



G R E T A

Group of Experts on Action
against Trafficking in Human
Beings

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Reply from Montenegro to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties

Third evaluation round

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

Reply submitted on 29 October 2019

PART I - ACCESS TO JUSTICE AND EFFECTIVE REMEDIES

1. Right to information (Articles 12 and 15)

1.1. How, at what stage and by whom are presumed victims and victims of THB informed of their rights, the relevant judicial and administrative proceedings, and the legal possibilities for obtaining compensation and other remedies, in a language that they can understand? Please provide copies of any information materials developed to inform victims of THB, including any materials specifically developed for child victims, in the languages in which they exist.

In the procedure phases when certain activities are implemented by the Police Directorate, victims and presumed victims are verbally told their rights pertaining to their options under law, with a goal of protecting and exercising their rights.

A THB victim, who has suffered damages during a criminal proceeding, exercises their rights in line with provisions of the Criminal Procedure Code, and the victim is informed thereof by the state prosecutor.

When it comes to witnesses/victims in the cases of human trafficking, they are given special attention during a criminal proceeding. In all Montenegrin courts competent for acting in cases of human trafficking and violence in a family or a family community, there were Services for support to victims/witnesses established. Services provided by specifically authorized persons from the Services for support aim to, as far as it is possible, reduce the so-called secondary victimization of victims at court, as well as to ensure that the rights of all victims are adhered to with no discrimination on any grounds.

In addition, in line with standards regarding rights to information for witnesses and victims, the Supreme Court of Montenegro, in cooperation with NGO Center for Women's Rights, issued in 2011 an Information guide for witnesses and victims of criminal offenses of violence in a family or a family community and human trafficking. The Information guide provides clear and understandable information on rights and obligations of victims who appear as witnesses during court proceedings in cases of family violence and human trafficking. In addition, the Information guide gives answers to questions regarding protection during court proceedings and support offered by the Services for support to victims/witnesses. The Information guide is available to the public on the website of the Supreme Court of Montenegro (<https://sudovi.me/podaci/osbr/dokumenta/3558.pdf>).

1.2. How is the obligation to provide translation and interpretation services, when appropriate, met at different stages of the legal and administrative proceedings by different agencies?

In situations when it is necessary to engage the services of translators, officers of the Police Directorate hire translators for a specific language from the official list of court interpreters.

During the criminal proceedings, the victim or an injured party, in line with Article 8 of the Criminal Procedure Code, has a right to use his or her own language, and therefore, written and verbal translation is ensured using the services of a professional translator, hired from the official list of court interpreters.

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

- 2.1. How, by whom and from what moment is legal assistance provided to victims of trafficking? How is legal assistance provided to children?**
- 2.2. Do all presumed victims of THB have access to legal assistance, irrespective of immigration status or type of exploitation?**
- 2.2. What are the conditions for access to free legal aid for victims of THB, including children? For which types of proceedings is free legal aid available?**
- 2.3. Is free legal aid available to help victims claim compensation and execute compensation orders? Please provide the text of the relevant provisions.**

Legal and any other assistance (accommodation, health checks and all other lawfully prescribed services) are provided immediately, with a goal of ensuring quality protection of THB victims.

In line with Article 9 of the Constitution of Montenegro and Article 6 paragraph 2 item 6 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which accompanies the UN Convention against Transnational Organized Crime, the victim may, from the moment of identification, be provided legal assistance through an appointment of an expert lawyer.

Montenegro has fulfilled the important preconditions for equal access to justice by adopting the Law on Free Legal Aid, which has been in force since 1 January 2012. The law regulates a comprehensive system of providing free legal aid and provides access to court for persons with poor financial standing. The Law on Amendments to the Law on Free Legal Aid from 2015¹ brought forth an amendment which now enables THB victims to be recognized as privileged users of rights to free legal aid, with no previous evaluation of financial standing.

Free legal aid services are established in all basic courts and they are provided by lawyers in the order 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.

The right to free legal aid is granted to: a Montenegrin citizen, stateless person who resides legally in Montenegro and a person seeking asylum in Montenegro, a foreigner with permanent sojourn or permanent residence or with granted temporary residence, other persons lawfully residing in Montenegro; other persons in accordance with a ratified and published international agreement.

Conditions for obtaining free legal aid² are that a person is: a beneficiary of financial support for a family in accordance with the law governing social and child welfare, a child without parental care, a disabled person, a victim of the crime of violence in a family or a family community and trafficking in human beings, a victim of family violence in accordance with the law governing protection against family violence or a person of poor financial standing.

¹ Law on Free Legal Aid, Official Gazette of Montenegro, no. [20/2011](#) and [20/2015](#).

² Art 13 of the Law on Amendments to the Law on Free Legal Aid, Official Gazette of Montenegro, no. [20/2011](#) and [20/2015](#).

Free legal aid in accordance with Article 2 of this law implies the provision of the necessary funds to fully or partially cover the costs of legal advice, drafting of documents, representation in court proceedings, the State Prosecutor's Office and the Constitutional Court of Montenegro and in proceedings for out-of-court settlement of disputes and proceedings before a public enforcer, as well as exemption from payment of costs of court proceedings.

When it comes to victims of the crime of trafficking in human beings, they can also receive free legal aid which automatically entails exemption from the costs of court proceedings. Free legal assistance is available to THB victims in seeking compensation and executing compensation orders.

The Law on Free Legal Aid in Article 6 defines forms of free legal aid. Free legal aid consists of providing legal advice, drafting submissions, representation and defense.

Provision of legal advice consists of a detailed explanation of the manner and the possibility of settling a particular legal matter before a court, other state authority, or public authority or in the amicable dispute settlement procedure, and it relates to a right, obligation or interest of a beneficiary of free legal aid as based on law.

Drafting of a submission is drafting a document that initiates proceedings before a court, other state authority or public authority, or drafting a document submitted during an already initiated procedure (drafting a lawsuit, request, proposal, petition, complaint, filing, appeal and other legal remedy).

Representation is any legal action taken by an authorized representative in the name of and on behalf of the beneficiary of free legal aid in proceedings before a court, other state authority, public authority or in the amicable settlement of a dispute.

Defense is the representation of a suspect, defendant or accused in pre-trial, investigative and criminal proceedings, which is conducted on suspicion of there having been a criminal offense committed, for which no mandatory defense is prescribed, and representation in misdemeanor proceedings conducted on suspicion of there having been an offense committed, for which a punishment of prison is prescribed.

2.4. Are there lawyers specialised to provide legal aid and represent victims of THB in court? What regulations, if any, are applicable to the provision of such legal aid/representation?

In accordance with the Law on Free Legal Aid, free legal aid is provided by lawyers in the order from the list of the Bar Association of Montenegro, which is, with the prior consent of lawyers, drawn up in line with the territorial jurisdiction of 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, which must be elaborated, for doing so.

If the victim of trafficking is a child, free legal aid will be provided by attorneys who have acquired specific knowledge in the field of child rights.

Legal counseling can also be provided by Services for free legal aid, which are established in all basic courts.

2.5. How is the provision of legal assistance and free legal aid for victims of THB funded? Do victims have to pay a fee to obtain legal assistance or start a procedure, or are there other financial barriers in place? If yes, please specify the amount(s).

When it comes to THB victims, under the Law on Free Legal Aid, they have the status of privileged beneficiaries, and they are afforded this protection without prior assessment of their financial standing.

Therefore, victims of trafficking in human beings are entitled to free legal assistance (providing the necessary funds to fully cover the costs of legal advice, drafting of documents, representation in court proceedings, the State Prosecutor's Office and the Constitutional Court of Montenegro, and in proceedings for out-of-court dispute resolution and proceedings before a public executor, as well as exemption from court costs). The costs of obtaining legal aid are financed from the Budget of Montenegro.

3. Compensation from the perpetrators (Article 15)

3.1. What measures are in place to enable courts to award compensation to victims of THB, including children, from the perpetrators as part of criminal proceedings? What is the role of prosecutors in this respect?

Our courts offer the possibility of claiming damages to persons injured in criminal offenses, both material and non-material. Compensation procedures are conducted in accordance with the rules of the Criminal Procedure Code and the Law on Civil Procedure, and since 2015, Montenegro has adopted a separate law regulating the possibility for victims to address a direct claim for compensation to the state.

The Criminal Procedure Code³ prescribes the possibility of filing a property claim arising from the commission of a criminal offense, if this does not significantly delay the proceedings. A property claim may pertain to 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 authorized to exercise such a claim in a civil proceeding 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 before the trial court. The person authorized to file the motion is required to clearly indicate his claim and to provide evidence.

This right to claim damages applies to all victims of crime. In accordance with the rules of national legislation, the court decides on a claim for damages in criminal proceedings if this does not "significantly delay the proceedings". Thus, the assessment of duration of a criminal proceeding depends on the court's evaluation thereof. In case of a verdict finding the defendant guilty, the court may award the authorized person a claim in whole or in part, and refer the remainder to civil proceedings. If the facts established in the criminal proceedings do not provide a reliable basis for either complete or partial adjudication, and their determination would lead to a considerable delay in the proceedings, the court will instruct the authorized person that the claim can be fully realized in the civil proceedings.

If the court directs the injured party to pursue a claim in civil proceedings, judicial protection is exercised before the basic court as a competent court. The Law on Obligations regulates the matters of compensation for material and non-material damage. 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

³ Art 234 – 245 CPC

conferred on the parties by the proceedings. As a rule, enforcement proceedings are urgent. In that case, the burden of proof rests with the prosecutor, and 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 without damages to the necessary maintenance of himself and his family, 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. When it comes to victims of trafficking offenses, they can also receive free legal aid which automatically entails exemption from the costs of court proceedings.

In the event of a lawful award of damages, the enforcement of the court decision shall be carried out in accordance with the rules of the Law on Enforcement and Security⁴.

Additionally, injured parties are entitled to claim damages through regular litigation. The right to compensation is based on the rules of the Law on Obligations. The plaintiff is required to state, among other things, the value of the subject matter of the dispute in a lawsuit brought before the competent court, unless this value cannot be expressed in money.

3.2. How is the amount of compensation calculated and are there specific criteria or models for calculating it? What types of injury/damage and costs are covered? Are there any circumstances/conditions that would lead to a reduction of the amount of compensation?

The amount of compensation is determined by the court (more in response to question 3.1).

Pursuant to the Law on Compensation for Victims of Violent Crimes⁵, the victim of an intentional criminal offense of violence is entitled to compensation on three grounds: compensation for lost earnings, compensation for medical treatment and hospital stay, and compensation for funeral expenses. If, as a consequence of the commission of the crime, the death of the victim has occurred, persons who were supported by the victim are entitled to the right to compensation. The reimbursement shall be paid from the budget.

The law defines, in Article 2, that in terms of the law, a criminal offense of violence is a crime committed with intent, namely:

- a crime involving the use of physical force or other acts that impair mental integrity;
- a crime against sexual freedoms:
- a crime of causing danger to the life or body of people 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, prescribed by the Criminal Code of Montenegro as a serious form of the basic criminal offense act done with intent.

The law also defines the notion of victim, purpose and types of compensation, means of payment, conditions for exercising the right to compensation.

The decision on the request for compensation, in terms of this law, shall be made by a special commission

⁴ Official Gazette of Montenegro, no. 36/2011 and 28/2014.

⁵ Law on Compensation for Victims of Violent Crimes (Official Gazette of Montenegro, no. 35/2015).

within three months and in complex cases, within six months from the date of receipt of the complete request for compensation. With the payment of compensation to the victim or a dependent, the rights of the victim or a dependent person towards the perpetrator of the crime of violence are transferred to the state of Montenegro up to the amount of the compensation paid.

3.1. How are compensation orders/verdicts enforced? What measures are in place to guarantee and ensure effective payment of compensation?

In the case of a lawful verdict, compensation for damages and enforcement of the court decision shall be carried out in accordance with the Law on Enforcement and Security⁶.

3.4. When foreign victims of THB are removed from or choose to leave the country where the exploitation took place, what measures are in place to enable them to obtain compensation and other remedies?

The Law on Compensation for Victims of Violent Crimes, Article 4, stipulates that in order to remedy the harmful consequences and the severe physical and psychological condition of the victim in a timely manner, the victim is entitled to compensation for damages, namely to compensation for lost earnings. Furthermore, Article 11 of the same law stipulates that the right to compensation for lost earnings is granted to the victim who, as a result of the criminal offense of violence, became incapacitated to work in terms of pension and disability insurance regulations, and the compensation shall be paid in a lump sum not exceeding ten average net wages in Montenegro established for the previous year in relation to the year in which the compensation is determined, according to the data provided by the administrative authority in charge of statistics.

Social and child protection provides foreign nationals with the right to a one-time financial assistance. The amount of assistance is determined by the competent Center for Social Work, depending on the individual's or family's needs, and the state's financial resources. Montenegrin citizens are provided with material support in accordance with the Law on Social and Child Welfare.

3.5. What procedures are in place to ensure effective access to compensation for victims of THB for the purpose of labour exploitation? Can such victims bring civil claims for compensation and/or recovery of unpaid wages and social contributions on the basis of tort, labour, employment or other laws? Please specify the relevant measures. Can victims of THB working in irregular employment or without a contract claim unpaid wages and other compensation and if yes, how is the amount of unpaid wages and other compensation established?

Montenegrin courts offer the possibility of claiming damages, both material and non-material, for the victims of criminal offenses. Compensation procedures are conducted in accordance with the rules of the Criminal Procedure Code and the Law on Civil Procedure, and in 2015, Montenegro adopted a separate Law on Compensation for Victims of Violent Crimes, which prescribes the possibility for victims to file a

⁶ Official Gazette of Montenegro, no. 36/2011, 28/2014, 20/2015, 22/2017, 76/2017 - decision US and 25/2019

direct claim for compensation to the state. The Law regulates the conditions, manner and procedure for obtaining compensation for damages, and the same shall apply from the day of accession of Montenegro to the European Union.

Therefore, the Criminal Procedure Code⁷ prescribes the possibility of filing a property claim arising from the commission of a criminal offense, if this does not significantly delay the proceedings. If the court directs the injured party to pursue a claim in civil proceedings, judicial protection is exercised before the basic court as a competent court. The Law on Obligations regulates the matters of compensation for material and non-material damage.

3.6. What training is provided to build the capacity of relevant professionals, such as lawyers, law enforcement officers, prosecutors and judges, to enable victims of THB to obtain compensation and other remedies?

Center for training of the judiciary and state prosecution continuously organizes and conducts training with the aim of improving knowledge of judges and state prosecutors in the area of combatting human trafficking. Trainings on this topic are usually conducted with the support of international partners and with the presence of international experts, for the purpose of providing national judges and prosecutors with the experience of professionals who are coming from countries with greater experience and more extensive case-law. An integral part of these trainings are topics relating to the relationship with the victims, in terms of obligations of judicial office holders to familiarize them with their rights in these proceedings.

Center for training of the judiciary and state prosecution has previously participated in the organization of the following trainings on the topic of human trafficking:

- 25 – 29.09.2017, Bijela, organized by UNODC and National Office for Combating Trafficking in Human Beings in Montenegro, with financial support of the US Embassy. Training called *Advance training on identification, inquiries and providing evidence of criminal offense of human trafficking and adherence to the rights of victims in criminal proceedings* was held. Among other things, the training covered the topics of legislative and institutional frameworks of Montenegro, in terms of combating human trafficking, JTIP mandate and global programming, US approach in combating human trafficking and introduction to inquiry process of the US Homeland Security, indicators for recognizing human trafficking from the point of view of Montenegro, psychological reaction of victims, financial and transnational inquiries in cases of trafficking, taking statements from victims during THB inquiries, avoiding secondary victimization of THB victims and their rights, especially in terms of initiating damages proceedings.
- 26 - 30.03.2018, organized by the Ministry of the Interior/National Office for Combating Trafficking in Human Beings in Montenegro, International Organization for Migration, within the Instrument for Technical Aid and Exchange of Information of the European Commission – TAIEX. An expert mission to combat trafficking in human beings: Identification, investigation and prosecution was organized. The aim of the expert mission was to get acquainted with the specific methods of work of state authorities in detecting and prosecuting cases of trafficking in human beings, as well as to exchange experiences with French experts in order to: strengthen communication and exchange information between law enforcement agencies in order to conduct investigations in trafficking

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Arts 234 – 242 CPC

cases as efficiently as possible; promote cooperation at national and international levels; strengthen cooperation with civil society organizations in caring for and providing appropriate assistance to victims in the course of court proceedings, pending the delivery of judgments. On the first day of the TAIEX expert mission, an initial meeting was organized in Podgorica with EU experts and representatives of the Ministry of the Interior, the Police Directorate, the Basic State Prosecutor's Office in Podgorica, the Center for training of the judiciary and state prosecution and the Police Academy, regarding training and problem solving methods in conducting human trafficking training. Representatives of the Center for training of the judiciary and state prosecution, the Police Academy, and the National Office for Combating Trafficking in Human Beings in Montenegro briefly outlined their methodological approach to organizing and delivering training, as well as the number of trainings conducted on trafficking in human beings. On the second, third and fourth days of the TAIEX expert mission, organized in Budva, Operational training on the prevention of trafficking in human beings: Identification, investigation and prosecution was held. More specific training topics were related to: national mechanisms to combat trafficking in human beings; identification of trafficking cases - what is the strategy in relation to a form of exploitation; comparative review of victim identification; gathering of evidence - cooperation of the Police and the Prosecutor's Office in gathering information and necessary evidence for the indictment; special investigative techniques; evidence required by the court for adjudication in cases of trafficking in human beings: the course of criminal proceedings and the experience of the courts in conducting proceedings for the criminal offense of trafficking in human beings; aspect of criminal proceedings in combating trafficking in human beings - financial investigations; protection and assistance to victims of trafficking; the role of NGOs in combating trafficking in human beings in Montenegro; case studies - case study of initial information, pre-investigative action, investigation, indictment, specificity of taking testimony from the victim, use of investigative techniques - measures of covert surveillance, assistance and support to victims, compensation for damage, simulation of the investigation. Participants in this training were judges, prosecutors, representatives of the Police Directorate, MIA, NGOs and a representative of the International Organization for Migration. Within the fifth day of the TAIEX expert mission on combating trafficking in human beings, a final meeting of EU experts and participants was held in Podgorica, discussing the evaluation of the training conducted, as well as conclusions and recommendations for further improvement of the training program in this field, with particular reference to judicial officials.

- 27 – 28.09.2018, Podgorica, two-day training of representatives of institutions and NGOs was held for the application of transnational referral forms. It was attended by 20 participants: 6 representatives of the Basic State Prosecutor's office, 3 representatives of the Police Directorate, 8 representatives of the centers for social work and 3 NGOs.
- 19 - 20.11.2018, Budva, the Conference on Combating Trafficking in Human Beings organized by the Center for training of the judiciary and state prosecution, in cooperation and with the support of the US Embassy in Podgorica, ie. State Department's Bureau of Combating International Drug Trafficking and Law Enforcement-INL Program; ten state prosecutors participated;
- 18 - 22.02.2019, Budapest/Hungary, at the International Law Enforcement Academy (ILEA), a five-day training on Trafficking in Human Beings was held. The training was attended by four officers of the Police Directorate of Montenegro, a judge of the High Court in Podgorica, a State Prosecutor

in the Higher State Prosecutor's Office Podgorica and the Head of the Continuing Training Department at the Center for training of the judiciary and state prosecution. In addition, seven representatives from Croatia, Northern Macedonia, Bosnia and Herzegovina and the Republic of Albania participated in the training. The training was organized by the International Law Enforcement Academy (ILEA) in Budapest, Hungary. Teachers at the training were officials of the US Homeland Security/Immigration and Customs Enforcement - ICE. During the training, which lasted five working days, the following topics were covered: the ICE mission; basics of trafficking in human beings; proactive investigations; application of mixed workgroup models; operational planning in trafficking investigations; basics of victim assistance; cycle of violence and impact on victims; practical considerations of interviewing the victim; case studies; interviewing the victim - a group exercise; assistance to victims of trafficking - group exercise; operational planning and investigation of trafficking in people - a group exercise. The aim of this activity was to improve knowledge and skills and gain new experiences in combating trafficking in human beings. The training focused on identifying and assisting victims and applying the law in prosecuting the perpetrators of this crime.

- Organized by the National Office for Combating Trafficking in Human Beings in Montenegro and the OSCE Mission to Montenegro, during the reporting period, four trainings were held on the topic: Strengthening the Capacity of Representatives of Investigative and Judicial Bodies in Investigating and Processing Cases of Trafficking in Human Beings, intended for representatives of police, prosecution and judiciary, as follows:
 - Berane, 23 - 24.10.2018, attended by five representatives of the judiciary, five representatives of the State Prosecutor's Office and five police officers;
 - Bijelo Polje, 25 - 26.10.2018, attended by five representatives of the judiciary, five representatives of the State Prosecutor's Office and five police officers;
 - Budva, 30 - 31.10.2018, attended by three representatives of the judiciary, five representatives of the State Prosecutor's Office and five police officers;
 - Podgorica, 01 - 02.11.2018, attended by three representatives of the judiciary, five representatives of the State Prosecutor's Office and five police officers.

In addition to the aforementioned, the center operating within the Initial training program, which is implemented for candidates to judicial positions and state prosecutors, covers the topic of human trafficking through a two-day module.

It is also important to note that the center has embarked on the process of developing a specific training program on this subject, with the training of national judges and prosecutors who would later be lecturers, so that the organization of the training would not depend on international assistance. The center will be supported by the US Embassy, and in the period 09-11 September 2019, the center hosted experts hired by the US Embassy who, in collaboration with members of the program council of the center, were engaged in developing a new, enhanced training program on the subject.

4. State compensation (Article 15)

4.1. Do the eligibility criteria for State compensation schemes for victims of crimes exclude some victims of THB (e.g. due to irregular residence status, nationality, nature of the offence)? Does access to State compensation depend on the outcome of the criminal case and on failure to obtain compensation from the offenders?

The Criminal Procedure Code⁸ prescribes the possibility of filing a property claim arising from the commission of a criminal offense. The court will decide on a claim for damages in criminal proceedings if this does not "significantly delay the proceedings". In the verdict finding the defendant guilty, the court may award the authorized person a claim in whole or in part, and refer the remainder to civil proceedings. If the facts established in the criminal proceedings do not provide a reliable basis for either complete or partial adjudication, and their determination would lead to a considerable delay in the proceedings, the court will instruct the authorized person that the claim can be fully realized in the civil proceedings.

The Law on Obligations regulates the matters of compensation for material and non-material damage. As a rule, enforcement proceedings are urgent. In that case, the burden of proof rests with the prosecutor. In the event of a lawful award of damages, the enforcement of the court decision shall be carried out in accordance with the rules of the Law on Enforcement and Security⁹.

In 2015, Montenegro adopted a Law on Compensation for Victims of Violent Crimes, which envisages reimbursements from the state budget. This Law shall apply from the day of accession of Montenegro to the European Union.

4.2. How is the amount of State compensation calculated so as to address the gravity of the harm endured by the victim?

In the Law on Compensation for Victims of Violent Crimes,¹⁰ which enters into force from the day of accession of Montenegro to the European Union, it is defined that in determining the right to remuneration and the amount of remuneration the following is particularly valued:

- the victim's behavior before, during and after the commission of the crime of violence;
- 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 of violence to the police or the state prosecutor's office;
- cooperation of the victim with the police and the state prosecutor's office during the detection or prosecution of the perpetrator of the crime of violence;
- financial standing of the victim or its dependents.

The right to compensation is decided by the Commission for Compensation for Victims of Violent Crimes.

⁸ Arts 234 – 245 CPC

⁹ Official Gazette of Montenegro, no. [36/2011](#) and [28/2014](#).

¹⁰ Official Gazette of Montenegro, no.. [35/2015](#)

4.3. Is it possible for foreign victims of trafficking to submit claims for State compensation in your country after being returned or repatriated to their countries of origin? Please provide examples of any such cases and indicate the measures stipulating such a possibility.

The Law on Compensation for Victims of Victims of Violent Crimes, entitled to compensation is a victim who is a:

- Montenegrin national;
- a national of a State party to the European Convention on the Compensation of Victims of Violent Crimes;
- a national of a Council of Europe Member State with permanent residence in Montenegro;
- a national or a person legally residing in an EU Member State.

In the case when the criminal offense of violence was committed on the territory of Montenegro and when other conditions for exercising the right to compensation under this law are fulfilled and a request for compensation has been submitted to the competent authority in the other EU Member State where the victim resides, that authority shall submit the request to the Ministry of Justice of Montenegro.

Upon receipt of the request for compensation from the competent authority of another Member State of the European Union, the Ministry shall submit to that authority and the applicant, within 30 days at the latest, an acknowledgment of receipt of the request, a notification about the contact person and, if possible, a notification on the approximate period within which a decision would be made on the request.

The application shall be submitted on a form prescribed by the European Commission.

If the competent authority of another Member State of the European Union does not submit the request in the form prescribed by the European Commission, the Ministry will return the request to that authority.

If, in a domestic cross-border case, the Commission determines that certain actions, such as the hearing of an applicant, witness, expert or other person, are required to decide on the request, it may request the competent authority of another Member State of the European Union in which the applicant has applied for compensation to carry out these actions.

The Commission may also hold a hearing by using picture and sound transmitters and other electronic communications devices.

In a domestic cross-border case, the Ministry shall, within eight days, forward the decision of the Commission to the applicant and to the competent authority of another Member State of the European Union, on a form prescribed by the European Commission.

4.4. Are victims seeking State compensation liable for lawyers' costs and fees? Are State compensation awards subject to taxation? Does the receipt of compensation have consequences for access to social security or other benefits?

The social and child protection rights that a victim of trafficking can exercise do not constitute an obstacle to obtaining free legal aid.

The Law on Free Legal Aid recognizes victims of trafficking as privileged beneficiaries, who are afforded completely free legal protection. The compensation is not reduced by the amount the victim is awarded

on the basis of social benefits¹¹.

5. Sanctions and measures (Article 23)

5.1. Please describe the legislative and other measures adopted by your country which allow to: i) confiscate or otherwise deprive perpetrators of the proceeds of criminal offences, or property of an equivalent value to those proceeds; and ii) identify, trace, freeze or seize rapidly property which is liable to confiscation, in order to facilitate the enforcement of a later confiscation. Do these measures allow the identification, tracing and seizure of property into which the proceeds of illicit activities have been converted?

Measures for confiscation or other seizure of assets from the defendant, identification, demand, freezing and seizure of property are regulated by the Law on Seizure of the Proceeds of Crime¹² and the Criminal Procedure Code¹³.

The Law on Seizure of the Proceeds of Crime 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 of crime and confiscated property of crime, criminal offenses and objects temporarily seized in criminal and misdemeanor proceedings and property given in the name of bail.

The Criminal Procedure Code provides for the temporary seizure of objects and material gain in Chapter XXIX Procedure for the application of security measures, forfeiture of property gain, permanent seizure of property whose lawful origin has not been proven, and revocation of a conditional sentence in Chapter Two - Procedure for forfeiture of property gain.

5.2. In what way do victims of THB benefit from seized and confiscated assets of perpetrators of THB? Do the confiscated assets go directly to victims, to a compensation fund or scheme for victims of trafficking or to other programmes for the assistance or support of victims of THB? Please provide information on seizures and confiscations of assets in THB cases and how they were used.

5.3. Is it possible to use plea bargaining or some other form of settlement in cases of THB? If yes, please provide the relevant provisions. What protections are in place for victims of THB to ensure that their right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process?

A plea agreement can be concluded for all offenses prosecuted ex officio except for the crime of terrorism

¹¹ Law on Compensation for Victims of Violent Crimes, Art 17, p 2, Official Gazette of the Republic of Montenegro 35/2015.

¹² Law on Seizure of the Proceeds of Crime, Official Gazette of the Republic of Montenegro no. 58/2015.

¹³ Criminal Procedure Code, Official Gazette of the Republic of Montenegro no. 57/2009, 49/2010, 47/2014 - decision US, 2/2015 - decision US, 35/2015, 58/2015 - other law and 28/2018 - decision US.

and war crimes.

The provision of Article 301 paragraph 2 of the Criminal Procedure Code provides, *inter alia*, for the defendant's obligation to repay within a specified period the material gain 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.

There were no trafficking cases in which the property of the defendant for the crime under Article 444 of the Criminal Code of Montenegro was seized or confiscated.

5.4. What is the average duration of court proceedings in THB cases? In which circumstances are such cases given priority? Do you have a system to fast-track human trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims and witnesses, including children? What safeguards are in place to ensure that judges deal with cases of THB without undue delay?

The Higher State Prosecutor's Office issued the instruction that trafficking cases are to be handled urgently and with special care. The aforementioned instruction provided the basic state prosecutor's offices with instructions to, if in their cases they find elements of trafficking in human beings, urgently submit information to the Higher State Prosecutor's Office and treat them with special care.

Cases of trafficking in human beings have priority in the work of Montenegrin courts. Judges will give priority when dealing with trafficking cases, scheduling a hearing as soon as possible.

5.3. How do you ensure that sanctions for THB offences are effective, proportionate and dissuasive?

Punitive policy is a particular challenge for the courts. Despite the fact that the type and amount of the sanction depends on the circumstances of each particular case, it is nevertheless necessary to make the punitive policy stricter. The Supreme Court of Montenegro, within the limits of its powers, and while respecting the basic principles of the judiciary - independence and sovereignty, made recommendations to criminal judges that it was necessary to tighten punitive policy.

In a case of human trafficking completed in the first instance in April 2019, the court imposed the most severe imprisonment sentence so far: one person got 17 years in prison and another person 15 years in prison. This judgment has not yet become final.

6. Ex parte and ex officio applications (Article 27)

6.1. What is the procedural position of victims of THB in criminal proceedings? What steps are taken to assist victims of THB, including children, to enable their rights, interests and views to be presented and considered during the criminal proceedings against offenders? Who is entitled to assist victims of THB in court? Can victims of THB be represented by NGOs in criminal proceedings?

Generally speaking, every witness is entitled to physical and other protection. In Montenegro, physical protection is provided to witnesses by the Protection Unit - a special unit within the Police Directorate. This unit provides temporary protection measures as well as measures foreseen by the witness protection program.

The status of a protected witness is obtained in accordance with the provisions of the Criminal Procedure Code of Montenegro. The status is given to a witness who is endangered precisely because he is a witness in the criminal proceedings, and it is necessary to impose special protective measures towards him, in order for that witness to give his testimony without any fear, the testimony being of great importance in the presentation of necessary evidence.

Pursuant to Article 120 of the Criminal Procedure Code, if there is a justified fear that by giving his testimony or by replying to certain questions, the witness may seriously endanger the life, health, physical integrity, liberty or property to a large extent, of himself, his spouse, a close relative or a person close to him, 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 protection is ensured.

The protection of this category of witnesses consists of special modes of participation and hearing of witnesses in criminal proceedings, such as: hearing witnesses under a pseudonym, hearing witnesses with the help of technical devices (firewall, voice-changing devices, picture and sound transmitters) and the like¹⁴.

Criminal legislation of Montenegro pays special attention to the specific treatment of children who find themselves witnesses during criminal proceedings. The Criminal Procedure Code prescribes that a child who is heard as a witness has the right to testify in a separate room before a judge and a recorder, and that the prosecutor, the defendant and the defense counsel watch the transfer from another room, with the possibility to ask the witness questions, of which the court is obliged to inform them.¹⁵ Furthermore, during the hearing of a minor, especially if he or she is aggrieved by a crime, special care will be taken to ensure that the hearing does not have an adverse effect the minor's mental state. If necessary, the hearing of the minor will be carried out with the assistance of a psychologist or other professional. The Criminal Procedure Code expressly prohibits the testimony of a minor who, given his age and mental development, is incapable of understanding the importance of the right not to have to testify¹⁶. In the State Prosecutor's Office there is a professional service for dealing with cases of trafficking in human beings, which provides support to injured witnesses, i.e. gives the necessary opinion when it comes to victims of trafficking in human beings, and special care is taken when the victims are minors.

In accordance with the Annex to the Agreement on Mutual Cooperation of Institutions and NGOs (2013), which regulates the cooperation of the signatories of the Agreement in the field of combating trafficking in human beings, judges are obliged to cooperate with the signatories of the Agreement in order to protect the potential victim by giving instructions for taking concrete actions for securing potential victims as witnesses in any criminal proceedings. The judges will also point out the need to obtain and provide medical and other documentation, as well as the placement and treatment of the victim at the shelter in order to gain the victim's confidence and to successfully conduct the proceedings. The judges will also allow activists of a non-governmental organization providing direct assistance to the victim at the shelter

¹⁴ Art 121 CPC

¹⁵ Art 113, p 5 CPC

¹⁶ Art 113, p 4 CPC

to attend the judicial process as an escort to the potential victim, should the potential victim so request.

Reply given to the question no. 1 is also relevant in this matter.

6.2. If the authorities fail to discharge their obligation to effectively investigate and prosecute suspected cases of trafficking, what possibilities for redress exist for victims of THB and their families? To what extent have victims of trafficking, including children, access to complaint mechanisms, such as Ombudsman institutions and other national human rights institutions?

In Montenegro, under current law, victims of criminal offenses can claim the right to compensation in two ways, namely: from the defendant by filing a motion to pursue a property claim in criminal proceedings or by filing a lawsuit. The Code of Criminal Procedure stipulates that a property claim arising from the commission of a criminal offense will be discussed at the proposal of a person authorized to exercise such a claim in a civil procedure, if this does not significantly delay the proceedings. A property claim may pertain to damages, repossession or cancellation of a particular legal transaction. A motion to pursue a property claim is submitted to the State Prosecutor's Office, i.e. a court before which the criminal proceedings are conducted, no later than the conclusion of the main trial before the trial court. If the authorized person has not filed a motion to pursue a property claim in criminal proceedings by the time the charges are filed, he/she will be informed that he/she may file the motion by the end of the main trial.

Pursuant to the Law on Obligations, the victim of human trafficking has the legal right to file a claim for material/non-material damage. The court decides on the claim based on oral, direct and public hearing. The adoption or rejection of a claim depends solely on the merits of the claim, and the facts that the court considers as proven are so decided through the conviction of the court, which is based on the conscientious and careful evaluation of all the evidence separately and all the evidence together, as well as on the results of the entire proceedings. With respect to the existence of a crime and a guilty plea, the court in civil proceedings is bound by the final judgment of the court finding the accused guilty. In this regard, in every proceeding, and even in proceedings where the victim of trafficking in human beings is seeking damages, the court is obliged to respect the law exclusively and apply it directly in each specific case, regardless of who the parties to the proceedings are.

Also, the Law on Compensation for Victims of Violent Crimes regulates the conditions, manner and procedure for exercising the right to compensation for victims of crimes of violence. The law entered into force on 15 July 2015 and will be enforced on the day of Montenegro's accession to the European Union.

The Protector of Human Rights and Freedoms of Montenegro (Ombudsman) is an independent and sovereign institution whose task is to take measures for the protection of human rights and freedoms when violated by an act, action or omission of state bodies, state administration bodies, local self-government bodies and local government, public services and other holders of public authority, as well as measures to prevent torture and other forms of inhuman or degrading treatment and punishment and measures to protect against discrimination.

In addition to this function, the Protector has a broader mission, namely to create awareness of the need for the rule of law, of the full and consistent protection of freedoms and rights of citizens, and in general, to create legal certainty for citizens, and ensure the lawful and impartial work of all state bodies, before which citizens exercise their rights, freedoms, obligations and legal interests. The Protector pays special attention to promotion of education through preventive action when it comes to children.

Bearing in mind the competencies of the Protector, any victim may contact the Protector freely, free of

charge and safely in all situations where he/she considers that the proceedings in which he/she participates are not conducted properly, in accordance with the law and standards implied in relation to the victim/witness in such cases .

When it comes to children, the Protector continuously conducts workshops and focus groups with primary and secondary school children, as well as children housed in the institutions of the system, on topics of respect and protection of the rights of the child, sexual and economic abuse of children, and the risks of trafficking in children in different ways.

In 2019, the Protector began implementing a program related to the promotion of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which will intensify promotional activities, which will be accompanied by propaganda material in the form of a brochure designed to inform children on all forms of risky behavior, recognition of various forms of sexual harassment/abuse, definition of trafficking and information on the mechanisms of protection available to the child (to whom, when and how to turn for help, with service information).

Protector can be contacted by children in a variety of ways: by phone, email, mail, using mailboxes set up in the social and child welfare institutions in which children reside and live, via Facebook, blog, online bold inbox and by visiting the Institution.

6.3. What reporting and complaint mechanisms are in place for victims of trafficking who are in an irregular migration situation and/or in detention?

The Police Directorate monitors migration routes and identifies routes and modes of smuggling and several cases have been completed in this direction while more cases are still being pursued internationally. International cooperation with the countries of the region is also very present.

In the context of designing a quality response to the possible influx of illegal migrants and foreigners seeking international protection and taking into account the particular vulnerability of children, the MIA/UNODC, with the support of UNICEF, has developed Standard Operating Procedures for the Treatment of Children separated from Parents and Unaccompanied, with particular emphasis on the proactive identification of potential victims and victims of trafficking, which defines the treatment of competent institutions towards children separated from their parents and unaccompanied along migration routes, with a particular focus on the identification of potential victims and victims of trafficking.

6.4. Can victims of THB bring claims against the State or its officials for: i) direct involvement in THB; ii) failure to prevent THB or protect them from THB? Have there been cases where State agents or persons acting on behalf, or at the direction, of the State were found responsible for engagement in THB and/or failure to prevent it or protect victims from THB by third parties? Please provide information on any prosecutions against diplomatic and consular staff for alleged involvement in THB.

During the reporting period, there were no cases in which civil servants or persons acting on behalf or under a State directive were held responsible for involvement in human trafficking.

At the same time, no charges were found against civil servants or foreign diplomatic representatives in Montenegro for forcing employees to work through violence and some other kind of coercion. No

allegations were received from local staff employed by foreign embassies and missions accredited in Montenegro with regard to fulfilling the obligations set out in employment contracts, which they entered into with this type of employer. There were no complaints by Montenegrin diplomats accredited in foreign countries during the reporting period that they were exposed to any form of violence or coercion or that the Montenegrin diplomatic and consular missions abroad did not fulfill the obligations assumed by the contracts with local executors.

6.5. What steps have been taken to strengthen and maintain the capacity of prosecutors to effectively prosecute trafficking cases?

In order to achieve a better balance of results achieved in investigating and prosecuting cases of trafficking in human beings, the Supreme State Prosecutor and the Director of the Police Directorate have formed an Operational Team for Combating Trafficking in Human Beings. This body consists of representatives of the Ministry of Internal Affairs, the Police Directorate, the High State Prosecutor's Office and the Ministry of Justice. The key tasks of this team are:

- More efficient processing of human trafficking cases;
- Coordination of activities and harmonization of work with other participants on combating human trafficking;
- Identification of THB victims in the human trafficking chain and other crimes perpetrated by criminal organizations;
- Gathering knowledge on financial resources acquired through human trafficking and other crimes, for the purposes of conducting financial investigations;
- Establishing international cooperation through direct contact with police forces, especially in the region, as well as with other international organizations, initiatives and participation in joint investigative teams.

There are state prosecutors in the state prosecutor's offices competent for trafficking cases that specialize in dealing with these cases. Through the Center for training of the judiciary and state prosecution, state prosecutors have training in this area.

During the reporting period, the prosecutors attended the following trainings:

- 29.10 - 02.11.2018, Bucharest – international training on human trafficking – one state prosecutor took part;
- 30.10 - 02.11.2018, Sophia, Bulgaria – one state prosecutor took part in a conference *Strengthening capacities and international cooperation in combating human trafficking*;
- 27-28.09.2018, Podgorica – a two-day training was held for the representatives of institutions and NGOs, for the application of transnational referral forms, titled *Improving services and awareness in combating human trafficking*, and it was attended by 20 participants: 6 representatives of the Basic State Prosecutor's office, 3 representatives of the Police Directorate, 8 representatives of social welfare centers and 3 NGOs,
- Organized by the National Office for Combating Trafficking in Human Beings in Montenegro and the OSCE Mission to Montenegro, during the reporting period, four trainings were held on the topic: *Strengthening the Capacity of Representatives of Investigative and Judicial Bodies in Investigating and Processing Cases of Trafficking in Human Beings*, intended for representatives of police, prosecution and judiciary, as follows:

- o Berane, 23 - 24.10.2018, attended by five representatives of the judiciary, five representatives of the State Prosecutor's Office and five police officers;
 - o Bijelo Polje, 25 - 26.10.2018, attended by five representatives of the judiciary, five representatives of the State Prosecutor's Office and five police officers;
 - o Budva, 30 - 31.10.2018, attended by three representatives of the judiciary, five representatives of the State Prosecutor's Office and five police officers;
 - o Podgorica, 01 - 02.11.2018, attended by three representatives of the judiciary, five representatives of the State Prosecutor's Office and five police officers.
- 19 - 20.11.2018 - in Budva, at the Conference on Combating Trafficking in Human Beings organized by the Center for training of the judiciary and state prosecution, in cooperation and with the support of the US Embassy in Podgorica, ie. State Department's Bureau of Combating International Drug Trafficking and Law Enforcement-INL Program, ten state prosecutors participated;
 - 17 - 18.09.2019, Tivat – organized by the Ministry for Human and Minority Rights, an intersectoral training was held, titled *Existing mechanisms of fighting arranged marriages*. It was attended by four representatives of the prosecution from the southern region.
 - 26-27.09.2019, Podgorica – six representatives of the State Prosecutor's Office took part in a training titled *Application of Guidelines on non-punishment of THB victims for police officials, state prosecutors and judges*, organized by MIA and financially supported by the OSCE mission in Montenegro. Training was attended by three police officers, from centers in Berane, Budva and Bijelo Polje, five state 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.

State prosecutors take part in trainings in line with programs organized by the center.

Refer to the reply for question 3.6.

7. Non-punishment provision (Article 26)

7.1. Please indicate what measures are taken to ensure that victims of THB, including children, are not punished for their involvement in unlawful activities (criminal, civil, administrative offences), to the extent they were compelled to do so, providing any concrete examples of their implementation.

Ministry of Internal Affairs - National Office for Combating Trafficking in Human Beings in Montenegro, with the support of the OSCE Mission to Montenegro, has developed Guidelines on Non-Punishment for Victims of Trafficking in Human Beings, which are highlighted on the website of the Supreme Court of Montenegro.

Although the principle of impunity for victims of trafficking in human beings has been incorporated into our legislation, the specific value of the Guidelines is to provide practitioners with clear and specific instructions on how to identify in practice situations in which the provisions on non-punishment for

trafficking victims should be applied.

In order to better implement the above mentioned document, the Ministry of the Interior, with the financial support of the OSCE Mission to Montenegro, organized on September 26th and 27th 2019, a training titled *Application of Guidelines on non-punishment of THB victims for police officials, state prosecutors and judges*, which was attended by three police officers, five public prosecutors and three representatives of the judiciary

7.2. Can persons who have breached national laws in the course, or as a consequence, of being trafficked have access to remedies for victims of trafficking, including State compensation?

In each specific case of trafficking in human beings, depending on the circumstances, the prosecution takes measures to prevent the victim from being punished for their possible involvement in unlawful acts to which they were compelled to take part in, as prescribed by the law. Taking into account the concept of the Criminal Code, its basic provisions on the crime, then the grounds which exclude the existence of the crime, ie. exclusion of guilt, Article 12 provides:

"Force and Threat

Article 12

(1) An act which was committed under the influence of absolute force shall not constitute a criminal offence.

(2) If a perpetrator committed a criminal offence to eliminate danger to his good or good of another person and where such danger was represented by either force which is not absolute or a threat, the perpetrator shall be subject to the provisions of Art.11 hereof *mutatis mutandis*, and the force and threat shall be considered to be a danger which he did not cause.

(3) If a perpetrator committed a criminal offence under force or threat, where the conditions referred to in paras 1 and 2 hereof are not met, the perpetrator thereof may receive a lighter punishment, and where such an offence was committed under particularly mitigating circumstances, punishment may be remitted.

(4) In the cases referred to in paras 1 and 2 hereof, where the person who was under force or threat is not considered to be the principal of that criminal offence, then the person who applied force or threat shall be considered to be the principal."

In the criminal proceedings conducted for the criminal offense of trafficking in human beings, the court renders a verdict that can only relate to the person charged and only to the act which is the subject of the indictment, filed or amended at the main trial.

Refer to the reply to question 3.1.

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

8.1. How are victims of THB protected in practice against potential retaliation or intimidation before, during and after legal proceedings? How is the assessment of the needs for protection performed and who recommends the application of the protection measures? Who is responsible of the implementation of the protection measures?

In the process of dealing with victims, one of the protection measures is accommodation in a shelter. In line with the assessments carried out by police officers in specific cases, physical protection of victims during their stay in the shelter as well as movement outside the shelter may be provided.

The Law on Witness Protection¹⁷ regulates conditions and procedure for providing protection and assistance to the witness outside of the court, when there is reasonable doubt that by giving his testimony for the purpose of proving a criminal offense, for which the law provides a possibility of protection, he would be exposed to real and serious danger to life, physical integrity, freedom or property to a large extent, and other protective measures would be insufficient. Protection and assistance may be provided to witness' close person as well, on his request.

The protection of a witness, or of a person close to him, is ensured through the application of the witness protection program.

The protection program applies only if without the testimony of the witness the criminal offense could not be proven or otherwise would be substantially more difficult to prove when one of the following crimes is being proved:

- 1) crime against the constitutional order and security of Montenegro;
- 2) crime against humanity and other goods protected by international law;
- 3) organized 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 application of the witness protection program shall be taken by the Commission for the implementation of the witness protection program.

The Witness Protection Section is a specialized organizational unit of the Police Directorate (within the Sector for Combating Organized Crime) which implements emergency measures, implements the protection program and is responsible for its implementation and performs other tasks in accordance with this Law. The Witness Protection Section performs tasks related to ensuring the life, health, physical integrity, freedom or property of a witness or a close person in accordance with the provisions of the Law on Witness Protection and the Code of Criminal Procedure through the application of non-procedural witness protection measures (out of court), emergency measures, protection measures under the protection program and other tasks within the scope of work of the Section.

From all of the above and as prescribed by law, it follows that the Witness Protection Section performs non-procedural protection of persons who have been granted the status of protected witness on the basis

¹⁷ Law on Witness Protection (Official Gazette of the Republic of Montenegro, no. 065/04 from 25.10.2004, Official Gazette of the Republic of Montenegro, no. 073/10 from 10.12.2010, 031/14 from 24.07.2014).

of the decision of the Commission for the implementation of the witness protection program, which begins on the day of signing the Agreement on the implementation of the Protection Program between witnesses and the Chief of the Witness Protection Section .

Also, Article 120 of the Code of Criminal Procedure - Protection of witnesses from intimidation provides as follows:

(1) If reasonable concern exists that by giving a statement or answering certain questions witnesses would put in danger their, their spouse's, close relative's or a close person's life, health, physical integrity, freedom or property of great value, witnesses may withhold from giving the data referred to in Article 113, paragraph 3 of the present Code, answering certain questions or giving the statement all together until their protection is secured. If it finds that the refusal to give a statement is manifestly ill founded, the authority conducting the proceedings shall caution witnesses that fines specified in Article 119 of the present Code may be imposed on them.

(2) Witness protection shall consist of special ways of participating and hearing witnesses in the criminal procedure.

(3) In a manner referred to in paragraph 2 of this Article, the protection may be ensured to a whistleblower as well, when he is heard as a witness, and on his request.

(4) Protection of witnesses and other persons referred to in paragraph 1 of this Article may be secured beyond the criminal procedure as well, in line with the law regulating witness protection.

(5) The court shall inform the witness on the rights referred to in paragraphs 1 to 4 of this Article.

When it comes to deciding on the status of a protected witness, pursuant to Article 122 of the CPC, the decision on the special mode of participation and hearing of a protected witness in the investigation shall be made by the investigating judge, at the proposal of the witness, defendant, defense attorney or public prosecutor, and at the main trial the panel. The proposal must be reasoned.

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. To determine these facts, the investigating judge may schedule a hearing at which he will summon the state prosecutor and the witness.

Details of the witness who will be involved in the proceedings in a special mode are sealed in a separate envelope and stored with the investigating judge. The envelope is marked "protected witness - secret". 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.

Refer to the reply to question 6.1, pertaining to the status of protected witness.

8.2. How do you ensure that victims are provided with realistic and practical information about the progress of the case and whether the perpetrator has been detained or released?

The victim receives information about the case directly from the state prosecutor and the legal representative who looks after the victim's interests.

8.3. How do you ensure respect for the victims' right to safety, privacy and confidentiality during court proceedings?

Proceedings in cases of trafficking in human beings, in accordance with legal provisions, can be marked as confidential, which is practiced in almost all cases of this kind.

8.4. In how many cases were witness protection measures used for the protection of victims and witnesses of THB, including children? If witness protection measures/programmes are not applied to victims of trafficking, what are the reasons?

There were no cases of witness protection measures taken to protect the victims.

Refer to reply for question 8.1.

8.5. When victim protection is provided by NGOs, how are NGOs resourced and supported to perform this function and how do the police and the prosecution co-operate with NGOs?

The Law on Social and Child Welfare¹⁸ stipulates that protection of victims of trafficking in human beings, as well as victims of other forms of violence in the shelter, can only be performed by those service providers who are licensed to perform activities in the field of social and child protection, ie. those who hold a license to provide shelter accommodation services.

Rulebook on further conditions for the provision and usage, norms and minimum standards of shelter accommodation stipulates that shelter accommodation is to be provided to a child victim of trafficking, an adult and elderly victim of trafficking.

The Ministry of Labor and Social Welfare has issued licenses for performing the activities of social and child welfare for the accommodation service in a shelter to the following service providers:

- PI Children Home Mladost Bijela (accommodation of children, licence no.: 56-1570/18-5 from December 19th 2018);
- PI Center for support of children and families Bijelo Polje (accommodation of adults and elderly, or adults with children, licence no.: 56-127/19-5 from February 22nd 2019);
- Women's Safe House SŽK Podgorica (adults and elderly, or adults with children, licence no.: 56-97/19-6 from March 29th 2019);
- SOS phone line for women and children victims of violence Nikšić (adults and elderly, or adults with children, licence no.: 56-2/19-7 from April 23rd 2019);
- PI Home for Elderly Grabovac Risan (accommodation of adults and elderly who are homeless, licence no.: 56-245/19-5 from April 23rd 2019).

In line with the Strategy for Combating Trafficking in Human Beings 2019-2024, the Ministry of Labour

¹⁸ 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).

and Social Welfare shall take part in funding licence shelter for THB victims.

The basics of the referral mechanism for potential victims and victims of trafficking in Montenegro are defined in the Agreement on Mutual Cooperation of Institutions and NGOs, the purpose of which is to establish cooperation on prevention, education, reporting and prosecution of perpetrators and protection of potential victims and victims of trafficking in human beings, with full respect for their human rights, with the aim of providing physical, psychological, health, social and child protection and facilitating their integration into the new society, or reintegration, in case of voluntary return to their country of origin.¹⁹ This Agreement makes the cooperation of state bodies directly involved in human trafficking issues more productive, and thus the legally defined obligations of the institutions are specified through clearly defined operational procedures that the signatories of the Agreement implement in resolving specific cases of trafficking in human beings. The Agreement placed particular emphasis on the treatment of women and children victims of trafficking. In accordance with this Agreement, the Police Directorate has close cooperation with all NGOs working to protect and identify victims. This cooperation is reflected in the exchange, that is, receiving information from NGOs and the actions of police officers. Also, officers of the Police Directorate are always at the disposal of NGO representatives for timely action and exchange of information. State Prosecutor's Office becomes involved from the very beginning in all cases involving potential victims of trafficking, ie from the moment the status of a potential victim of trafficking is given.

Cooperation with civil society organizations has been expanded, bearing in mind that the Ministry of the Interior has allocated funds for financing projects/programs of NGOs focused on combating trafficking in human beings in the amount of EUR 79.280,00, in accordance with the Decision on priority areas of public interest and amount of funds for financing the projects and programs of non-governmental organizations in 2019. The MIA committees adopted three decisions on financing 12 projects/programs of non-governmental organizations based on three competitions, two in the field of protection and promotion of human and minority rights and one in the field of social care for children and youth:

1. Public competition: Implementation of a campaign for decreasing demand for the services of victims of trafficking in human beings;
2. Public competition: Sensitizing and enhancing the professional skills of law enforcement representatives in relation to the identification and referral of victims and potential victims of trafficking;
3. Public competition: Protection of THB victims in Montenegro.

8.6. How do you ensure that child victims of THB are treated in a child-sensitive way and are provided with protection before, during and after judicial proceedings in accordance with the Council of Europe Guidelines on Child Friendly Justice? Are interviews with children conducted in specially designated and adapted spaces by professionals trained to interview children? What measures are taken in order to ensure a limited number of interviews?

Interviews conducted with children are conducted by specialized juvenile delinquency officers. The Police Directorate does not have specially adapted and furnished premises intended for interviewing children,

¹⁹ Signatories to the Agreement: Supreme Court, Supreme State Prosecution, Ministry of Health, Ministry of Labour and Social Welfare, Ministry of Education, Ministry of the Interior-Police Directorate, Unit for Combating Human Trafficking, Red Cross Montenegro, PI Center for support to children and families Bijelo Polje and several NGOs whose mission is implementation of preventive activities and provision of safe accommodation, support and assistance to THB victims. Agreement text: www.mup.gov.me

but such a measure is covered by the new Strategy for Combating Trafficking in Human Beings.

In the prosecutor's office, interviews with children are conducted in specially adapted and furnished premises and they are carried out by a professional from the expert service of this body, who is trained to conduct such interviews.

Law on the Treatment of Juveniles in Criminal Procedure²⁰ regulates the status and protection of children, including victims of trafficking, in criminal proceedings. Child victims of trafficking can also be found in the role of perpetrators of criminal offenses and in the role of victims of trafficking offenses. Special provisions apply to a minor who has been injured by a crime, or who is being heard as a witness in criminal proceedings. Participants in the proceedings, authorities and institutions seeking information, reports or opinions, as well as the media, are required to take care of the privacy of the minor, including the protection of identity and identifying information. The law also introduces a specific specialization of all actors in criminal proceedings (the president of the panel, the state prosecutor, the investigating judge, the police officer and the attorney of the injured party) for the treatment of minors.

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

9.1. What budget, staff and resources, including technical means, are put at the disposal of law enforcement bodies specialised in combating and investigating THB?

In the Police Directorate, 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 illegal migration. This specialized unit of 8 staff conducts reconnaissance measures and activities in cooperation 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 specialized division shall, in accordance with its competencies, engage other organizational units of the Criminal Police Sector, which carry out activities in the part of the application of the secret surveillance measures. Recent donations, supported by the International Organization for Migration, have provided technical and other resources for the functioning of the Section's officers.

The Operational Team for Combating Trafficking in Human Beings and the State Prosecutor's Offices conducting investigations into cases of trafficking in human beings do not have their budget or funds allocated for this purpose, and they do not have specially designated staff, but use the institutional capacities of state prosecutor's offices where there are state prosecutors specialized in cases of trafficking people.

9.2. If your country has specialised units for financial investigations, financial intelligence units and asset and recovery units, please describe whether and how are they used in investigating and prosecuting THB cases, Which special investigation techniques do these units use? Which public and/or private bodies do these specialised financial investigation

²⁰ Law on the Treatment of Juveniles in Criminal Procedure, Official Gazette of the Republic of Montenegro, no. 064/11 from 29.12.2011 and 001/18 from 04.01.2018

units co-operate with in relation to THB cases?

The Document on the Systematisation of Jobs of the Police Directorate within the Sector for Combating Organized Crime and Corruption, of the Section for the Suppression of Serious Crimes, established the Group for the Suppression of Serious Economic Crime and Conducting Financial Investigations. Six jobs were systematized in the group.

The Criminal Code of Montenegro²¹ specifies that no one can retain material gain obtained by an unlawful act, which is defined in the law as a criminal act. The proceeds shall be forfeited under the conditions provided for in this Code and the verdict.

Law on Seizure of the Proceeds of Crime²² stipulates conditions and manner of seizure of material gain acquired through criminal activities.

The offender may be deprived of material gain suspected of having been acquired through a criminal activity, and the offender does not make it probable that its origin is lawful (extended seizure) and if he is convicted of a criminal offense by a final decision.

The court shall decide on the forfeiture of proceeds of crime. The State Prosecutor's Office and the police carry out the activities of discovering the proceeds of crime.

The management of seized property, objects of a crime and objects temporarily seized in criminal and misdemeanor proceedings and property given in the name of bail shall be performed by the administration body competent for managing state property.

10. International cooperation (Article 32)

10.1. How does your country cooperate with other countries to enable victims of THB to realise their right to redress and compensation, including recovery and transfer of unpaid wages after they leave the country in which the exploitation occurred?

Montenegro adopted the Law on Compensation for Victims of Violent Crimes, thereby aligning its judicial system with European standards, in this case in order to protect the position of victims of violence. The law regulates the conditions, manner and procedure for obtaining compensation for damages, and the same shall apply from the day of accession of Montenegro to the European Union. According to the law, a victim of a crime of intentional violence is entitled to compensation on three grounds: compensation for lost earnings, compensation for medical treatment and hospital stay, and compensation for funeral expenses. If, as a consequence of the commission of the crime, the death of the victim has occurred, persons entitled to support have the right to compensation. The fee will be paid from the budget.

The Law on Compensation for Victims of Violent Crimes, Article 4, stipulates that in order to remedy the

²¹ Criminal Code of Montenegro (Official Gazette of the Republic of Montenegro, no. 70/2003, 13/2004 - 47/2006 and Official Gazette of the Republic of Montenegro, no. 40/2008, 25/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017 i 49/2018).

²² Law on Seizure of the Proceeds of Crime, (Official Gazette of the Republic of Montenegro, no. 58/2015).

harmful consequences and the severe physical and psychological condition of the victim in a timely manner, the victim is entitled to compensation for damages and compensation for lost earnings. Furthermore, Article 11 of the same law stipulates that the right to compensation for lost earnings is granted to the victim who, as a result of the criminal offense of violence, becomes incapacitated to work in terms of pension and disability insurance regulations, in a lump sum not exceeding ten average net wages in Montenegro established for the previous year in relation to the year in which the compensation is determined, according to data from the administrative authority in charge of statistics.

10.2 Has your country co-operated with other countries in the investigation and prosecution of THB cases through financial investigations and/or Joint Investigation Teams? Please provide statistics on such cases and examples from practice.

International cooperation within the scope of police work is based on communication through the Department for International Police Cooperation (INTERPOL, EUROPOL, SELEC), ie. on requesting specific checks for certain persons. Such requests are common during investigations where potential victims from other countries have been identified. There were no formal joint investigations by model (JIT or parallel investigations). Montenegro has also not been requested to open investigations.

There have been no cases where the prosecution has cooperated in conducting investigations through financial investigations or through joint investigative teams with other countries.

10.3 How many mutual legal assistance requests and/or European Investigation Order have you made in THB cases and what was their outcome?

In one case, the institute for international legal assistance was used by sending a request for mutual legal assistance to Republic of Germany.

10.4 What forms of international cooperation have proven to be particularly helpful in upholding the rights of victims of trafficking, including children, and prosecuting alleged traffickers?

10.5 What international cooperation measures are in place to ensure protection and assistance to victims on return from your country to their countries of origin following their participation in criminal proceedings?

When it comes to victims who participated in the procedure and who are returning to their country of origin, prior to their return, a number of activities are undertaken on an international level. Namely, the Ministry of the Interior - Department for Combating Trafficking in Human Beings, as well as non-governmental organizations providing assistance and protection, are also engaged to a large extent. Following the exchange of necessary information and assessment of security risks, escort and hand over of persons are carried out.

In order to intensify bilateral cooperation with the countries of the region on improving prevention, identification, protection, referral and cooperation in criminal and other procedures and to assist in the

voluntary return of victims and potential victims of trafficking, respecting basic human rights, on 20 July 2018, the Minister of the Interior signed a Cooperation Agreement on Combating Trafficking in Human Beings with the Republic of Macedonia, which regulates the issues of cooperation between the two parties related to the identification, referral, protection and assistance in the voluntary return of victims and potential victims of trafficking. Protocols on cooperation in the field of combating trafficking in human beings in the previous period were also signed with the Republic of Kosovo and the Republic of Albania, i.e. with those countries whose nationals in most cases appear as (potential) victims or perpetrators of trafficking in the territory of Montenegro.

In order to implement these bilateral agreements more effectively, a Declaration on the Implementation of Standard Operating Procedures for the Quality Identification, Referral, Voluntary Return and Protection of Trafficking Victims was signed in Tirana in December 2016. Operational procedures will be applied in cross-border cases of trafficking in human beings, based on bilateral Protocols on cooperation in combating trafficking in human beings.

With other countries with which Montenegro does not have a bilateral or other agreement signed, international cooperation works by sending certain requests to other countries through the Section for International Police Cooperation.

The following forms of international co-operation have proved particularly useful within the scope of work of the State Prosecutor's Office: hearing parties, obtaining information and exchanging information on potential victims of trafficking.

Protection and assistance to victims in this case is provided by the competent authority, in accordance with the Council of Europe Convention on Action against Trafficking in Human Beings.

10.6 What international cooperation measures are in place to protect and assist victims of THB for the purpose of sexual exploitation through online streaming where the perpetrator is a national or habitual resident of your country and elements of the crime have occurred in your country's jurisdiction?

Montenegro is a signatory to the Council of Europe Convention on Action against Trafficking in Human Beings, as well as the Council of Europe Convention on Cybercrime, which are effective instruments for protecting and assisting victims of trafficking for sexual exploitation through the Internet. In addition, Montenegro is a signatory to all major Council of Europe and United Nations conventions in the field of international legal assistance and judicial cooperation, as well as a number of bilateral treaties in this area, which forms a good basis for quality cooperation with other countries.

At the national level, the area of international legal assistance is regulated by the Law on International Legal Assistance in Criminal Matters, while the Constitution of Montenegro stipulates that ratified and published international treaties and generally accepted rules of international law are an integral part of the domestic rule of law, have primacy over domestic legislation and directly apply when relations are regulated differently from domestic legislation.

11. Cross-cutting questions

11.1 What steps are taken to ensure that victims of THB have equal access to justice and effective remedies, irrespective of their immigration status and the form of exploitation?

Montenegrin courts are strongly committed to creating a legal space based on respect for human rights, without discrimination on any grounds.

We remind of the constitutional provision that guarantees the right that everyone is equal before the law, regardless of any particularity or personal characteristic. Also, in terms of access to justice, everyone has the right to the equal protection of his rights and freedoms and to a remedy against a decision deciding on his right or a legitimate interest.

In addition, everyone enjoys the right to a fair trial and a public hearing within a reasonable time before an independent and impartial tribunal established by law - a right guaranteed by the European Convention on Human Rights, without discrimination on any grounds.

11.2 What steps are taken to ensure that criminal, civil, labour and administrative proceedings concerning victims of THB are gender-sensitive?

In criminal proceedings, the victim has the right to be heard by a prosecutor of the same sex.

11.3 What steps are taken to ensure that procedures for obtaining access to justice and remedies are child-sensitive, readily accessible to children and their representatives, and give weight to the child's views?

When it comes to the interests of the child and respect for his or her views and opinions, Article 356 of the Family Law (Official Gazette of the Republic of Montenegro 1/2007 and Official Gazette of the Republic of Montenegro 53/2016) provides that in cases where there are conflicting interests between the child and his legal representative, the child is represented by a collision guardian, and that the child who is 10 years of age and capable of judgment can independently, through another person or institution, ask the guardianship authority to appoint a collision guardian. A child who is 10 years of age and able to make judgments can independently, through another person or institution, ask the court to appoint a temporary representative because of conflicting interests between him and his legal representative.

Amendments to the Family Law made in 2016 define a new institute, the 'Child Support Person in Procedures pertaining to Family Law Relations', which provides assistance and support to a child involved in family law litigation. Article 317v of that law provides that in proceedings relating to family relations, the court may, if it deems it to be intensified by the conflict between the child and the parent or between the parents, appoint a child support person - to the child under 14 years of age without his or her consent, and to a child over the age of 14 with his or her consent. Article 317j further provides that the support person is obliged to take good care and conscientious care of the child's personality and interests, to build a relationship of trust with the child, to inform him or her of his rights, to provide information on the subject, course and possible outcome of the procedure and to provide explanations concerning possible

consequences of the child expressing his opinion. The support person is obliged, with the consent of the child, to transmit his opinion to the court, to attend the hearing at which the child is being heard or to present his opinion directly, as well as to explain to the child the content of the decision and its consequences. Article 317nj provides that in proceedings concerning family relations the court is obliged to allow the child to express his or her opinion, if the child so wishes.

In order to inform children and their parents/guardians of children's rights and the available support services within the justice system, the Ministry of Justice, with the expert support of the UNICEF Representation for Montenegro, has developed materials that will bring children and their parents in an understandable way/guardians a broad corpus of children's rights. The materials have been published and are available on the Ministry of Justice's website.

The above materials will help children and their parents/guardians to become aware of the rights of the child in court proceedings and the support services available. These include defining the rights of children under international and domestic law, a better understanding of the best interests of the child, information on competent child care institutions and their protection, how these institutions can help in the event of a violation of the rights of the child, and how institutions can be contacted. The materials also provide information on how court proceedings can be initiated should a child's rights be violated, both before domestic courts and international courts. The materials were published in Montenegrin, Albanian and Roma languages.

We also point out that the implementation of the project Equal Access to Justice for Children in the Western Balkans is being implemented in Montenegro and Albania, with UNICEF technical assistance and financial assistance from the Government of the Kingdom of Norway for two years (2019- 2020). The project aims to strengthen the system in terms of children's access to justice when their rights are violated or challenged. The primary beneficiaries of this initiative are all children in contact with the law, especially children from vulnerable groups - children with disabilities, children from minorities (Roma) and children affected by poverty. Access to justice for children implies that all children have equal access to justice and are able to participate in an effective and meaningful manner in all matters pertaining to them, including criminal, civil and administrative proceedings in institutions that are accessible and adapted to the needs and rights of the child.

11.4 What steps are taken to ensure that private entities take steps to prevent and eradicate trafficking from their business or supply chains and to support the rehabilitation and recovery of victims? What options exist for victims of trafficking to access effective remedies from businesses implicated in human trafficking?

Within the framework of the joint project Cooperation between the Public and Private Sector in Prevention of Trafficking and Sexual Exploitation of Minors in Travel and Tourism, over 200 representatives of the tourism industry have signed and are continuously implementing the principles of 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, ie child abuse for the purpose of trafficking. The MIA/National Office for Combating Trafficking in Human Beings, in cooperation with the Ministry of Sustainable Development and Tourism, conducted five trainings for representatives of the tourism industry for the northern, central and southern regions in 2018 and 2019. Through these trainings, the representatives (over 50 of them) familiarize themselves with the issue of trafficking in human beings, key trends that address these issues, indicators for identifying victims of sexual exploitation, as well as referral mechanisms.

The Protocol on Mutual Cooperation 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. Also, since the economic independence of persons exiting the human trafficking chain is a key factor in their full reintegration into normal social movements, this Protocol provides them with the opportunity to attend training to perform appropriate jobs and to prioritize employment in accordance with the needs of employers.

11.5. What legal, policy and practical measures are taken in your country to prevent and detect situations where corruption facilitates human trafficking and infringes the right of victims of THB of access to justice and effective remedies? Please provide information on any known or proven cases of corruption or related misconduct of public officials in THB cases and any sanctions issued.

No corruption cases have been identified in the reporting period in connection with the commission of the criminal offense of trafficking in human beings under Article 444 of the Criminal Code of Montenegro.

PART II – COUNTRY-SPECIFIC FOLLOW-UP QUESTIONS

12. Please provide information on new developments in your country since GRETA's second evaluation report concerning:

- **emerging trends of trafficking in human beings (new forms of exploitation, new recruitment methods, vulnerable groups, gender-specific aspects of trafficking, child trafficking);**

According to the practice based on active and realized cases, as well as the analysis of trafficking in human beings and information available to the Police Directorate, no new trends of exploitation of victims on the basis of the criminal offense of trafficking in human beings under Article 444 of the Criminal Code of Montenegro were observed.

In the part of work with migrants i.e. acting in accordance with the Law on International and Temporary Protection of Foreigners, a series of checks are carried out in the interview section as well as controls relating to asylum seekers. Pursuant to their competences and work towards foreign nationals, the Border Police Sector performs on-site inspections of locations and places where foreign labor can be hired and such checks are carried out in cooperation with the Labor Inspectorate.

When it comes to children as a vulnerable category, street begging is the form of exploitation most recognized in Montenegro. To this end, planned activities, which are defined through the *Prosjak* actions, are being carried out, and they entail performing of tasks and jobs within the jurisdiction of the police, with the aim of finding and protecting the children caught up in begging.

Between 2015 and September 2019, several investigations were conducted in order to prove the criminal

offense of trafficking in human beings under Article 444 of the Criminal Code of Montenegro.

In 2015, 4 cases of sexual exploitation were recorded, but the cases were qualified and prosecuted through a criminal offense Intermediation in conducting prosecution from Article 210 of CC.

In 2016, 3 cases were recorded, one of which was related to begging as a form of exploitation and two were related to sexual exploitation. From a total of 3 cases, a case related to begging was processed as a form of exploitation.

In 2017, 2 sexual exploitation cases were recorded and no cases were completed.

In 2018, officers of the Police Directorate filed 2 criminal charges pertaining to a criminal offense of trafficking in human beings under Article 444, and a total of 11 victims were identified.

In 2019, one case was registered and one criminal complaint was filed in relation to a criminal offense trafficking in human beings under Article 444 and one victim of trafficking was identified.

- **the legislation and regulations relevant to action against THB (e.g. criminalisation of THB, identification and assistance of victims of THB, recovery and reflection period, residence permit, supply chains, public procurement);**

Priorities in combating the occurrence of trafficking in human beings were ensured by the adoption of a set of laws in the field of justice, namely: the Criminal Code, the Criminal Procedure Code, the Law on Compensation for Victims of Violent Crimes, the Law on Foreigners, the Law on Seizure of the Proceeds of Crime, the Law on the Treatment of Juveniles in Criminal Procedure, the Law on Health Care and the Law on Social and Child Welfare, the Law on International Legal Assistance in Criminal Matters.

The Criminal Code covers the offenses prescribed by Article 444 (Trafficking in Human Beings), Article 445 (Trafficking in Minors for Adoption) and Article 446 (Establishment of a Slavery Relationship and the Transport of Enslaved Persons). A specific group of criminal offenses that may be linked to the criminal offense of trafficking in human beings are also crimes against sexual freedom:

- Rape, Article 204 CCMNE,
- Sexual intercourse with a child, Article 206 CCMNE,
- Sexual intercourse by abuse of position, Article 207 CCMNE,
- Pimping and enabling a sexual intercourse, Article 209 CCMNE,
- Intermediation in conducting prostitution, Article 210 CCMNE,
- Child pornography, Article 211 CCMNE,

Also, the part of the Criminal Code pertaining to crimes against sexual freedom has been extended to include more severe penalties under Article 210, paragraph 1, also for cases where the victims are minors, paragraph 2, and a new paragraph 4 has been added in relation to mediation in prostitution.

A special group of criminal offenses that may be linked to the criminal offense of trafficking in human beings are also criminal offenses from the group of criminal offenses against marriage and family, namely: extramarital affairs with a minor, Article 216 of the Criminal Code and neglect and abuse of a minor, Article 219 of the Criminal Code.

The Criminal Procedure Code lays down rules aimed at enabling the fair conduct of criminal proceedings, as well as imposing a criminal sanction on the perpetrator, and the protection of witnesses in criminal

proceedings.

The protection of witnesses outside criminal proceedings (out of court), in pre-criminal proceedings as well as after the conclusion of criminal proceedings, is regulated by the provisions of the Law on Witness Protection. This law provides that in addition to a witness, a person close to him may also be protected, namely: a spouse, a relative and another person close to him, who he designates as such and demands their protection.

The legal system of Montenegro does not envisage in any way influence or coercion on the victim for the purpose of giving testimony in the investigative procedure or testifying in court proceedings. When drafting the provisions of applicable laws in the criminal law field, it was strictly taken into account that the victim of trafficking in human beings should in no way become a victim for the second time (victim of the institutions of the system).

The Law on Courts regulates the establishment, organization and jurisdiction of courts, organization of the work of courts and judicial administration, as well as other issues of importance for the orderly and timely functioning of courts. This Law stipulates that the High Court is competent to judge in the first instance in criminal proceedings for offenses from a group of criminal offenses against humanity and other goods protected by international law, which includes the criminal offense of trafficking in human beings. Also, the law determines the jurisdiction of the Special Division of the High Court in Podgorica for the trial of crimes committed in an organized manner.

The Law on the State Prosecutor's Office regulates the establishment, organization and jurisdiction of the State Prosecutor's Office, organization of the work of state prosecutor's offices, composition, election, mandate, organization and manner of work of Prosecutorial Council, as well as other issues relevant to the work of the State Prosecutor's Office and Prosecutorial Council

The Law on the Special State Prosecutor's Office regulates the organization and jurisdiction of the Special State Prosecutor's Office, the conditions and procedure for the election of the Chief Special Prosecutor and Special Prosecutors and relations with other state bodies and state administration bodies, as well as other issues relevant to the work of the Special State Prosecutor's Office.

The Law on the Center for training of the judiciary and state prosecution establishes the Center for training of the judiciary and state prosecution and regulates the organization, manner of work, training, financing and other issues relevant to the work of the Center. The Center organizes and conducts training for judges and prosecutors.

The Law on International Legal Assistance in Criminal Matters regulates the conditions and procedure for providing international legal assistance in criminal matters. International legal assistance includes extradition of defendants and convicted persons, assignment and prosecution, execution of foreign court decisions in criminal matters, as well as other forms of international legal assistance prescribed by this Law.

The Law on Public Order and Peace defines offenses that violate public order and peace in a public place and prescribes penalties and safeguards for such offenses. The law prescribes misdemeanor liability for prostitution or engaging in acts that encourage prostitution, as well as for other acts that mediate prostitution (Articles 27 and 28). Whoever deals with begging is also subject to misdemeanor liability, as well as who arranges for begging or forcing or implying begging (Articles 30 and 31).

Of particular importance for the identification, prevention and protection of vulnerable categories of population or victims of trafficking are the following laws:

The Law on Foreigners contains provisions relevant to the status of victims of trafficking in human beings, and in particular a 90-day recovery and reflection period for victims of trafficking that gives the victim the opportunity to decide whether or not to cooperate in criminal proceedings, or whether to join prosecution or be a witness in the proceedings (reflection period).

The Law on International and Temporary Protection of Foreigners prescribes the principles, conditions and procedure for granting temporary protection to an alien seeking international protection. The law contains provisions relevant to the position and placement of victims of trafficking as a vulnerable group. In this regard, Article 15 of the Law on International and Temporary Protection of Foreigners states that in proceedings conducted under this law, the best interests of the minor must be taken into account, keeping in mind the protection and safety of the minor, especially if there is a possibility that he or she may be a victim of human trafficking.

The Law on Seizure of the Proceeds of Crime is intended to enable more efficient temporary and permanent confiscation of proceeds obtained directly or indirectly from criminal activity.

In 2015, Montenegro also adopted a special Law on Compensation for Victims of Violent Crimes, which stipulates the possibility for victims to address a direct claim for compensation to the state. This Law regulates the conditions, manner and procedure for exercising the right to compensation for victims of crimes of violence, including human trafficking, and its application has been postponed until the day of Montenegro's accession to the European Union

Until then, Montenegrin courts have the possibility of claiming damages, both material or non-material, for the victims of criminal offenses. Damage proceedings can be carried out in both criminal and civil proceedings. Namely, the Criminal Procedure Code provides the possibility of filing a property claim arising from the commission of a criminal offense, if this would not significantly delay the proceedings. A claim in property may be for damages, repossession or cancellation of a particular legal transaction.

On the other hand, if the court directs the injured party to pursue a claim in a civil proceeding, judicial protection is exercised before the basic court as a truly competent court. The Law on Obligations regulates the issues of compensation for material and non-material damage.

The Law on Free Legal Aid in Article 13 (paragraph 4) provides that victims of trafficking in human beings receive free legal aid. Furthermore, in accordance with the Law on Social and Child Welfare and the Law on Health Care, potential victims and victims of THB have the availability of social and child welfare services and free health care ensured.

The General Law on Education prevents trafficking in children by prohibiting physical violence and offending the personality of children, or by guaranteeing the right of the child (student) to be protected from discrimination and violence.

The Family Law establishes the obligation of the state to take all necessary measures to protect the child from neglect, from physical, sexual and emotional abuse, and from any kind of exploitation.

The Law on the Treatment of Juveniles in Criminal Procedure regulates the status and protection of children, including victims of trafficking in human beings, in criminal proceedings. Child victims of trafficking can also be found in the role of perpetrators of criminal offenses and in the role of victims of

trafficking offenses. Special provisions apply to a minor who has been injured by a crime, or who is being heard as a witness in criminal proceedings. Participants in the proceedings, authorities and institutions seeking information, reports or opinions, as well as the media, are required to take care of the privacy of the minor, including the protection of identity and identifying information. The law also introduces a specific specialization of all actors in criminal proceedings (the president of the panel, the public prosecutor, the investigating judge, the police officer and the attorney of the injured party) for the treatment of minors.

- **the institutional and policy framework for action against THB (bodies responsible for coordinating national action against THB, entities specialised in the fight against THB, national rapporteur or equivalent mechanism, involvement of civil society, public-private partnerships);**

Institutions involved in the fight against human trafficking in Montenegro are: Ministry of Internal Affairs, Police Directorate, State Prosecutor's Office, Supreme Court, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Health, Ministry of Labor and Social Welfare, Ministry of Education, Ministry of Human and Minority Rights, Ministry of Culture, Directorate for Inspection Affairs and Institution of Protector of Human Rights and Freedoms of Montenegro. There are a number of civil society organizations active in the field of combating trafficking in human beings/children in Montenegro.

- Within the Ministry of the Interior, as a separate organizational unit, there is a Department for Combating Trafficking in Human Beings, which performs tasks related to: proposing activities of competent state administration bodies of international and non-governmental organizations, establishing relations and establishing cooperation between domestic and international entities, in order to create effective mechanisms for combating trafficking in human beings, presenting the results achieved in the field of combating trafficking in human beings through participation in various international and domestic rallies, applying international regulations, conventions and agreements in the field of combating trafficking in human beings, launching initiatives to align domestic legislation with international standards in this area, as well as other tasks within the scope of the Department;
- within the Police Directorate - Criminal Police Sector, a Section for Combating Trafficking in Human Beings, Smuggling and Illegal Migration has been established. The competences of the Section are to carry out the tasks of monitoring the problems and studying the trends of crime and clarifying the criminal offenses within the scope of trafficking in human beings and illegal migration, in cooperation with the competent prosecutor's office and other state administration bodies;
- The prosecution of the perpetrators of the criminal offense of trafficking in human beings is the responsibility of the higher State Prosecutor's Office and the Special State Prosecutor's Office when the said crime is committed in an organized manner. State prosecutors, special prosecutors and heads of these prosecutor's offices, by issuing binding orders, or through direct management, direct the actions of the police and other administrative bodies in the inquiry, and the police and other state bodies are obliged to inform the competent state prosecutor before every action taken, except in case of urgency. The police and other state bodies responsible for detecting criminal offenses are obliged to act at the request of the competent state prosecutor.

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- The Supreme Court of Montenegro, as the highest court instance, aims to provide priority resolution of cases of trafficking in human beings by creating conditions for efficient preparation and conduct of the main trial, prosecution and resolution of cases within the legally prescribed time limit. At the same time, within its jurisdiction, the focus is on supporting witnesses / injured parties - victims of trafficking by lower instance courts, in accordance with the law (Criminal Procedure Code and the Law on Witness Protection).
 - The Ministry of Justice is in charge of the normative framework and monitoring of regulations and international standards in the field of criminal law that address this issue.
 - The Ministry of Foreign Affairs, through diplomatic correspondence, ie. submitting reports to diplomatic and consular missions of Montenegro and international organizations on measures taken by competent public authorities, in monitoring the implementation of the UN and Council of Europe Conventions on Trafficking in Human Beings and the *acquis communautaire* governing this issue, contributes to the fight against trafficking in human beings. It also has a significant role in communicating with Montenegrin citizens in terms of being the first instance they can turn to when they encounter a problem abroad.
 - The Ministry of Health provides adequate health care to victims and potential victims of trafficking through public health institutions, respecting the principles of urgency and priority. Health care for potential victims of trafficking in human beings includes emergency medical care, prevention and treatment of infectious diseases and cases of childbirth and maternity during their stay on the territory of Montenegro.
 - The Ministry of Labor and Social Welfare ensures the provision of social and child protection to potential victims of trafficking, citizens of Montenegro and foreign nationals, through centers for social work, giving them priority over other cases;
 - The Ministry of Education has preventive actions to raise awareness of children and young people about the risks, manifestations and consequences of the criminal offense of trafficking in human beings. Provides support to at-risk groups, especially children, in reducing the risk of becoming victims of trafficking through their empowerment for inclusion in the regular education system. Potential victims of trafficking in human beings, children, legally residing in the territory of the state, enable continuous education in educational institutions.
 - The Ministry of Human and Minority Rights supports projects aimed at reducing the vulnerability of at-risk groups (children of the RE population) to trafficking;
 - The Ministry of Culture supports adequate media programming focused on raising awareness of the general public about the need to combat all forms of trafficking in human beings, as well as providing training on the role of the media and the ethics of reporting on trafficking in human beings.
 - The Labor Inspectorate, which operates within the Sector for the Protection of the Labor Market and Economy, Gambling and Public Procurement, of the Inspection Directorate, has been recognized as a body that can make a relevant contribution in identifying potential victims of trafficking in human beings.
 - Non-governmental organizations represent relevant partners to public authorities in implementing prevention programs and mitigating the potential consequences of trafficking in human beings / children

among the most vulnerable and at-risk categories in society.

- In order to ensure quality systematic monitoring of activities in the field of combating trafficking in human beings, a Coordination Body for monitoring the implementation of the Strategy for Combating Trafficking in Human Beings 2019-2024 has been established.
 - In order to achieve a better balance of results achieved in the investigation and prosecution of cases of trafficking in human beings, at the end of the previous year, an Operational Team for Combating Trafficking in Human Beings was formed. This body consists of representatives of the Ministry of Internal Affairs, the Police Directorate, the High State Prosecutor's Office and the Ministry of Justice.
 - In order to undertake coordinated activities in the field of organizing quality protection for victims of trafficking in human beings, a Coordination Team for monitoring the implementation of the Cooperation Agreement is functioning. This team consists of representatives - contact persons of all competent institutions and organizations of the signatories of the Agreement.
 - Formation of a Team for Formal Identification of Victims of Trafficking is ongoing. The team will follow the established Standard Operating Procedures for the Identification of Victims of Trafficking in Human Beings, based on the principle of respect for human rights, regardless of the course of criminal proceedings. The functioning of this team will improve the system of formal identification of victims of trafficking, which will contribute to the upgrading of their protection system.
- **the current national strategy and/or action plan for combating trafficking in human beings (objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results);**

At its session held in February 2019, the Government of Montenegro adopted the third strategic document in the field of combating trafficking in human beings, along with an action plan for 2019. Strategy for Combating Trafficking in Human Beings 2019-2024 represents the national policy for combating trafficking in human beings in the coming five-year period in the following areas:

- prevention,
- protection of victims,
- criminal prosecution,
- partnership, coordination and international cooperation.

The starting point for drafting the Strategy was an external analysis of the impact of the implementation of the Strategy for Combating Trafficking in Human Beings for 2012-2018. It defines the main achievements, but also makes recommendations in order to achieve a greater degree of effectiveness of the overall system of combating trafficking in human beings.

The Strategy takes into account the growing international instruments addressing this area, as well as reports from relevant international partners that closely monitor and analyze the efforts made by countries to combat trafficking in human beings and make useful recommendations for their improvement. At the same time, a functional link to nationally adopted strategies and plans relevant to the fight against trafficking in human beings was provided.

The vision of the Strategy is a just, humane, gender-sensitive and empowered society that protects people from all forms of human trafficking.

The mission of the Strategy is Montenegro's commitment to maintaining transparent, accountable and proactive anti-trafficking initiatives in accordance with international human rights standards.

Realizing the goals of the Strategy for Combating Trafficking in Human Beings for 2019-2024 will improve the efficiency and functionality of the system of prevention, identification, protection, assistance and monitoring of victims of trafficking with special focus on children, as well as the efficiency of investigations, prosecutions and adequate punishment in accordance with criminal legislation of Montenegro.

In order to better monitor the implementation of the projected operational goals, the new strategic document defines expected performance indicators up to 2024, in relation to the current situation.

The accompanying Action Plan for 2019 elaborates the set operational goals of the Strategy, defining activities for implementation of key measures, their carriers, dynamics, required financial resources, as well as indicators of results that will serve to monitor the level of their realization on an annual basis.

The total estimated cost of implementing the Strategy for Combating Trafficking in Human Beings for the entire implementation period from 2019 to 2024 is approximately € 1,085,000. Budget for the implementation of the Strategy for Combating Trafficking in Human Beings 2019-2024 will be provided from: state budget funds allocated to each institution responsible for implementation of the Strategy and funds from international donors and pre-accession IPA funds.

A Coordination Body has been formed to monitor the implementation of the Strategy for Combating Trafficking in Human Beings 2019-2024, which is headed by the Head of the Department for Combating Trafficking in Human Beings of the Ministry of Internal Affairs and composed of representatives of all public sector bodies that are carrying out activities envisaged by the strategic document, as well as a representative of non-governmental organizations. The tasks of this body are to:

- monitor the implementation of the Strategy for Combating Trafficking in Human Beings and the individual action plans for its implementation;
- perform monitoring, coordination of work and promote activities of competent institutions in implementation of the Strategy for Combating Trafficking in Human Beings;
- propose measures to harmonize the legislative and administrative framework in order to improve the results achieved in this area;
- work to improve cooperation with the private sector in the field of combating trafficking in human beings;
- establish deadlines and dynamics of realization of specific goals, measures and activities of the goals;
- draw up individual action plans for the implementation of the Strategy;
- report to the Government of Montenegro at least once a year.

In order to better monitor the implementation of the projected operational goals, the new strategic document defines expected performance indicators up to 2024, in relation to the current situation.

- **recent case-law concerning THB for different forms of exploitation.**

In the last two years, the competent courts have dealt with two cases of trafficking in human beings, one of which was completed in the first instance and the other is in the works, and is in the main trial phase.

Case no.1 – short overview:

K 87/17 - With indictment Kt no.32/17 of 06.07.2017 one person was charged with the commission of the criminal offense of Trafficking in Human Beings referred to in Article 444, paragraph 3 in relation to paragraph 2 and paragraph 1 of the CC, two criminal offenses - rape referred to in Article 204 p 4 in relation to paragraph 1 of the CC and one criminal offense attempted rape, referred to in Article 204 p 4 in relation to paragraph 1 relating to Article 20 of the CC, while the other person was charged with criminal offense of trafficking in human beings referred to in Article 444 paragraph 3 in relation to p 2 and p 1 of the CC, two criminal offenses of rape, referred to in Article 204 p 4 in relation to p 1 of the CC and one offense relating to Article 25 and criminal offense of attempted rape through aiding, referred to in Article 204 p 4 in relation to p 1 and Articles 20 and 25 of the Criminal Code.

By a judgment of 16.04.2019, both persons were found guilty of the criminal offense of Trafficking in Human Beings referred to in Article 444 (3) in conjunction with Article 2 (2) and (1) of the CC and one person for the offense of rape referred to in Article 204 (4) in respect of Article 1 and in connection with Article 49 of the Criminal Code and another person for the criminal offense of rape referred to in Article 204, paragraph 4 in relation to Article 1 and in relation to Articles 25 and 49 of the Criminal Code, and one person was sentenced to a single sentence of imprisonment for a term of 17 (seventeen) years, while the other to a single sentence imprisonment for a term of 15 (fifteen) years.

Case no. 2 – short overview:

K no.4/19 – with indictment Kt. no.189/18 of 24.01.2019, which was confirmed on 11.02.2019, one person was charged with the criminal offense of trafficking in human beings referred to in Article 444 of the Criminal Code of Montenegro.

The case is in the main trial phase with the Higher Court in Podgorica.

13. Please provide information on measures taken in your country in respect to the following recommendations made in GRETA's second evaluation report:

- **intensify efforts to prevent trafficking for the purpose of labour exploitation and to proactively identify victims, paying particular attention to migrant workers in at-risk sectors;**

The representative of the Directorate for Inspection Affairs from the Labour Inspection Department is the member of the coordinating body for monitoring the implementation of the Strategy for Combating Trafficking in Human Beings and individual action plans, since the labour inspection is recognized as an important part of the chain, whose activities impact suppression of illegal work and eventual recognition of cases of human trafficking with the purpose of work exploitation.

The labour inspection conducts intensive controls on suppressing illegal work through its regular activities and also through enhanced inspection supervision on its own and together with other inspections belonging to the Directorate as well as with inspections from other state authorities (Police Directorate

and Department of Public Revenues).

Enhanced inspection supervision is conducted in specific areas of the state of Montenegro in accordance with the commercial activities in certain trade areas within a specific time in a calendar year (timber processing in the North, summer season at the seaside). The migration of workers is especially noticed during the summer season at the seaside and tourist destinations in the North region, when there is an increased number of employees with seasonal working permits (including various trade activities related to tourism such as - hospitality, retail trading, tourist and other services), as well as a large number of employed workers (especially originating from the region) which perform seasonal jobs.

Enhanced inspection supervision is also conducted in the business sectors which contain more risk, especially in the construction industry, due to the employment of a large number of persons (foreign and domestic), which often do not have a clear work-legal status and also due to the fact that the greatest number of injuries at work happen at construction sites.

It is worth mentioning that the labour inspection used the campaign Protect yourself – Protect the others, which has been initiated at the construction sites in Montenegro within the ESAP project (European platform for employment and social issues financed by the European Union, and implemented by the International labour organization - ILO for Western Balkans) during the period February – April 2018 at the seaside municipalities to conduct supervision in the construction industry in both supervision areas (work relations and employment and protection and welfare at work), together with the Border police unit of the Police Directorate (inspectors in charge of foreign citizens) and the Department of public revenues (tax inspectors). Enhanced inspection supervision in the construction industry was conducted during the postseason as well at the seaside municipalities and other municipalities from the inner part of Montenegro. The same principle is used in 2019 as well.

The primary focus of operation of this inspection is suppressing illegal work of foreigners which are employed without possessing a living and working permit, or without any documents at all where significant results are being achieved during regular controls in cooperation with the Border police – inspectors in charge of foreign citizens (331 joint controls in 2018 and 192 controls in the first half of 2019). However, joint controls with inspectors in charge of foreign citizens of the Police Directorate have often resulted in departing a large number of foreign employees from Montenegro which were a subject of controls and which did not possess appropriate documentation for a legal working relationship. The inspectors in charge of foreign citizens were notified by the labour inspectors on these issues as a result of their individual field controls which all added up to the previously mentioned issues. Therefore the labour inspection could not process and introduce into the legal framework a large number of caught foreign workers but it only sanctioned the employers instead due to the gross violation of regulations and employing foreign workers with inappropriate documentation regarding work-legal status. Employers which did not notify the Ministry of Internal Affairs about the working permits which have not been used (for annulment), or which the foreign workers have left before the expiry of the working permits were also sanctioned.

For the reason of imposing better discipline in obeying the regulations for the employment of foreigners, cooperation and steady dynamics for delivering data to the Ministry of Internal Affairs by the labour inspection has been established since March 2018.²³ This data includes information on prosecuted employers during the inspection supervision, due to illegal employment or for not registering the employed foreign workers, which presents an obstacle to such employers for the issuance of new temporary working permits to foreigners for employment or for movement within a commercial entity.

²³ (through application of the Law on Foreigners)

A special segment in the operations of the labour inspection is dedicated to the employment of foreigners which have been issued temporary working permits but which have not been registered to mandatory social insurance (Lists provided by the Department of public revenues).

It is necessary to point out that the cooperation between the labour inspection and the Department of public revenues has been improved through the instalment of the program by the Department of public revenues which includes data on the employers and the employees – which have been registered to mandatory social insurance, which facilitates the labour inspection to have an insight into relevant data during both the preparation and the control phases.

The labour inspection is also monitoring child labour, with the goal of protecting their psychological – physical development, but also possible trafficking of this population. Although this inspection has been rejuvenated after it had received some new labour inspectors in 2018, their staff capacities are still not at the desired level (the processes for employing new labour inspectors are active at the moment).

Still, the labour inspection has the full trust of its employees in the first place, but also of the citizens and various associations and the civil sector which all through numerous initiatives indicate the irregularities. The labour inspectors further enhance this public trust through their activities.

In addition to this, it is also necessary to highlight the significance of an optimal legal framework, whose audit in the part of working relations and employment is being conducted at the moment.

Apart from intensifying the efforts of the labour inspection and practising the enhanced inspection supervision (increased number of inspectors at a single areas through all day long teamwork and rotation of inspectors), continuous education of inspectors, even in the part of identifying the victims of human trafficking greatly contributes to the better efficiency of the labour inspections on suppressing the grey market economy, i.e. the greater reach of the employers and identification of illegal workers.

However, even with the proactive approach to this issue, no potential victims of human trafficking have been identified so far.

- **strengthen efforts to prevent child trafficking and to improve the identification and assistance of child victims of trafficking;**

Concerning the plan for prevention and education, the unit for combating human trafficking within the Ministry of Internal Affairs has conducted activities during the reporting period with cooperation with other relevant institutions which had a goal to inform the broader public on all aspects of the human trafficking phenomenon and conducting numerous trainings in the direction of strengthening the professional capacities of representatives of institutions for proactive identification of victims and potential victims of human trafficking.

Significant efforts are continuously put into raising awareness on human trafficking, of both, the potential victims and all other members of the society through the campaign Stop human trafficking, which consists of a television advertisement Stop human trafficking, which also promotes the national anti-human trafficking phone safe line (11 66 66).

With an intent to point out some of the forms of manifesting this occurrence such as: sexual, labour exploitation, forceful begging and entering into illegal marriages, the National Office for Combating

Trafficking in Human Beings in Montenegro had created a television advertisement at the end of 2018 in cooperation with the Ministry of Culture which promotes the national anti-human trafficking phone safe line number 16666²⁴ through which all interested citizens can receive all necessary information regarding the issue of human trafficking and the competent help services, 24 hours a day, free of charge with the possibility to place a call from all phone networks in Montenegro.

The activities realized with the goal of marking October 18, the European day of Combating Trafficking in Human Beings were directed at strengthening the resistance of vulnerable categories in relation to the human trafficking phenomenon. In relation to that, a school class with a theme Combating human/child trafficking has been realized on October 18 in all elementary and secondary schools upon the initiative of the National Office for Combating Trafficking in Human Beings in Montenegro. A workshop was organized in cooperation with the Red Cross of Montenegro with a theme of trafficking in human beings, which was intended for asylum seekers inhabiting the Centre for asylum seekers. In addition to the aforementioned, the Red Cross volunteers distributed the informative materials at the information stand in the centre of Podgorica which were created by the National Office for Combating Trafficking in Human Beings in Montenegro.

Educations and campaigns organized by the Ministry for Human and Minority Rights were realized at the settlements for the parents and children of Roma and Egyptians populations, as well as for the NGO activists, state administration employees concerning protection from family violence, violence on children and illegal marriages with minors – the so called forced marriages for minors as one of the forms of human trafficking within the Roma population in all cities where a significant number of Roma and Egyptian populations live. It is important to point out that this activity is realized continuously in the form of education and campaigns in Roma settlements using the “door to door” system, for a few years already. The activity is realized in a partnership with the unit for combatting human trafficking within the Ministry of Internal Affairs, Police Directorate, Centres for social work, local self-governing units, Red Cross of Montenegro and the NGO sector. During the educations and campaigns, the participants are handed the informative materials regarding the manners of preventing and suppressing criminal acts: family violence and illegal marriages with minors – the so called pre-agreed marriages between minors as one of the forms of human trafficking which are still present within the Roma population. Apart from other issues, the informative materials contain contacts of competent departments to which the criminal acts may be reported as well as the phone numbers of free of charge safe lines. These informative materials are printed in Montenegrin, Roma and Albanian languages. 11 cities in Montenegro were included into these activities during 2018.

The Institution of the Protector of Human Rights and Freedoms of Montenegro (the Ombudsman) has conducted thematic workshops in the reporting period and the focus groups with children of elementary and secondary school ages, as well as with children inhabiting the institutions of the system with a theme of respecting and protecting the right of the children, sexual and economic abuse of children and the risks of child trafficking in various forms. By conducting research/analysis of the mental health of children in Montenegro and by conducting preparations for creating a Special protocol on the bodies, institutions and organizations are acting upon children involved in living and working on the streets the Ombudsman had conducted thematic workshops which largely included the elements of testing of knowledge and recognition of all risky behaviour types which may lead children into slavery or a position similar to slavery as well as all behaviours which represent the different types of children abuse.

²⁴ Campaign on promotion of SOS phone line for THB victims was supported by a young Montenegrin basketball player Nikola Ivanović, who was an athlete of the year and winner of the 19 December award

Apart from this, three whole day training workshops were held with the Network of Golden Advisers of the Ombudsman (22 children aged from 13 to 16 years in 8 cities of Montenegro) regarding themes of abuse and maltreatment of children – risks, recognition, prevention and reporting. Training workshops were held with a goal of peer education, early recognition and reporting/reaction.

Within the period starting from April 1 2018 a total of 21 workshops were held for children of elementary and primary school ages and for children inhabiting the institutions with a theme of children rights with an accent on sexual and economic exploitation in the following cities: Podgorica, Pljevlja, Herceg Novi, Bar, Kotor, Nikšić, Berane, Bijelo Polje. Institutions: Children Facility Mladost Bijela, Ljubović Centre and Student`s Home Bar. The conducted activities are financed by the Ombudsman from the regular budget funds of the institution and the funds from donations (Save the children). The stated activities of the Ombudsman are intended for raising awareness of children on human trafficking.

The unit for combatting human trafficking within the Ministry of Internal Affairs has realized five trainings in cooperation with the Ministry of Sustainable Development and Tourism during 2018 and 2019 for the representatives of tourist industry for the Northern, Central and Southern regions, where the participants (more than 50) were introduced to the issue of human trafficking, key trends in regard to this issue, the indicators for recognizing the victims of sexual exploitation, as well as with the forwarding mechanisms.

The Minister of Internal Affairs had initiated the creation of an Agreement on Cooperation with the Ministry of Education within the project Safety of children whose implementation will presume the engagement of employees of the Ministry of Internal Affairs to conduct trainings through pre-adapted programs in elementary schools for students of grades IV and VI. The employees of the unit for combating human trafficking will be engaged to conduct trainings with the themes combating human trafficking and forming illegal marriages.

National Office for Combating Trafficking in Human Beings in Montenegro has actively participated in the regional Hope on campaign which is realized with the support of UNITAS with the goal of raising the awareness of broader public on human trafficking as a negative occurrence of a modern society.

Employees of the unit for combatting human trafficking within the Ministry of Internal Affairs have accredited two programs Integrating the principles of prevention in the combat against human trafficking into the educational system of Montenegro and Prevention of child trafficking, forming illegal marriages and economic exploitation of children through the educational system with the Bureau for educational services of Montenegro within the program of expert training of teachers in the schoolyear 2019/2021.

Within the goal of improving the system of formal identification of victims of human trafficking, a working group comprising of representatives of the Ministry of Internal Affairs, Police Directorate, Ministry of Labour and Social Welfare and representatives of the NGO sector, with the support of the International Organization for Migration, has created the Standard operating procedures, which define the manner and procedure for assigning the status to the victim of human trafficking, to a person which has been identified as a potential victim. In accordance with the stated above, all centres for social work have been provided with a brochure containing the Standard operating procedure for the formal identification of victims of human trafficking in order of further introduction of centres for social work with their roles and responsibilities in the process of formal identification of victims of human trafficking, with an obligation of inclusion into the work of the team of the representative (case manager) of the specific municipal Centre

which has the competence in every specific case. 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.

- **take additional measures to strengthen prevention of human trafficking through social, economic and other measures for vulnerable groups**

The Ministry for Human and Minority Rights, in accordance with the Action plan for the implementation of the Strategy for social inclusion of Roma and Egyptian populations in Montenegro for the period 2016-2020, for the year 2018, and in cooperation with the unit for combatting human trafficking within the Ministry of Internal Affairs, Police Directorate, centres for social work, municipalities, the Red Cross of Montenegro, members of the Roma society, NGO Centre for Roma initiatives, NGO Phiren Amenca and other NGOs, had organized in 2018 one-day campaigns/educations of parents, children, Roma and Egyptian activists and employees of the state administration on protection from family violence and forced/pre-agreed marriages between minors within the Roma population in: Ulcinj and Bar (July 25, 2018), Berane (September 25, 2018), Bijelo Polje (October 1, 2018), Pljevlja (October 15, 2018), Podgorica (October 18, 2018), Herceg Novi (October 19, 2018), Tivat and Kotor (October 23, 2018), Budva and Cetinje (October 30, 2018) and Nikšić (October 2, 2018). Employees of the National Office for Combating Trafficking in Human Beings in Montenegro took part in the realization of the abovementioned trainings – through the preparation and presentation of contents which are related to combating human trafficking – with special attention to early forced/pre-agreed marriages. A conversation was held with the participants on how to recognize family violence and on what to do when violence occurs, as well as the consequences of pre-agreed marriages with minors. Apart from the mentioned themes, the lecturers pointed out to the exceptional significance of education for the Roma and Egyptian populations, which is a precondition for inclusion into all flows of social life in Montenegro. The Ministry for Human and Minority Rights also financed printing of 900 informative materials in 2018 which were available in Montenegrin, Roma and Albanian languages. These materials included means of protection against human trafficking and family violence, and they were distributed to citizens during these campaigns and trainings.

Within the spirit of marking October 18, - European day of combating trafficking in human beings, the Ministry of Education sent out a notice to all elementary and primary schools in Montenegro in which one school class was dedicated to the prevention of human (child) trafficking on this occasion. The students were introduced and also widened their knowledge on risky situations during this occasion, as well as on methods of preventive actions with the goal of suppressing human trafficking and especially child trafficking. With an aim of supporting the Roma and Egyptian children populations, the Ministry has realized significant activities of preventive actions in order to enhance and strengthen the competencies of these children in order for them to avoid the risk of becoming the victims of human trafficking. Schoolbooks and school materials were secured for the Roma and Egyptian children populations. In practice so far securing of free school books for the Roma and Egyptian children populations which are in elementary schools was the obligation of the Ministry of Education and the Ministry of Human and Minority Rights. The Ministry of Education overtook the obligation to secure free school books from the Ministry of Human and Minority Rights for students belonging to grades I, II and III of elementary school and continues to secure free school books for Roma and Egyptian children populations from grades IV to IX of elementary schools, which are not the beneficiaries of family material support program.

An appropriate number of scholarships have been secured for high school and university students. Providing of scholarships for the Roma and Egyptian populations during all years while studying at universities was supported for a number of years by the Roma Education Fund (REF) on a project level, in cooperation with the Ministry of Human and Minority Rights. After the end of the project, scholarship

support for students of Roma and Egyptian populations had stopped as well. Having in mind that this activity needs to be kept sustainable on a regular basis within the system, the Ministry of Education initiated a process of overtaking the program of providing scholarships for Roma and Egyptian populations university students from the Ministry of Human and Minority Rights in order to continue with the practice of scholarship support for the Roma and Egyptian populations university students in accordance with the legal provisions.

There is continuous work on conducting the program of elementary education for the adult populations of Roma and Egyptians in Montenegro, which is realized by the Centre for professional education. The program of elementary education of adults was attended by 32 trainees in the period from September until December 2018 at the elementary school Radoje Čizmović in Nikšić and 98 trainees in the School for secondary and higher education Sergije Stanić in Podgorica.

Securing of free school transport for the Roma and Egyptian student populations in Podgorica was continued with the aim of integration of these populations. Over 400 hundred students of elementary schools which the Roma and Egyptian populations are attending were provided free school transport for this school year.

The representative office of the Fund for the education of Roma, within the project of Promoting and protection of human rights of the members of Roma and Egyptian populations in Montenegro, which is financed by the Mission of the European delegation in Montenegro had provided funds for purchasing three new vehicles, intended for transporting the Roma and Egyptian students to three elementary schools: Božidar Vuković Podgoričanin in Podgorica, Mileva Lajović-Lalatović in Nikšić and Radomir Mitrović in Berane.

The Ministry of Education, in cooperation with the Bureau for education services, the Ministry of Human and Minority Rights and the NGOs which deal with the issues of Roma and Egyptian populations had successfully conducted a campaign for enrolment in kindergartens and elementary schools, which were attended by a large number of parents. Enrolment to secondary schools was also promoted and the informative materials printed in Montenegrin, Albanian and Roma languages distributed as well.

Continuous work is present on strengthening the inter-institutional cooperation regarding the position of Roma and Egyptian populations in order to achieve the best possible results in integrating the members of these populations. All relevant institutions (Ministry for Human and Minority Rights, Ministry of Health, Ministry of Internal Affairs and the Red Cross) are cooperating in the realization of activities planned by the Strategy for the social inclusion of Roma and Egyptian populations for the period 2016-2020.

Conferences with significant Montenegrin and foreign institutions have also been organized, and important subjects were considered. These themes included education and challenges and the possibilities of employment and presenting best practices from the region and Europe. Most important activities in this field:

- Seminar regarding the Inclusive society: Improving the social-economic position of Roma and Egyptian populations in Montenegro, held on June 13, 2018 in Podgorica (Ministry for Human and Minority Rights, Ministry of Education, Ministry of Health and the Ministry of Internal Affairs).

- Realization of recommendations from the seminar Inclusive society is being monitored: Improving the social-economic position of Roma and Egyptian populations in Montenegro, the NGO sector is included in the campaigns, preparatory kindergartens are organized with extended duration, work is being done in order to enrol all children into kindergartens.

- The visit to the kindergarten at the source of Ribnica River. Representatives of the Ministry of Education and the Roma society had visited the kindergarten Đina Vrbica in the Konik neighbourhood of Podgorica in October 2018 with an aim to observe the conditions and work programs for the Roma and Egyptian children populations which are enrolled at this kindergarten. It has been concluded during the visit that the conditions in which the kindergarten operates are at a satisfactory level.
- All activities necessary in order to include the associates for social inclusion in the school year 2018/2019 into the educational system through budget financing have been realized.
- The protocol on procedures and prevention of early withdrawal from school is being implemented during the whole school year.

The Bureau for social and child protection has accredited two training programs which are related to the field of prevention of child trafficking and suppressing pre-agreed marriages between minors: basic training of professional staff, expert associates and members of multidisciplinary teams for prevention and suppression of pre-agreed marriages between minors and the basic training of professional staff at the centres for social work for prevention, detection and protection of victims of child trafficking.

Also, in order to enhance the resistance of Roma and Egyptian children populations which we have recognized as being particularly sensitive category of population in relation to human trafficking, peer educations are continuously conducted on human trafficking with a focus on the problem of worst appearances of child labour and the illegal marriages.

Children who are caught begging, committing criminal acts or children in need of social needs are secured with accommodation at the Reception station of the public institution Centre for children and youth Ljubović, which is the only institution for social and children protection which enables accommodation of children with behaviour issues. Reception station within the Centre is organized as a duty service which accommodates children and youth which are in the state of social needs. The duration of stay at the Reception station is short, up to 30 days at most, and all minors from the Reception station are returned to their families. It is important to mention that these children are neither considered nor treated as offenders.

A multidisciplinary and highly individualized approach is implemented while children are present at the Centre, which is child-focused and based on the rights of children, caring for the integrity of the family and the integration of the child into the local social community.

The Centre for social work, within its competence, apart from accommodating children in the Reception station of the Centre Ljubović, also submits misdemeanour charges against parents of minors who were caught begging, due to a suspicion of possible child neglect in accordance with the Law on Protection against Family Violence. Expert employees of the Centre also provide appropriate forms of help and support to parents and undertake necessary measures in order to protect the rights and best interests of children.

- PI Police Academy from Danilovgrad had organized training with a theme of human trafficking from December 19 until December 20, 2018.

Ministry of Education actively and with maximum attention relates to the issue of human trafficking, especially child trafficking and makes all efforts within its competences in order to contribute to the combat against human trafficking.

In order to qualitatively improve the state of Roma and Egyptian populations and ensure equal employment opportunities, the Employment Agency of Montenegro informs the unemployed members of

the Roman and Egyptian populations about their rights and obligations while they are registered as unemployed, motivates them into inclusion of the active policy employment programs and provides support in employment by the principles of affirmative actions.

Every year, in the annual work programs, activities and funds intended for the improvement of employment opportunities and employment of Roma and Egyptian populations are being planned, in accordance with the National strategy of employment and human resources and the strategy for the inclusion of Roma and Egyptian populations in Montenegro and the accompanying action plans.

The financial framework for the realization of the Program of the Employment Agency of Montenegro for 2018 has planned the funds for the realization of the program of education and training of Roma and Egyptian populations in an amount of €10.000,00 and these are related to the programs for acquiring expert qualifications and programs for acquiring key techniques.

26 members of Roma and Egyptian populations (9 women) have been included in the programs of education and training of adults, within two programs for acquiring expert qualifications and two programs for acquiring key techniques.

The Bureau for social and child protection has accredited two training programs which are related to the field of preventing child trafficking and suppressing of pre-agreed marriages between minors: basic training of professional staff, expert associates and members of multidisciplinary teams for prevention and suppression of pre-agreed marriages between minors and basic training of professional staff within centres for social work for prevention, detection and protection of victims of child trafficking.

In order to increase the resistance of the children of the Roma and Egyptian populations, peer education is continuously conducted relating to human/children trafficking with the focus being on the problem of worst appearances of children labour and illegal marriages.

Children who are caught begging, committing criminal acts or children in need of social needs are secured with accommodation at the Reception station of the public institution Centre for children and youth Ljubović, which is the only institution for social and children protection which enables accommodation of children with behaviour issues. Reception station within the Centre is organized as a duty service which accommodates children and youth which are in the state of social needs. The duration of stay at the Reception station is short, up to 30 days at most, and all minors from the Reception station are returned to their families. It is important to mention that these children are neither considered nor treated as offenders.

A multidisciplinary and highly individualized approach is implemented while children are present at the Centre, which is child-focused and based on the rights of children, caring for the integrity of the family and the integration of the child into the local social community.

The centre for social work, within its competence, apart from accommodating children into Reception station of the Centre Ljubović, also submits misdemeanour charges against parents of minors which were caught begging, due to a suspicion of possible child neglect in accordance with the Law on the Protection against Family Violence. Expert employees of the Centre also provide appropriate forms of help and support to parents and undertake necessary measures in order to protect the rights and best interests of children.

- **strengthen efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector, including the tourist industry;**

The unit for combatting human trafficking actively participates in the realization of the regional project Improving the provision of services and awareness for combatting of human trafficking which is conducted by the international organization Terre des Hommes. One of the components of the stated project is the realization of the public campaign which has a goal to provide to girls and their parents clear, simple and understandable information on sexual exploitation of girls and sexual abuse of girls via internet. The campaign, at the same time, has a goal to inform the public about forms of reporting and the mechanisms for the protection of children from such and similar occurrences. With the goal of fulfilling the effect of the subject public campaign, a regional television advert has been created as one of the activities of the stated project which has been translated into the languages of the participating states. It has been planned to broadcast the television advert on national TV channels.

Unit for Combating Trafficking in Human Beings within the Ministry of Internal Affairs had created a television advertisement at the end of 2018 in cooperation with the Ministry of Culture which promotes the national anti-human trafficking phone safe line number 16666 through which all interested citizens can receive all necessary information regarding the issue of human trafficking and the competent help services, 24 hours a day, free of charge with the possibility to place a call from all phone networks in Montenegro.

Unit for Combating Trafficking in Human Beings within the Ministry of Internal Affairs has participated in the regional Hope on campaign which is realized with the support of UNITAS with the goal of raising the awareness of broader public on human trafficking as a negative occurrence of a modern society.

A research was conducted regarding the level of knowledge of the broader public about the human trafficking phenomenon. This was performed by conducting a survey of the general population and a meeting was organized with members of the Press regarding the role of the Press services in combatting human trafficking.

Workshops were also organized for representatives of commercial entities from the tourist industry in regard to the application of the rule of conduct in relation to the protection of children from sexual exploitation in tourism and travel industries.

- **ensure the effective implementation of the provision on the recovery and reflection period;**

Law on Foreigners (Official Gazette of the Republic of Montenegro, number: 12/2018) defines the reflection period in Article 54 in the following manner:

The foreign national for whom the police determines to be the victim of a crime of human trafficking shall have the right to decide, within 90 days, whether he or she will co-operate in the criminal procedure or whether he or she will join criminal prosecution or become a witness in such a procedure. (reflection period).

The police will determine whether a foreign national has been a victim of a crime human trafficking in co-operation with authorities, NGO and other organizations which are competent, or which deal with

prevention, education, reporting and prosecution of perpetrators and protection of the victims of human trafficking, and with the Centre for social work if the victim is a minor foreign national.

- **take measures to ensure that human trafficking cases, including those involving public officials, are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions;**

In order to achieve better balance of results regarding research and prosecution of human trafficking, the Supreme State Prosecutor of Montenegro and the Director of the Police Directorate of Montenegro have formed an Operative Team for combating human trafficking. This body consists of representatives of the Ministry of Internal Affairs, Police Directorate, Office of the High State Prosecutor and the Ministry of Justice. Key tasks of this team are:

- coordination of activities and harmonization of work with other participants in regard to suppressing human trafficking;
- identification of victims of human trafficking in the chain of human trafficking and other crimes committed by criminal groups;
- collection of information on funds acquired by human trafficking and other criminal acts in order to conduct financial investigations;
- realization of international cooperation through direct contact with police departments, especially in the countries of the region, as well as with other international organizations, initiatives and participation in joint investigative teams.

Numerous trainings are organized for state administration employees in cooperation with the unit for combating human trafficking within the Ministry of Internal Affairs, the Human Resources Management Authority, and also with the Police Academy and other institutions and organizations, where they are introduced to the provisions of the Criminal Code in the part of Article 444 which defines the crime of human trafficking.

The competent courts worked on two subjects related to human trafficking in the last two years, where one has been completed up to the first degree while the other is still being processed and it is in the phase of main hearing.

Two persons were found guilty on charges for human trafficking by the verdict from April 16, 2019 in accordance with the Article 444, paragraph 3 related to paragraphs 2 and 2 of the Criminal Code. One person was found guilty on charges of rape in accordance with the Article 204 paragraph 4 related to paragraph 11 and related to Article 49 of the Criminal Code of Montenegro and sentenced to 17 (seventeen) years in prison, while the other person was found guilty on charges of rape in accordance with the article 204 paragraph 4 in relation to paragraph 1 and related to articles 25 and 49 of the Criminal Code of Montenegro and sentenced to 15 (fifteen) years in prison.

The Police Directorate did not find any information which could point out that employees of the state administration were involved in criminal acts of human trafficking during the reporting period, this also refers to the fact that no findings were found which could point out that criminal act human trafficking was conducted in any state institution. The records of the Prosecutor`s Office also shows that there were no cases/subjects where state officials were involved into human trafficking in the reporting period. The competent courts also did not have any subjects where Montenegrin officials were charged with the crime

human trafficking in accordance with the Article 444 of the Criminal Code of Montenegro during the same period.

PART III - STATISTICS ON THB

14. Please provide the following statistics, per year starting with 2015, where available disaggregated as indicated below:

- **Number of presumed victims and identified victims of THB in the sense of having been recognised by a state institution or mandated NGO as bearers of rights to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).**
- **Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).**

Since the start of the implementation of the asylum system in Montenegro in 2007, to date, there have been no cases of identifying victims of trafficking. Accordingly, as there were no cases of identifying victims of trafficking, no protection was granted to persons who are victims of trafficking.

The characteristics and circumstances, in the procedure from the expressed intention to apply for international protection to the adoption of a decision on the application for international protection, are determined by trained police officers and authorized officials of the Ministry of the Interior and other competent bodies.

- **Number of victims of THB who received assistance (disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).**

Table 1: Total number of identified THB victims in the period January 1st 2015 - September 31st 2019:

YEAR:	NUMBER OF IDENTIFIED VICTIMS
2015	4
2016	3
2017	4
2018	10
2019	1
TOTAL	22

Table 2: Total number of identified THB victims in the period January 1st 2015 - September 31st 2019, disaggregated by age:

YEAR	MINORS	ADULTS	TOTAL
2015	4	0	3
2016	3	0	3
2017	2	2	4
2018	4	6	10
2019	1	0	1
TOTAL	14	8	22

Table 3: Total number of identified THB victims in the period January 1st 2015 - September 31st 2019, disaggregated by gender:

YEAR	MALE	FEMALE	TOTAL
2015	0	4	3
2016	0	3	3
2017	0	4	4
2018	8	2	10
2019	0	1	1
TOTAL	8	14	22

The most commonly identified cases of human trafficking were forms of sexual exploitation. The identification of victims of trafficking for forced begging and forced child marriages is on the rise and so

far 11 cases have been identified.

Regarding the countries of origin of the victims, we can say that in almost half of the identified cases, they were (potential) victims of Montenegrin nationality, while the other countries of origin were mostly countries in the region (Serbia, Kosovo, Albania)

- **Number of child victims of THB who were appointed legal guardians.**

In one case for 4 victims of human trafficking, a legal representative-lawyer was appointed, from the list of attorneys who had received special training in the treatment of minors.

- **Number of victims of THB granted a recovery and reflection period (disaggregated by sex, age, nationality, form of exploitation).**
- **Number of victims of THB granted a residence permit, with an indication of the type of the permit and its duration (disaggregated by sex, age, nationality, form of exploitation).**

Since the beginning of application of the Law on Foreigners (Official Gazette of Montenegro 12/2018 and 3/2019), no temporary residence permit has been granted to a foreigner suspected of being a victim of the criminal offense of trafficking in human beings. There were also no requests for approval of the recovery and reflection periods.

The Law on Foreigners stipulates that a temporary residence for humanitarian reasons may be granted to an alien who is presumed to be a victim of a crime of trafficking or a victim of the crime of domestic or family violence (Article 52).

Also, Article 54 of the Law stipulates that an alien identified by the police as a THB victim has the right to decide within 90 days whether to cooperate in criminal proceedings, or whether to join the prosecution or to be a witness in this process (reflection period). The police determine whether the alien is a THB victim in cooperation with the authorities, non-governmental and other organizations in charge, that is, those who are dealing with the prevention, education, reporting and prosecution of perpetrators and protection of victims of trafficking in human beings, and in the case of an alien being a minor alien, center for social work becomes involved as well.

- **Number of persons given refugee status or subsidiary/complementary protection on the grounds of being victims of THB (disaggregated by sex, age, nationality, form of exploitation).**

During the reporting period, no applications were submitted for granting refugee status or subsidiary / complementary protection to persons identified as victims of the criminal offense of Trafficking in Human Beings under Article 444 of the Criminal Code of Montenegro.

The Law on International and Temporary Protection of Foreigners (Official Gazette of Montenegro 2/17, 3/19) in Article 20 also recognizes victims of trafficking in human beings in the following way: an alien seeking international protection who, in view of his/her personal characteristics and circumstances (age, gender, sexual orientation, gender identity, serious illnesses, mental health or the effects of torture, rape or other serious forms of psychological, physical or gender-based violence), is not fully capable of

exercising their rights and obligations in accordance with this law without procedural assistance, is provided with special procedural safeguards.

Special procedural safeguards are considered to be adequate support to foreigners in order to exercise their rights and fulfill their obligations under this Law.

The characteristics and circumstances, in the procedure from the expressed intention to submit an application for international protection to the adoption of a decision on the application for international protection, are determined by trained police officers and authorized officials of the Ministry and other competent bodies.

- **Number of victims of THB who claimed compensation, who were granted compensation and who effectively received compensation (disaggregated by sex, age, nationality, form of exploitation, with an indication of whether the compensation was provided by the perpetrator or the State, and the amount awarded).**

In the reporting period, in one case, which was completed in the first instance, the court referred the injured party's legal representative to a civil lawsuit for the purpose of realizing the property claim, which the attorney made with no clear specification.

- **Number of victims of THB who received another form of financial support from the State, with the indication of the amount received.**

Pursuant to Article 37 of the Law on Social and Child Welfare, an individual or family who, due to special circumstances affecting their housing, material and health status, find themselves in a state of social need, may be entitled to one-time financial assistance. In the previous year, one victim of human trafficking was identified and she was recognized as entitled to one-time financial assistance in the amount of 1,200 euros.

In the reporting period, for one victim, the Ministry of Education organized and covered the cost of part-time school attendance, the cost of purchasing school supplies and the application for exams.

- **Number of victims of THB who received free legal aid.**

During the reporting period, free legal aid was received by 4 victims of trafficking.

- **Number of victims of THB who were returned or repatriated to/from your country (disaggregated by sex, age, country of destination, form of exploitation).**

Table 4: number of THB victims who were returned or repatriated to/from your country (disaggregated by sex, age, country of destination, form of exploitation)

	2015	2016	2017	2018
Number of returned victims	1	0	1	2
Gender	female	-	female	female
Age	minor		minor	minor
Destination country	Montenegro	-	Montenegro	Montenegro
Form of exploitation	prohibited marriage		prohibited marriage	prohibited marriage

- **Number of investigations into THB cases (disaggregated by type of exploitation, with an indication of the number of victims concerned).**

Several investigations have been conducted in 2015 to prove a criminal offense of Trafficking in Human Beings, but not all cases have been prosecuted as trafficking offenses, since they qualified as other similar offenses.

- In 2015, there were 4 cases of sexual exploitation recorded, but the cases were qualified and prosecuted through criminal offense Intermediation in conducting prostitution Art 210 CC.
- In 2016, 3 cases were recorded, one of which was related to begging as a form of exploitation and two were related to sexual exploitation. From a total of 3 cases, a case related to begging as a form of exploitation was processed.
- In 2017, 2 sexual exploitation cases were recorded and no cases were completed.
- In 2018, officers of the Police Directorate filed 2 criminal charges for a criminal offense Trafficking in Persons under Art. 444, and a total of 11 victims were identified.
- In 2019, one case was registered and one criminal complaint was filed for a criminal offense Trafficking in Human Beings under Art. 444 and one victim of trafficking was identified.

Table 5: Number of criminal charges, number of indictments filed and number of convictions for the criminal offense of trafficking in human beings referred to in Article 444 of the Criminal Code of Montenegro for the period from 1 January 2015 to 1 September 2019

	NUMBER OF CRIMINAL CHARGES	NUMBER OF INDICTMENTS FILED	NUMBER OF CONVICTIONS
2015	0	0	0
2016	1	0	0
2017	0	1	0
2018	2	0	0

2019	1	1	1
TOTAL	4	2	1

- **Number of prosecutions in THB cases (disaggregated by type of exploitation, with an indication of the number of victims and defendants concerned).**

In the last two years, the competent courts have dealt with two cases of trafficking in human beings, one of which was completed in the first instance and the other is in the works, and is in the main trial phase.

Case no.1 – short overview:

K 87/17 - With indictment Kt no.32/17 of 06.07.2017 one person was charged with the commission of the criminal offense of Trafficking in Human Beings referred to in Article 444, paragraph 3 in relation to paragraph 2 and paragraph 1 of the CC, two criminal offenses - rape referred to in Article 204 p 4 in relation to paragraph 1 of the CC and one criminal offense attempted rape, referred to in Article 204 p 4 in relation to paragraph 1 relating to Article 20 of the CC, while the other person was charged with criminal offense of trafficking in human beings referred to in Article 444 paragraph 3 in relation to p 2 and p 1 of the CC, two criminal offenses of rape, referred to in Article 204 p 4 in relation to p 1 of the CC and one offense relating to Article 25 and criminal offense of attempted rape through aiding, referred to in Article 204 p 4 in relation to p 1 and Articles 20 and 25 of the Criminal Code.

Case no. 2 – short overview:

K no.4/19 – with indictment Kt. no.189/18 of 24.01.2019, which was confirmed on 11.02.2019, one person was charged with the criminal offense of trafficking in human beings referred to in Article 444 of the Criminal Code of Montenegro.

The case is in the main trial phase with the Higher Court in Podgorica.

- **Number of convicted perpetrators of THB (disaggregated by sex, age, nationality, form of exploitation).**

Table 6. Number of convicted perpetrators of trafficking in human beings by sex, age, nationality and form of exploitation for the period January 1st 2018 to September 1st 2019

CONVICTED PERPETRATORS	MALE	FEMALE
Gender	1	1
Age	38	33
Nationality	Montenegrin	Montenegrin
Form of exploitation	sexual	sexual

- **Number of convictions for THB, with an indication of the form of exploitation, whether the victim was adult or child, the type and duration of the penalties, and whether they were effectively enforced or suspended.**

In the reporting period, one judgment was rendered for a criminal offense Trafficking in Human Beings under Art. 444 of the Criminal Code of Montenegro. In a first-degree trafficking case in April 2019, the court imposed the most severe prison sentence so far. One person got 17 years in prison and another - 15 years in prison.

By a judgment of 16.04.2019, both persons were found guilty of the criminal offense of Trafficking in Human Beings referred to in Article 444 (3) in conjunction with Article 2 (2) and (1) of the CC and one person for the offense of rape referred to in Article 204 (4) in respect of Article 1 and in connection with Article 49 of the Criminal Code and another person for the criminal offense of rape referred to in Article 204, paragraph 4 in relation to Article 1 and in relation to Articles 25 and 49 of the Criminal Code, and one person was sentenced to a single sentence of imprisonment for a term of 17 (seventeen) years, while the other to a single sentence imprisonment for a term of 15 (fifteen) years.

This judgment has not yet become final.

In this case, the injured party was a female child. The form of trafficking in human beings was sexual exploitation.

- **Number of judgments in THB cases resulting in the confiscation of assets.**

During the reporting period, there were no judgments for a criminal offense Trafficking in Human Beings under Art. 444 of the Criminal Code of Montenegro, which resulted in confiscation of property.

- **Number of convictions of legal entities for THB.**

During the reporting period, no proceedings were initiated, nor were any judgments made for legal entities, on the basis of the committing a criminal offense of Human Trafficking, Art. 444 of the Criminal Code of Montenegro.