During 2019, two potential victims of trafficking, males, were placed in an open shelter in accordance with the security assessment.

Since 2020, the specialized Shelter for Victims of Trafficking has private security.

During the reporting period, there were no cases of identities of victims of human trafficking being changed. According to available data, there is no information that during the reporting period, the police or other authorities were involved in any action to protect the victim after the trial. In addition, during the reporting period, none of the identified victims refused to cooperate with their families.

#### *Measures of special protection*

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<sup>47</sup> The report states: "... the shelter's staff lacked experience in victim assistance, particularly victim confidentiality; the shelter often published photos of victims on social media with censored faces but identifiable characteristics, such as clothes and location", available on: <https://www.state.gov/reports/2021-trafficking-in-persons-report/montenegro/>, accessed on 5. august 2021.

Special protection measures are implemented in order to avoid secondary victimization. **The research showed that no special records are kept on the special protection measures applied in cases.** However, during one criminal proceeding, the injured party witness - the child was heard in a special room of the Supreme State Prosecutor in the presence of representatives of the expert service of the Prosecutor's Office and representatives of the Center for Social Work Nikšić. The injured party's legal representative - the father and defense counsel were in the other room, from which they were able to hear and see the injured, while the recording of the injured party's testimony was performed through audio-visual recording.

In the reporting period, there is no information that a trafficking victim who went through the assistance program stated that she/he felt insecure six or 12 months after contacting the organization.

The research showed that in the observed period there were no cases when the victims were formally provided with a measure of protection during the criminal proceedings. In the observed period, there were no cases of victims being provided with physical protection, change of place of residence or identity. **All this points to the need for improvement in application and existing legislation regarding the protection of the rights, safety and integrity of victims of trafficking in human beings in criminal proceedings.**

#### *Recovery and reflection period*

According to available information, **in the reporting period, two victims received a recovery or reflection period of at least 30 days.** Both victims received help and support in physical, psychological and social recovery during the recovery and reflection period assigned to them. NGOs involved in the care of victims claim that **there are cases when that period was not respected because the victims were brought to shelters after a statement was taken from them and evidence was collected.**

#### *Protection of individuals who provide support to victims*

The Police Directorate has no information on intimidation or retaliation against civil society organizations that provided support to victims after the investigation and trial. A non-governmental organization involved in detecting cases of forced underage marriages, on the other hand, reported a physical attack on a close relative of one activist in the reporting period. According to information from the CSO that reported the intimidation, the case was reported to the police, which responded appropriately in this case. NGOs also report attempts at intimidation to which victims have been exposed during court proceedings by potential perpetrators. **Consistent implementation of existing legislation regarding the protection of the rights, safety and integrity of victims of trafficking in criminal proceedings needs to be ensured.**

### C.3 Protection of trafficking victims who have returned to their country of origin

Indicator: C.e Victims of trafficking returning from abroad, whose case has been brought to the attention of state authorities and who have received adequate assistance and support during the monitoring period

During the reporting period, in the following three cases, victims returned to their country of origin with adequate assistance:

- Case F - one victim was returned to her home country with the assistance of the Department for Combating Trafficking in Human Beings and the Center for Social Work Nikšić, and in cooperation with the competent authorities of the Republic of Serbia.
- Case X - all victims returned to their home country accompanied by the home country police.
- Case K - one adult female in the process of returning to her home country.

With countries with which Montenegro has signed bilateral agreements, consular staff and other actors involved in the return of victims apply standard operating procedures for the identification of victims for referral of victims of trafficking, which are an integral part of these agreements. Agreements / protocols have been signed with Kosovo, Albania and Northern Macedonia. Standard procedures are applied with other countries, which refer to the cooperation of the competent authorities of the two countries.

According to the information received from the civil society organization that participated in reporting the case of arranged marriage (case G), **the process of returning the minor victim to Montenegro was delayed by two and a half years due to the failure of the competent authorities to take all actions to find her.** Namely, although they had information that the girl crossed the border illegally and stated that in the report, the lack of a certificate of crossing by the border police served as proof that she was not on the territory of Kosovo. The Police Administration, on the other hand, believes that they are not responsible for the investigation on the territory of another state and that therefore the omission, if any, cannot be attributed to the Montenegrin police.

The working team did not have the opportunity to interview the victims who were returned to Montenegro in the reporting period, so for the purposes of this report it was not possible to determine what kind of protection measures against harassment by traffickers and their assistants were applied after returning to the country. However, according to available information, in case G, a number of protective measures were organized during the return of victims to Montenegro.

According to available data, there were no cases of forced repatriation of foreign nationals identified as victims of trafficking in the reporting period.

#### C.4 Protection of child victims

Indicator:

C.f During the observed period, child victims of trafficking have been provided with adequate protection and assistance

In the observed period, children victims of human trafficking, both potential and officially recognized, were provided with adequate protection and assistance. According to the information of the official bodies, the protection was adjusted to their age and the best interest of the child. During the trial period, **no child victim or witness had to be present in the courtroom or meet with a suspected trafficker**. According to the available data, in the reporting period there were no cases in which the guardian or legal representative of the child was formally appointed within a period of one month after the children were identified as potential victims.

#### C.5 Protection of victims who are foreign citizens

Indicator:

C.g Identified foreign victims (regardless of nationality) were granted renewable residence permits and had at least the same level of protection as victims who are nationals

According to the available information, in the reporting period, the victims did not have any problems with the renewal of their residence permit. Identified foreign victims, regardless of their nationality, had the same level of protection as other victims. Information on the treatment and protection of victims was mainly obtained from the Department for Combating Trafficking in Human Beings and the shelter service provider, the NGO "Institute for Social and Education Policy", which provided data at the request of the Department. However, there is no information on the quality of services provided to victims, nor was there any expert supervision during the reporting period. **In some cases**, including case H, **concerns were expressed that the protection and support was not at the highest level due to language barriers and cases, and due to the lack of experience of the shelter staff in working with victims of trafficking**. Therefore, it is necessary to provide an independent evaluation of the quality of service and provide periodic expert supervision in order to guarantee the quality of service, improve the work and protect the best interests of shelter users.

During 2020, 37 Taiwanese nationals (Case H) identified as victims of trafficking accepted the assistance program and stayed in the specialized Shelter for Victims of Trafficking and other designated locations. According to the information available to the Department for Combating Trafficking in Human Beings, a medical examination was performed during the admission of victims to the Shelter run by the NGO "Institute for Social and Educational Policy". In that context, the victims were provided with psychosocial support, appropriate accommodation in accordance with age and gender, three meals and snacks, maintenance of personal hygiene and space hygiene, safe environment, which includes 24-hour surveillance, transportation if necessary accompanied by trusted persons, preventing the entry of unauthorized persons. The Center for Social Work in Podgorica provided one-time financial assistance for beneficiaries. In addition, support and monitoring of beneficiaries while staying in the shelter was provided in order to achieve the development of beneficiary potential and the empowerment of beneficiaries. Support was provided in emotional stabilization, and reducing fear and preparing beneficiaries to participate in court and other proceedings before the competent authorities.

In case F, in which the victim was a minor from Serbia, the victim was appointed a guardian, and she stayed in the shelter for children victims of domestic violence in Bijela. She was provided with health, psychological and social protection, one-time financial assistance and mediation in making a decision on returning to her home country. Also, assistance was provided in obtaining adequate documentation,

organizing return, handover and communication with the competent authorities of the country of origin in terms of further monitoring her recovery.

In case **K**, regarding a victim of trafficking from Kosovo, based on information received from the shelter service provider (NGO Institute for Social Policy), data was collected on the beneficiary's communication skills, events prior to her arrival as well as her ability to take care of herself. The beneficiary was placed in the shelter according to gender. She was provided with funds to meet basic living needs, a safety assessment was performed, activities were carried out with the aim of emotional stabilization and reduction of fear, and she was acquainted with living conditions in the Shelter (employees, house rules ...). She was enabled to contact family members 3 times a week. Also, cultural and entertainment activities, recreational activities, and educational workshops were realized, all in accordance with the beneficiary's needs and interests.

The beneficiaries were also provided with psychological support, acquisition of knowledge and skills. Also, measures have been taken in the direction of strengthening parental capacities. Regular medical check-ups were carried out. The procedure of obtaining documentation - ID cards for foreigners - was started. In agreement with the victim, her referral to a third country was organized, but the victim changed her mind and expressed a desire to return to her country of origin in order to try to re-establish relations with her husband. At the time of concluding the report, the procedures for organizing her return to Kosovo were being worked on.

In case **N**, a victim of human trafficking originally from Serbia was identified as a victim of sexual exploitation. She accepted the assistance program and was placed in the Shelter for Victims of Trafficking. According to available information<sup>48</sup>, the victim asked to leave the protection program after one day, for unknown reasons. In relation to the mentioned victim, based on the information provided by the Shelter service provider, data on the beneficiary's communication skills was collected, the events that preceded her arrival and the beneficiary's ability to take care of herself. In addition, the service provider stated that the beneficiary was accommodated in accordance with gender, funds were provided to meet basic living needs, and the beneficiary's safety was assessed, activities aimed at emotional stabilization and reduction of fear were implemented. However, given that the victim spent a short period in the Shelter and decided to leave it, it is questionable whether and to what extent the services provided were adequate to the needs of the victim. Also, the actions of the provider in this case are worrying, especially having in mind the fact that it was sexual exploitation that requires special expertise and experience when working with these victims.

During 2019, two males, citizens of Pakistan, potential victims of labor exploitation, stayed at the Center for Support of Children and Families in Bijelo Polje (from October 25, 2019 to December 30, 2019). Subsequently, they entered the asylum procedure and were referred to the center for asylum seekers. According to the data obtained, during their stay in the Center, the victims were provided with supervision, existential needs, including food, personal hygiene and space hygiene, health and legal protection conditions, as well as conditions for visiting religious facilities to perform religious rites. It is not known whether the victims received any form of psychological support and protection.

### *Permission of stay*

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<sup>48</sup> Source: Antitrafficking Office, Ministry of Internal Affairs of Montenegro



In the reporting period, it was not recorded that the victims did not receive a renewable residence permit despite the request of the competent authority that their stay is necessary for investigation and criminal proceedings, nor was this disputed, either in the case of adult or minor victims.

In one case (case E), foreign nationals identified as victims of trafficking applied for asylum, but the proceedings were suspended at the request of the victims themselves. In case G, the children were granted Montenegrin citizenship after returning from Kosovo. The issue of temporary residence of a victim of trafficking on the grounds that he is a victim is being resolved at the moment (case K).

Indicator:

C.h The identified victims (regardless of their citizenship) which left the countries have been provided with assistance and protection during their process of returning

In all cases of return, the identified victims had assistance and protection, in accordance with the security assessment conducted in cooperation with the victims' home countries, in order to ensure the appropriate integration of the victims. According to the information received from the Department for Combating Trafficking in Human Beings in the case of minors, a security assessment and assessment of the best interests of the child was performed. In the reporting period, there were no cases in which the return of children and adults took place, despite the assessment that their returning holds a risk, ie that it is not in the best interests of the child. Also, in the reporting period, there are no cases in which foreign victims were deported or returned to their country of origin (or another country) involuntarily or forcibly. In addition, there has been no delay in returning due to failure to take action in their home country.

**Table 7:** Review of victims of foreign nationalities and their status of return to their home country

| Case   | Origin   | Result  |
|--------|----------|---|
| Case D | Kosovo   | 1 underage girl   |
| Case D | Pakistan | 2 adult men left Montenegro, destination unknown  |
| Case H | Taiwan   | 12 adult female and 25 adult male persons have been returned to their country of origin |
| Case K | Kosovo   | 1 adult female – in process of return   |
| Case F | Serbia   | 1 underage girl – return to country of origin   |
| Case N | Serbia   | 1 adult person – ongoing process of organising their return                             |

## D. Victim assistance and support

### D.2 Assistance for victims from all categories

Indicator:

D.c Any person identified as a potential or officially recognized victim of trafficking is offered immediate assistance and support, including emergency shelter, medical assistance, information and legal advice, according to their specific needs (eg gender, language, ethnicity and age), and the state has provided sufficient financial resources for the costs of such assistance

In addition to the Shelter for Victims of Trafficking in Human Beings, which is financed through a public competition by the Ministry of Finance and Social Welfare, the Ministry of Interior, through the Department for Combating Trafficking in Human Beings, finances the SOS line for victims and potential victims of trafficking. The SOS line for victims of trafficking (11 66 66) is available 24 hours a day to potential victims of trafficking, as well as to all citizens who want to find out more about this issue.

### *Shelter for victim support*

According to the information obtained by the working group in the Shelter for Victims of Trafficking in Human Beings, victims have equal treatment, regardless of whether they are Montenegrin or foreign citizens. In the reporting period, the Shelter provided accommodation for adults and children. Given that the shelter has two rooms, it is questionable how and to what extent the standards regarding the accommodation of adults and children on the basis of age and sex defined by the Rulebook, , were respected.

In accordance with the Agreement on Cooperation, assistance and protection to victims of trafficking in human beings is provided on a voluntary basis and with the consent of the victim itself after identification. Upon identification, the victim is offered the possibility of accommodation in the Shelter for Victims of Trafficking. If necessary, the victim is informed in his/her language of origin about the country, city and location. Also, the victim is informed after being accommodated in the safe and secure Shelter. The victim is informed that he/she will be provided with all the assistance and support provided, whether or not he/she will testify and participate in the process against traffickers or the group, and that he/she has the right to a reflection period of up to 30 days. The victim becomes aware of his or her rights and national legislation on the punishment of traffickers if human trafficking is proven in court. The victim is also informed that in case of participation in the court process, he/she is entitled to free legal aid from legal professionals. If the victim does not want cooperation and accommodation in the Shelter, he/she is informed that in case of a change of opinion, he/she can contact the SOS anti-trafficking line or the nearest police station. The victim's statements and identity remain anonymous to the public. For minors, it is necessary to include social workers as guardianship authorities. With the appropriate assessment of the representatives of the competent institutions (Police Administration, Center for Social Work - if it is a minor ward), the wards have the opportunity to go out during their stay in the Shelter.

**Given that it was not possible to interview victims during the reporting period, victims' satisfaction or dissatisfaction with the service provided is based solely on secondary sources. During the reporting period, there is no official information on cases in which victims felt that they were offered inadequate accommodation. The NGOs that worked with the victims claim that it was very difficult for the victims to be isolated and unable to get out, although the space in which they stayed was adequate, due to the specific situation in which the victims find themselves.**

During 2018, the functioning of the Shelter intended exclusively for victims and potential victims of human trafficking was fully financed from the budget of the National Office for Combating Trafficking in Human

Beings<sup>49</sup>. Funding included providing initial recovery of victims as well as other forms of assistance, which includes providing: accommodation, food, clothing, footwear, utilities, psychological, legal, health and social assistance, as well as educational workshops conducted by activists of the NGO "Montenegrin Women's Lobby". Until August 1, 2019, the financing was carried out in this way, after which the service of accommodation of victims of human trafficking passed into the competence of the Ministry of Labor and Social Welfare<sup>50</sup>. In the reporting period, about 24,000 euros were spent on financing the Shelter and SOS hotline for victims and potential victims of trafficking. During 2020, the Ministry of Labor and Social Welfare allocated EUR 40,000 for the accommodation service in the Shelter, which was paid to a non-governmental organization for the provision of accommodation and victim care services.

The shelter conducts educational workshops adapted to the age of the victim. The social worker and employees of the Shelter inform the minor about all the right procedures, procedures in a language adapted to the age of the victims. Moreover, for each case, the competent social worker in the capacity of guardian determines an individual work plan that is adjusted to the age, interests, personal abilities and will of the minor person.

Apart from the shelter staff and guardians, the Coordination Body (formed on the basis of the National Agreement on Cooperation in Combating Trafficking in Human Beings) meets for each individual case, where all relevant institutions, including the Police Directorate, Prosecutor's Office, Department for social issues, education, health, analyze all aspects of each case individually and jointly make a decision that is in the best interests of the person.

In providing social, child protection and family protection to potential victims of human trafficking, Montenegrin citizens and foreign citizens, the Ministry of Finance and Social Welfare provides appropriate social, child protection and family protection, through the Public Institution Centers for Social Work, with priority over other cases. Social and child protection for foreign citizens includes the right to one-time financial assistance and the right to appoint a guardian.

Mechanisms of assistance and protection, especially for underage victims of human trafficking, are also defined by the Cooperation Agreement. Assistance mechanisms include: a) assessment of the socio-economic situation, as a basis for the allocation of one-time financial assistance and other forms of protection in accordance with the law; b) determining the legal basis for the appointment of a guardian; c) development of individual protection plans for potential victims of trafficking in human beings in cooperation with other signatories to the Agreement.

In providing social, child and family protection to potential victims of human trafficking, Montenegrin citizens and foreign citizens, the Center for Social Work initiates a procedure based on documentation provided by the Ministry of Interior, Ministry of Foreign Affairs and European Integration, Ministry of Education and other relevant institutions.

### *Medical assistance*

Health care for victims and potential victims of trafficking includes emergency medical care, prevention and treatment of infectious diseases and cases of childbirth and maternity, while staying in Montenegro. In

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<sup>49</sup> Today's Department for Combating Trafficking in Human Beings

<sup>50</sup> Today's Ministry of Finance and Social Welfare

exercising the right to health care, citizens are equal, regardless of nationality, race, gender, age, language, religion, education, social origin, property status and other personal characteristics. Health care is available for everyone, whether they are victims of human trafficking or not.

Support and assistance mechanisms provided in public health facilities include:

- a) An assessment of the health status of the potential victim of trafficking, appropriate diagnostic tests and therapeutic services, as well as proposals for further treatment with detailed medical records of all findings.
- b) Identifying potential victims and informing the relevant services in the victim protection system established by the Agreement.

Shelter service is financed from the budget of the Ministry of Labor and Social Welfare in the amount of 250 euros per user per month.

#### *Material assistance*

In the reporting period, all victims of trafficking received a one-time cash benefit based on an assessment of their needs by the Center for Social Work. Victims receive one-time financial assistance, and if the need arises, they can be paid additional assistance. In one case, the victim's parent was paid a fee to go to another country to visit children who had been trafficked in that country. The assistance to the victims was stopped when it was estimated that the victim had integrated into society or if he was a foreign citizen until his return to the country of origin.

#### *Medical assistance*

In accordance with the Agreement on Mutual Cooperation of Institutions and Non-Governmental Organizations in the Fight against Trafficking in Human Beings, the annex on the obligations of the Ministry of Health stipulates that all victims and potential victims of trafficking have the right to free health care in Montenegro on the principle of priority. According to the available information, the victims were provided with adequate medical assistance within a reasonable time and there is no information that the victims were forced to receive a medical service to which they did not consent. Both domestic and foreign citizens were entitled to free health care in Montenegro, as potential victims of human trafficking. The members of the working group are not aware of any cases of discrimination against women or men who have been identified as possible or officially recognized victims of trafficking in access to health care. Also, all victims were entitled to psychological assistance.

#### *Informing*

We did not receive information from official and NGO sources that there were cases in which victims did not receive comprehensive and accurate information about their rights and available services. However, it remains doubtful how well it was possible to convey accurate information in case X, which involved over 40 potential victims from Taiwan. Namely, according to the information we obtained during the preparation of the report, **the victims did not receive the services of an official interpreter, but the victims were communicated through one of the victims who speaks English.** This is problematic due to the large number of victims, due to the fact that other victims do not speak English, but also due to the control of the information that is transmitted to the victims. This is particularly relevant in the context of information that in

the past, according to CSO activists, false victims infiltrated shelters, which then intimidated and deterred victims from testifying.

#### *Vocational training and economic empowerment*

In the reporting period, there is no information that such trainings were conducted.

### D.3 Assistance and support to child victims

Indicator:

D.d Child victims are offered immediate assistance and protection according to their age, including emergency shelter, medical assistance, information and legal advice, according to their specific needs (eg age and maturity, gender, language and ethnicity)

In working with child victims, the guardian assigned to the child by the center for social work is of special importance. An individual recovery plan is made for the child, first short-term, then medium-term and long-term, and only the child is consulted. The child's recovery is monitored through monitoring the individual plan.

#### *Shelter and material assistance*

According to available information, child victims of trafficking received accommodation, food, and other forms of material assistance immediately after initial identification. Also, minors were not entitled to assistance during the period of care and reintegration. According to the Rulebook, accommodation in a shelter can be provided for a maximum of 12 months. The shelter for victims of trafficking has a license to provide services to child victims.

Children, victims of human trafficking were accommodated in the specialized Shelter for victims of human trafficking, as well as in the Shelter for victims of domestic violence in Bijela. It is not known according to which criteria the Centers for Social Work decided which child to place in which shelter. Furthermore, **children, victims of human trafficking in accordance with the Law on Social and Child Protection can be accommodated only in the Shelter under the auspices of the Ministry of Finance and Social Welfare, where they work with persons with appropriate licenses for social and child protection. A child victim cannot be placed in a Shelter run by an NGO**, unless he or she is placed with a parent. According to the information received, in the case of relatives, underage victims are mostly placed in the same shelter in order to avoid family separation. In the context of placement of children, and in the absence of information, **it remains questionable whether Article 10 of the Rulebook, which provides for parents with children to be accommodated in a separate room, is respected, except in the case of a child of the opposite sex.**

During the reporting period, underage victims were not provided accommodation in foster families.

#### *Medical assistance*

According to available information, all child victims had access to psychological counseling. Also, children who needed medical help were provided with it within a reasonable time.

#### *Education and vocational training*

The Ministry of Education, Science, Culture and Sports provides potential victims of trafficking in human beings, children legally residing in the territory of the state, with appropriate continuing education in public educational institutions, with priority over other cases, in accordance with regulations governing the relevant field of education, while respecting the right to privacy, especially for personal and traumatic issues that are not necessary to be included in the educational system. At the same time, the appropriate services of the Ministry, as well as psychological and pedagogical services in public educational institutions, ensure fast and efficient inclusion of children in the educational system on the territory of the state. Mechanisms of support and assistance that will be provided to children - potential victims of human trafficking, are based on: special pedagogical and psychological procedures in the services of educational institutions and their assessment of physical and mental condition of children, referral to special professional treatments and proposals for determination of special programs, in accordance with the regulations for that field of upbringing and education; monitoring the child's behavior and learning and informing the relevant services in the child protection system established by the Agreement.

Necessary costs related to accommodation in educational institutions (student dormitories) and access to education, especially vocational education and training leading to the child's first occupation, are provided by the Ministry of Education during their stay in the country.

During the reporting period, **child victims of trafficking were enabled to continue their regular education.** According to available information, six children victims who are citizens of Montenegro are enrolled and attend school regularly. In the case where two male and female minors from Montenegro were identified as victims of trafficking in Kosovo, upon their return to Montenegro they participated in a reintegration program in order to ensure their inclusion in the formal or non-formal education system and appropriate care.

#### D.4. Legal aid and support

Indicator:

D.e Victims of trafficking (both potential and officially recognized) were offered and provided access to legal advice.

According to the information provided by the members of the Working Group that collaborated on the report, adult victims, as well as child victims, or their parents, guardians or legal representatives, upon the initial contact with the state authorities, were informed without delay of relevant judicial and administrative procedures in a language they understand. **Aggravating circumstances were observed in cases where the victims were from other speaking areas, as well as in the case of the Roma-Egyptian population.**

Victims who participated in court proceedings, as victims or witnesses, had access to independent legal advice and / or assistance during the proceedings. In the reporting period, in case A, the minor victim had a father as a legal representative, while in case M, a legal representative was appointed for 4 minor victims.

According to available information, there were no requests for free legal aid and support submitted by victims that were rejected, or cases where the victim could not obtain legal aid from a qualified lawyer. However, the competent institutions did not keep records of how many requests for free legal aid were submitted in the reporting period, as well as in which cases assistance was requested. In addition, NGOs state that **it is necessary to provide access to specialized lawyers, of the same sex as the victim if that is what the victim wants, and in accordance with United Nations guidelines and guidelines on access to legal aid in judicial systems.**

### III CONCLUSION AND RECOMMENDATIONS

Monitoring and evaluation of anti-trafficking policies in Montenegro in the period from 2018 to 2020 brought together key aspects of the implementation of anti-trafficking policies and their implications. Improvements in the area of trafficking have been recorded, although in some cases, such as contracting minor marriages, the authorities have not been proactive, but rather ignored some of the reports submitted by NGOs on suspicion of trafficking. During the COVID-19 pandemic, authorities failed to adequately respond to victim reporting and care. Free legal aid instruments still do not meet international standards, and victims have rarely used them. Of additional concern is the small number of judicial judgments, as well as the length of their duration, despite their priority status. During the reporting period, there was an interruption in the provision of accommodation in a specialized shelter for women, and when it was re-established, a number of weaknesses were noted including accommodation of more victims versus accommodation capacity, accommodation of victims of different genders and ages, guaranteeing anonymity, as well as concerns about the level of service received by the victims, given that the shelter staff had no previous experience working with victims of trafficking. On the other hand, children, victims of human trafficking, were enabled to be included in the regular education system, which contributes to their further reintegration. The very process of selecting a specialized shelter service provider, entrusted with this serious task and providing financial assistance from the state, indicates a non-transparent selection procedure and criteria, given that the shelter service provider had no previous experience in working with victims of trafficking and that organizations with many years of experience in this field were rejected. in the competition

- Establishing practices and mechanisms to provide special protection to victims of trafficking in potential future emergencies, such as COVID-19, and thus preventing potential omissions such as those recorded during the reporting period.  
Providing adequate legal assistance to victims, ensuring the specialization of lawyers representing victims of these crimes, including acts of gender-based violence. In line with international standards and the needs of victims, it is necessary to ensure that victims have the right to choose a female lawyer.
- It is necessary to establish a system of better recording of cases in which special protection measures have been applied in the courtroom, especially when the victims are minors.
- Ensure consistent implementation of existing legislation regarding the protection of the rights, safety and integrity of victims of trafficking in criminal proceedings.
- It is necessary to provide a better mechanism of legal support to victims in civil and criminal proceedings in order to exercise the right to compensation.
- It is necessary to amend the Law on Compensation to Victims of Violence and provide for the establishment of the Compensation Fund, in order to enable victims of trafficking to exercise the right to compensation from the state, in situations where compensation cannot be provided from other sources.
- All victims, without exception, should be provided with a recovery or reflection period of at least 30 days.



- Any suspicion of a minor contracted marriage should also be examined from the aspect of the age allowed for marriage, regardless of the lack of evidence in the specific case that a money transaction was in place. In addition, in order to reduce the possibility of "lack of evidence", it is necessary for the competent institutions to monitor such cases more agilely and to cooperate with non-governmental organizations in order to prevent underage marriages.
- It is necessary to strengthen the cooperation of state bodies with civil society organizations dealing with the Roma-Egyptian community, in order to more effectively resolve suspicions of committing the crime of trafficking in human beings in the community.
- Providing special training for officials, especially members of the police and social work centers, on how to deal with cases of underage marriages, and their education on the proper handling of these cases.
- The criteria for licensing organizations providing shelter services need to be reviewed and improved to ensure experience and knowledge in understanding trauma and gender-based violence in the provision of services to victims of trafficking.
- Specialized shelters for women and children victims of sexual exploitation and trauma should be provided, run by women's organizations specializing in working with victims of gender-based violence.
- A professional and ethical code of conduct for shelter staff and those working directly with victims needs to be developed to ensure the highest level of protection for victims, including the protection of victims' identities.
- It is necessary to conduct Professional Supervision in the Shelter periodically, in order to guarantee the quality of service, improve the work and protect the best interests of beneficiaries.
- Ensuring full application of the Rulebook on better conditions for the provision and use of accommodation services in the shelter, especially the application of Article 10, which specifies the manner of accommodation of victims of different sexes and ages.
- It is necessary to organize a system of monitoring the situation of victims of trafficking who went through the assistance program to ensure that they feel safe and protected, and that they did not become victims of intimidation and retaliation after the program and / or court proceedings.
- After the investigation and court proceedings, records of cases of intimidation and retaliation against civil society organizations should be kept.
- Providing training for all consular staff to improve victim identification.
- Providing training and economic empowerment for victims, especially during their stay in the shelter. Victims of trafficking are often in unenviable financial positions and this type of training could, in addition to psychological and educational support, improve their level of reintegration into society. Adequate programs of resocialization, reintegration and monitoring of the status of victims should be provided even after the end of court proceedings and exit from the Shelter for Victims of Trafficking in Human Beings.
- The number of legal advisers for the Roma-Egyptian population needs to be increased so that victims can be informed of relevant legal procedures in their native language.

- Providing annual records of misdemeanor and criminal proceedings initiated during police actions, such as "Trafficking" and "Beggar", in order to determine their outcome.
- It is necessary to increase the number of controls and actions to investigate potential sexual exploitation, especially during the tourist season.
- In particular, it is necessary to ensure adequate monitoring of data related to the exercise of the right to compensation, as well as the number of victims of trafficking who exercised the right to free legal aid before and during court proceedings.
- Ensuring effective implementation of legal provisions concerning the confiscation of property of persons convicted of trafficking offenses.
- Ensuring regular independent monitoring and reporting on anti-trafficking activities and results in Montenegro, either through the activities of the Office of the Protector of Human Rights and Freedoms, or through the establishment of a special body, such as the Independent Rapporteur on Trafficking in Human Beings.

## Bibliography

### Literature:

- Center for Women's Rights, Monitoring and Evaluation of Policies for Combating Trafficking in Human Beings in Montenegro 2014-2015.
- European Commission, Report on the Progress of Negotiations with Montenegro for 2019, the report is available at the following link: <https://www.eu.me/mn/pregovori-o-pristupanju/dokumenti-pregovori/category/57-izvjestaji-o-napretku>
- European Commission, Report on the Progress of Negotiations with Montenegro for 2020, the report is available at the following link: [https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/montenegro\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/montenegro_report_2020.pdf)
- GRETA, Evaluation report Montenegro - Third evaluation round - Access to justice and effective remedies for victims of trafficking in human beings, June 2021.
- OSCE and National Anti-Trafficking Office, Guidelines on Impunity for Victims of Trafficking for Police Officers, Public Prosecutors and Judges, online source: <https://www.osce.org/me/mission-to-montenegro/406505?download=true>
- State Department, 2019 Trafficking in persons report, Montenegro, the report is available at the following link: <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>
- State Department, 2021 Trafficking in persons report, Montenegro, available at: <https://www.state.gov/reports/2021-trafficking-in-persons-report/montenegro/>
- Government of Montenegro, National Strategy for Combating Trafficking in Human Beings in Montenegro 2003-2011
- Government of Montenegro, Strategy for Combating Trafficking in Human Beings 2019 - 2024
- National Plan for Formal Identification of Victims of Trafficking, October 2020
- Report of the Special Rapporteur on Trafficking in Human Beings, especially Women and Children, on her visit to Montenegro, A/HRC/44/45/Add.1 from 20 April 2020, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/097/50/PDF/G2009750.pdf?OpenElement>

### Legislation:

- Criminal Code of Montenegro (Official Gazette of Montenegro, no. 044/17)
- Law on Free Legal Aid (Official Gazette of Montenegro, No. 020/11 and 020/15)
- Law on the State Prosecutor's Office (Official Gazette of Montenegro, No. 11/2015, 42/2015, 80/2017 and 10/2018)
- Law on Public Order and Peace (Official Gazette of Montenegro, No. 64/2011))
- Law on International and Temporary Protection of Foreigners (Official Gazette of Montenegro, No. 02/17 and 03/19)
- Law on International Legal Assistance in Criminal Matters (Official Gazette of Montenegro, No. 004/08 and 036/13)

- Law on Compensation to Victims of Violent Crimes (Official Gazette of Montenegro, No. 035/15)
- Law on Treatment of Juveniles in Criminal Proceedings (Official Gazette of Montenegro, No. 064/11, 001/18)
- Law on Social and Child Protection, (Official Gazette of Montenegro), No. 027/13 of 11.06.2013, 001/15 of 05.01.2015, 042/15 of 29.07.2015, 047/15 of 18.08.2015, 056/16 dated 23.08.2016, 066/16 dated 20.10.2016).
- Law on Social and Child Protection (Official Gazette of Montenegro, No. 27/2013, 1/2015, 42/2015, 47/2015, 56/2016, 66/2016, 1/2017, 31/2017)
- Law on Special State Prosecutor's Office (Official Gazette of Montenegro, No. 10/2015 and 53/2016)
- Law on Foreigners (Official Gazette of Montenegro, No. 12/2018)
- Law on Courts (Official Gazette of Montenegro, No. 11/2015)
- Law on Witness Protection (Official Gazette of Montenegro, No. 65/2004 and 31/2014)
- Law on Health Care (Official Gazette of Montenegro, No. 003/16, 039/16, 002/17)
- Code of Criminal Procedure (Official Gazette of Montenegro, No. 57/2009, 49/2010, 47/2014)

#### International documents:

- 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 Preventing Violence against Women and Domestic Violence (Istanbul Convention)
- United Nations Convention on the Rights of the Child
- United Nations Convention against Transnational Organized Crime
- International Convention on the Elimination of All Forms of Violence against Women (CEDAW)
- Protocol against the Smuggling of Migrants by Land, Sea and Air
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

## ANNEX 1

### List of contacted organizations

- Center for Roma Initiatives Nikšić
- Red Cross
- Institute for Social and Education Policy Nikšić
- Public Institution Center for Support of Children and Families
- Women's Safe House Podgorica
- SOS hotline for women and children victims of violence Niksic

## ANNEX 2

### Questionnaire for civil society organizations

List of general questions:

According to your information, did the victims have adequate support and protection:

1. adequate and safe accommodation?
2. psychological help?
3. material aid?
4. translation and interpretation services in a language they understand?
5. counseling and information on his/her rights, including information on free legal aid?

#### Investigation and trial

According to your information, were the following rights of victims/witnesses respected during the investigation and trial:

1. Protection against intimidation;
2. The right to physical protection;
3. The right to protection of privacy (exclusion of the public, interrogation under a pseudonym, interrogation with the help of technical devices (firewall, devices for the transmission of images and sound, etc.));
4. Have supervision measures been imposed on the accused?
5. Have the defendants been remanded in custody?
6. Does the record of the statement from the victim/witness state that the person has been instructed in his or her rights?
7. The right to protection after trial and the right to protection of a person close to him/her?
8. How do you assess the quality of interviews conducted by special trafficking investigators with potential victims? Whether the international standards of "good practice" were respected, protection from secondary victimization, the victim was given the opportunity to freely tell what happened to her, the psychophysical condition was taken into account;
9. Are you aware that prosecutors provided adequate pre-trial support to victims? What kind of support was it? Was something missing? If so, what?
10. Has the Victim Support Service, which operates within the competent court, informed the victims about their rights and the administrative and judicial procedures that apply during the court proceedings and at what stage?

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 protection measures offered and the prevention of possible physical contact between the defendant and the victim? Which of the following?
12. To your knowledge, have victims of trafficking been regularly informed about relevant court and administrative proceedings?
13. Did the victim receive regular information on all important 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 victims or witnesses, whether the verdict was convicting or acquittal?
15. Were there any cases in which courtroom protection measures were applied? If yes, what measures have been taken?
16. Are you aware that any victim has felt unsafe in contact with bodies providing services or assistance to victims (eg shelters)?
17. Are you aware that victims have in some cases enjoyed a period of recovery and reflection? If so, how long have they enjoyed those rights? Do you know if they received support in physical, psychological or social recovery during that period? If so, who supported them?
18. In your opinion, have the experts who testified at trafficking trials shown appropriate expertise in both the psychological state of the victim and other issues concerning the victim?
19. Did you participate in the identification of potential victims? Can you describe to us the steps in the victim identification processes you performed?
20. Do you know of a case where a person has been a victim of trafficking and has not been identified as a victim by the relevant services?
21. Have you been subjected to any form of intimidation or retaliation during or after an investigation or trial? If the answer is yes; did you report that behavior to the police?
22. Are you aware of any case of any kind of exploitation as a form of trafficking that was ignored by the state authorities?
23. Are you aware that members of minorities or foreigners have experienced additional difficulties in identifying or accessing assistance (compared to other identified and non-minority persons)?
24. Are there difficulties in identifying or accessing assistance to persons belonging to minorities?
25. Are there difficulties in identifying or accessing assistance for homosexual, bisexual and transgender (LGBT) people?
26. Were any of your expenses related to assistance to victims of trafficking financed from the state budget? If so, what percentage of the total costs for that purpose have been financed for you?
27. Are you aware of whether any person identified as a potential or officially recognized victim of trafficking is offered immediate assistance and support, including emergency shelter, medical assistance, information and legal advice, according to their specific needs (eg gender, language, ethnicity and age), and the state provided sufficient funding for the costs of such assistance. If not, in which cases and what type of assistance - shelter and material assistance, medical assistance, information, economic empowerment?
28. Are you aware of whether child victims were offered immediate assistance and protection according to their age, including emergency shelter, medical assistance, information and legal advice, according to their specific needs (eg age and maturity, gender, language and ethnicity)?
29. What is the average time during which potentially or officially identified child victims received accommodation and food, as well as other forms of material assistance after identification, whether state-funded or supported by CSOs or other private donor-funded organizations?
30. Have you informed your beneficiaries that they are entitled to a free lawyer while testifying and giving statements?

## ANNEX 3

### List of indicators and sub-indicators by chapters

#### A. Law and national legal framework for the criminalization of human trafficking

##### A.2 General information on investigation and prosecution

| Indicator:  |   |
|---|---|
| A.b Trafficking cases have been prosecuted and adjudicated in a fair manner and in accordance with international criminal law standards   |   |
| A.24 The trial of the suspected traffickers was in line with recognized fair trial standards  | A.2.b Prosecution phase   |
| A.25 There are compelling reasons to suspect that one or more public officials were involved in human trafficking or assisted traffickers in any way.   | A.32 Prosecutors provided victims with adequate pre-trial support   |
| A.26 The rights of victims and witnesses were respected at the trial of suspected traffickers   | A.33 Victims of trafficking were informed of their rights and the administrative and judicial procedures applicable   |
| A.2. a Investigation Phase  | A.34 Victims of trafficking were regularly informed about relevant court and administrative proceedings   |
| A.27 Police did not participate in general raids on sex workers and justified such operations as a way to combat trafficking  | A.35 Victims of trafficking were immediately informed of the outcome of trials in which they appeared as injured parties or witnesses, whether the verdict was convicting or acquittal.   |
| A.28 Prosecution officers investigating trafficking cases conducted both legal and supervised financial investigations and enforced confiscation orders.  | A.36 Number of cases where there was no indictment or the prosecution was discontinued because the victim as a key witness was unwilling to cooperate   |
| A.29 The quality of interviews conducted by special investigators for trafficking (not general police in the field) with potential victims is in line with international standards of “good practice”.          | A.37 In at least one case, the responsibility of a legal person for direct participation in the commission or attempt to commit the crime of trafficking in human beings has been established, in the manner prescribed by law. |
| A.30 Number of cases of newly identified victims during the reporting period where there was no investigation or the investigation was terminated because the victim did not want to cooperate as a key witness | A.2.c Trial and conviction  |
| A.31 Percentage of investigations in which newly identified victim witnesses cooperated with the criminal justice system (police and prosecution) during the criminal investigation.                            | A.38 Courts have imposed effective and proportionate penalties that deter from committing this act  |
|   | A.39 The courts respected the principle of non-discrimination   |

Indicator:

A.c Prosecutors and judges understood, and where necessary, applied the provisions for the protection of vulnerable victims and witnesses before, during and after trials, in the manner prescribed by national law and obligations arising from ratified agreements and accepted international judicial and prosecutorial good practice.

A.40 Number of cases in which courtroom protection measures were applied

A.41 Number of victims punished for engaging in illegal activities forced to commit while under the control of traffickers or exploiters

A.42 Civil servants and politicians in government did not make (or did not record) public statements mixing human trafficking and human smuggling

A.43 Percentage of traffickers convicted in the previous two years (reporting year and previous year) where the sentence was not fully served by the end of the second calendar year

A.3.a Investigation phase

A.44 Number of criminal reports (police) that a possible crime of trafficking in human beings has been committed)

A.2.b Indictment and proceedings

A.45 Number of suspects charged with trafficking

A.46 Number of trafficking and related offenses committed in the territory of a State, a ship flying under its flag or an aircraft registered in its territory

A.47 Relation between criminal proceedings for trafficking in human beings for the purpose of sexual exploitation and labor exploitation

A.48 Percentage of criminal proceedings for probable trafficking in human beings where reclassification to another offense involving a lower sentence has taken place

A.49 Percentage of trafficking trials where the victim/witness testified and where experts were called to examine the victim's psychological state

A.50 Experts who have testified at trafficking trials have shown appropriate expertise in both the psychological state of the victim and other issues concerning the victim.

A.3.c Conviction

A.51 Number of convictions for trafficking committed in the territory of a state, a ship flying under its flag or an aircraft registered in its territory.

A.3.d General information

A.52 Average duration of criminal proceedings for trafficking in human beings, for cases that received a judicial epilogue in the period covered by the report

A.53 Number of possible victims officially identified in the previous calendar year against whom the suspected trafficker, although allegedly in the territory of the state, has not been indicted or tried by the end of the current year

A.3.e Litigation

A.55 Percentage of potential victims of trafficking who participated in court proceedings and initiated civil proceedings

A.56 Percentage of cases where any financial settlement has occurred in civil proceedings



Indicator:

B.b Victims of trafficking have been identified quickly and accurately

B.7 The police and other actors involved follow the procedures for identifying victims of trafficking

B.8 Specialized anti-trafficking CSOs participated in the identification of victims

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

B.10 Total number of persons identified by state authorities as officially recognized victims of trafficking

B.11 Number of foreign nationals (and their share in the total number) identified by potential authorities as potential or potential victims of trafficking by number of adults and minors, by sex and by country of origin

B.12 Total number of foreign nationals identified by state authorities as officially recognized victims

B.13 The number of identified potential victims who were (or were to be) sexually exploited and their share of the total number of victims) in relation to the number and proportion of victims allegedly exposed to labor exploitation (ie some non-sexual form of exploitation)

B.20 The service responsible for the protection of children or for the detection of illicit exploitative forms of work has conducted an investigation into at least

B.21 Members of minorities have not experienced additional difficulties in identifying or accessing assistance (compared to other identified and non-minority persons)

B.14 Number of officially identified victims who were allegedly (or should have been) exposed to sexual exploitation compared to the number of victims exposed to labour or other types of exploitation

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

B.16 Number of boys and girls under the age of 18 identified as potential victims, as well as identified victims who state that they were trafficked before the age of 18

B.17 Number of identified (possible) victims who reported the crime to state authorities themselves (ie not identified by the police or any other authority during transit, exploitation or recovery)

B.18 The services responsible for detecting illicit exploitative forms of work (eg specialized police service or labor inspection) have investigated at least one case in the unprotected sector, including sectors in the country where migrant women are reported to be working.

B.19 The service responsible for detecting illicit exploitative forms of work (eg specialized police service or labor inspection) has investigated at least one case in the unprotected sector, including sectors in the country where male migrants are alleged to be working.

one case in which children work in unprotected sectors

B.22 Homosexual, bisexual and transgender (LGBT) people have not experienced additional difficulties in identifying or accessing assistance (compared to other identified and non-LGBT people)

### A.3 Disputed identification and the persons who were wrongly categorized as non-victims

Indicator:

B.c CSOs that provide support to victims are not aware of a case where they considered a person to be a victim of human trafficking and that the competent services did not identify him as a victim.

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

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.

B.25 CSOs involved in child protection or support for child victims of trafficking were not aware of any type of exploitation as a form of trafficking that was ignored by state authorities.

B.26 Number of potential victims where the victim's designation as an adult person by the victim or his / her legal counsel or supporting CSO is disputed.

B.27 Cases of misidentification were quickly acknowledged and corrected

B.28 Officers for irregular migrants (including those working on refugee protection or considering asylum applications) have received at least one training on trafficking in human beings.

B.29 Some or all of the consular staff have been educated about the trafficking and - or are familiar with identification and referral procedures both in the country in which they are settled and in their country.

B.30 Appropriate measures have been taken to identify victims of trafficking during the examination of asylum applications and before the return of persons whose asylum applications have not been granted.

## B. Protection of victims

### B.2 Protection of all victims (including those exploited in a foreign country and subsequently returned to the monitored country)

Indicator:

C.d Victims of trafficking (possibly or officially recognized) received appropriate assistance and protection during the monitoring period

C.28 At least one case where a victim of trafficking has been offered a special protection measure during the investigation phase of a possible trafficking case, such as accommodation in a shelter with armed guards or a change of identity

C.29 At least one case where the police or another body was involved in an action to protect the victim after the end of the trial (an action that is not against, ie based on respect for the human rights of victims)

C.30 Number of victims who received any other "special protection network"

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

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

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

C.34 Percentage of victims who were formally provided with protection measures during criminal proceedings

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

C.36 Percentage of court proceedings during which victims are intimidated or otherwise harmed

C.6 Recovery and reflection period

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

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.

C.7 Protection of institutions and individuals providing support to victims

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

C.40 Number of cases where members of CSOs reported intimidation or retaliation at any time, whether in connection with a specific investigation or trial.

C.41 Percentage of cases where the police responded appropriately after CSO members reported being exposed to intimidation and / or threats during or after an investigation or trial and reported it to the police, resulting in the discontinuation of threats or punishment of perpetrators.

### B.3 Protection of human trafficking victims who returned to their country of origin

Indicator:

C.e Victims of trafficking returning from abroad, whose case has been brought to the attention of state authorities and who have received adequate assistance and support during the monitoring period

C.42 Number or estimate based on information on the number of victims who returned to the country in a given period, whether it was assisted return or they returned without assistance.

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

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

C.45 Percentage of victims of domestic nationals whose return to the country being monitored has been delayed due to actions or failure to take action

by state authorities in their country (ie the country being monitored).

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

C.47 Percentage of returning victims who declare that any type of protection measure has been applied to

protect them from harassment (or other harm) by traffickers and their assistants upon return to the country, and this measure has been in line with respect of the victim's human rights).

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

## B.4 Protection of child victims

Indicator:

C.f During the observed period, child victims of trafficking have been provided with adequate protection and assistance

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

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

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

## B.5 Protection of victims who are foreign citizens

Indicator:

C.g Identified foreign victims (regardless of nationality) were granted renewable residence permits and had at least the same level of protection as victims who are nationals

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

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

C.56 Percentage of victims who have not received renewable residence permits despite the opinion that their residence is necessary due to their personal situation.

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

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

C.60 Percentage of cases where non-renewal or revocation of a residence permit was not in accordance with national laws and regulations.

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

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

Indicator:

C.h The identified victims (regardless of their citizenship) which left the countries have been provided with assistance and protection during their process of returning

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

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

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

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

C.65 Number of returnees (and % of total returns for both children and adults) reported to have occurred even though the risk assessment showed that there is a risk of return (or in the case of a child when considering the best interests of the child it was determined the child should not return to their country of origin)

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

C.66 Number of returns (and % of total returns) of foreign victims - both children and adults - deported or returned from the country of follow-up to their country of origin (or another country) that are alleged to be involuntary or involuntary.

C.70 Percentage of cases in which the return of foreign victims (both children and adults) is disputed as unsafe.

C.71 Percentage of cases in which the return of child victims is disputed because it is not in their best interest.

## C. Victim assistance and support

### C.2 Assistance for victims from all categories

Indicator:

D.c Any person identified as a potential or officially recognized victim of trafficking is offered immediate assistance and support, including emergency shelter, medical assistance, information and legal advice, according to their specific needs (eg gender, language, ethnicity and age), and the state has provided sufficient financial resources for the costs of such assistance

D.17 Percentage of CSO costs related to assistance to victims of trafficking (possible and officially recognized) financed from the state budget or from state grants.

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

D.3.a Shelter and material assistance

D.19 Percentage of victims offered accommodation they considered inappropriate.

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

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

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

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

D.3.b Medical assistance

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

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

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

D.27 There was no discrimination against non-citizens (foreign nationals) or victims of internal trafficking (ie who were recruited, trafficked and exploited in their country of origin) when it came to access to medical care.

D.28 There was no discrimination against either women or men who were identified as possible or officially identified victims of trafficking in access to health care.

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

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

D.3.c Information

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

D.3.d Vocational training and economic empowerment

D.32 Percentage of victims who are legal resident in the monitored country and who are not allowed to be employed or to participate in vocational training.

### C.3 Other

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

D.34 Percentage of non-national victims who did not receive the requested translation services.

## C.4 Assistance and support to child victims

Indicator: D.d Child victims are offered immediate assistance and protection according to their age, including emergency shelter, medical assistance, information and legal advice, according to their specific needs (eg age and maturity, gender, language and ethnicity)

D.4.a Shelter and material assistance

D.35 Average time during which potentially or officially identified child victims received

accommodation and food, as well as other forms of material assistance after identification, whether funded by the country or supported by CSOs or other private donor-funded organizations.

D.36 Percentage of child victims in need of material assistance that was not provided within a reasonable time.

D.37 Percentage of child victims who stopped receiving assistance after a certain period of time

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

D.39 Percentage of child victims who are not provided with accommodation according to their age.

D.40 Percentage of child victims who are not provided with services according to their age.

D.41 Percentage of child victims who were provided with foster care.

D.42 Percentage of child victims who have been provided with accommodation in institutions that do not specialize in caring for children who have survived trafficking or similar trauma (even if they are childcare facilities).

D.43 Percentage of child victims who have been provided with accommodation in shelters that specialize in victims of trafficking but not in children.

#### D.4.b Medical assistance

D.44 Percentage of child victims who had access to age-appropriate psychological counseling and % of child victims for whom support organizations believed that they needed psychological help but did not receive it.

D.45 Percentage of child victims in need of medical assistance who did not receive medical care within a reasonable time.

#### D.4.c Education and vocational training

D.46 Percentage of child victims in regular school years who were not included in regular schooling within a reasonable time (eg one month) after identification.

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

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

D.48 Number of victims known to have returned to the country after being identified in another country during the follow-up period (broken down into adult men and women, boys and girls).

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

D.50 Percentage of victims who returned to their country of origin (the country being monitored) and for whom there is information that they received assistance or protection to which they might not have been entitled if they had not been identified as victims.

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

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

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

D.53 Percentage of victims who returned to their country of origin who are known to have brought their health records from the country in which they were identified (ie reports on the assessment of their health needs, data on the therapy received so far, etc.).

D.54 Percentage of child victims who have returned to their country of origin and who have participated in

a reintegration program in order to ensure their inclusion in the formal or non-formal education system and appropriate care.

D.55 The percentage of cases where the planned reunification of a child victim who returned from another country with the family was disputed (upon the child's return to the country of origin) because it was not in the best interests of the child.

## C.5 Legal aid and support

Indicator:

D.e Victims of trafficking (both potential and officially recognized) were offered and provided access to legal advice.

D.56 Percentage of cases where adult victims, after first contact with public authorities, were not immediately informed of relevant judicial and administrative proceedings in a language they understood.

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

D.58 Percentage of victims who participated in criminal proceedings and who had the support of CSOs during

the proceedings when the state could not provide such assistance.

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

D.60 Percentage of cases where child victims, or their parent, guardian or legal representative, were initially informed of relevant judicial or administrative proceedings in a language they can understand (and the percentage of non-victims) without initial contact with public authorities.

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



## **ABOUT WOMEN'S RIGHTS CENTER**

NGO 'Women's Rights Center' (WRC), based in Podgorica, was founded in 2012, on the basis of the founders' long-term experience in providing support to women victims of domestic violence and other violations of women's human rights.

The basic objectives of the establishment and functioning of the Organization are:

- Promotion of women's human rights and gender equality;
- Empowering women survivors of family violence / partner violence through counselling, psychological and legal support;
- Connecting with other organizations / institutions dealing with protection and promotion of women's human rights.

### **MISION**

Women's Rights Center is a non-profit, non-party aligned, non-religious organization that fights for the suppression of all forms of violence against women and their access to justice, developing gender equitable democratic practices and cooperation with all relevant domestic and international actors in Montenegro.

### **VISION**

**GENDER EQUALITY, ACCESS TO JUSTICE AND SOCIETY WITHOUT VIOLENCE AGAINST WOMEN – OUR REALITY**

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