

EVALUATION REPORT

MONTENEGRO

Third evaluation round

Access to justice and effective remedies for victims of trafficking in human beings

GRETA
Group of Experts
on Action against
Trafficking
in Human Beings

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COUNCIL OF EUROPE
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Secretariat of the Council of Europe Convention
on Action against Trafficking in Human Beings
(GRETA and Committee of the Parties)
Council of Europe
F-67075 Strasbourg Cedex
France

trafficking@coe.int

www.coe.int/en/web/anti-human-trafficking

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Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) was established pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party.

In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions of the Convention on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings, the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' access to justice and effective remedies, which is essential for victims' rehabilitation and reinstatement of rights, and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic, in particular articles 12, 15, 23, 26, 27, 28, 29, 30 and 32.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, access to translation and interpretation, when appropriate, regularisation of the victim's stay, the right to seek and enjoy asylum, and full respect for the principle of *non-refoulement*. These preconditions, corresponding to various provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics through a separate country-specific part of the questionnaire. GRETA's findings and analysis of these topics are presented in a separate chapter.

Executive summary

Since the second round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, Montenegro has adopted a new Strategy for combating trafficking in human beings, covering the period 2019-2024, as well as new Standard Operating Procedures for the identification of victims of trafficking. Further, with a view to strengthening the investigation and prosecution of human trafficking cases, the authorities have set up an Operational Team for Combating Trafficking in Human Beings.

Montenegro is a country of origin, destination and transit of trafficked persons. Until the end of 2019, the number of identified victims, mostly women and children from Montenegro, was low. Since November 2019, following the detection of a large-scale case involving victims from Taiwan, the number of identified victims has increased, reaching 52 by the end of 2020. There has also been a shift to more male victims and labour exploitation as the predominant form of exploitation.

The focus of the third evaluation round of the Convention being on trafficking victims' access to justice and effective remedies, the report analyses in detail the implementation of provisions of the Convention establishing substantive and procedural obligations relevant to this topic.

Following amendments to the Law on Free Leal Aid, victims of trafficking are recognised as privileged beneficiaries of free legal aid, without an evaluation of their financial standing. While welcoming this, GRETA urges the authorities to take further steps to facilitate and guarantee access to justice for victims of trafficking, including by ensuring that the lawyers providing legal aid to victims of trafficking undergo the necessary training and specialisation.

GRETA welcomes the fact that persons with a temporary residence permit for humanitarian reasons have free access to the labour market, although no such permits have been issued to victims of trafficking since the entry into force of the relevant law. GRETA considers that the authorities should strengthen effective access to, and/or reintegration of, the labour market for victims of trafficking and their economic and social inclusion through a number of specific measures.

None of the victims of trafficking who filed property claims in criminal proceedings has been awarded compensation from the perpetrator during the reporting period, and there were no human trafficking cases in which the defendant's property was seized or confiscated. GRETA urges the authorities to make concrete efforts to guarantee effective access to compensation for victims of trafficking, including by bringing into force without further delay the Law on Compensation for Damages for Victims of Violent Crimes, which would enable victims of trafficking to claim compensation from the State.

GRETA commends the setting up of the Operational Team for Combating Trafficking in Human Beings and the fact that plea bargaining is not used in human trafficking cases. Effective final sentences have been handed down in two cases of human trafficking since 2014. GRETA stresses that the requalification of human trafficking offence into other offences carrying lighter penalties, as well as failure to convict traffickers engenders a feeling of impunity and undermines efforts to support victims to testify. GRETA urges the authorities to take measures to strengthen the criminal justice response to human trafficking and encourage specialisation of prosecutors and judges to work on human trafficking cases.

GRETA welcomes the adoption of guidelines on the non-punishment of victims of trafficking and considers that the Montenegrin authorities should take measures to ensure effective compliance with these guidelines, paying particular attention to children who are possible victims of trafficking.

GRETA considers that the Montenegrin authorities should take steps to guarantee child-sensitive procedures when investigating, prosecuting and adjudicating cases of human trafficking, including measures to ensure a sufficient number of child-friendly interview rooms across the country. The

authorities should also make full use of all available measures to protect victims and witnesses of trafficking and to prevent intimidation throughout the proceedings.

GRETA welcomes the Montenegrin authorities' participation in international co-operation, including through co-operation agreements with Eurojust and neighbouring countries, and invites them to continue their efforts in this respect.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. The Montenegrin authorities have implemented a number of measures aimed at the Roma and Egyptian population and internally displaced persons, which have a potential to address the root causes of human trafficking. GRETA considers that the authorities should continue investing in social, economic and other measures for groups vulnerable to human trafficking, as well as make efforts to promote gender equality, combat violence against women and child/early/forced marriages, and support policies for the empowerment of women and girls as a means of combating the root causes of human trafficking.

While efforts have been made to raise awareness of the risks of labour exploitation and improve co-operation between the relevant agencies, no cases with indicators of human trafficking have been detected by labour inspectors. GRETA urges the authorities to take measures to improve the ability of the Labour Inspectorate to prevent and detect cases of trafficking for the purpose of labour exploitation. The authorities should also strengthen engagement with the private sector, and adopt legislation integrating the prevention of trafficking and labour exploitation in public procurement policies and promoting transparency in supply chains. Furthermore, measures against corruption in a human trafficking context should be included and effectively implemented in the general policies against corruption.

GRETA welcomes the adoption of the SOPs for the identification of victims, under which the formal identification of victims is disconnected from the criminal proceedings, as well as the setting up of a multi-disciplinary identification team. However, GRETA notes that there are continuing gaps in the identification of victims, in particular among asylum seekers and irregular migrants. Additional efforts must be made to train staff on how to use indicators and refer possible victims for formal identification and assistance.

Furthermore, GRETA considers that the Montenegrin authorities should ensure more sustainable funding for the assistance of victims of trafficking, in order to ensure the range and quality of the services delivered and a sufficient number of places for all victims who need safe accommodation, including men.

The authorities have adopted a protocol concerning children living and working on the streets and developed SOPs for the treatment of children separated from their parents and unaccompanied children. A range of awareness-raising activities and workshops have also been organised. GRETA considers that the authorities should ensure that child victims of trafficking benefit from specialised accommodation and services and provide long-term monitoring of the social inclusion of child victims of trafficking.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") entered into force for Montenegro on 1 November 2008. GRETA's first evaluation report on Montenegro was published on 13 September 2012,[1] and the second evaluation report on 28 September 2016.[2]

2. On the basis of GRETA's second report, on 4 November 2016, the Committee of the Parties to the Convention adopted a recommendation to the Montenegrin authorities,[3] requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the Montenegrin authorities was considered at the 22nd meeting of the Committee of the Parties, and was made public.[4] Subsequently, on 12 October 2018 , the Montenegrin authorities submitted additional information as a follow-up to their report sent in reply to the Committee of the Parties' recommendation.

3. On 21 June 2019, GRETA launched the third round of evaluation of the Convention in respect of Montenegro by sending the questionnaire for this round to the Montenegrin authorities. The deadline for submitting the reply to the questionnaire was 21 October 2019 and the authorities' reply was received on 29 October 2019.

4. In preparation of the present report, GRETA used the reply to the third round questionnaire by the Montenegrin authorities,[5] the above-mentioned report and additional information submitted by them in reply to the Committee of the Parties' recommendation, as well as information received from civil society. An evaluation visit to Montenegro took place from 2 to 5 March 2020 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Julia Planitzer, member of GRETA;
- Mr Mihai Şerban, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention.

5. During the visit, the GRETA delegation met representatives of the Ministry of the Interior's Department for the Fight against Trafficking in Human Beings, the Police Directorate, the Ministry of Justice, the Ministry of Labour and Social Welfare, the Ministry of Health, the Ministry of Education, the Ministry of Human and Minority Rights, the Ministry of Sustainable Development and Tourism, the Labour Inspectorate, and the Employment Agency. Meetings were also held with prosecutors, judges from the Supreme Court and the High Court of Podgorica, and representatives of the Centre for Training of the Judiciary and State Prosecution and of the Police Academy. Further, discussions were held with members of the Parliament of Montenegro and the Ombudsman's Office.

6. In addition, meetings were held with representatives of non-governmental organisations, the Bar Association and the Union of Employers of Montenegro. The GRETA delegation also met representatives of the International Organization for Migration (IOM), the Organization for Security and Co-operation in Europe (OSCE), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations International Children's Emergency Fund (UNICEF).

[1] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631f72
[2] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a8d1e
[3] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806b7f30
[4] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631f75
[5] https://rm.coe.int/greta-2018-26-mne-rep/16809e0a88

7. In the course of the visit, the GRETA delegation visited the specialised shelter for victims of trafficking in human beings and the Children's Home "Mladost" in Bijela.

8. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.

9. GRETA wishes to place on record the co-operation provided by the Montenegrin authorities and in particular by Mr Željko Spalević, Head of the Department for Fight against Trafficking in Human Beings of the Ministry of the Interior, and Ms Marijana Radunović, Senior Advisor at the latter Department.

10. The draft version of the present report was approved by GRETA at its 38th meeting (6-9 October 2020) and was submitted to the Montenegrin authorities for comments. The authorities' comments were received on 15 February 2021 and were taken into account by GRETA when adopting the final report at its 40th meeting (22-26 March 2021). The report covers the situation up to 26 March 2021; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

II. Overview of the current situation and trends in the area of trafficking in human beings in Montenegro

11. Montenegro is simultaneously a country of origin, destination and transit of trafficked persons. According to data provided by the Montenegrin authorities, the number of identified victims of trafficking in human beings (THB) was three in 2016 (all female children), four in 2017 (all female, two adults and two children), 10 in 2018 (eight male and two female, including four children), and one by October 2019 (a female minor). Although the statistics provided by the authorities were not disaggregated by form of exploitation, the authorities indicated that the majority of the identified victims were subjected to sexual exploitation, and there was also a growing number of victims of trafficking for forced begging and forced marriage. The majority of the victims were Montenegrin citizens, with some foreign victims originating from Serbia, Albania and Kosovo* also having been identified. In November 2019, a new team for the formal identification of victims of THB was set up (see paragraph 18) and as a result of the detection of a large-scale case of human trafficking of 84 women and men from Taiwan (referred to as the "call centre case", see paragraph 91),[6] the number of identified victims of THB increased considerably. According to updated information provided by the Montenegrin authorities, by the end of 2020, the team for formal identification of victims had interviewed a total of 59 persons (in 15 processed cases) and granted victim status to 52 persons (27 men, 15 women, 4 boys and 6 girls). Of them, 39 (27 men and 12 women) were identified as victims of labour exploitation, two women, one girl and one boy as victims of sexual exploitation, three girls and three boys as victims of forced begging, one woman and three girls as victims of unlawful marriage, and one girl as a victim of a combination of forced begging and unlawful marriage.[7] As regards the origin of the victims, 12 women and 25 men were from Taiwan, two men were from Pakistan, and the remainder were from Kosovo*, Serbia and Montenegro. The data for 2020 indicate not only an important increase in the number of identified victims, but also a shift to more male victims and primarily labour exploitation.

12. There has been a growing number of persons transiting Montenegro as part of a mixed migratory flow. According to UNHCR, a record-high number of asylum seekers expressing intention to apply for asylum was received in 2019 (7 975). Of these, the majority (75.9%) transited onwards from Montenegro without lodging an asylum application and only 1,921 applied for asylum (mostly male and originating from Morocco, Algeria, Iraq and Syria). There were 198 children seeking asylum (121 male and 77 female), of whom only 2% were unaccompanied (all male). UNHCR notes that since the establishment of the Montenegrin asylum system in 2007, no victims of THB have been identified in the context of asylum procedures, which may suggest that the procedures for screening for vulnerability indicators and identifying victims of trafficking among asylum seekers are not sufficient (see paragraph 171). According to updated information provided by the Montenegrin authorities, in December 2020, following interviews with Afghani asylum seekers at the asylum centre in Spuž, criminal proceedings for human trafficking and slavery were initiated against a person. **GRETA would like to be kept informed of the outcome of these proceedings, including whether the Afghani asylum seekers were formally identified as victims of trafficking, and whether they received assistance and protection.**

* All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nation's Security Council Resolution 1244 and without prejudice to the status of Kosovo.

6 The victims were recruited in Taiwan and arrived in Montenegro on tourist visas. They were accommodated in three different locations in Podgorica and were forced to call Chinese citizens, using fake identities (i.e. pretending to be police officers, prosecutors or judges), in order to request their data and get them to transfer money.

7 In four cases, the identification team did not grant the status of victim of trafficking, but assessed that the persons concerned were at risk of becoming victims, and recommended to the guardian authorities to pay special attention to them.

13. According to civil society, the number of identified victims does not reflect the real scale of the phenomenon. A significant number of migrant workers come to Montenegro from neighbouring countries (Serbia, Bosnia and Herzegovina, North Macedonia, Albania), for seasonal work in the summer, particularly in the hospitality sector and the construction industry. Some of them have irregular employment status and no social protection, and their salaries are withheld. Further, NGOs indicated that they had referred cases of sexual exploitation to the police, which were not investigated and the persons concerned were not identified as victims. According to the report of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) on Montenegro, although it is difficult to establish the prevalence of forced marriages in the country, it appears that the practice of arranging early marriages that border on forced marriages is frequent among Roma and Egyptian communities.[8] GREVIO noted that there is a potential overlap between forced marriage and human trafficking to the extent that forced marriage may be linked to sexual exploitation, labour exploitation and financial and other benefits to the wider family.[9] However, the prosecution rarely treats such cases as THB (even though Article 444 of the CC, which criminalises THB, includes "concluding an unlawful marriage" among the forms of exploitation).

III. Developments in the institutional and policy framework for action against human trafficking

14. The Office for the Fight against Trafficking in Human Beings, which is headed by the National Anti-trafficking Co-ordinator, was moved back to the Ministry of the Interior in 2019 and was renamed Department for the Fight against Trafficking in Human Beings. A new National Anti-trafficking Co-ordinator was appointed in August 2019. The department currently employs six civil servants.

15. Following the second evaluation of Montenegro by GRETA, a new Strategy for combating trafficking in human beings was adopted, covering the period 2019-2024.[10] It was prepared with the assistance of OSCE, following an evaluation of the implementation of the previous strategy (2012-2018) by an independent expert engaged by OSCE. The Strategy summarises the results of the previous strategy and the remaining challenges, and sets four strategic aims (related to prevention, identification and assistance of victims, criminal justice response, and co-ordination/co-operation) with 17 specific objectives and indicators of impact. In an annexe to the Strategy, indicators for different forms of exploitation are listed. GRETA was informed that €1 085 000 had been assigned for the implementation of the Strategy (from the budgets of different ministries, international donors and pre-accession IPA funds), of which €217 000 was allocated to 2019. In 2020, it was planned to spend €173 900 (of which €32 900 for prevention activities, €58 500 for the protection of victims, €12 500 for the criminal justice response, and €70 000 for co-ordination and international co-operation).

16. The implementation of the Strategy is monitored by a Co-ordination Body which has been newly established and is headed by the Department for the Fight against THB of the Ministry of Internal Affairs. It is composed of representatives of all public sector bodies that are carrying out activities envisaged by the Strategy (15 institutions), as well as one NGO representative. Furthermore, representatives of relevant international organisations can attend the meetings as observers. The Co-ordination Body held four meetings in 2019, and adopted Rules of Procedure and an annual work plan for 2020. Representatives of NGOs are included in the work of the Co-ordination Body on the basis of the "Decree of the Election of Representatives of NGOs to the Working Bodies of the State Administration and Conducting Public Debate in the Preparation of Laws"[11] and following a public call published by the Ministry of the Interior. Accordingly, the Co-ordination Body includes representatives of the NGOs Institute for Social and Educational Policy (which runs the specialised shelter for victims of THB, see paragraph 178), Youth Policy Implementation Council, and Centre for Security, Sociological and Criminological Research of Montenegro.

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8 GREVIO Baseline evaluation report on Montenegro, 25 October 2018, p. 46. The Egyptian community in Montenegro is regarded as linked to the Roma Community and is not associated with Egypt.

9 Ibid, p. 47.

10 https://www.osce.org/mission-to-montenegro/424622?download=true

11 Official Gazette of Montenegro No. 14/18.

17. With a view to strengthening the investigation and prosecution of THB cases, the Supreme State Prosecutor and the Director of the Police Directorate have formed an Operational Team for Combating Trafficking in Human Beings, which started its work in December 2018.[12] Eight officials have been assigned to this team, from the Ministry of Internal Affairs, the Police Directorate, the High State Prosecutor's Office and the Ministry of Justice. These staff continue with their regular jobs while participating in the team. The High State Prosecutor's Office co-ordinates the work of the Operational Team. At the time of GRETA's visit, a total of 12 THB cases had been opened as a result of the work of the Operational Team (see more details in paragraphs 86-90).

18. New Standard Operating Procedures (SOPs) for the identification of victims of trafficking were developed with the assistance of IOM and the involvement of experts from Serbia and North Macedonia. According to these SOPs, the identification of victims of THB is not connected to the initiation of criminal proceedings and is to be performed by a multi-disciplinary team. A team for the formal identification of victims of THB was established in November 2019 and immediately started identifying victims due to the previously mentioned large-scale case of THB (see paragraphs 11 and 91). It is headed by a doctor (employed by the Ministry of Internal Affairs) and comprises a police officer from the specialised department against THB, a social worker and a representative of the Department for the Fight against THB. Two of the four members of the team are women. NGOs were reportedly involved in the development of the SOPs only to a limited extent (one NGO representative attended one meeting). The intention was to involve a psychologist in the identification team and two calls for expressions of interest were published, but nobody applied. The chair of the team is able to ask for additional expertise when needed. GRETA was informed that between November 2019 and March 2020, nine meetings of the identification team took place, at which the status of 43 persons was discussed. However, at the time of GRETA's visit in March 2020, the SOPs had not been formally adopted by the Government, and were therefore not binding. At its session on 19 October 2020, the Government adopted the SOPs in the form of a National Plan for Formal Identification of Victims of Trafficking in Human Beings.

19. Further, new Standard Operating Procedures for the treatment of children separated from their parents and unaccompanied children have been developed with the support of UNICEF (see paragraph 190).

20. Moreover, Guidelines on the non-punishment provision for police officers, prosecutors and judges were developed with OSCE assistance (for more details, see paragraph 99).

21. The Memorandum of Understanding (MoU) between State institutions and NGOs on action against human trafficking,[13] which defines the responsibilities of each stakeholder and sets up operations procedures, has been amended and updated, and was signed in June 2020.[14]

12 https://tuzilastvo.me/vrdt/sadrzaj/nyE). A preparatory meeting, supported by the US Embassy in Podgorica, was held in November 2018 (https://me.usembassy.gov/conference-on-trafficking-in-persons/).

13 See paragraph 19 of GRETA's second report on Montenegro.

14 The signatories of the MoU are the Supreme Court, the Supreme State Prosecutor's Office, the Ministry of the Interior, the Ministry of Education, the Ministry of Health, the Ministry of Labour and Social Welfare, the Police Directorate, the Public Institution Child and Family Support Centre Bijelo Polje, the Montenegrin Red Cross and the NGOs Montenegrin Women's Lobby, Safe Women's House, SOS Hotline for Women and Children Victims of Violence - Nikšić, Centre for Security, Sociological and Criminological Research of Montenegro, and Institute for Social and Education Policy.

22. NGOs play a key role in action against THB in Montenegro, through carrying out awareness-raising activities, training and research, running helplines, providing assistance to victims, and participating in international projects. The NGO Women's Rights Centre has led on the preparation of a report entitled "Monitoring and evaluation of policies for combating human trafficking in Montenegro in 2018-2019", based on an analysis of eight cases of THB and related offences which were at different stages of proceedings by the end of 2019 (see paragraphs 52, 93, 100 and 109 for more details). The NGO Montenegrin Women's Lobby used to run the only specialised shelter for victims of THB, which was closed down in March 2019 as the NGO had not been licensed in accordance with the new licensing procedures (related to the Law on Social and Child Care, see paragraph 176). Following the organisation of a tender by the Ministry of Labour and Social Welfare, a new specialised shelter for victims of THB, run by the NGO Institute for Social and Educational Policy, was opened on 16 December 2019 (see paragraph 179). Further, the NGO Centre for Roman Initiatives - Nikšić has been focusing on the issue of forced and arranged marriages, registering a total of 84 cases, including eight in 2019. One of the cases followed by this NGO was eventually classified as THB in October 2019 and the girl concerned was identified as a victim of THB.

23. In 2019, the Department for the Fight against THB published three open calls for NGOs. The first one was on strengthening the skills of law enforcement to identify victims of trafficking, with three NGOs receiving funding for a total amount of €10 760. The second one concerned the protection of victims of THB and funds were allocated to three NGOs (including the operation of a hotline by the Montenegrin Women's Lobby), amounting to a total of € 26 910. The third call concerned the conducting of a campaign to reduce demand for services of victims of THB; six NGOs received grants amounting to a total of €15 000. In 2020, it was envisaged to provide funding for NGO projects for a total amount of €40 000.

24. **GRETA reiterates its recommendation from its second report that the Montenegrin authorities should examine the possibility of establishing an independent National Rapporteur or designating another already existing mechanism as an independent organisational entity with a view to ensuring effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).** The key features of National Rapporteurs' mechanisms should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.

IV. Access to justice and effective remedies for victims of human trafficking

1. Introduction

25. Victims of human trafficking, by virtue of their status as victims of crime and victims of human rights violations, have the right to access to justice and effective remedies for any harm committed against them. These rights must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of parties to the Convention, irrespective of their immigration status or presence on the national territory, and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

26. The right to effective remedies is a reflection of the human rights-based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of THB, and effectively investigate trafficking offences.[15]

27. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,[16] the right to an effective remedy is considered to include restitution,[17] compensation,[18] rehabilitation,[19] satisfaction[20] and guarantees of non-repetition.[21] All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery, as well as social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which outlines the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.[22]

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15 *Rantsev v. Cyprus and Russia*, application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgment 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

16 UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, 28 July 2014, A/69/33797.

17 Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identity and travel documents and other personal belongings.

18 Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

19 Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

20 Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

21 Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

22 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm

28. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to these entitlements. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26), according to which victims of human trafficking must not be subjected to penalties for their involvement in unlawful activities that they have been compelled to commit. Further, the Convention requires State Parties to enable the seizure and confiscation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

29. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.[23]

30. Civil society, including NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.[24] In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons[25] and Justice at Last - European Action for Compensation of Victims of Crime,[26] which aim to enhance access to compensation for trafficked persons.

31. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.[27] The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate victims' access to remedies for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.[28] States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

32. Because human trafficking is often a transnational crime, effective international co-operation is essential for fulfilling the obligations with regard to the right to justice and effective remedies. This includes co-operation in tracing and seizing criminal assets, and in returning confiscated proceeds for the purpose of compensation.

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23 UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8. Available at: http://icat.network/sites/default/files/publications/documents/Ebook%20ENG_0.pdf

24 OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

25 http://www.compactproject.org/

26 http://lastradainternational.org/about-lsi/projects/justice-at-last

27 United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

28 UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

2. Right to information (Articles 12 and 15)

33. Victims who are no longer under their traffickers' control generally find themselves in a position of great insecurity and vulnerability. Two common features of victims' situation are helplessness and submissiveness to the traffickers, due to fear and lack of information about how to address their situation. Article 12, paragraph 1, sub-paragraph d, of the Convention provides that victims are to be given counselling and information, in particular as regards their legal rights and the services available to them, in a language that they understand. Further, pursuant to Article 15, paragraph 1, of the Convention, Parties must ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings, in a language they can understand.

34. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.[29]

35. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.[30]

36. According to the Montenegrin authorities, presumed victims and victims of THB are informed verbally about their rights by the police when different activities are implemented in the context of the criminal proceedings, pursuant to the provisions of the Criminal Procedure Code (CPC). Victims of trafficking are also informed about their rights at the specialised shelter for victims of human trafficking after being referred to it following identification. Further, according to the National Plan for Formal Identification of Victims of Trafficking in Human Beings, presumed victims of THB are informed of the type of services available, the identification and interviewing procedures, personal data protection and safety policies. In case of children, information is given according to the child's developmental abilities and in an appropriate environment. In case the child is unaccompanied, the information is given while the child's legal guardian or responsible adult is present.

37. A victim of THB who has suffered damages is also informed by the competent public prosecutor of his/her rights as an injured party, in line with the provisions of the CPC. Victims who have the status of witnesses in criminal proceedings are also informed of their rights and obligations as witnesses, according to the CPC. Further, pursuant to Article 52 of the CPC, victims of THB can file a private action with the competent court (i.e. constitute themselves as private prosecutors), which entitles them to certain rights listed in Article 58 of the CPC. In particular, the injured party who is a victim of a "criminal act against sexual freedom" (Chapter 18 of the CC) has the right to be heard and to have the procedure conducted by a judge of the same sex, if so allowed by the staff composition of the court (Article 58, paragraph 4 of the CPC). Further, pursuant to Article 59 of the CPC, if the competent prosecutor decides to drop the criminal charges and cease the investigation/prosecution, the injured party can take over the prosecution as a subsidiary prosecutor (further conditions are listed in Articles 60-65 of the CPC).

29 See Explanatory Report on the Convention, paragraphs 160-162.
30 See 8th General Report on GRETA's activities, paragraphs 168-169.

38. According to the new Guidelines of the non-punishment principle for victims of human trafficking for police officers, state prosecutors and judges (paragraph 6), "the State is obliged to ensure that victims receive appropriate and timely information regarding available support services, as well as their rights under the law. Victims should be referred to the Support Services established in Montenegrin courts, which provide special assistance to victims of trafficking in human beings, as well as to the information guide for victims/witnesses of trafficking, which contains a detailed overview of the services available, protection measures, and their rights and obligations during criminal proceedings".[31]

39. Support services for victims/witnesses have been set up in Montenegrin courts competent for cases of human trafficking and domestic violence. GRETA was informed that such services were available in 15 courts of first instance, two high courts and courts dealing with misdemeanours. These services aim to support victims/witnesses with a view to avoiding secondary victimisation during court proceedings, by ensuring that victims can make statements safely and get practical information, as well as ensuring that the rights of victims/witnesses are not violated and there is no discrimination on any grounds. However, the support services for victims/witnesses do not have concrete experience with victims of THB. According to information provided by the authorities, in co-operation with the NGO Women's Rights Centre, the Supreme Court of Montenegro organised a two-day workshop entitled "Strengthening the capacities of victim support services in the judiciary", on 10-11 October 2019 in Podgorica, for the victim/witness support services in the courts in Montenegro. The training focused on the provision of support to victims of domestic violence, trafficking in human beings, and victims of offences against sexual freedom. Further, within the framework of the Horizontal Facility II project "The Improvement of Procedural Laws in the Judicial System of Montenegro", the Council of Europe is currently developing a "Protocol for Victim and Witness Support Services at Courts for work with victims and witnesses of trafficking in human beings and domestic violence". Its goal is to make it easier for professionals from support services for victims/witnesses to meet the victims' basic rights and needs and offer them adequate support.

40. The Supreme Court of Montenegro, in co-operation with the NGO Women's Rights Centre, issued in 2011 a leaflet entitled "Information for witnesses and victims of the criminal offences of domestic violence and human trafficking", which was updated in 2017. It provides clear and straightforward information on the rights and obligations of victims who appear as witnesses during court proceedings in cases of domestic violence and human trafficking. In addition, the information leaflet gives answers to questions regarding protection during court proceedings and support offered by the services for support to victims/witnesses. According to the Montenegrin authorities, the information leaflet is available to the public on the website of the Supreme Court of Montenegro. However, GRETA notes that to find the information guide, it is necessary to do a targeted search going through the courts system of Montenegro.[32] With the support of the Council of Europe Programme Office in Podgorica, the information leaflet is in the process of being updated and translated into foreign languages.

41. Further, the Ministry of Justice, with the expert support of UNICEF, has developed materials for children and their parents on children's rights including information on the rights in court proceedings and the support services available.

42. During criminal proceedings, in line with Article 8 of the CPC, the victim or injured party has the right to use his/her own language, and services are provided by a professional translator/interpreter hired from the official list of court interpreters. When it is necessary to engage the services of interpreters, police officers hire interpreters from the official list of court interpreters. However, according to the latest list of court interpreters issued by the Ministry of Justice, there is no interpreter for Romani. At the specialised shelter for victims of THB, GRETA was informed that staff tried to communicate with the victims from Taiwan in English and a Chinese interpreter sometimes attended the shelter. According to the Montenegrin authorities, Chinese interpreters were used when the victims made official statements. Further, police officers from Taiwan assisted during the interviews by translating into English.

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31 Available at: https://www.osce.org/files/Guidelines%20on%20General%20principles%20regarding%20non-punishment%20provision%20for%20victims%20of%20trafficking%20in%20human%20beings%20%28THB%29.pdf

32 https://sudovi.me/static/vrhs/doc/6308.pdf.

43. As regards interpretation in the asylum centre in Spuž and the newly set-up transit centre in Rožaje, where initial screening and registration of intentions to seek asylum takes place, GRETA was informed that UNHCR pays a number of refugees to work as interpreters (cultural mediators), and there is a project with the Montenegrin Red Cross and the NGO Civic Alliance which includes interpreters. Some interpretation (e.g. from Farsi) is also organised through Skype. However, the need for ensuring the independence of the interpreters was stressed. According to updated information provided by the authorities, written materials for asylum seekers, including on THB, are currently being updated and will be distributed in early 2021, in nine languages. Furthermore, according to the authorities, interpretation in the procedure for granting international protection may be conducted via telephone or audio-visual conference. In February 2018, a Protocol on the Use of Joint Interpretation Pool in the Area of Migration and Asylum was concluded within the Migration Asylum Refugee Regional Initiative (MARRI), which stipulates establishing a group of extra-regional interpreters, as well as providing distance translation services.

44. **GRETA considers that the Montenegrin authorities should strengthen the systematic provision of oral and written information to presumed and formally identified victims of trafficking, in a language they can understand, regarding their rights, the services available and how to access them, as well as the implications of being identified as a victim of trafficking. Law enforcement officers and members of the identification team should be trained and instructed on how to properly explain to victims of THB their rights, taking into account victims' cognitive skills and psychological state. Similarly, staff working at asylum reception centres and detention centres should be trained and instructed on how to provide information, in a proactive manner, to persons and groups at risk of being trafficked.**

45. **GRETA also considers that the Montenegrin authorities should take additional steps to ensure the availability of interpreters for different languages spoken by asylum seekers, as well as their independence and sensitisation to the issue of human trafficking.**

3. Legal assistance and free legal aid (Article 15)

46. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedure is often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law[33] also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in a civil matter, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

47. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.[34]

48. In Montenegro, access to legal aid is regulated by the Law on Free Legal Aid (adopted in 2011, in force as of 1 January 2012). Following amendments to this law in 2015,[35] victims of THB are recognised as privileged beneficiaries of free legal aid, without an evaluation of their financial standing (i.e. access to legal aid is not means tested). Pursuant to Article 13 of the Law on Free Legal Aid, the conditions for

33 *Airey v. Ireland* judgment, 9 October 1979.
34 See 8th General report on GRETA's activities, paragraph 167.
35 Law on Free Legal Aid, Official Gazette of Montenegro, No. 20/2011 and 20/2015.

obtaining free legal aid are that a person is: a beneficiary of financial support in accordance with the legislation governing social and child welfare; a child without parental care; a disabled person; a victim of domestic violence or a victim of trafficking in human beings. Legal aid is available from the moment of identification as a victim of THB. According to Article 34 of the Law on Free Legal Aid, the procedure for granting free legal aid involves the submission of a request to the competent body via the service for free legal aid, which exists within each basic court.

49. Article 6 of the Law on Free Legal Aid defines the types of free legal aid as follows: legal advice; drafting of submissions to courts or other public bodies; representation in court proceedings, before public authorities and in out-of-court dispute settlements; and defence of accused persons. The right to free legal aid is granted to Montenegrin citizens, stateless persons who reside legally in Montenegro, persons seeking asylum in Montenegro, foreigners granted permanent or temporary residence in Montenegro, other persons lawfully residing in Montenegro, and other persons so designated in accordance with treaties ratified by Montenegro. The costs of the legal aid are financed from the budget of Montenegro.

50. The Montenegrin authorities have specified that victims of THB can also receive free legal aid for seeking compensation and executing compensation orders. The provision of legal aid automatically entails exemption from the costs of court proceedings.

51. Free legal aid services are established in all basic courts and are provided by lawyers from the list of the Bar Association of Montenegro, which, with the prior consent of lawyers, has been set up in line with the territorial jurisdiction of the basic courts. Exceptionally, free legal aid can also be provided by lawyers outside the local jurisdiction of a basic court, if there are reasonable grounds for doing so. There are lawyers that are specifically trained in representing child victims and witnesses. However, there are no lawyers specifically trained on THB. Furthermore, GRETA was informed that it is possible that a lawyer with no experience in criminal proceedings, but only in civil proceedings, for example, is assigned to a victim of THB. According to interlocutors, it is difficult in practice to change an *ex officio* lawyer assigned to represent a victim.

52. According to the report "Monitoring and evaluation of policies for combating human trafficking in Montenegro in 2018-2019", based on an analysis of eight cases of THB in 2018-2019, only in one of the cases, which concerned four child victims trafficked by their father for the purpose of forced begging and forced labour, was a lawyer appointed from the list of lawyers specialised in cases of children to represent the children. According to the authorities, in the other cases, the victims either did not want to exercise their right to free legal aid (e.g. in the case K.br. 82/20, the injured party made a written statement that she was happily married in Germany and had a child) or the appointment of a lawyer was delayed (in the case K.br. 161/20, the appointment of a lawyer was not considered necessary, given that the first hearing was scheduled for 11 March 2021).

53. GRETA welcomes the fact that in Montenegro, access to free legal aid for victims of THB does not depend on proof of lack of financial means to pay for a lawyer. GRETA notes that access to legal assistance is important as soon as there are reasonable grounds to believe that a person is a victim of THB because a lawyer can assist the victim in preparing a detailed written complaint or submission about the crime, which may limit the number of times a victim is questioned by the police. The lawyer can also accompany the victims during police interviews and ensure that their procedural rights are respected. Furthermore, the lawyer can ask that the defendant's assets be frozen with a view to guaranteeing compensation and assist the victim to constitute him/herself as a private or subsidiary prosecutor.

54. **GRETA urges the Montenegrin authorities to take further steps to facilitate and guarantee access to justice for victims of THB, in particular by ensuring that:**

- **a lawyer is appointed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the persons concerned have to decide whether or not they want to co-operate with the authorities and/or make an official statement;**

- **the authorities and the Bar Association encourage training and specialisation of lawyers to provide legal aid to trafficking victims, and trafficking victims are systematically appointed a specialised lawyer with experience in criminal cases.**

4. Psychological assistance (Article 12)

55. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking deal with the trauma they have been through, and to achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic intervention due to the violence they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy, conducted by an experienced clinical psychologist.[36] In the case of trafficked children, specialist child psychologists should be employed.

56. In Montenegro, the Law on Social and Child Welfare and the Law on Health Care entitle presumed victims and victims of THB who are Montenegrin nationals and nationals of countries with which Montenegro has concluded bilateral agreements to free health care, which would also cover psychological assistance. In case of third-country nationals, the Department for the Fight against THB organises access to health care. There is an annexe related to the Ministry of Health to the Memorandum of Understanding (MoU) between State institutions and NGOs on action against human trafficking, which defines the responsibilities of the Ministry, and psychological assistance is reportedly included in this annexe. The specialised shelter for victims of THB (see paragraph 179) employs one psychologist.

57. According to the previously mentioned report "Monitoring and evaluation of policies for combating human trafficking in Montenegro in 2018-2019", victims received very limited psychological assistance. Civil society actors question the psychological state of a number of victims, as well as their ability to make informed decisions about their actions.

58. The Montenegrin authorities have indicated that the provision of health care, including psychological assistance, to victims of trafficking in human beings is envisaged in the Annexe to the Agreement on co-operation in combating trafficking in human being signed with the Ministry of Health. Article 9 of this Annexe defines the manner of covering the costs of health care. For victims who are not insured in accordance with the Law on Health Insurance of Montenegro, the provisions of the Law on International Protection of Foreigners and the Law on Compulsory Health Insurance of Montenegro are applied. If a victim is a citizen of a country with which Montenegro has signed a bilateral agreement on social insurance, the costs are regulated in accordance with that agreement. In all other cases, the costs are borne by the Ministry of the Interior.

59. **GRETA considers that the Montenegrin authorities should take further steps to ensure that victims of THB are provided with psychological assistance to help them overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion.**

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36 See OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

5. Access to work, vocational training and education (Article 12)

60. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, micro-businesses and social enterprises.[37] GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.[38]

61. As noted in paragraph 12, until recently, the majority of the identified victims of THB have been Montenegrin citizens, most of them children. The situation changed with the identification of a large group of third-country nationals towards the end of 2019. The Law on Mediation and Employment contains provisions related to the employment of persons with humanitarian permits, granted pursuant to Article 52 of the new Law on Foreigners (in force since March 2018), which are given to victims of THB. Persons with a temporary residence permit for humanitarian reasons have free access to the labour market in Montenegro, unless prescribed otherwise by a special law. An employer must have a copy of the temporary residence permit on his/her premises and has to notify the relevant ministry about the employment and its termination. GRETA was informed that since the entry into force of the Law on Foreigners, no temporary residence permits for humanitarian reasons have been issued to victims of THB. Moreover, the Employment Agency indicated that their records did not refer to any unemployed people registered as victims of THB (there was only one person with a humanitarian permit on the records). A draft Protocol of co-operation in the integration and reintegration of victims of THB has been prepared with the Department for the Fight against THB. Further, as noted in GRETA's second report, a Protocol on co-operation was signed by the Union of Employers of Montenegro and the Office for the Fight against THB, which provides, *inter alia*, for assistance in the reintegration of victims of THB. However, there was no information on any cases of employment of victims of THB on the basis of this Protocol.

62. **GRETA welcomes that the temporary residence permit for humanitarian reasons allows access to the labour market, and considers that the Montenegrin authorities should further strengthen effective access to, and/or reintegration of, the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking.**

6. Compensation (Article 15)

63. Article 15(3) of the Convention establishes a right of victims to compensation. The compensation is pecuniary and covers both material injury (such as the cost of medical treatment) and non-material damage (the suffering experienced). However, even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation whether because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) therefore requires that Parties take steps to guarantee compensation of victims. The means of guaranteeing compensation are left to the Parties, which are responsible for establishing the legal basis of compensation, the administrative framework and the operational arrangements for compensation schemes. In this connection, Article 15(4) suggests setting up a compensation fund or introducing measures or programmes for social assistance to, and social integration of, victims that could be funded by assets of criminal origin. Of relevance in this respect is the European Convention on the Compensation of Victims of Violent Crimes, pursuant to which, when compensation is not fully available from other sources, the State shall contribute to compensate those who have sustained serious bodily injury or impairment of health directly attributable to an

37 Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

38 See 8th General report on GRETA's activities, paragraph 183.

intentional crime of violence, as well as the dependents of persons who have died as a result of such crime, even if the offender cannot be prosecuted or punished.

64. Compensation fulfils multiple purposes: payment of reparation for injury, loss or harm caused by the offender, access to justice, empowerment of victims, as well as being seen as a form of punishment and deterrence of traffickers. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of their failure to meet their human rights obligations.

65. Victims often leave the country where they were exploited at the end of the criminal proceedings. This creates obstacles to making civil claims for compensation, which in addition are associated with a number of other barriers, such as high costs, unavailability of free legal aid and victim-support services, as well as the claimant bearing the burden of proof of the amount of the damage. State parties should therefore consider adopting a procedure through which victims are entitled to obtain a decision on compensation by the offender as part of the criminal trial, within a reasonable time.

66. The legal framework for compensation of victims of THB in Montenegro has remained unchanged since GRETA's second evaluation. In principle, victims of THB can claim compensation from the perpetrators during criminal proceedings, by filing a property claim, in accordance with the provisions of the CPC, and/or in a civil court, pursuant to the Law on Civil Procedure.

67. The CPC (Articles 234 to 245) allows for the possibility of filing a claim under property law arising from the commission of a criminal offence. A property claim may pertain to material and non-material damages, repossession or cancellation of a particular legal transaction. A motion to pursue a property claim in a criminal proceeding may be submitted by a person authorised to exercise such a claim in civil proceedings, and filed with a state prosecutor or court before which the criminal proceedings are conducted. The motion may be filed no later than the conclusion of the main trial. The person authorised to file the motion is required to clearly indicate his/her claim and to provide evidence. GRETA was informed that the prosecutor had no role to play in respect of compensation for the victim (even though, if it is established that the perpetrator made a profit out of the victim, this would be included in the file submitted in court by the prosecutor, including an assessment of the amount of profit). In delivering a guilty verdict, the court may issue an order on the compensation claim in its entirety or partially, in the latter case instructing the claimant to transfer the remainder of the claim to civil proceedings. If establishing the facts related to the claim for compensation would lead to a significant delay of the proceedings, the court shall advise the injured party to pursue the entire claim through civil proceedings. Further, if the court acquits the defendant or discontinues the criminal proceedings, the injured party can pursue the claim through civil proceedings. The court may also instruct the injured party and the defendant to try and settle the dispute through a mediation process.

68. The Law on Obligations regulates matters of compensation for material and non-material damage. The court in civil proceedings is bound by the final verdict of the criminal court. In civil proceedings, the court is obliged to conduct the proceedings without delay and with as little expense as possible, and to prevent any abuse of the rights conferred on the parties by the proceedings. The costs of proof and other court costs during the proceedings are paid in advance by the party proposing them, although ultimately the costs of the proceedings are borne by the party who loses the dispute. A party who, by its general financial status, is unable to bear the costs of the proceedings, may be exempted by the court from the payment of court fees, or, additionally, from the payment of an advance on the costs of witnesses, expert witnesses, inquiries and presentation of other evidence. As noted in paragraph 48, victims of trafficking can receive free legal aid which automatically entails exemption from the costs of court proceedings. In the event of an award of damages, the enforcement of the court decision is carried out in accordance with the rules of the Law on Enforcement and Security.[39] However, the length of civil proceedings is apparently long (e.g. 2.5 years) and discourages victims from seeking compensation.

39 Official Gazette of Montenegro, no. 36/2011 and 28/2014.

69. GRETA was informed that no victims of THB had been awarded compensation from perpetrators. A survey conducted by the Supreme Court analysed 18 cases (17 cases under Article 144 of the CC and one under Article 145 of the CC, which criminalises trafficking of children for adoption). According to information provided by the Montenegrin authorities, the analysis of the verdicts shows that out of 39 victims, nine filed a property claim during the criminal court proceedings, but none were granted compensation and all were referred to civil proceedings. By way of example, in the judgement of the High Court in Podgorica K.br. 19/12, it was stated that "in accordance with Article 239 of the CPC, the injured party … has been referred to litigation to pursue a property claim in relation to the accused, since the facts determined in the criminal proceedings have not provided a reliable basis for either a full or partial verdict, and their determination would significantly delay the proceedings." One of the recommendations of the analysis is that, in order to better inform victims about their rights, the Supreme Court of Montenegro issues a flyer on the right to compensation for victims of trafficking in human beings.

70. Article 90 of the CPC provides for the provisional seizure of pecuniary gain and financial investigation for the purpose of extended seizure of property for criminal offences specified in the CC, upon the proposal of the prosecutor. The prosecutor shall initiate a financial investigation by way of an order against the suspects or accused persons, their legal successors or persons to whom the suspects or accused persons have transferred certain property. During the financial investigation, evidence shall be collected on the property and revenues of suspects or accused persons, their legal successors or persons to whom the accused persons have transferred property that was acquired in the period prescribed by the CC. Pursuant to Article 92 of the CPC, in the ruling on the provisional seizure of objects, pecuniary gain and property, the court shall specify the type and value of the objects, property and the amount of pecuniary gain, as well as the period for which they shall be seized. However, GRETA is not aware of any cases in which such requests have been made in practice. In the course of the second evaluation by GRETA, the Montenegrin authorities referred to the new Law on Seizure of the Proceeds of Crime,[40] which was expected to enable more efficient temporary and permanent seizure of assets. It regulates the conditions for confiscation of proceeds of crime, the procedure of confiscation and other issues relevant to the confiscation of such proceeds, as well as the management of confiscated proceeds. However, according to information provided by the Montenegrin authorities, there have been no trafficking cases in which the property of the defendant was seized or confiscated.

71. Victims of THB are among the categories of victims of crime entitled to receive compensation from the State pursuant to the Law on Compensation for Damages to Victims of Violent Crimes, which was adopted on 1 July 2015, but will only enter into force when Montenegro accedes to the EU. Article 2 of this Law defines "violent criminal offence" as a crime committed with intent, involving the use of physical force or other acts that impair mental integrity; a "criminal act against sexual freedom"; or a crime causing danger to a person's life or body or to property via a generally dangerous act or means resulting in death, serious bodily injury or severe impairment of the physical or mental health of one or more persons. The crime has to be reported to the police or the Prosecutor's Office. The compensation covers the costs of health care, loss of earnings and funeral expenses. If the criminal act caused incapacity for work, a lump sum not exceeding 10 average monthly net earnings would be paid. Citizens of Montenegro, citizens of State Parties to the European Convention on the Compensation of Victims of Violent Crimes, citizens of Council of Europe and EU member states with permanent residence in Montenegro, as well as EU nationals and persons lawfully residing in the EU, are eligible for compensation under the law.

40 Law on Seizure of the Proceeds of Crime, Official Gazette of the Republic of Montenegro no. 58/2015.

72. The procedure for compensation from the State has to be initiated by a written request to the Ministry of Justice not later than six months from the date of the offence. A commission will be set up by the Government to decide on compensation awards, within three months, and in complex cases, within six months from the date of receipt of the request for compensation. In determining the right to, and the amount of, state compensation, the following are to be assessed: the victim's behaviour before, during and after the commission of the crime; the contribution of the victim to the occurrence and extent of the damage; the existence of justifiable reasons why the victim did not report the crime to the police or the prosecutor's office; the co-operation of the victim with the police and the prosecutor's office; the financial standing of the victim or his/her dependents. Compensation can be awarded before the initiation of judicial or other proceedings if it is necessary for the timely elimination of harmful consequences for the physical and psychological health of the victim. Following the payment of compensation to the victim or his/her dependents all rights relating to the perpetrator of the offence are transferred to the State up to the amount of compensation paid.

73. The Montenegrin authorities have referred to various training sessions organised for prosecutors and the judiciary by the Centre for training of the judiciary and prosecutors, with a focus on victims' rights, but none specifically on the issue of compensation. In 2019, the Council of Europe's HELP course on combating trafficking in human beings, which includes a module on victim compensation, was translated into Montenegrin and taken by some 40 members of the judiciary.

74. The Montenegrin authorities have referred to the Horizontal Facility II project "The Improvement of Procedural Laws in the Judicial System of Montenegro", implemented by the Council of Europe, which aims, *inter alia*, at ensuring equal access to courts, with a focus on vulnerable and marginalised groups. Within the project, among other things, an analysis of the rights of victims in criminal proceedings will be developed, and the results will be used to make necessary legislative amendments.

75. GRETA is concerned that no victims of THB have received compensation in Montenegro, be it from the perpetrators or the State. Considering that the availability of state compensation is a requirement under Article 15, paragraph 4, of the Convention, GRETA is concerned that the Law on Compensation for Damages to Victims of Violent Crimes will only enter into force when Montenegro accedes to the EU.

76. **GRETA urges the Montenegrin authorities to make efforts to guarantee effective access to compensation for victims of THB, in particular by:**

- **ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;**
- **making full use of the legislation on the seizure and confiscation of criminal assets to secure compensation to victims of THB, and ensure that recoverable property which is seized in criminal proceedings is returned as soon as possible to the victim;**
- **introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation has not been considered;**
- **including the topic of compensation in training programmes for lawyers, prosecutors and judges and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB;**

- **ensuring that all victims of human trafficking, regardless of nationality and residence status, are eligible for state compensation, by bringing into force the Law on Compensation for Damages to Victims of Violent Crimes without further delay; in this context, the setting up of a victim compensation fund which uses confiscated assets of perpetrators of human trafficking to fund compensation should be treated as a priority.**

77. **Further, GRETA considers that the Montenegrin authorities should take further steps to enable effective access to compensation for victims of trafficking by making compensation awarded in criminal proceedings payable by the State in advance, and the State taking the responsibility to recover the amount from the offender.**

7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)

78. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) of the Convention establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to pressure and threats in attempts to deter them from complaining to the authorities. Pursuant to Article 27(2), if the competent authority with which the complaint has been lodged decides that it does not itself have jurisdiction in the matter, then it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. Further, under Article 27(3), each Party shall ensure to non-governmental organisations and other associations which aim at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence of trafficking in human beings.

79. Article 23 requires Parties to match their action to the seriousness of the offences and lay down criminal penalties which are "effective, proportionate and dissuasive". Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so-called "civil" confiscation) of the instrumentalities and proceeds of human trafficking criminal offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. It requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so. Identification, tracing, freezing and confiscating assets should be done at an early stage of the investigation.[41] The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

80. Further, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

41 See Resolution 20/1 of the UN Human Rights Committee on Trafficking in persons, especially women and children: access to effective remedies for trafficked persons and their right to an effective remedy for human rights violations, available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session20/Pages/ResDecStat.aspx

81. In Montenegro, the penalty envisaged for the basic offence of trafficking in human beings in Article 444 of the CC is one to 10 years' imprisonment. The aggravating circumstances provided for in Article 444, paragraphs 3 to 8, of the CC concern children (punishable by imprisonment for a minimum term of three years); the offence being committed by a public official in the performance of his/her duties (punishable by a minimum term of three years); causing serious bodily injury (punishable by imprisonment from one to 12 years); deliberately or by gross negligence endangering the victim's life (imprisonment for a minimum of three years); causing death (imprisonment for a minimum term of 10 years); and committing the offence by more than one person (imprisonment for a minimum term of five years). Where a minimum term of imprisonment is set by the previously-mentioned provisions, the maximum sentence envisaged is 20 years' imprisonment. Further, Article 444, paragraph 7, of the CC provides that "anyone who uses the services of a person known to be the victim of the offence referred to in paragraph 1 of this Article shall be punished with imprisonment of from six months to five years". In the case of children, the offender is liable to imprisonment of from three to 15 years.

82. Pursuant to the CPC, a plea agreement can be concluded for all offences prosecuted *ex officio* except for the crimes of terrorism and war crimes. Article 301, paragraph 2, of the CPC provides, *inter alia*, for the defendant's obligation to repay within a specified period the gains acquired by the commission of the crime, which enables the victim/injured party to file a property claim in the proceedings for the conclusion of a plea agreement. According to prosecutors met by GRETA during the visit, plea bargaining is not appropriate in THB cases and has never been applied to such cases.

83. The Law on Criminal Liability of Legal Entities stipulates that a legal entity shall be liable for a criminal offence committed by a person acting on behalf of the legal entity within the power of his/her authority with the intent of acquiring some benefit for that legal entity. The legal entity is liable even if that person's action was contrary to the legal entity's business policy or orders. Further, the legal entity is liable for a criminal offence even if the responsible person who committed the offence has not been convicted of it. As possible sanctions, legal entities can be fined and/or closed down. Security measures can also be imposed (e.g. confiscation of tools used to commit the offence; closing down of premises; ban to conduct economic activity).

84. According to information provided by the Montenegrin authorities, from 1 January 2016 to 1 September 2019, there were four investigations for THB (one in 2016, two in 2018 and one in 2019); the number of indictments was two (one in 2017 and another one in 2019); and the number of convictions, one (in 2019). None of the cases involved public officials. Further, there were no prosecutions involving legal persons. In relation to the difference in the number of criminal charges and the number of indictments, the authorities indicated that in some cases the evidence found was not sufficient to file charges for THB, which is why prosecutors brought indictments for other offences with lower evidential requirement and carrying lighter penalties than THB. The authorities have indicated that the police have recorded several cases of sexual exploitation, which were qualified as "mediation in prostitution" (Article 210 of the CC), punishable by imprisonment from three months to two years. In the period from 1 January 2015 to 15 January 2021, 13 cases were prosecuted under Article 210 of the CC, resulting in 12 verdicts, 15 persons being convicted and one acquittal.

85. At the time of GRETA's visit in March 2020, only one final judgment for THB had been issued since 2014, by the High Court in Podgorica in April 2019. The case is summarised below.

"Ž.R" case (case K.br. 87/17)

- **Trial court:** High Court in Podgorica
- **File number:** K.br. 87/17
- **Time and duration of the main trial:** 6 November 2017 to 28 March 2019 (1 year, 4 months and 20 days)
- **Victims:** Child (girl, aged 12)
- **Defendants:** two defendants (one female, one male), stepfather and mother of the victim
- **Charges:**

  against the stepfather
  - Article 444, paragraph 3, in conjunction with paragraph 2 and paragraph 1 of the CC (trafficking in human beings)
  - Article 204, paragraph 4, in conjunction with paragraph 1 of the CC (two criminal offences of rape)
  - Article 204, paragraph 4, in conjunction with paragraph 1 and article 20 of the CC (attempted rape)

  against mother
  - Article 444, paragraph 3, in conjunction with paragraph 2 and paragraph 1 of the CC (trafficking in human beings)
  - Article 204, paragraph 4, in conjunction with paragraph 1 and article 25 of the CC (two criminal offences of aiding the stepfather in the commission of rape)
  - Article 204, paragraph 4, in conjunction with paragraph 1 and articles 20 and 25 of the CC (aiding in the attempted rape)
- **Type of exploitation:** Trafficking in human beings for the purpose of sexual exploitation, rape
  - The victim was a girl aged 12, who lived in very poor conditions with her mother and stepfather, who were drug addicts and engaged in prostitution, as well as three younger siblings. Despite the fact that the family received social care allowance, it was obvious that since 2013, the mother had no capacity to take care of her four children.[42] According to the court's findings two teachers from two different elementary schools knew about the victim's life circumstances, but failed to take appropriate action. Although the Centre for Social Work had been informed about the situation, it failed to act in a proactive way in order to try to prevent the exploitation of the child.
  - The mother and stepfather tried to convince the victim to spend two days with an adult man, for the sum of €500, as well as to replace her mother as a prostitute, but the victim refused to comply. The mother provided an opportunity for the stepfather to rape the victim.
  - According to information obtained from children with whom the victim had spoken in school, the school psychologist sent a report to the victim's father which stated that her stepfather had raped her or slept with her. The victim's father, with whom the victim maintained a close relationship, supported her to report the criminal offences.
- **Sentences:** The victim's stepfather was convicted to 17 years' imprisonment, and the mother to 15 years' imprisonment. The judgment became final on 11 December 2019.
- The sentence also included the following measures:
  - Compulsory drug dependence treatment for the stepfather as long as there is a need for treatment, but not longer than three years, according to Article 71 of the CC;
  - Confiscation of the two mobile phones from the stepfather as objects used for the commission of trafficking in human beings, According to article 75 of the CC.
- **Legal assistance:** The victim had a lawyer who participated in the proceedings.
- **Compensation**: the victim's father, who acted as her legal representative, was referred to claim damage through civil proceedings.

[42] It was possible to identify the victim's identity through the case file number, due to the fact that on the court's schedule of the trial the defendant's name was not anonymised.

- **Good practices:**
  - The victim, as well as child witnesses, were prepared to give testimonies by the Professional Service of the Supreme State Prosecutors' Office, which provides support to witnesses;
  - The public was excluded from the trial; all names in the judgment were anonymised.
  - The court was sensitised to the issue of human trafficking and followed a victim-sensitive approach. The victim gave testimony in a separate room in the presence of a representative of the Professional Service of the Supreme State Prosecutors' Office as well as a representative of the Centre for Social Work, while other participants in the trial were in another room. The defendants' lawyers had the right to put questions to the prosecutor who then passed questions to a social worker who finally asked the victim.
  - Regular support was provided by a psychologist to the victim after the criminal offence had been reported.
  - The victim was also supported by school staff and received regular visits by a representative of the Centre for Social Work.
  - The prosecution obtained evidence using special investigation techniques (tapping the phones of the suspects).

86. As noted in paragraph 17, with a view to strengthening the investigation and prosecution of THB, the Supreme State Prosecutor and the Director of the Police Directorate formed an Operational Team for Combating Trafficking in Human Beings at the end of 2018. By the time of GRETA's visit, a total of 12 cases of THB had been opened as a result of the work of the Operational Team, which were at different stages of proceedings. The Higher State Prosecutor's Office has issued an instruction to the Basic State Prosecutor's Offices, according to which if they find elements of offences which could be related to trafficking in human beings (e.g. forced begging, mediation in prostitution, smuggling of migrants), they should submit them to the Higher State Prosecutor's Office, which reviews the cases to see if charges should be brought for THB or another offence. Judges have also been asked to give priority to trafficking cases, scheduling a hearing as soon as possible.

87. Following GRETA's visit, there has been one more conviction for THB, in the case K. br. 4/19, dated 17 July 2020, in which the High Court in Podgorica sentenced the defendant to 10 years' imprisonment (the judgment is not yet final). The investigation was initiated in October 2018, the indictment was issued on 24 January 2019 and was confirmed on 11 February 2019. According to a public statement issued by the High State Prosecutor's Office in Podgorica,[43] the defendant forced his four children (three boys and a girl) to beg and exploited their work, while threatening to kill them and committing physical violence against them and their mother whenever they refused to comply, in the period from 1 January 2010 to 15 October 2018. The family lived in a poor neighbourhood of Podgorica, inhabited mainly by Roma. According to available data, in March 2006 the defendant had been accused of attempting to traffic his new-born daughter, but charges were pressed instead for the offence of "change of family status" (Article 218 of the CC), because the defendant and the baby's mother claimed that they had given her to another couple to take care of her, without payment, since they did not have money to provide an appropriate care, and the defendant was sentenced to 10 months' imprisonment.

88. Three more cases of THB were at the trial stage at the time of GRETA's third visit to Montenegro. In the case K. br. 82/20 (indictment Kt.br.142/19 of 15.06.2020), the defendant was sentenced to two years' imprisonment on 28 December 2020. In the case K. br. 86/20 (indictment Kt. No. 62/20 of 18.06.2020), the start of the trial was scheduled for 23 October 2020, but was repeatedly postponed due to the absence of the defendant and the injured party, and a new hearing was scheduled for 9 April 2021. In the case K. br. 190/19 (indictment Kt. No. 232/19 of 23 December 2019), after repeated postponement of hearings in 2020, the two defendants were acquitted on 30 December 2020.

43 https://tuzilastvo.me/vdtp/sadrzaj/kn3

89. As noted in paragraph 11, two Pakistani men have been identified as victims of THB for the purpose of domestic servitude. They had reportedly paid €10 000 in order to travel to Montenegro, following which they had been confined and obliged to work. The case started being investigated in October 2019 by the specialised police unit, with the assistance of NGOs, and charges were brought against two defendants of Pakistani origin for THB for labour exploitation. There was a pending asylum procedure concerning the two victims, who had been accommodated in the asylum seekers' centre.

90. Further, there was also an ongoing case of THB for an unlawful (arranged) marriage and forced begging, in which the victims (a girl and a boy) had been trafficked to Kosovo*. At the end of May 2020, the children were transferred to the Centre for Social Work in Podgorica and were accommodated in a specialised shelter. Work was underway to return the children to their mother.

91. Reference has been made in paragraph 11 to a large-scale case of human trafficking (referred to as the "call centre case"), which was detected in late 2019. The victims had been recruited in Taiwan and arrived in Montenegro on 90-day tourist visas. They were accommodated at three different locations in Podgorica, their travel documents were confiscated, and they were trained to use different web-based applications in order to call Chinese citizens, pretending to be police officers, prosecutors or judges, request their bank data and withdraw money. Following a police action on 8 January 2020, eight suspects, members of an organised criminal group, were arrested; 84 persons (including 12 women) were presumed to be victims of THB, of whom 37 were formally identified as victims and the other 47 were treated as potential victims and were returned to Taiwan. Following a stay in a shelter, the identified victims also returned to Taiwan. On 8 January 2020, criminal charges were filed by the Special State Prosecutor's Office against eight persons for the offences of creating a criminal organisation (Article 401 of the CC) and trafficking in human beings (Article 444 of the CC). A financial investigation was carried out and assets found in Montenegro were seized. The prosecution was handed over to the competent prosecutor's office in Taiwan, given that both the accused and the injured parties are citizens of Taiwan. All victims returned to Taiwan after giving testimony in the Prosecutor's Office.

92. As noted in paragraph 13, Article 444 of the CC includes "concluding an unlawful marriage" among the forms of exploitation linked to THB. Other related offences are contained in Article 216 of the CC (forcing a child to cohabit in a customary marriage with an adult) and Article 214, paragraph 1, of the CC (forcing or threatening a person to conclude a marriage).[44] According to NGOs, the prosecution rarely treats cases of arranged child marriages, which are reported to occur in Roma communities, as human trafficking, which may be linked to the term "concluding an unlawful marriage" as it is not interpreted as covering arranged marriages. According to the previously mentioned report "Monitoring and evaluation of policies for combating human trafficking in Montenegro in 2018-2019", in 2019 alone, six cases of child marriages were reported on the territory of Nikšić municipality, but were not prosecuted because the presumed victim and the perpetrator did not admit during the investigation that a cash transaction had occurred and had been promised. The cases were not further investigated and the proceedings were discontinued. At the time of GRETA's visit, there was one ongoing case for THB for the purpose of an unlawful (arranged) marriage. The Montenegrin authorities have indicated that Article 444 of the CC can be applied to arranged child marriages. In this regard, the Operational Team for Combating Trafficking in Human Beings has recorded six cases related to THB for the purpose of unlawful marriage. The Higher State Prosecutor's Office in Podgorica filed three indictments in 2020, in relation to which the trial is ongoing before the High Court in Podgorica, and one indictment at the beginning of February 2021, which is in the process of being confirmed. In addition, at the beginning of 2021, one case was under investigation, and another case from 2020 was transferred to the jurisdiction of the lower Prosecutor's Office for the crime of extramarital union with a minor under Article 216, paragraph 2, in conjunction with paragraph 1 of the CC.

44 GREVIO Baseline evaluation report on Montenegro, 25 October 2018, p. 46.

93. According to the previously mentioned report "Monitoring and evaluation of policies for combating human trafficking in Montenegro in 2018-2019", there were no cases in which the investigation was terminated or was not initiated because the victim did not co-operate. All identified victims reportedly co-operated with the authorities. However, the report refers to stereotypical attitudes, such as that arranged child marriages and begging are "cultural" and "customary" among the Roma and Egyptian communities.

94. Given the limited number of prosecutions of THB, it is not possible to draw conclusions about the average duration of criminal proceedings. In the case K.br. 87/17, the investigation lasted three months (from 17 March to 7 June 2017), the judgment was delivered on 16 March 2019 and became final on 1 December 2019, i.e. the whole procedure took a total of 33 months.

95. GRETA welcomes the setting up of the Operational Team for Combating Trafficking in Human Beings, which has resulted in an increase in the number of prosecutions and convictions for THB. GRETA also notes that in the two cases referred to in paragraphs 85 and 87, effective sentences were handed down and the penalties could be considered commensurate with the gravity of the offence. Further, GRETA commends the fact that plea bargaining is not used in THB cases. However, GRETA stresses that the requalification of THB offences into other offences carrying lighter penalties, as well as failure to convict traffickers engenders a feeling of impunity and undermines efforts to support victims to testify. The knowledge and sensitivity of judges, prosecutors and investigators about the seriousness of THB, the severe impact of exploitation on the victims, and the need to respect their human rights, should be improved. The concept of "abuse of a position of vulnerability", which is part of the international definition of THB, should be properly understood and applied in practice, and investigators, prosecutors and judges should be trained to recognise subtle forms of coercion which characterise THB offences.

96. **GRETA urges the Montenegrin authorities to take measures to strengthen the criminal justice response to THB, including by:**

- **ensuring that human trafficking offences are proactively and promptly investigated, regardless of whether a complaint about the reported crime has been submitted or not, making use of all possible evidence, such as evidence gathered through special investigation techniques, financial evidence, documents and digital evidence, so that there is less reliance on testimony by victims or witnesses;**
- **requiring consideration of allocation of specialist financial investigators to every THB case;**
- **strengthening efforts to investigate, prosecute and secure convictions in cases of trafficking for the purpose of labour exploitation, with the involvement of labour inspectors and tax inspectors.**

97. **Further, GRETA considers that the Montenegrin authorities should take further steps with a view to:**

- **improving the prosecution of cases of trafficking for the purpose of child, early and forced marriage;**
- **sensitising prosecutors and judges to the rights of victims of THB, and encouraging the development of specialisation amongst prosecutors and judges to deal with THB cases (see also paragraph 120).**

8. Non-punishment provision (Article 26)

98. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state's obligation to investigate and prosecute those responsible for THB.[45] Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

99. While there is still no specific provision in Montenegrin law stipulating that victims of THB are not to be punished for their involvement in unlawful activities, to the extent that they have been compelled to do so, the authorities adopted in 2017 Guidelines on the application of the non-punishment principle to victims of THB.[46] The guidelines were developed with the support of OSCE and are intended for police officers, prosecutors and judges. They stress the importance of early identification, paying attention to persons engaged in prostitution and begging (which are offences under the Law on Public Order and Peace), and having recourse to relevant experts (psychologists, social workers, psychiatrist and others).

100. According to the report "Monitoring and evaluation of policies for combating human trafficking in Montenegro in 2018-2019", no victims of THB were prosecuted. However, GRETA is concerned that children, in particular those involved in begging, might be punished for offences committed while they are being trafficked.

101. The Ministry of Internal Affairs, with financial support of OSCE, organised training on the non-punishment guidelines for police officers, prosecutors and judges on 26-27 September 2019 in Podgorica. It was attended by three police officers, five prosecutors (two from the Higher State Prosecution in Podgorica and three from the Higher State Prosecution in Bijelo Polje), and three representatives of the judiciary (two advisors from the Basic Court and one from the Higher Court in Podgorica).

102. **GRETA welcomes the adoption of guidelines on the non-punishment of victims of THB, and considers that the Montenegrin authorities should take measures to ensure effective compliance with these guidelines, paying particular attention to children who are possible victims of THB, including through providing training on their basis to police officers, prosecutors, judges, lawyers and other relevant professionals.**

9. Protection of victims and witnesses (Articles 28 and 30)

103. Under Article 28 of the Convention, Parties must take the necessary measures to provide effective and appropriate protection from potential retaliation or intimidation to victims and witnesses of human trafficking, as well as to members of civil society organisations supporting victims during criminal proceedings and, where appropriate, to victims' family members. Intimidation of victims and witnesses is nearly always aimed at suppressing evidence against defendants. Effective protection can be of various types (physical protection, relocation, identity change…) and depends on the assessment of the risks that victims and witnesses run. In addition, Article 28(3) provides that a child victim shall be afforded special protection measures, taking into account the best interests of the child. Regarding the period during which the protection measures are to be provided, the Convention aims in a non-exhaustive manner at the period of investigation and of the proceedings or the period following them. The period in which protection measures have to be provided depends on the threats to the persons concerned. Moreover, because trafficking in human beings is often international and some countries are small, Article 28(5) encourages Parties to enter into agreements or arrangements with other countries so as to implement Article 28.

45 See 2nd General Report on GRETA's activities, paragraph 58.

46 Available at: https://www.osce.org/files/Guidelines%20on%20General%20principles%20regarding%20non-punishment%20provision%20for%20victims%20of%20trafficking%20in%20human%20beings%20%28THB%29.pdf

104. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 address extra-judicial protection, the measures referred to in Article 30 are concerned with the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Rights and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audio-visual technology, recordings of testimony, and anonymous testimony.

105. As explained in GRETA's first report on Montenegro, two instruments address the issue of protection of the victims of human trafficking: the CPC and the Law on Witness Protection.

106. The status of a protected witness is obtained in accordance with the provisions of the CPC. Pursuant to Article 120, if there is a justified fear that by giving a testimony or by replying to certain questions, the witness may seriously endanger his/her life, health, physical integrity, liberty or property, or those of his/her spouse or a close relative, the witness may refuse to present the information referred to in Article 113, paragraph 3 (relating to personal data), to answer individual questions or to give a statement as a whole, until his/her protection is ensured. Protection involves hearing the witnesses under a pseudonym and with the help of technical devices (protective wall, voice simulators, devices for transmission of image and sound).[47] Pursuant to Article 122 of the CPC, decisions concerning the application of protection measures during the investigation are made by the investigating judge, at the proposal of the witness, accused person, defence lawyer or public prosecutor, and at the main trial, by the trial panel. The proposal must be justified. Prior to rendering the decision, the investigating judge will evaluate whether the testimony of the witness is of such importance as to determine the status of the protected witness. Details of the protected witness are sealed in a separate envelope and stored with the investigating judge. The envelope may only be opened by the trial panel and the court of second instance in the appeal proceedings, but with a note that it has been opened by the members of the panel who are aware of its contents. After that, the envelope will be sealed again and returned to the investigating judge.

107. Witness protection can also be provided outside criminal proceedings, in accordance with the Law on Witness Protection, which also provides for the protection of the witness' relatives. The witness protection programme applies on the condition that without the testimony of the witness it would be impossible or substantially more difficult to prove one of the following crimes: 1) crime against the constitutional order and security of Montenegro; 2) crime against humanity and other core human rights protected by international law; 3) organised crime; 4) crime for which a term of imprisonment of five years or more may be imposed by law. The decision on the application, suspension, termination or extension of the witness protection programme is taken by a special commission for the implementation of the witness protection programme. There is a specialised Witness Protection Unit of the Police Directorate (within the Sector for Combating Organised Crime), which implements emergency measures, implements the protection programme and performs other tasks in accordance with this Law.

108. The Montenegrin authorities have also referred to the Professional Service at the Supreme State Prosecutor's Office which provides support to witnesses and pays particular attention to victims of trafficking in human beings, especially children.

47 Article 121 of the CPC.

109. The Montenegrin authorities have indicated that in the reporting period, there have been no cases of witness protection measures taken in respect of victims of THB. According to the report "Monitoring and evaluation of policies for combating human trafficking in Montenegro in 2018-2019", one child witness was questioned in a special room at the Supreme State Prosecutor's Office, with the defendant and his lawyer being able to observe and hear the interview from another room, and the victim's testimony was recorded for future use in court. The report notes that NGOs have reported on attempts at intimidation by defendants to which victims were exposed during court proceedings. In one case, an NGO involved in detecting cases of unlawful/arranged child marriages reported a physical assault on a close relative of a NGO member, which was reported to the police.

110. Criminal legislation of Montenegro pays special attention to the treatment of children who participate as witnesses during criminal proceedings. For details concerning the protection of children in court proceedings, see paragraphs 132-138.

111. **GRETA considers that the Montenegrin authorities should make full use of all available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation, as well as during and after court proceedings.**

10. Specialised authorities and co-ordinating bodies (Article 29)

112. Under Article 29(1) of the Convention, Parties have to adopt the necessary measures to promote specialisation of persons or entities in anti-human-trafficking action and victim protection. Each country must have anti-trafficking specialists in sufficient numbers and endowed with appropriate resources. The staff of specialised authorities and coordinating bodies should, as far as possible, be composed of both women and men. To combat trafficking effectively and protect its victims, it is essential that proper training is provided to relevant officials.

113. In March 2018, a division was established in the Criminal Police Sector to specifically deal with investigations in the area of combating trafficking in human beings and migrant smuggling. It has eight staff posts, seven of which were filled at the time of GRETA's visit in March 2020. This specialised unit conducts reconnaissance measures and activities in co-operation with the Head of the Operational Team for Combating Trafficking in Human Beings. When it comes to the technical equipment used for gathering evidence, this specialised division shall, in accordance with its competencies, engage other units of the Criminal Police Sector, which carry out activities in the part of the application of the secret surveillance measures. IOM has provided support for reinforcing the technical and other resources necessary for the functioning of the specialised division. Further, IOM has trained criminal police officers throughout the country and there is a reference officer for THB at each regional criminal police department.

114. Furthermore, since 2015, prosecutors specialised in cases of THB have been designated at the High State Prosecutor's Offices in Podgorica and Bijelo Polje,[48] which are competent for prosecuting THB cases.

115. As noted in paragraph 17, an Operational Team for Combating Trafficking in Human Beings was set up in December 2018, comprising eight officials designated by the Ministry of Internal Affairs, the Police Directorate, the Border Police, the High State Prosecutor's Office and the Ministry of Justice. The team is headed by a senior prosecutor from the High State Prosecutor's Office, who is specialised in dealing with organised and serious crimes, including THB.

[48] In Montenegro, there are 14 Basic State Prosecutor's Offices linked to Basic Courts (in Bar, Berane, Bijelo Polje, Kolasin, Kotor, Nikšić, Plav, Pljevlja, Zabljak, Podgorica, Rozaje, Ulcinj, Herceg Novi and Cetinje), two High State Prosecutor's offices linked to the respective High Courts (in Podgorica and Bijelo Polje), the Special State Prosecutor's Office, which has a mandate to deal with organised crime, money-laundering, high-level corruption and war crimes (in Podgorica), and the Supreme State Prosecutor's Office (in Podgorica).

116. There are no specialised judges to which THB cases are assigned automatically. Judges are obliged to follow two days of training per year, on a topic of their choice.

117. The Police Academy organises twice a year a one-day seminar dedicated to THB. In 2019, the seminar was organised together with the Italian judiciary.

118. The Centre for training of the judiciary and the state prosecution, which was set up as a separate entity in 2018, provides training on THB, including with the support of international donors. It operates an initial training programme for candidate judges and prosecutors, which covers the topic of human trafficking through a two-day module. The centre was in the process of developing a new training programme on THB, with the support of the US Embassy and the EU, which would involve the training of Montenegrin judges and prosecutors who would later act as lecturers, so that the organisation of the training would not depend on international assistance.

119. A number of other training activities on THB have taken place in the reporting period. For example, on 25-29 September 2017, UNODC and the Office for the Fight against THB, with financial support from the US Embassy, organised a training intitled "Advance training on identification, inquiries and providing evidence of criminal offense of human trafficking and adherence to the rights of victims in criminal proceedings". Another training on strengthening the capacity to investigate and prosecute THB cases was organised by the Office for the Fight against THB, with the support of OSCE in October 2018 (four two-day training sessions, in Berane, Bijelo Polje, Budva and Podgorica, each attended by three to five representatives of the judiciary, five prosecutors and five police officers). Further, on 17-18 September 2019, the Ministry for Human and Minority Rights held a training in Tivat on combating arranged marriages, attended by four prosecutors. In addition, prosecutors and judges have attended training on THB abroad (e.g. on 29 October – 2 November 2018 in Bucharest; on 30 October – 2 November 2018 in Sofia; on 18-22 February 2019 in Budapest). A round table was also organised by the Supreme Court of Montenegro and AIRE Centre on combating THB, on the case-law of the European Court of Human Rights, and relevant Montenegrin legislation and case-law, on 5-6 December 2019 in Budva. The Council of Europe HELP online course on combating THB was translated and adapted for use by legal professionals in Montenegro.

120. **GRETA welcomes the existence of police investigators and prosecutors specialised in trafficking in human beings, and considers that the Montenegrin authorities should promote specialisation and training of judges to deal with THB cases. Further training on THB should be integrated into the regular training curricula of relevant professional groups, including law enforcement officials, prosecutors, judges, forensic experts, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff.**

121. **Further, GRETA considers that the positive results obtained by the Operation Team should be reinforced by ensuring that the work of the team is adequately and sustainably funded, and formalised.**

11. International co-operation (Article 32)

122. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between State Parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the provisions of the Convention neither cancel nor replace the provisions of relevant international or regional instruments[49] on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

123. In Montenegro, the Department for International Police Co-operation is responsible for transmitting requests and ensuring communication related to police investigations, through INTERPOL, EUROPOL, SELEC and other channels. Montenegro has not participated in any parallel or joint investigations in THB cases, and has not been requested to open investigations or carry out financial investigations in such cases. In one case, a request for mutual legal assistance was sent to Germany.

124. In May 2016, Montenegro signed a co-operation agreement with Eurojust and has appointed a liaison prosecutor.

125. In the area of bilateral co-operation, Montenegro has concluded a Co-operation Agreement on Combating Trafficking in Human Beings with North Macedonia, which regulates the issues of co-operation related to the identification, referral, protection and assistance in the voluntary return of victims and potential victims of trafficking. Protocols on co-operation in the field of combating trafficking in human beings have also been signed with Albania and Kosovo*. In order to implement these bilateral agreements more effectively, a Declaration on the Implementation of Standard Operating Procedures for the Identification, Referral, Voluntary Return and Protection of Trafficking Victims was signed in Tirana in December 2016. Operational procedures are applied in cross-border cases of trafficking in human beings, based on bilateral protocols.

126. Montenegro participates in the network of National Anti-Trafficking Co-ordinators from South Eastern Europe, and has taken part in a number of regional projects related to THB, in co-operation with international organisations.

127. **GRETA welcomes the Montenegrin authorities' participation in international co-operation, and invites them to continue their efforts in this respect. The positive use and benefits of utilising Eurojust should be included in the training of police officers, prosecutors and judges.**

[49] For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

12. Cross-cutting issues

a. gender-sensitive criminal, civil, labour and administrative proceedings

128. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.[50]

129. Women encounter obstacles with respect to access to justice within and outside the legal system. Some of these obstacles are of a legal or institutional nature, while others have socio-economic and cultural grounds. The legal and institutional barriers include discriminatory or insensitive legal frameworks including legal provisions that are explicitly discriminatory; gender blind provisions that do not take into account women's social position; and gaps in legislation concerning issues that disproportionately affect women. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or child care.[51] Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".[52]

130. Pursuant to Article 58, paragraph 4, of the Montenegrin CPC, the injured party who is a victim of a criminal offence against sexual freedom has the right to be heard and to have the procedure conducted by a judge of the same sex, if so allowed by the staff composition of the court (Article 58, paragraph 4 of the CPC). The Montenegrin authorities have also indicated that the victim has the right to be heard by a prosecutor of the same sex.

131. According to the authorities, the National Plan for Formal Identification stipulates that in cases where a presumed victim is a foreign citizen, an interpreter is provided if necessary, who will sign a confidentiality agreement before the beginning of the conversation with the victim. The gender dimension is taken into account when choosing a translator from the list of interpreters. In accordance with Article 18 of the Law on International and Temporary Protection of Foreigners, a foreigner seeking international protection is provided with an interpreter of the same sex, if possible, where this is necessary in order to give full reasons for the application for international protection, or for other justifiable reasons, *ex officio* or at his/her request. Also, according to Article 42 of this Law, during the hearing, if a foreigner seeking international protection so requests, the Ministry of the Interior shall, if possible and justifiable, ensure that the procedure for the application for international protection is conducted by an authorised person of the same sex as the applicant.

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50 CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en

51 Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13 available at https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5

52 Available at: https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e

b. child-sensitive procedures for obtaining access to justice and remedies

132. As part of the juvenile justice reform which started some 10 years ago, the Law on the Treatment of Juveniles in the Criminal Procedure[53] was adopted, regulating the status and protection of children, including victims of trafficking in human beings, in criminal proceedings. Special provisions apply to child victims of crimes and child witnesses in criminal proceedings. All participants in the proceedings, as well as the media, are required to protect the privacy of the child, including through the protection of identifying information. The law also introduces a requirement of specialisation of all actors in criminal proceedings involving children (the president of the panel, the public prosecutor, the investigating judge, the police officer and the lawyer of the injured party).

133. Further, the CPC provides certain safeguards for children, such as no direct contact between child victims/witnesses and defendants in court rooms, and children's statements being recorded for later use in court, to avoid repetitive hearings of children. Article 113, paragraph 5, of the CPC prescribes that a child who is heard as a witness has the right to testify in a separate room before a judge, while the prosecutor, the defendant and the defence counsel are observing from another room, with the possibility to ask the witness questions. During the hearing of a child, especially if he/she is the victim of a crime, special care must be taken to ensure that the hearing does not have an adverse effect upon his/her mental state. If necessary, the hearing of a child will be carried out with the assistance of a psychologist or other professional. Article 113, paragraph 4, of the CPC prohibits the testimony of a child who, given his/her age and mental development, is incapable of understanding the importance of the right not to have to testify.[54]

134. Interviews with children are conducted by specialised police officers. The Police Directorate does not have specially adapted and furnished premises intended for interviewing children, but such a measure is included in the new Strategy for Combating Trafficking in Human Beings. In the Prosecutor's Offices, interviews with children are conducted by trained juvenile prosecutors in specially designed premises. However, there is apparently a shortage or absence of such premises in all Prosecutor's Offices and courts. According to information provided by the authorities, there is audio-visual equipment for hearing children in three basic state prosecutor's offices (Podgorica, Nikšić and Bijelo Polje). In 2019, 35 children were interviewed using audio-visual equipment.

135. As part of the project "Equal Access to Justice for Children in the Western Balkans", implemented by UNICEF with funding from Norway, training on child-friendly justice for judges and prosecutors has been conducted and will continue. A set of indicators have been developed for the new judicial statistical system, covering all cases in which children are involved. Furthermore, six child-friendly interviewing premises will be provided at courts and prosecutor's offices.

136. The Ministry of Justice, with the support of UNICEF, has developed materials to inform children and their parents/guardians of children's rights and the available support services within the justice system. The materials have been published and are available on the Ministry of Justice's website, in Montenegrin, Albanian and Roma languages.

137. The Montenegrin authorities have referred to various activities related to improving the protection of child victims, such as a study visit to the Children's Home (Barnahus Service) in Tallinn, Estonia, in May 2019. Also, in 2019, the Supreme Court of Montenegro visited eight courts and state prosecutor's offices in Montenegro, with the aim of identifying courts where special rooms for hearing children can be set up (see paragraph 135).

53 Law on the Treatment of Juveniles in the Criminal Procedure, Official Gazette of the Republic of Montenegro, No. 064/11 from 29.12.2011 and 001/18 from 04.01.2018.

54 Article 113, paragraph 4, of the CPC.

138. **GRETA welcomes the implementation of the above-mentioned projects and initiatives, and considers that the Montenegrin authorities should take steps to ensure child-sensitive procedures when investigating, prosecuting and adjudicating cases of THB, in line with the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice,[55] including measures to ensure that there is a sufficient number of child-friendly interview rooms across the country.**

c. role of businesses

139. Within the framework of the joint project Co-operation between the Public and Private Sector in Prevention of Trafficking and Sexual Exploitation of Children in Travel and Tourism, over 200 representatives of the tourism industry have signed and are implementing the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. The Code aims to increase and ensure the commitment of Montenegrin tourism companies to join efforts to combat child trafficking. The Office for the Fight against Trafficking in Human Beings, in co-operation with the Ministry of Sustainable Development and Tourism, conducted five training sessions for some 50 representatives of the tourism industry in 2018-2019. The training reportedly focused on THB for sexual exploitation taking place in hotels. There have been initiatives such as putting the phone number of the hotline for reporting THB on the hotel room phones. So far, no cases have been reported.

140. The Protocol on Mutual Co-operation signed between the Office for Combating Trafficking in Human Beings and the Union of Employers of Montenegro (which has more than 1500 members) provides for joint activities on timely information on the phenomenon of trafficking in human beings by both employers and employees, or persons with whom the employment contract is concluded. The Protocol provides victims of THB with the opportunity to attend training to perform appropriate jobs and to prioritise employment in accordance with the needs of employers.

141. The Union of Employers of Montenegro defines subcontracting as a major issue leading to unfair working conditions. GRETA was informed about a case in the construction sector in which Albanian citizens worked for a subcontractor and were paid very poorly. Furthermore, GRETA was informed that subcontracting was not allowed in implementing projects of public procurement, except in the construction sector. Companies are supposed to sign a statement committing themselves to working in accordance to the law and not allowing exploitation to take place.

142. **GRETA considers that the Montenegrin authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights[56] and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business,[57] with a view to raising awareness of the important role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and to provide access to effective remedies.**

143. **Further, GRETA considers that the Montenegrin authorities should adopt legislation integrating the prevention of THB and labour exploitation in public procurement policies and promoting transparency in supply chains, to enable scrutiny of companies' performance to prevent THB and labour exploitation.**

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55 Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies).

56 http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

57 Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

d. measures to prevent and detect corruption

144. Trafficking in human beings can occur in various contexts. Human traffickers may form part of organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits.

145. According to the Montenegrin authorities, no corruption cases have been identified in the reporting period in connection with the commission of the offence of THB.

146. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context. GRETA refers to GRECO's fourth report on Montenegro (2015), which focuses on corruption prevention in respect of members of parliament, judges and prosecutors.[58] In this report, GRECO noted that Montenegro had taken constructive steps upgrading its legislation, such as the adoption of the Law on the Prevention of Conflicts of Interest, as well as the setting up of the Agency for the Prevention of Corruption and the Special Prosecution Office for Organised Crime and Corruption. However, GRECO noted that despite the positive legislative changes, corruption continued to be an important concern in Montenegro, resulting in disquieting figures as to citizens' trust in some of their key institutions, notably the political class and the judiciary.

147. **GRETA considers the Montenegrin authorities should include measures against corruption in a THB context in the general policies against corruption, and effectively implement them.**

V. Follow-up topics specific to Montenegro

1. Measures to prevent and combat trafficking for the purpose of labour exploitation

148. GRETA was informed that the number of unemployed persons was 35 498 (15.3% of the work force) and that 26 000 work permits were issued to foreign nationals in 2019. The Employment Agency provides information on its website on employment conditions abroad, as well as where to seek assistance in case of problems. Workshops are organised with unemployed persons in order to help them acquire skills. The Law on Mediation in Employment, adopted in April 2019, recognises particularly vulnerable persons at risk of social exclusion for health, social or other reasons, who are to be assisted by the Employment Agency (including foreign nationals with humanitarian permits, such as victims of THB).

149. The Labour Inspectorate operates within the Sector for the Protection of the Labour Market and Economy, Gambling and Public Procurement, of the Directorate for Inspection Affairs. A representative of the Labour Inspectorate is a member of the co-ordinating body for monitoring the implementation of the Strategy for Combating Trafficking in Human Beings. GRETA was informed that the Labour Inspectorate employed 31 inspectors (of whom 21 dealt with labour relations and employment issues, and 10 with safety and health issues), which indicates a decrease in the number of labour inspectors compared to the number in 2015 (36). A number of labour inspectors were about to retire and because the salaries were not attractive, if was difficult to recruit new staff. All labour inspectors have received training on detecting THB as part of their initial training and have been provided with indicators. In the course of 2020, it was planned to organise six training sessions on the new Standard Operating Procedures for the identification of victims of THB (see paragraph 165).

58 https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c983a

150. A significant number of migrant workers come to Montenegro from neighbouring countries for seasonal work during the summer, particularly in the hotel and restaurant sector at the seaside, as well as in the construction industry, and they have to be in possession of a work permit. Labour inspectors co-operate closely with immigration police officers and the Department of Public Revenues, performing joint inspections of high-risk business premises (e.g. construction sites, restaurants, night clubs). In 2019, 8 128 inspections were organised concerning labour relations and employment issues, and 3 302 concerning safety and health issues. Many inspections are organised on the basis on tip-offs (1 573 in 2019). There were 1 981 workers found to be in an irregular work situation, including 685 Montenegrin citizens, in 2019. Labour inspectors submit information to the police about employers who have been found to be in violation of the Law of Foreigners by not registering foreign workers, which prevents them from obtaining new temporary working permits for foreign workers. Co-operation between the labour inspection and the Department of Public Revenues has been improved through the setting up of a database on employers and employees who have been registered for the mandatory social insurance. However, no cases have been detected by labour inspectors where there was a presence of indicators of THB.

151. The campaign "Protect yourself – Protect the others" was carried out in 2018 at construction sites in Montenegro within the ESAP project (European platform for employment and social issues financed by the EU), and implemented by the International Labour Organization together with the Border police unit of the Police and the Department of Public Revenues.

152. The Tourism Inspectorate inspects tourism venues, but joint inspections with labour inspectors do not take place. Measures are implemened in order to reduce prostitution during the summer season (e.g. closing of mobile bars).

153. Montenegro has not ratified the 2014 Protocol to ILO Convention No. 29 on Forced Labour.

154. **GRETA urges the Montenegrin authorities to:**

- **ensure that the Labour Inspectorate has adequate human and financial resources to carry out inspections with a view to preventing and detecting cases of THB for the purpose of labour exploitation;**

- **strengthen co-operation between labour inspectors, law enforcement officers, tax and revenue authorities, trade unions and civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;**

- **separate immigration enforcement functions from labour inspectorate roles, and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;**

- **develop safe reporting and complaint mechanisms for cases of labour exploitation.**

155. **Furthermore, GRETA considers that the Montenegrin authorities should introduce mechanisms for monitoring the compliance of businesses with labour standards and human rights throughout their supply chains.**

2. Social, economic and other initiatives for groups vulnerable to THB (Article 5)

156. The Montenegrin authorities have reported a series of measures targeted at the Roma and Egyptian population which have the potential to address the root causes of THB. The Ministry for Human and Minority Rights, in accordance with the Strategy for social inclusion of the Roma and Egyptian population for the period 2016-2020, organised in 2018 a series of awareness-raising events on prevention of domestic violence and forced/arranged marriages in a number of towns. Information materials were printed in the Montenegrin, Roma and Albanian languages, which referred to steps to take to avoid risks of human trafficking. Further, activities and funds intended for the improvement of employment opportunities of people from the Roma and Egyptian communities are being carried out, in accordance with the National Strategy of Employment and Human Resources. Further, there is a programme of elementary education and professional training of adults from the Roma and Egyptian population.

157. The Ministry of Education referred to several initiatives aimed at integrating children from the Roma and Egyptian population into the public school system. Children from the Konik camp, where thousands of internally displaced persons lived after the outbreak of the conflict in Kosovo*, were admitted to seven primary schools in Podgorica and provided with transportation and books. Furthermore, 21 assistants in social inclusion who speak Romani have been trained to accompany children and support them. A protocol for prevention of school dropout has been signed and a database has been set up for children at risk of school dropout. The Ministry of Education provides scholarships to students from the Roma and Egyptian populations. Securing of free school transport for the Roma and Egyptian student populations in Podgorica was continued with the aim of integration of these populations.[59]

158. The Montenegrin authorities have referred to efforts made over the years to deal with the problems faced by internally displaced persons. A permanent solution of the legal status of internally displaced persons from Kosovo* residing in Montenegro was made possible by the recognition of the right on permanent or temporary residence, through the adoption of the Law on Amendments to the Law on Foreigners, which entered into force in November 2009. Until 1 January 2021, a total of 15 251 applications for approval of permanent and temporary residence for up to three years were submitted by displaced and internally displaced persons, of which 15 111 were settled and 140 were in progress.

159. Statelessness puts a person at a higher risk of becoming a victim of human trafficking. Following the breakup of Yugoslavia, under Montenegrin legislation on nationality, Roma and Egyptians who were born outside of Montenegro are at a high risk of statelessness if they cannot prove a link to any of the former Yugoslav countries, as this is essential for them to obtain a permanent residence permit. A global plan for eliminating statelessness was adopted for the period 2014-2024. Following the entry into force of the new Law on Foreigners in March 2018, seven travel documents for stateless persons were issued as well as four temporary residence permits; eight applications for determining if the applicant is a stateless person are in process, four were suspended, and one was declined. The authorities have stressed that these figures are indicative of the fact that the number of stateless persons in Montenegro is low. In addition, the amended Law on Non-Contentious Proceedings has simplified the procedure for registering persons born outside a health care institution. The law, prepared in co-operation with UNHCR and UNICEF, prescribes the procedure for establishing the time and place of birth, which regulates the status of persons who are not registered in the birth registers and persons born outside health care institutions. According to the authorities, the introduction of this procedure has almost completely eliminated the obstacles to entry in the register of births of persons born in Montenegro.

[59] For more information on measures to improve school attendance of Roma and Egyptian children, see ECRI Conclusions on the implementation of the recommendations in respect of Montenegro (adopted on 7 April 2020), available at: https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/16809e8273

160. The Ministry of the Interior has also prepared a new Strategy on Migration and Reintegration of Returnees in Montenegro, for the period 2021-2025, with an accompanying Action Plan for 2021 and 2022.

161. The Ministry of Education has accredited training for asylum seekers, which is implemented in licenced schools.

162. **GRETA considers that the Montenegrin authorities should continue investing in social, economic and other measures for groups vulnerable to THB, including outreach work in Roma and Egyptian communities. Further efforts should be made to promote gender equality, combat violence against women and child/early/forced marriages, as well as support specific policies for the empowerment of women and girls as a means of combating the root causes of THB.**

163. **In addition, GRETA invites the Montenegrin authorities to continue their efforts to ensure effective access to civil registration procedures and issuance of personal documents to refugees from former Yugoslavia and persons at risk of statelessness.**

3. Identification of victims of trafficking

164. In its second evaluation report, GRETA urged the Montenegrin authorities to ensure that law enforcement officials, social workers, NGOs and other relevant actors adopt a more proactive approach, and increase their outreach work to identify victims of human trafficking for the purpose of sexual exploitation; to sensitise relevant officials about THB for the purpose of labour exploitation in order to proactively identify victims of this form of trafficking; to pay increased attention to detecting victims of trafficking among asylum seekers and persons placed in the immigration holding centre, and to strengthen multi-disciplinary co-operation between all relevant partners.

165. At the time of GRETA's second evaluation of Montenegro, a person remained a "potential" victim of trafficking until there was a final conviction for a THB offence. A series of actors could perform preliminary identification on the basis of indicators, which entitled potential victims to rights, but the system of formal identification was dependent on the opening of an investigation for THB. A working group composed of representatives of public authorities and NGOs, with the support of IOM and the involvement of experts from Serbia and North Macedonia, developed Standard Operating Procedures (SOPs) defining the manner and procedure for granting the status of a victim of THB. Under the new SOPs, formal identification of victims of THB is disconnected from the initiation of criminal proceedings and is performed by a multi-disciplinary team. By decision No. 01-050/19-4043/1 of 15 November 2019, the Minister of the Interior set up a team for the formal identification of victims. The team is chaired by a medical doctor from the Police Directorate and has as members a police officer from the specialised unit for combating THB, a social worker from the centre for social work which is competent for the case in question, and a representative of the Department for the Fight against THB (who acts as the secretary of the team). The team is also supposed to involve a psychologist, but such a professional has not yet been included because of failure to find interested persons. The chair of the team has the right to involve representatives of other relevant bodies or NGOs that might have information about the person who is being identified as a victim of THB. The team members are available around the clock, and are expected to travel to the place where the victim is located. As indicated in paragraph 18, the SOPs remained to be approved through a decision which makes them binding.

166. All centres for social work have been provided with a brochure containing the SOPs and describing their roles and responsibilities in the process of formal identification of victims of human trafficking. In this manner all case managers have been introduced to these procedures, in order for them to be properly prepared for inclusion in the team.

167. At the time of GRETA's visit, the identification team was in the process of identifying victims of THB from among the group of persons from Taiwan detected as part of the "call centre case". These persons were provided with a recovery and reflection period, as provided for in Article 54 of the new Law on Foreigners (of up to 90 days).

168. The NGO Montenegrin's Women's Lobby continues to operate the SOS hotline for victims of trafficking, with funding from the Department for the Fight against Trafficking in Human Beings. However, no calls to the hotline have led to the identification of a victim of THB.

169. The specialised police anti-trafficking unit regularly checks premises where THB could occur, in particular as concerns sexual exploitation. According to NGOs, there are identification gaps of possible cases of THB for sexual exploitation, in particular during the summer season, when women from neighbouring countries (including Serbia, Bosnia and Herzegovina and North Macedonia) come to work in Montenegro. NGOs are concerned that information submitted by them to the police is not investigated and not enough efforts are made to identify victims of THB.

170. As noted in paragraph 46, no victims of THB for the purpose of labour exploitation have been identified during labour inspections. According to the information received, the focus of inspections appears to be on suppressing illegal work and tackling undeclared work in the grey economy. Employers are sanctioned when workers are employed without proper documentation (residence permit and work permit). Although there are joint inspections conducted with the police and the Department of Public Revenues, there have not yet been joint inspections with the specialised police unit for combating THB.

171. As noted in paragraph 12, no victims of THB have been identified among asylum seekers. UNHCR has raised concerns about the lack of any formal screening for vulnerabilities at points of entry to, and exit from the territory of Montenegro. GRETA was informed by the authorities that the high number of applications and the short period of time asylum seekers are staying in Montenegro are further challenges to identifying victims of THB among asylum seekers. In 2019, UNHCR recorded the highest-ever number of persons who were pushed back (1 952), of whom 71% were primarily from Bosnia and Herzegovina to Montenegro, and 29% from Montenegro to Albania. The reception centre for foreigners and asylum seekers in Spuž houses around 360 persons (considerably more than the official capacity),[60] but according to UNHCR, the institution is understaffed and further resources would be necessary in order to improve identification of trafficked persons among asylum seekers. UNHCR noted that it was rather unclear where an asylum seeker would be referred to if identified as trafficked. A new transit centre was opened in Rožaje, on the Albanian border, with a capacity of 60, and there were concerns that migrants would be sent back immediately before appropriate screening for vulnerabilities. Under the current National Strategy for Combating THB, it is planned to organise workshops with asylum seekers and irregular migrants about the risks of, and protection against, THB. One such workshop was held on 16 December 2019, with the involvement of the Montenegrin Red Cross.

172. The authorities have noted that there is no motivation for asylum seekers to "self-identify" as victims of trafficking and report exploitation because their goal is to reach EU countries. According to the authorities, in the short time that they remain in Montenegro, the possibility of establishing a relationship of trust which is crucial for identification is low. Nevertheless, mechanisms are being developed to identify victims of trafficking among asylum seekers, by raising awareness and providing training to officials working with this vulnerable population. According to the authorities, the Section for the Admission of Foreigners Seeking International Protection employs three lawyers, one of whom is specialised in trafficking in human beings. In addition, all professionals employed in this Section (social workers, educator, psychologist) are trained for using indicators and referring potential victims to formal identification and assistance.

60 In 2019, a total of 1,982 persons were accommodated at the centre for foreigners.

173. GRETA welcomes the adoption of the SOPs for the identification of victims and the setting up of a multi-disciplinary identification team. However, GRETA notes that there are continuing gaps in the identification of victims and it is therefore necessary to improve the proactive detection and the sharing of information between relevant actors with a view to identifying victims of THB, in particular as regards labour exploitation. Irregular migrants and asylum seekers are particularly vulnerable to trafficking. Additional efforts must be made to train staff, including those working with asylum seekers and irregular migrants, on how to use indicators and refer possible victims for formal identification and assistance.

174. GRETA notes that collective expulsions negatively hinder the detection of victims of THB amongst those affected, and raise grave concerns as regards Montenegro's compliance with its obligations under the Convention, including the positive obligations to identify victims of trafficking and to refer them to assistance, and to conduct a pre-removal risk assessment to ensure compliance with the obligation of *non-refoulement*. According to the authorities, the risks of exploitation and trafficking in human beings were operationalized in the procedures of the first admission, and individual risk assessments are undertaken in each individual case before returning the person.

175. **GRETA urges the Montenegrin authorities to further strengthen the identification of victims of THB, including by:**

- **making the SOPs for the identification of victim of THB binding and training all relevant professionals on their use, including staff working at facilities for asylum seekers and detained migrants;**

- **involving the specialised police division for combating THB in joint inspections with the Labour Inspectorate;**

- **ensuring that law enforcement officials, social workers, NGOs and other relevant actors adopt a more proactive approach and increase their outreach work to identify victims of human trafficking for the purpose of sexual exploitation as well as labour exploitation;**

- **ensuring that whenever there are reasonable grounds to believe that a foreign national is a victim of THB, the person concerned has access to a recovery and reflection period;**

- **enhancing co-ordination between the asylum procedure and the system for assisting victims of THB, in order to ensure that persons identified during the asylum procedure as vulnerable and at risk of trafficking have access both to refugee status and to assistance/protection as victims of THB;**

- **enabling specialised NGOs with experience in identifying and assisting victims of trafficking to have regular access to facilities for asylum seekers and detained migrants in order to support identification of presumed victims of THB;**

- **systematically informing all asylum seekers, in a language they can understand, about their rights in the framework of the asylum procedure, and the legal rights and the services available to victims of trafficking;**

- **ensuring that pre-removal risk assessments prior to all forced removals from Montenegro fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of *non-refoulement*.** In this context, reference is made to GRETA's Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.[61]

61 https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44

4. Assistance to victims

176. The Law on Social and Child Welfare[62] stipulates that the protection of victims of trafficking in human beings, as well as victims of other forms of violence, can only be performed by service providers who are licensed to perform activities in the field of social and child protection and run shelters. Therefore, organisations offering assistance to victims of THB had to obtain a licence based on this law in 2018 and 2019. Starting from the end of 2018, the Ministry of Labour and Social Welfare issued such licenses to the following service providers, which can accommodate victims of THB together with other categories of vulnerable persons: Children's Home Mladost Bijela (accommodation of children), Centre for support of children and families Bijelo Polje (accommodation of adults and elderly, or adults with children); Women's Safe House Podgorica (adults and elderly, or adults with children); SOS phone line for women and children victims of violence Nikšić (adults and elderly, or adults with children); and Home for Elderly Grabovac Risan (accommodation of adults and elderly who are homeless). As noted in paragraph 22, the NGO Montenegrin Women's Lobby, which used to run the only specialised shelter for victims of THB, did not obtain the required licence and the shelter closed down in March 2019.

177. GRETA was informed that a bylaw for the implementation of the Law on Social and Child Welfare specifies the qualifications that staff are required to have and how many persons have to work in a shelter. Thus, a shelter accommodating 20 children needs to have at least two experts (psychological, social or pedagogical experts) and five other staff, and a shelter for up to 20 adults, two experts and three other staff. According to some civil society organisations, the technical and organisational requirements for running a shelter are very demanding and, without prior funding, it is difficult to fulfil the criteria.

178. In line with the Strategy for Combating Trafficking in Human Beings 2019-2024, the Ministry of Labour and Social Welfare takes part in funding a licenced shelter for victims of THB. Following the organisation of a tender by the Ministry towards the end of 2019, a new specialised shelter for victims of THB, run by the NGO Institute for Social and Educational Policy, was opened on 16 December 2019. The contract with the Ministry is annual and a new tender is supposed to be organised every year.

179. In the course of the visit, GRETA visited the new shelter for victims of trafficking, located in a town some 20 km from Podgorica. The shelter offers good living conditions in a newly renovated house (around 150 m^2, with a yard of about 300 m^2). The shelter's address is kept secret and the shelter is equipped with security devices (cameras and alarm system). The shelter is licenced to accommodate up to six victims of THB (women, men and children), in three bedrooms. The staff comprises seven members (the Director, a psychologist, a lawyer and four specialists in social work and child protection), of whom four on contractual basis and three volunteers.

180. Victims are referred to the shelter by the local centre for social work. They can stay for a maximum of 12 months; however, longer stays are possible. The shelter organises limited activities, such as cooking workshops, and is seeking to open a small gym. Victims can leave the shelter during the day, but are usually escorted by a social worker. At the time of the visit, six women from the group of identified victims from Taiwan were accommodated at the shelter. GRETA was informed that the shelter is primarily intended for women, but exceptionally men can be accommodated at the same time, for example when there are couples. Because of the large group of victims from Taiwan who were identified, the shelter had accommodated more than six persons at a time. In the course of 2020, a total of 54 victims of THB were accommodated at the shelter (34 male and 20 female). After the departure of the group of victims from Taiwan, the shelter accommodated a mother with her child (aged 18 months) and six children.

62 Law on Social and Child Welfare, (Official Gazette of the Republic of Montenegro, no. 027/13 from 11.06.2013, 001/15 from 05.01.2015, 042/15 from 29.07.2015, 047/15 from 18.08.2015, 056/16 from 23.08.2016, 066/16 from 20.10.2016).

181. The annual budget provided by the State for running the shelter is €40 000, and in addition the NGO provides €11 000. The budget is calculated on the basis of €250 per victim per month, to cover the cost of accommodation, food and other services. According to updated information provided by the Director of the shelter, the state funding for the shelter is not sufficient to cover the actual costs and ensure the operation of the shelter (the real costs were around €70 000 in 2020), and the transfer of money has been delayed, obliging the shelter to use its own funds. As a result, the NGO Institute for Social and Educational Policy has decided not to apply for this year's tender for the running of a shelter for victims of THB.

182. GRETA was informed that male victims from Taiwan were placed in hotels outside of Podgorica. The Centre for support of children and families in Bijelo Polje can also accommodate male victims of THB and the two identified victims from Pakistan were reportedly initially housed there.

183. The revised Memorandum of Co-operation clarifies that the costs for the treatment of victims of THB are covered by the Health Insurance Fund of Montenegro. If the potential victim is a citizen of a State with which Montenegro has signed a bilateral agreement on social insurance, the costs are covered in accordance with that agreement. In all other cases, the costs of health protection are covered by the Department for the Fight against the Human Trafficking. In 2015 the Ministry of Health issued a booklet for health-care professionals with indicators for identifying victims of THB.

184. While welcoming the increased funding provided for services to victims of trafficking, GRETA stresses the importance of ensuring longer-term funding and sustainability, as well as paying increased attention to victims' social inclusion. GRETA notes that the new shelter is intended to accommodate women, men and children, but that the premises do not allow for separation of the sexes, nor sufficient respect for privacy. The needs of female and male victims often differ, and assistance measures offered to them should take into account their specific needs, bearing also in mind the type of exploitation to which they have been subjected. Vulnerable women should not be housed with men they do not know or random acquaintances. International best practice suggests that persons who have experienced trafficking for sexual exploitation should be accommodated in specialised shelters, following a gender-sensitive approach.

185. **GRETA considers that the Montenegrin authorities should take additional steps to ensure that all assistance measures provided for in the Convention are guaranteed in practice, in particular by:**

- **establishing a more sustainable funding for shelters, in order to ensure the range and quality of the services delivered and a sufficient number of places for all victims who need safe accommodation, including men;**

- **providing long-term assistance to victims of THB and facilitating their reintegration into society.**

5. Identification of, and assistance to, child victims of trafficking

186. The legal framework for assisting children in need is provided by the Law on Social and Child Protection which was adopted in June 2013. The identification procedure for child victims of trafficking is in general the same as for adult victims.

187. When it comes to children as a vulnerable category, street begging is the form of exploitation most prevalent in Montenegro. To this end, planned activities under the police action *Prosjak* (Beggar) have been carried out, with the aim of detecting and protecting adults and children caught up in begging. Staff of Centres for Social Work also participated in the action. According to information provided by the Montenegrin authorities, in 2018, the police carried out 59 controls on the ground, 107 persons were checked and 25 requests for initiation of misdemeanour proceedings were filed. In 2019, 16 misdemeanour proceedings were filed against persons for arranging child begging. However, GRETA was informed that only a few cases of children being exploited by begging have led to investigations into THB (see paragraph 87). A protocol concerning children living and working on the streets (including begging) was adopted in September 2019 between the Ombudsperson's Office and relevant authorities, and a range of awareness-raising activities and workshops have been organised. The protocol defines the actions of relevant professionals who perform tasks in relation to the protection of children in street situations (the police, social work centres, health care institutions, educational institutions, etc.). The Ministry of the Interior established a co-ordination body on implementing this protocol in February 2020.

188. As noted in paragraph 13, the practice of arranging early marriages that border on forced marriages is frequent among Roma and Egyptian communities. GRETA was informed about eight presumed trafficked children in 2019. However, these situations are rarely treated as THB. GRETA was also informed that in some of these cases, the authorities would take a long time to act and would not respond adequately. In one case for instance, it reportedly took the Montenegrin authorities more than two months to inform the Anti-THB Co-ordinator of Kosovo* about the case. A girl under the age of 16 was returned to the perpetrator and when the girl turned 16, the marriage was legalised. According to NGOs, the authorities affirm that an actual exploitation needs to take place in order to be able to identify a person as a victim of THB. In addition, only when there is evidence of an exchange of money, would the case be treated as THB for the purpose of entering into unlawful marriage. GRETA stresses that in order to fulfil the definition of THB as given in Article 4 of the Convention, actual exploitation does not need to take place. Further, trafficking in children based on Article 4(c) of the Convention does not require the exchange of money.

189. The Montenegrin authorities have referred to a range of activities organised for schoolchildren and children living in institutions, focused on the prevention of sexual and economic exploitation.[63] The Bureau for Social and Child Protection has accredited two training programmes which are related to the field of prevention of child trafficking and suppressing arranged marriages between children. In order to increase the protection of the children of the Roma and Egyptian populations, peer education is continuously conducted with the focus being on the problem of the worst forms of child and unlawful marriages.

190. Standard Operating Procedures for the treatment of children separated from their parents and unaccompanied children have been developed, in co-operation with UNICEF and the Montenegrin Red Cross. However, according to the information received, these SOPs required further implementation in practice. As noted in paragraph 12, in 2019, there were only four unaccompanied asylum-seeking children.

191. The GRETA delegation visited the Children's Home Mladost in the town of Bijela, which provides residential care for children without parental care and children who have suffered from abuse and violence in their families (including children who have been living or begging in the street). The maximum capacity of the home is 95 children, aged three to 18. The Children's Home runs several projects in order to further support de-institutionalisation. Children are referred to the institution by the social work centre, but the institution is not made aware whether the children might have been trafficked. The social work centre appoints a legal guardian who is usually a representative of the social work centre. It was reported that in particular amongst children from the Roma and Egyptian population there is an issue of children running away from the institution. GRETA notes with appreciation the professionalism and dedication of staff working at the Children's Home in Bijela, and stresses they should be involved in the implementation of the relevant SOPs and trained to detect indicators or human trafficking.

63 For more details, see Montenegro's reply to GRETA's third round questionnaire, pp. 41-44.

192. GRETA was informed that children who are begging or commit criminal acts or misdemeanours are also placed at the reception unit of the Centre for Children and Youth Ljubović in Podgorica. After a maximum stay of 30 days, children are returned to their parents. If the child has no parents, he/she would be transferred to the Children's Home in Bijela or placed with a foster family. The authorities indicated that based on the family situation and an assessment of the best interests of the child, he/she is accommodated in either Bijela or Ljubović. However, according to various interlocutors, it would be preferable to use the Centre in Ljubović only as an urgent solution for a few days.

193. **GRETA considers that the Montenegrin authorities should strengthen their efforts to identify child victims of THB and provide them with adequate assistance, and in particular:**

- **ensure that child victims of THB benefit from specialised accommodation and services across the country;**

- **ensure that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;**

- **provide long-term monitoring of the social inclusion of child victims of trafficking;**

- **ensure that the Operating Procedures for the treatment of children separated from their parents and unaccompanied children, as well as the Standard Operating Procedures on the identification of victims of THB, are effectively implemented;**

- **provide further training and tools to stakeholders (police, prosecutors, asylum and migration authorities, service providers, NGOs, child protection authorities, social workers) on the identification of child victims of THB for different forms of exploitation.**

Appendix 1 - List of GRETA's conclusions and proposals for action

The position of the proposals for action in the text of the report is shown in parentheses.

Topics related to the third evaluation round of the Convention

Right to information (Articles 12 and 15)

- GRETA considers that the Montenegrin authorities should strengthen the systematic provision of oral and written information to presumed and formally identified victims of trafficking, in a language they can understand, regarding their rights, the services available and how to access them, as well as the implications of being identified as a victim of trafficking. Law enforcement officers and members of the identification team should be trained and instructed on how to properly explain to victims of THB their rights, taking into account victims' cognitive skills and psychological state. Similarly, staff working at asylum reception centres and detention centres should be trained and instructed on how to provide information, in a proactive manner, to persons and groups at risk of being trafficked (paragraph 44);

- GRETA also considers that the Montenegrin authorities should take additional steps to ensure the availability of interpreters for different languages spoken by asylum seekers, as well as their independence and sensitisation to the issue of human trafficking (paragraph 45).

Legal assistance and free legal aid (Article 15)

- GRETA urges the Montenegrin authorities to take further steps to facilitate and guarantee access to justice for victims of THB, in particular by ensuring that:

  - a lawyer is appointed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the persons concerned have to decide whether or not they want to co-operate with the authorities and/or make an official statement;

  - the authorities and the Bar Association encourage training and specialisation of lawyers to provide legal aid to trafficking victims, and trafficking victims are systematically appointed a specialised lawyer with experience in criminal cases (paragraph 54).

Psychological assistance (Article 12)

- GRETA considers that the Montenegrin authorities should take further steps to ensure that victims of THB are provided with psychological assistance to help them overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion (paragraph 59).

Access to work, vocational training and education (Article 12)

- GRETA welcomes that temporary residence permit for humanitarian reasons allows access to the labour market, and considers that the Montenegrin authorities should further strengthen effective access to, and/or reintegration of, the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 62).

Compensation (Article 15)

- GRETA urges the Montenegrin authorities to make efforts to guarantee effective access to compensation for victims of THB, in particular by:

  - ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;

  - making full use of the legislation on the seizure and confiscation of criminal assets to secure compensation to victims of THB, and ensure that recoverable property which is seized in criminal proceedings is returned as soon as possible to the victim;

  - introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation has not considered;

  - including the topic of compensation in training programmes for lawyers, prosecutors and judges and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB;

  - ensuring that all victims of human trafficking, regardless of nationality and residence status, are eligible for state compensation, by bringing into force the Law on Compensation for Damages to Victims of Violent Crimes without further delay; in this context, the setting up of a victim compensation fund which uses confiscated assets of perpetrators of human trafficking to fund compensation should be treated as a priority (paragraph 76).

- GRETA considers that the Montenegrin authorities should take further steps to enable effective access to compensation for victims of trafficking by making compensation awarded in criminal proceedings payable by the State in advance, and the State taking the responsibility to recover the amount from the offender (paragraph 77).

Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)

- GRETA urges the Montenegrin authorities to take measures to strengthen the criminal justice response to THB, including by:

  - ensuring that human trafficking offences are proactively and promptly investigated, regardless of whether a complaint about the reported crime has been submitted or not, making use of all possible evidence, such as evidence gathered through special investigation techniques, financial evidence, documents and digital evidence, so that there is less reliance on testimony by victims or witnesses;

  - requiring consideration of allocation of specialist financial investigators to every THB case;

  - strengthening efforts to investigate, prosecute and secure convictions in cases of trafficking for the purpose of labour exploitation, with the involvement of labour inspectors and tax inspectors (paragraph 96).

- GRETA considers that the Montenegrin authorities should take further steps with a view to:

  - improving the prosecution of cases of trafficking for the purpose of child, early and forced marriage;

  - sensitising prosecutors and judges to the rights of victims of THB, and encouraging the development of specialisation amongst prosecutors and judges to deal with THB cases (paragraph 97).

Non-punishment provision (Article 26)

- GRETA welcomes the adoption of guidelines on the non-punishment of victims of THB, and considers that the Montenegrin authorities should take measures to ensure effective compliance with these guidelines, paying particular attention to children who are possible victims of THB, including through providing training on their basis to police officers, prosecutors, judges, lawyers and other relevant professionals (paragraph 102).

Protection of victims and witnesses (Articles 28 and 30)

- GRETA considers that the Montenegrin authorities should make full use of all available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation, as well as during and after court proceedings (paragraph 111).

Specialised authorities and co-ordinating bodies (Article 29)

- GRETA welcomes the existence of police investigators and prosecutors specialised in trafficking in human beings, and considers that the Montenegrin authorities should promote specialisation and training of judges to deal with THB cases. Further training on THB should be integrated into the regular training curricula of relevant professional groups, including law enforcement officials, prosecutors, judges, forensic experts, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff (paragraph 120).

- GRETA considers that the positive results obtained by the Operation Team should be reinforced by ensuring that the work of the team is adequately and sustainably funded, and formalised (paragraph 121).

International co-operation (Article 32)

- GRETA welcomes the Montenegrin authorities' participation in international co-operation, and invites them to continue their efforts in this respect. The positive use and benefits of utilising Eurojust should be included in the training of police officers, prosecutors and judges (paragraph 127).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA considers that the Montenegrin authorities should take steps to ensure child-sensitive procedures when investigating, prosecuting and adjudicating cases of THB, in line with the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, including measures to ensure that there is a sufficient number of child-friendly interview rooms across the country (paragraph 138).

Role of businesses

- GRETA considers that the Montenegrin authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business, with a view to raising awareness of the important role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and to provide access to effective remedies (paragraph 142);

- Further, GRETA considers that the Montenegrin authorities should adopt legislation integrating the prevention of THB and labour exploitation in public procurement policies and promoting transparency in supply chains, to enable scrutiny of companies' performance to prevent THB and labour exploitation (paragraph 143).

Measures to prevent and detect corruption

- GRETA considers the Montenegrin authorities should include measures against corruption in a THB context in the general policies against corruption, and effectively implement them (paragraph 147).

Follow-up topics specific to Montenegro

Developments in the institutional and policy framework for action against human trafficking

- GRETA reiterates its recommendation from its second report that the Montenegrin authorities should examine the possibility of establishing an independent National Rapporteur or designating another already existing mechanism as an independent organisational entity with a view to ensuring effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report) (paragraph 24).

Measures to prevent and combat trafficking for the purpose of labour exploitation

- GRETA urges the Montenegrin authorities to:

  - ensure that the Labour Inspectorate has adequate human and financial resources to carry out inspections with a view to preventing and detecting cases of THB for the purpose of labour exploitation;

  - strengthen co-operation between labour inspectors, law enforcement officers, tax and revenue authorities, trade unions and civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;

  - separate immigration enforcement functions from labour inspectorate roles, and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;

  - develop safe reporting and complaint mechanisms for cases of labour exploitation (paragraph 154);

- GRETA considers that the Montenegrin authorities should introduce mechanisms for monitoring the compliance of businesses with labour standards and human rights throughout their supply chains (paragraph 155).

Social, economic and other initiatives for groups vulnerable to THB (Article 5)

- GRETA considers that the Montenegrin authorities should continue investing in social, economic and other measures for groups vulnerable to THB, including outreach work in Roma and Egyptian communities. Further efforts should be made to promote gender equality, combat violence against women and child/early/forced marriages, as well as support specific policies for the empowerment of women and girls as a means of combating the root causes of THB (paragraph 162).

- GRETA invites the Montenegrin authorities to continue their efforts to ensure effective access to civil registration procedures and issuance of personal documents to refugees from former Yugoslavia and persons at risk of statelessness (paragraph 163).

Identification of victims of trafficking

- GRETA urges the Montenegrin authorities to further strengthen the identification of victims of THB, including by:

  - making the SOPs for the identification of victim of THB binding and training all relevant professionals on their use, including staff working at facilities for asylum seekers and detained migrants;

  - involving the specialised police division for combating THB in joint inspections with the Labour Inspectorate;

  - ensuring that law enforcement officials, social workers, NGOs and other relevant actors adopt a more proactive approach and increase their outreach work to identify victims of human trafficking for the purpose of sexual exploitation as well as labour exploitation;

- ensuring that whenever there are reasonable grounds to believe that a foreign national is a victim of THB, the person concerned has access to a recovery and reflection period;

- enhancing co-ordination between the asylum procedure and the system for assisting victims of THB, in order to ensure that persons identified during the asylum procedure as vulnerable and at risk of trafficking have access both to refugee status and to assistance/protection as victims of THB;

- enabling specialised NGOs with experience in identifying and assisting victims of trafficking to have regular access to facilities for asylum seekers and detained migrants in order to support identification of presumed victims of THB;

- systematically informing all asylum seekers, in a language they can understand, about their rights in the framework of the asylum procedure, and the legal rights and the services available to victims of trafficking;

- ensuring that pre-removal risk assessments prior to all forced removals from Montenegro fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of non-refoulement (paragraph 175).

Assistance to victims

- GRETA considers that the Montenegrin authorities should take additional steps to ensure that all assistance measures provided for in the Convention are guaranteed in practice, in particular by:

  - establishing a more sustainable funding for shelters, in order to ensure the range and quality of the services delivered and a sufficient number of places for all victims who need safe accommodation, including men;

  - providing long-term assistance to victims of THB and facilitating their reintegration into society (paragraph 186).

Identification of, and assistance to, child victims of trafficking

- GRETA considers that the Montenegrin authorities should strengthen their efforts to identify child victims of THB and provide them with adequate assistance, and in particular:

  - ensure that child victims of THB benefit from specialised accommodation and services across the country;

  - ensure that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;

  - provide long-term monitoring of the social inclusion of child victims of trafficking;

  - ensure that the Operating Procedures for the treatment of children separated from their parents and unaccompanied children, as well as the Standard Operating Procedures on the identification of victims of THB, are effectively implemented;

  - provide further training and tools to stakeholders (police, prosecutors, asylum and migration authorities, service providers, NGOs, child protection authorities, social workers) on the identification of child victims of THB for different forms of exploitation (paragraph 193).

Appendix 2 - List of public bodies, intergovernmental organisations and civil society actors with which GRETA held consultations

Public bodies

- Ministry of the Interior
    - Department for the Fight against Trafficking in Human Beings
- Police Directorate
- Ministry of Justice
- Ministry for Human and Minority Rights
- Ministry of Health
- Ministry of Education
- Ministry of Sustainable Development and Tourism
- Ministry of Labour and Social Welfare
- Directorate for Inspection Affairs
    - Labour Inspectorate
- Employment Agency
- Supreme State Prosecutor's Office
- Supreme Court
- High Court of Podgorica
- Police Academy
- Training Centre of the Judiciary and the State Prosecution
- Parliament of Montenegro
- Office of the Protector of Human Rights and Freedoms (Ombudsman) of Montenegro

Intergovernmental organisations

- International Organization for Migration (IOM)
- Organization for Security and Co-operation in Europe (OSCE)
- United Nations Children's Emergency Fund (UNICEF)
- Office of the United Nations High Commissioner for Refugees (UNHCR)

NGOs and other civil society organisations

- Bar Association of Montenegro
- Centre for Roma Initiatives
- Montenegrin Women's Lobby
- Union of Employers of Montenegro
- Women's Rights Centre

Government's comments

The following comments do not form part of GRETA's analysis concerning the situation in Montenegro

GRETA engaged in a dialogue with the Montenegrin authorities on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Montenegrin authorities on 23 April 2021 and invited them to submit any final comments. The comments of the authorities, submitted on 24 May 2021, are reproduced hereafter.

Montenegro
Ministry of Interior
Department for Fight against Trafficking in Human Beings

AdDress: Mihaila Lalica no.1,
81000 Podgorica, Crna Gora
Tel/fax: +382 20 225 845

43 No: 082/21- 11286/1

May 24, 2021.

COUNCIL OF EUROPE
Directorate of Human Dignity, Equality and Governance
Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings
Ms Petya Nestorova

Dear Mrs. Nestorova,

We received with great attention the final draft of the III GRETA Report on the implementation of the CoE Convention on Action against Trafficking in Human Beings in Montenegro.

We consider the report objective and of a great value, therefore we will take the necessary steps to implement all the recommendations as successfully as possible, because we believe that they contribute to the overall efforts of state institutions to identify THB victims, as well as to improve the rights and protection of victims of trafficking in Montenegro and effective criminal proceedings of traffickers.

I take this opportunity to thank You, your team and GRETA experts for many years of successful cooperation and in this regard I express my readiness to continue it in the future.

Yours sincerely,

Tijana Šuković
HEAD OF DEPARTMENT FOR FIGHT AGAINST TRAFFICKING IN HUMAN BEINGS

In accordance with the request of GRETA, the Montenegrin authorities provided additional comments and information to the Report:

PARA 12:

"There has been a growing number of persons transiting Montenegro as part of a mixed migratory flow. According to UNHCR, a record-high number of asylum seekers expressing intention to apply for asylum was received in 2019 (7,975). Of these, the majority (75.9%) transited onwards from Montenegro without lodging an asylum application and only 1,921 applied for asylum (mostly male and originating from Morocco, Algeria, Iraq and Syria). There were 198 children seeking asylum (121 male and 77 female), of whom only 2% were unaccompanied (all male). UNHCR notes that since the establishment of the Montenegrin asylum system in 2007, no victims of THB have been identified in the context of asylum procedures, which may suggest that the procedures for screening for vulnerability indicators and identifying victims of trafficking among asylum seekers are not sufficient (see paragraph 171). According to updated information received by the Montenegrin authorities, in December 2020, following interviews with Afghani asylum seekers at the asylum centre in Spuž, criminal proceedings for human trafficking and slavery were initiated against a person. GRETA would like to be kept informed of the outcome of these proceedings, including whether the Afghani asylum seekers were formally identified as victims of trafficking, and whether they received assistance and protection."

Comment from Operational Team for Combating Trafficking in Human Beings: The Operational Team for Combating THB and Higher State Prosecutor's Office Podgorica have not established a "trafficking in human beings and slavery" case, in which, according to this Report, were formally identified Afghan asylum seekers as victims of human trafficking.

PARA 37:

"A victim of THB who has suffered damages is also informed by the competent public prosecutor of his/her rights as an injured party, in line with the provisions of the CPC. Victims who have the status of witnesses in criminal proceedings are also informed of their rights and obligations as witnesses, according to the CPC. Further, pursuant to Article 52 of the CPC, victims of THB can file a private action with the competent court (i.e. constitute themselves as private prosecutors), which entitles them to certain rights listed in Article 58 of the CPC. In particular, the injured party who is a victim of a "criminal act against sexual freedom" (Chapter 18 of the CC) has the right to be heard and to have the procedure conducted by a judge of the same sex, if so allowed by the staff composition of the court (Article 58, paragraph 4 of the CPC). Further, pursuant to Article 59 of the CPC, if the competent prosecutor decides to drop the criminal charges and cease the investigation/prosecution, the injured party can take over the prosecution as a subsidiary prosecutor (further conditions are listed in Articles 60-65 of the CPC)."

Comment from the Supreme Court: We point out that in accordance with Article 52 of the Criminal Procedure Code of Montenegro, when the injured party has filed a criminal charge and in the course of the procedure it is ascertained that a criminal offence subject to private prosecution is involved, the charge shall be considered as timely private action if it was submitted within the deadline prescribed for a private action. The criminal offence of trafficking in human beings under Article 444 CCMNE is not a criminal offence for which prosecution may be undertaken via private action.

PARA 87:

"Following GRETA's visit, there has been one more conviction for THB, in the case K. br. 4/19, dated 17 July 2020, in which the High Court in Podgorica sentenced the defendant to 10 years' imprisonment (the judgment is not yet final). The investigation was initiated in October 2018, the indictment was issued on 24 January 2019 and was confirmed on 11 February 2019. According to a public statement issued by the High State Prosecutor's Office in Podgorica,43 the defendant forced his four children (three boys and a girl) to beg and exploited their work, while threatening to kill them and committing physical violence

against them and their mother whenever they refused to comply, in the period from 1 January 2010 to 15 October 2018. The family lived in a poor neighbourhood of Podgorica, inhabited mainly by Roma. According to available data, in March 2006 the defendant had been accused of attempting to traffic his new-born daughter, but charges were pressed instead for the offence of "change of family status" (Article 218 of the CC), because the defendant and the baby's mother claimed that they had given her to another couple to take care of her, without payment, since they did not have money to provide an appropriate care, and the defendant was sentenced to 10 months' imprisonment."

Comment from the Supreme Court: In this case, deciding on the filed appeals, the Appellate Court of Montenegro, by decision Kž.br. 74/20 from 06/11/2020, reversed the judgment of the High Court in Podgorica K.br. 4/19 in part of the decision on sentencing, and sentenced the defendant to 8 years imprisonment.

Also, during 2019 and 2020, before the High Court in Podgorica, there were more cases in operation for to the criminal offense of trafficking in human beings, and their presentation follows below:

-In the case K.br.190/19 in which criminal proceedings were initiated against 2 persons (Pakistanis born in 1981 and 1990), and two male adults were injured parties, the court on 30/12/2020, passed a judgment acquitting the defendants of the charges. The procedure of deciding before the second instance court on the filed appeals is in progress.

-In the case K.br. 82/20 criminal proceedings were initiated against 1 person (a citizen of Kosovo, born in Kosovo in 1979, unemployed, married, father of ten children). On 28/12/2020, the court passed a judgment sentencing the defendant to imprisonment for a term of 2 (two) years and this judgment was upheld.

-When it comes to criminal proceedings ongoing before the High Court in Podgorica, these are the following cases:

1. K.br. 86/20 –Criminal proceedings were initiated against one male person (stateless, born in 1976 in Kosovo, against whom no detention was ordered), and one adult female was injured party. The first main trial was held on October 23, 2020, and the next is scheduled for 04/06/2021.
2. K.br. 161/20 –Criminal proceedings were instituted against one male person (Montenegrin citizen, born in Podgorica in 1977, unemployed, married, father of nine children, no detention ordered), and one minor female was injured party. The first main trial was held on March 11, 2021 and the next is scheduled for July 08, 2021.
3. K.br. 11/21 –Criminal proceedings were instituted against two male adults (stateless, born in Kosovo in 1973 and 1976, with residence in Montenegro, unemployed, married), and one female minor was injured party. The first main trial is scheduled for May 25, 2021.
4. K.br. 21/21 –Criminal proceedings were instituted against one female person (Montenegrin citizen, born in 1991 in Rožaje with residence in Podgorica, unmarried, unemployed), and several adult female persons were injured parties, one of whom is a citizen of the Republic of Serbia, while the others are Montenegrin citizens. In this case on 21/04/2021, a decision was enacted on the adoption of plea bargain.