



EVALUATION REPORT

MONACO

Third evaluation round

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

GRETA

Group of Experts
on Action against
Trafficking
in Human Beings

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Table of contents

Preamble	4
Executive summary	5
I. Introduction	7
II. Overview of the current situation and trends in the area of trafficking in human beings in Monaco	9
III. Developments in the legal, institutional and policy framework for action against trafficking in human beings	10
IV. Access to justice and effective remedies for victims of human trafficking	12
1. Introduction	12
2. Right to information (Articles 12 and 15)	14
3. Legal assistance and free legal aid (Article 15)	15
4. Psychological assistance (Article 12)	17
5. Access to work, vocational training and education (Article 12)	18
6. Compensation (Article 15)	19
7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)	21
8. Non-punishment provision (Article 26)	25
9. Protection of victims and witnesses (Articles 28 and 30)	26
10. Specialised authorities and co-ordinating bodies (Article 29)	27
11. International co-operation (Article 32)	28
12. Cross-cutting issues	30
a. gender-sensitive criminal, civil, labour and administrative proceedings	30
b. child-sensitive procedures for obtaining access to justice and remedies	31
c. role of businesses	32
d. measures to prevent and detect corruption	33
V. Topics specific to Monaco	34
1. Measures to prevent and combat trafficking for the purpose of labour exploitation ..	34
2. Identification of victims of trafficking	36
3. Assistance to victims	38
4. Recovery and reflection period and residence permits	40
Appendix 1 – List of GRETA’s conclusions and proposals for action	42
Appendix 2 – List of national authorities, non-governmental organisations and other organisations with which GRETA held consultations	48
Government's comments	49

Preamble

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

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

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

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

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

Executive summary

Since the second round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, Monaco has continued to develop its legislative framework on trafficking in human beings. Taking into account GRETA's previous recommendations, Sovereign Order No. 9.966 of 30 June 2023 brought the definition of trafficking in human beings in national law into line with that of the Convention, by removing the requirement that trafficking be transnational in nature and involve an organised criminal group and introducing aggravating circumstances. However, the institutional and strategic framework has remained unchanged: Monaco still does not have a national action plan, nor is there a body responsible for co-ordinating its action against trafficking in human beings. GRETA considers that the authorities should adopt a strategic policy document on action against trafficking in human beings or incorporate such measures in a more general strategic policy document, ensuring that the necessary resources are allocated and that a precise timetable for its implementation is established.

No THB victims have been formally identified in Monaco since the Convention entered into force. However, GRETA considers that the absence of identified victims does not necessarily reflect the reality of the situation in Monaco. The risk of labour exploitation continues to raise concerns, particularly in sectors such as domestic work, construction, hotels and restaurants, and in work on private yachts. There are also concerns about the possible sexual exploitation of people who come to Monaco occasionally, notably for major events.

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

GRETA welcomes the recognition of the right to information for victims of trafficking by the aforementioned Order No. 9.966. Judicial police officers now have an obligation to inform THB victims, verbally or by any other means, of certain rights, and victims with disabilities must be given information in a form suited to their needs. However, GRETA considers that the authorities should also develop training for professionals, in particular in the police force, on the rights of THB victims and how to inform them of these rights, including how to exercise them.

Victims of THB may receive legal advice and information from the Victims of Crime Association (AVIP). They also have access to free legal aid on a means-tested basis. GRETA considers that the authorities should ensure that legal assistance is systematically provided and develop training for lawyers who may provide legal aid to victims of THB.

Victims may obtain compensation for the harm suffered by requesting to join criminal proceedings as a party claiming damages or bringing the matter before the civil courts. Since 2022, the assets seized or confiscated from the offender may be used to compensate victims. GRETA also welcomes the introduction of a state compensation scheme covering victims of trafficking in human beings. It considers that the authorities should ensure that victims are systematically informed of their right to seek compensation and are provided with legal assistance from the outset of the proceedings in order to exercise this right.

As trafficking in human beings was established as an offence by a sovereign order and does not appear in the Criminal Code, GRETA is concerned that this situation undermines the effectiveness of law enforcement and causes the investigating and prosecuting authorities to initiate proceedings on the basis of other offences which are expressly provided for in the Criminal Code. It is also concerned that the relevant professionals may have a restrictive interpretation of what constitutes trafficking in human beings, in particular requiring the exercise of coercion or duress over the victim. It urges the authorities to take the necessary legislative measures to ensure that the offence of trafficking in human beings can be effectively investigated, prosecuted and punished, including by adding the offence to the Criminal Code.

GRETA welcomes the fact that Order No. 9.966 provides for regular training for professionals likely to come into contact with trafficking victims, in particular judges, prosecutors, health-care professionals, criminal police officers and officials, child welfare professionals and social workers. It considers that authorities should ensure that training is regular and targeted, i.e. that it provides specific guidance geared to the role of each profession.

Various measures for the protection of victims and witnesses of trafficking in human beings may be taken in judicial proceedings, including for child victims. However, GRETA urges the authorities to take steps to ensure that protection measures benefit all child THB victims as such, regardless of whether they are victims of related offences.

GRETA also urges the Monegasque authorities to adopt a specific legal provision on the non-punishment of victims of trafficking and/or develop guidance for professionals on the principle of non-punishment.

During the reporting period, the Principality of Monaco responded to several requests for mutual legal assistance concerning suspected cases of THB, notably from France. GRETA welcomes the efforts made by the Monegasque authorities in terms of international co-operation and invites them to pursue those efforts.

The report also examines progress made in implementing previous GRETA recommendations on selected topics.

With regard to preventing and combating trafficking for the purpose of labour exploitation, GRETA is concerned that the Labour Inspectorate has insufficient human resources to effectively prevent and detect cases of exploitation and trafficking. It is also concerned that employment legislation and labour market conditions could encourage abuse and exploitation and that owing to immigration laws and policies, victims might be reluctant to report their situation to the authorities for fear of losing their job or being deported. GRETA urges the Monegasque authorities to strengthen the capacities and resources of the Labour Inspectorate, map the sectors considered to be at risk from labour exploitation, increase the number of unannounced inspections carried out in these sectors and set up safe and effective reporting mechanisms for workers.

Efforts have been made by the Monegasque authorities to identify victims of trafficking through the adoption of a detailed list of indicators by the Department of Public Safety and the organisation of several training sessions. However, no progress has been made on the draft circular concerning the identification and care of THB victims, even though work on this document had already begun in 2019. GRETA urges the authorities to take further steps to improve the identification of possible victims of trafficking in human beings, including among domestic workers, migrant workers and people in an irregular situation, and finalise the adoption of the draft circular on the identification and assistance of THB victims.

As regards assistance to victims, GRETA welcomes the conditions and care arrangements at state accommodation facilities for adult and minor victims that might be detected by the authorities. However, there are no legal texts setting out all the rights available to victims of trafficking in Monaco; assistance measures are accessible under the conditions laid down in ordinary law, i.e. generally on the basis of Monegasque nationality or a residence permit. As a result, GRETA once again urges the authorities to adopt such measures as may be necessary to ensure that all victims of trafficking, regardless of their nationality and residence status, receive assistance in accordance with Article 12 of the Convention.

Lastly, GRETA once again urges the authorities to provide in their internal law for a recovery and reflection period and the possibility of issuing a renewable residence permit to trafficking victims, in accordance with Articles 13 and 14 of the Convention.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Monaco on 1 March 2016. GRETA’s combined first and second evaluation report on Monaco¹ was published on 12 February 2020.
2. On the basis of GRETA’s report, on 12 June 2020, the Committee of the Parties to the Convention adopted a recommendation to the Monegasque authorities, requesting them to inform the Committee of measures taken to comply with the recommendation within a two-year period. The report submitted by the Monegasque authorities was considered at the 30th meeting of the Committee of the Parties (17 June 2022) and was made public.²
3. On 30 November 2022, GRETA launched the third round of evaluation of the Convention in respect of Monaco by sending the questionnaire for this round to the Monegasque authorities. The deadline for submitting the reply to the questionnaire was 30 March 2023 and the authorities’ reply was received on that date.
4. In preparation of the present report, GRETA used the reply to the third round questionnaire by the Monegasque authorities, the above-mentioned report submitted by them in reply to the Committee of the Parties’ recommendation, and information received from an independent human rights body. An evaluation visit to Monaco took place from 5 to 7 July 2023 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:
 - Ms Svala Olafsdottir, member of GRETA,
 - Mr Georgios Vanikiotis, member of GRETA,
 - Mme Parvine Ghadami, Administrator in the Secretariat of the Convention.
5. During the visit, the GRETA delegation met with representatives of the Ministry of Foreign Affairs and Co-operation, the Department of Public Safety (police), the Department of Justice, the Department of Legal Affairs, the Department of Employment and the Labour Inspectorate, the Department of Social Welfare and Social Services, the Department of Health Affairs, the Business Development Agency, the Tourist and Convention Authority, the Financial Information and Monitoring Department (SICCFIN), the Inter-ministerial Delegation to Promote and Safeguard Women’s Rights and the Department of Education, Youth and Sport. It also met members of the law enforcement agencies, the Public Prosecutor’s Office and judges.
6. Separate meetings were held with the High Commissioner for the Protection of Rights, Liberties and Mediation (Ombudsperson), members of the National Council (Parliament), representatives of non-governmental organisations (NGOs) and trade unions and members of the Bar Association.
7. In the course of the visit, the GRETA delegation visited the Princess Charlene Children’s Home and some emergency shelters that can accommodate victims of trafficking in human beings.
8. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix II to this report. GRETA is grateful for the information provided by them.
9. GRETA wishes to place on record the co-operation provided by the Monegasque authorities and in particular by Ms Corinne Bourdas Magail, desk officer in the Ministry of Foreign Affairs and Co-operation and the contact person appointed by the authorities to liaise with GRETA.

¹ <https://rm.coe.int/report-on-the-implementation-of-the-council-of-europe-convention-on-ac/16809c3e1c>

² <https://rm.coe.int/rapport-soumis-par-les-autorites-de-monaco-pour-etre-en-conformite-ave/1680a6fac3>

10. The draft version of the present report was approved by GRETA at its 49th meeting (13-17 November 2023) and was submitted to the Monegasque authorities for comments. The authorities' comments were received on 2 February 2024 and were taken into account by GRETA when adopting the final report at its 50th meeting (18-22 March 2024). The report covers the situation up to 22 March 2024; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

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

11. No THB victims have been formally identified in Monaco since the Convention entered into force in respect of the country (2016).

12. At a time when there is strong demand in the country for foreign labour, the risks of labour exploitation continue to raise concerns. Several sectors have been identified by civil society as being at risk, such as domestic work, construction, hotels and restaurants, and work on private yachts. While prostitution is not prohibited in Monaco and sex workers are usually registered with the police, there are concerns about the possible sexual exploitation of people who come to Monaco occasionally, notably for important events, but no victims have yet been detected.

13. The Monegasque authorities reiterated their view that the absence of trafficking cases is due to the fact that the country has a small territory, known for its security and strong police presence, making it difficult for crime to flourish. However, GRETA considers that the absence of identified victims does not necessarily reflect the reality of the situation. The lack of targeted awareness raising and proactive detection of victims, the absence of any studies or research on trafficking in human beings and the under-estimation of suspected cases may explain the lack of identified victims. It appears that there may have been trafficking indicators in one case that was subject to a legal proceeding (see paragraph 84), as indicated later in this report. In addition, many people in Monaco are either only passing through or staying for a short time, which limits the possibility of detecting victims among them.

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

14. The legal framework for combating trafficking in human beings is based primarily on Sovereign Order No. 605 of 1 August 2006 implementing the United Nations Convention against Transnational Organised Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol Against the Smuggling of Migrants by Land, Sea and Air.³ The Order has recently been substantially amended to take into account GRETA's recommendations. In particular, Sovereign Order No. 9.966 of 30 June 2023 amending Sovereign Order No. 605 removed the requirement that trafficking be transnational in nature and involve an organised criminal group and introduced aggravating circumstances for the offence of trafficking in human beings (see paragraphs 71 and 72). It has also enshrined in law the right of victims to information (see paragraph 32) and provided for regular anti-trafficking training courses for the professionals concerned (see paragraph 109).

15. Major reforms of the criminal procedure were adopted in November 2022, impacting the legal framework for action against trafficking in human beings, in particular as regards preliminary investigations and alternatives to prosecution, investigation, seizure and confiscation of the instrumentalities and proceeds of crime, international mutual legal assistance and measures against money laundering, the financing of terrorism and corruption (see paragraphs 77 and 0).

16. Work on a draft circular to serve as an "Inter-agency co-ordination plan for the identification and assistance of victims of trafficking in human beings" (hereinafter, the "draft circular on the identification and assistance of THB victims") began during the previous evaluation cycle and is still ongoing. According to the Monegasque authorities, the circular will cover the definition of trafficking in human beings, the detection and identification of possible THB victims, the presumption of acts of THB and the resulting rights of the victim, the recovery and reflection period, the issuance of a residence permit for victims of THB, the repatriation and return of victims, specific measures for child victims and prevention and awareness-raising measures.

17. If a THB victim is identified in Monaco, the main bodies responsible for providing assistance are still the Department of Social Welfare and Social Services (DASO) and the Victims of Crime Association (AVIP), which is accredited by the Monegasque state (see paragraph 164).

18. Monaco does not have a national action plan or strategy document on combating THB, nor is there a national body responsible for co-ordinating the state's action in this field. The authorities state that such measures are not necessary in Monaco's case, given the country's small size and the absence of trafficking cases. As regular and fluid co-ordination already exists among the various bodies involved in action against trafficking, they consider that there is no need to set up a specific co-ordination unit. GRETA points out that the purposes of the Convention, which include designing a comprehensive framework for the protection and assistance of victims and witnesses, and the requirements of co-ordinated action (Article 29(2) of the Convention), can only be met if State Parties adopt comprehensive policies, in the form of a strategy, action plan or some other policy document, against trafficking in human beings, addressing all aspects of action against trafficking in human beings, for all forms of exploitation, while taking into account the gender dimension of trafficking and the particular vulnerability of children. Sufficient funding should be provided for the implementation of such action plans and strategies in order for them to be effective.

19. GRETA takes note the adoption of Sovereign Order No. 9.966 of 30 June 2023 and the ongoing work on the draft circular on the identification and assistance of THB victims. It points out, however, that it is still too early to assess the impact of the implementation of the new Order. GRETA stresses the importance of maintaining momentum in the adoption of measures to prevent and combat trafficking.

³ <https://legimonaco.mc/tnc/ordonnance/2006/08-01-605/index.html>

20. **GRETA considers that the Monegasque authorities should:**

- **undertake and support research on THB-related issues in order to assess the reality of the phenomenon and provide an evidence base for future policy measures;**
- **adopt a strategic policy document on action against trafficking in human beings, including measures for prevention, awareness raising, training of the relevant professionals and proactive identification of victims, or incorporate such measures in a more general strategic policy document, ensuring that the necessary resources are allocated and that a precise timetable for its implementation is established.**

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

1. Introduction

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

22. The right to effective remedies is a reflection of the human-rights based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of trafficking, and effectively investigate trafficking offences.⁴

23. According to the *Basic principles on the right to an effective remedy for victims of trafficking in persons*,⁵ the right to an effective remedy is considered to include restitution,⁶ compensation,⁷ rehabilitation,⁸ satisfaction⁹ and guarantees of non-repetition.¹⁰ All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery and social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the 2023 Council of Europe Committee of Ministers Recommendation on rights, services and support for victims of crime, which outlines the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.¹¹

⁴ *Rantsev v. Cyprus and Russia*, application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement of 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

⁵ UN General Assembly, *Basic principles on the right to an effective remedy for victims of trafficking in persons*, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 6 August 2014, A/69/269, available at: <https://undocs.org/A/69/269>.

⁶ Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identity and travel documents and other personal belongings.

⁷ Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

⁸ Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

⁹ Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

¹⁰ Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

¹¹ United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: https://www.unicef-irc.org/portfolios/documents/472_un

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

25. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.¹²

26. Civil society, such as NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.¹³ In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons¹⁴ and Justice at Last - European Action for Compensation of Victims of Crime,¹⁵ which aim to enhance access to compensation for trafficked persons.

27. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.¹⁶ The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate access to remedies for victims for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.¹⁷ States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

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

[declaration-crime.htm](#): Recommendation CM/Rec(2023)2 of the Committee of Ministers to Member States on rights, services and support for victims of crime of 15 March 2023 and its Explanatory Memorandum, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680aa8263.

¹² UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8.

¹³ OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

¹⁴ <http://www.compactproject.org/>

¹⁵ <http://lastradainternational.org/about-lsi/projects/justice-at-last>

¹⁶ United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

¹⁷ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

2. Right to information (Articles 12 and 15)

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

30. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.¹⁸

31. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.¹⁹

32. Monaco recently expressly enshrined the right to information for victims of THB with Order No. 9.966 of 30 June 2023 amending Order No. 605. Under the terms of the new Article 9(1) of Order No. 605, "victims of trafficking have the right to be provided with comprehensive information and to be counselled with regard to their personal situation". Judicial police officers have an obligation to inform, verbally or by any other means, THB victims of the following rights: the right to compensation for the harm suffered, the right to sue for damages in criminal proceedings and the right to assistance from the authorities or from a state-approved victim support association. Victims of trafficking with disabilities are also entitled to full access to information in a form suited to their specific needs.

33. There is no specific information material for THB victims. The authorities justify this by saying that there are no cases. According to the aforementioned Article 9(1), presumed victims of trafficking are to be provided with general information material produced by the Victims of Crime Association (AVIP), the contents of which were approved by ministerial decree. The aim of the leaflet is to provide all victims of crimes and offences with detailed and easily understandable information on their situation as victims, their rights and how to assert them. It is available in French, English, Italian and Russian. The authorities have stated that if a victim of trafficking is detected, the police will verbally explain the individual's specific rights.

34. If the victim does not speak French, the Code of Criminal Procedure (CCP) requires that an interpreter be provided for the victim's hearing before the investigating judge (Article 139 CCP) and during court proceedings (Article 327 CCP). There is a list of sworn interpreters drawn up by Monaco's Court of Appeal. Irrespective of the nature of the proceedings (criminal or civil), if the victim receives free legal aid, translation and interpreting costs are borne by the state.

¹⁸ See Explanatory Report on the Convention, paragraphs 160-162.

¹⁹ See 8th General report on GRETA's activities, paragraphs 168-169.

35. Before, during and after the judicial process, AVIP provides information to victims at its premises, via its hotline and on its website, which is available in several languages.²⁰ Its staff have had general training on how to provide information to victims of crime, but this training does not deal specifically with trafficking. If necessary, it uses interpreters. Once the victim's case has been referred to the authorities, the staff of the Department of Social Welfare and Social Services (DASO) (in the case of adult victims) or the Princess Charlene Children's Home (in the case of minors) may also provide information and help with any administrative dealings.

36. While GRETA welcomes the establishment of the right to information for victims of trafficking by the aforementioned Order No. 9.966, it laments the fact that some essential rights for victims, such as the recovery and reflection period, the right to free legal aid and the right to the assistance of an interpreter, are not included in the rights that judicial police officers are obliged to inform victims of. In addition, although some members of the police (both police officers and administrative agents) have been given training on receiving victims, including providing information on victim rights and using appropriate interview techniques, GRETA understands that the training focuses on victims of "specific forms of violence", such as victims of marital or domestic violence, and not on victims of trafficking.²¹

37. GRETA considers that the Monegasque authorities should take the necessary measures to ensure that presumed victims of THB detected in Monaco are proactively provided with information as soon as they come into contact with a competent authority. In particular, these measures should include:

- **ensuring that information takes into account the victim's age, maturity, intellectual and emotional capacity, literacy and any mental, physical or other disability which may affect the ability to understand. It should also be provided regardless of the victim's ability or willingness to co-operate in criminal proceedings and should refer to the right to a recovery and reflection period, the services and support measures available, the right to legal aid, the compensation procedure and other relevant civil and administrative remedies and procedures;**
- **further training for frontline professionals (in particular members of the police) on the rights of THB victims and how to inform them of these rights, including how to exercise them.**

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

38. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedures are often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law²² also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in civil matters, it is for the courts to assess whether, in the interest of

²⁰ [Link to AVIP website available in French, English, Italian and Russian: https://www.avip-monaco.org/.](https://www.avip-monaco.org/)

²¹ The concept of "specific forms of violence" was introduced by Law No. 1382 of 29 July 2011 on the prevention and punishment of specific forms of violence, which defines such violence as "violence that requires or justifies specific forms of punishment or reparation, or aggravated or appropriate penalties, due to the particular vulnerability of the persons who are the victims or the situations in which the said violence is perpetrated". They relate to the offences listed in Article 1 of the Law, i.e. Articles 230 to 234(1), 236, 236(1), 237 to 239, 243 to 245, and 247 of the Criminal Code, and therefore do not include trafficking in human beings.

²² *Airey v. Ireland* judgment, 9 October 1979.

justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

39. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.²³

40. In Monaco, any victim, including victims of THB, may receive legal advice and information from AVIP, which is responsible for receiving victims, informing them of the steps they need to take to claim their rights and assisting them throughout the legal process. For example, it may help victims lodge a complaint or claim damages in criminal proceedings, guide them through the first steps (in administrative or legal proceedings) and attend court hearings in a supportive role, but it cannot act as a lawyer. Legal support is provided by one of AVIP's two staff members or by one of its volunteers. If the case is being handled by DASO, victims of THB are referred to AVIP for legal assistance.

41. In addition, victims of trafficking have access to free legal aid under the conditions laid down by Law No. 1.378 of 18 May 2011 on legal aid and compensation for lawyers. As described in the previous report,²⁴ access to legal aid is means-tested and currently, the annual income threshold is €20 000. Free legal aid is granted to any victim resident in Monaco irrespective of their nationality and their residence status. A reform is under way to introduce partial legal aid for persons whose income exceeds this threshold. Access to free legal aid for child victims is discussed in paragraph 123.

42. Applications for free legal aid must be submitted to the General Court Registry (Court of Appeal) together with the necessary supporting documents or, failing that, a sworn statement. They are examined by the Legal Aid Office, which consists of a judge, a member of the Board of the Bar Association and a representative of the Ministry of State. Reasons must be given for rejecting an application and the decision may be appealed.

43. Information on access to free legal aid and on the legal assistance provided by AVIP is included in the documentation given to all victims of crime (see paragraph 33) and on AVIP's website. The draft circular on the identification and assistance of THB victims also reiterates that judicial police officers are obliged to inform victims of their rights regarding access to legal aid and to a lawyer.

44. Free legal aid is available for all types of legal proceedings (criminal, civil and administrative), including for the enforcement of a court decision. In criminal cases, however, it can only be granted to victims who are claiming damages, which excludes victims who are merely appearing as witnesses. When free legal aid is granted, victims of trafficking are entitled to the assistance of an *avocat-défenseur* (defence lawyer), a lawyer or a junior lawyer,²⁵ and court fees, fees for expert reports, translation/interpreting and other expenses related to the proceedings are defrayed by the state. All lawyers registered with the Monaco Bar Association (32 at the time of GRETA's visit) may be appointed under the free legal aid scheme.

45. In May 2021, AVIP and the Board of the Monaco Bar Association signed a charter under which the latter will provide AVIP with a list of lawyers who volunteer to assist victims of crime and whose fees will be adjusted to the circumstances of the victim concerned. This agreement makes it possible to provide legal aid to people whose annual income is above the €20 000 threshold for free legal aid, but still not high enough for them to seek justice in court.

²³ 8th General report on GRETA's activities.

²⁴ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraphs 129-131.

²⁵ *Avocats-défenseurs* have the power to represent parties and to plead before any court. Lawyers have the power to plead before any court and to represent parties before criminal courts, the Magistrate's Court and the Employment Tribunal and in cases provided for by law. Junior lawyers have the power to plead before any court, except the Supreme Court and the Court of Review; they are not allowed to represent parties.

46. The Monaco Bar Association and the Monegasque Institute for training in the legal professions, which was set up in 2021, have not yet provided training on trafficking in human beings for *avocats-défenseurs* and lawyers. The reason given is the absence of THB cases in Monaco. However, during the visit, the Institute expressed an interest in expanding the range of training it offers, including on trafficking. GRETA points out that an online course on combating trafficking in human beings is available through the Council of Europe's European Programme for Human Rights Education for Legal Professionals (HELP).²⁶

47. **GRETA considers that the Monegasque authorities should take further steps to guarantee the right to legal assistance and free legal aid to any trafficking victims detected in Monaco, in particular by:**

- **ensuring that legal assistance is systematically provided as soon as there are reasonable grounds for believing that a person is a victim of trafficking and before the person concerned has to decide whether or not to co-operate with the authorities and/or make an official statement. Law enforcement officials, prosecutors and judges should be made aware of this requirement;**
- **developing training on trafficking in human beings for lawyers who may provide legal aid to victims of THB and encouraging the Monaco Bar Association and the Monegasque Institute for training in the legal professions to offer such training.**

4. Psychological assistance (Article 12)

48. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through and achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to the violence that they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy conducted by an experienced clinician.²⁷ In the case of trafficked children, specialist child psychologists should be employed.

49. In Monaco, the Department of Social Welfare and Social Services (DASO) is primarily responsible for assisting victims of trafficking. This includes setting up psychological care. AVIP also provides psychological assistance to victims of crime.²⁸ Four therapists offer free consultations on the association's premises. The DASO accommodation facility visited by GRETA, where victims of trafficking could be accommodated, has a part-time psychologist. Child victims of THB also have access to a part-time psychologist at the Princess Charlene Children's Home. These psychologists are sensitised to the special needs of victims of crime. If necessary, DASO will arrange psychological or psychiatric care outside the facilities and may bear the costs if the victim has inadequate resources.

50. However, GRETA is concerned that access to assistance measures is conditional on THB victims having Monegasque nationality or being lawfully resident in the country. According to the authorities, DASO could make an exception and cover the costs of psychological assistance for victims, even if they are not affiliated to a social fund (i.e. a social security scheme). Emergency psychiatric care is also available regardless of residence status. GRETA nevertheless points out that, in accordance with Articles 12 and 13 of the Convention, all victims of trafficking are entitled to psychological assistance during the recovery and reflection period and after its expiry, even if they have not been granted a residence permit.²⁹ In their comments on the draft report, the authorities stated that the discussions on the future Inter-agency co-

²⁶ <https://www.coe.int/en/web/anti-human-trafficking/help-online-training-course>

²⁷ OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

²⁸ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraph 99.

²⁹ See Explanatory Report on the Convention, paragraph 146.

ordination plan should ultimately result in a guarantee that all trafficking victims, whatever their residence status, will be entitled to psychological assistance and material support.

51. GRETA urges the Monegasque authorities to adopt such legislative or other measures as may be necessary to ensure that all victims of THB, irrespective of their nationality and residence status, receive psychological assistance, in accordance with Article 12(1) of the Convention (see also the recommendation in paragraph 169).

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

52. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, microbusinesses and social enterprises.³⁰ GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.³¹

53. In Monaco, victims of trafficking detected by the authorities may access the labour market under the conditions laid down by ordinary law. These are particularly restrictive for foreigners. The Constitution grants Monegasques priority access to public and private employment ("national priority"). In order to employ or re-employ a foreigner, employers must first obtain written authorisation from the Employment Office, which is granted in order of priority to: 1) foreigners married to a Monegasque national and foreigners with at least one Monegasque parent; 2) foreigners living in a common-law relationship but under a contract of cohabitation with a person of Monegasque nationality; 3) foreigners, father or mother of a child of Monegasque nationality, one of whose parents is Monegasque; 4°) foreigners residing in Monaco; 5) foreigners residing in surrounding communes, where they have been authorised to work, and having already carried out a professional activity in Monaco.³² A new work permit is required for any change of employer, job or profession.

54. In the absence of a specific residence permit for THB victims and of a recovery or reflection period (see paragraphs 172 and 174), a victim would therefore have to already hold a residence permit and then apply for a work permit in order to remain and work in Monaco after being formally identified. In practice, this seems very difficult, if not impossible, especially as the national priority rules would apply. The draft circular on the identification and assistance of THB victims does not appear to include any measures on access to employment for victims of trafficking.

55. Victims of THB who have a work permit and whose case is handled by DASO could receive assistance in finding employment or training from an official specialised in this field. They could also register with the Employment Office (for unemployment benefits) if they have Monegasque nationality, are lawfully resident in Monaco or reside in the surrounding communes and have already been lawfully employed in Monaco.

56. GRETA urges the Monegasque authorities to adopt such legislative or other measures as may be necessary to ensure access to the labour market, vocational training and education for all victims of THB, in line with Article 12(4) of the Convention.

³⁰ Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

³¹ 8th General report on GRETA's activities.

³² Article 5 of Law No. 629 of 17 July 1957 regulating conditions of recruitment and dismissal in the Principality.

6. Compensation (Article 15)

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

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

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

60. In Monaco, the legal framework for victims' compensation remains as described in the previous GRETA report.³³ In criminal proceedings, victims may obtain compensation for the harm suffered by requesting to join the proceedings as a party claiming damages (Article 2 CCP). This is possible until the very end of the proceedings (when the hearing is closed for the start of deliberations). If the public prosecutor decides not to prosecute (or to discontinue the prosecution), the victim may lodge a complaint with the investigating judge and claim damages (Articles 74 and 74(1) CCP). The claim for damages may include all categories of harm, whether pecuniary, non-pecuniary or physical. An expert report may be requested by the judicial authority in order to assess the harm suffered by the victim.

61. Victims may also claim compensation by bringing the matter before the civil courts, but must wait until the criminal proceedings have been closed. Those wishing to recover wages withheld by traffickers may also apply to the Employment Tribunal, even in the absence of an employment contract.

62. As mentioned in paragraph 32, police officers are required to inform victims of trafficking of their right to compensation as soon as they are detected. In addition, the "Notice to victims", which is sent to inform them of the date and place of the hearing, mentions the possibility of seeking compensation by bringing a claim for damages.

³³

See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraphs 132-134.

63. Since Law No. 1.535 of 9 December 2022 on the seizure and confiscation of instrumentalities and proceeds of crime, the assets seized or confiscated from the offender may be used to compensate victims (new Article 621(1) CCP). This procedure may be used by victims who have filed a civil suit and obtained a final judgment awarding them damages. They must apply to the Agency for the Management of Seized and Confiscated Assets, established by the aforementioned Law No. 1.535, so that the damages can be paid out from the funds or the net asset value of the property confiscated from the offender and held by the Agency. In order to facilitate future confiscation, the investigating judge or the trial court may, in a reasoned decision and after consulting the public prosecutor, order the seizure of assets liable to confiscation (Article 596(1) CCP). Sovereign Order No. 10.245 of 7 December 2023 implementing Law No. 1.535, governs the functioning and tasks of the Agency for the Management of Seized and Confiscated Assets, which should be operational very shortly.

64. If the offender fails to pay the victim the compensation ordered by the court, enforcement may be sought in the civil courts. Various types of seizure are possible, including the seizure of assets and earnings. It is also provided that the surety covers, among other things, the fees paid by the party claiming damages and compensation for the harm caused by the offence (Article 184 CCP).

65. Monaco recently set up a state mechanism for paying out compensation to THB victims if the perpetrator defaults through the adoption of Law No. 1.555 of 14 December 2023 on compensation of victims of crimes, which entered into force on 29 March 2024.³⁴ Its Article 2 specifically lists victims of trafficking in human beings among those who may benefit from this new mechanism. In order to access state compensation, victims must: have a final court decision granting compensation, not have obtained payment of damages with interest and procedural costs, and have given formal notice to the perpetrator of the offence. Applications for compensation must be sent to the Director of Judicial services (Secretary of State for Justice) within two years following the final court decision. The compensation scale setting the amounts to be awarded are yet to be determined by sovereign order. GRETA notes that the requirements for accessing the compensation mechanism are restrictive. It stresses in this connection that under Recommendation CM/Rec(2023)2 of the Committee of Ministers of the Council of Europe on rights, services and support for victims of crime, member states should adopt a state compensation scheme for victims of crimes which is independent from criminal proceedings and therefore accessible by victims when no suspect has been identified, apprehended, prosecuted or convicted.³⁵

66. GRETA welcomes the authorities' efforts to introduce a state compensation scheme covering victims of trafficking in human beings and considers that the Monegasque authorities should adopt without delay the texts implementing Law No. 1.555 in order to render the new scheme fully operational.

67. Furthermore, GRETA considers that the Monegasque authorities should take further steps to facilitate and guarantee effective access to compensation for victims of trafficking, in particular by informing victims in an appropriate and systematic manner about their right to seek compensation in criminal or civil proceedings and ensuring that they are provided with legal assistance from the outset of the proceedings in order to exercise their right to compensation (in conjunction with the recommendations in paragraphs 37 and 47).

³⁴ <https://journaldemonaco.gouv.mc/Journaux/2023/Journal-8675/Loi-n-1.555-du-14-decembre-2023-relative-a-l-indemnisation-des-victimes-d-infractions-a-caractere-sexuel-de-crimes-et-delits-envers-l-enfant-de-violences-domestiques-et-d-autres-infractions-portant-atteinte-aux-personnes>

³⁵ See paragraph 103 of the Explanatory memorandum to Recommendation CM/Rec(2023)2.

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

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

69. Article 23 requires Parties to match their actions to the seriousness of the offences and lay down criminal penalties which are "effective, proportionate and dissuasive". Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so called "civil" confiscation) of the instrumentalities and proceeds of human trafficking offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

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

71. In Monaco, trafficking in human beings is established as a criminal offence by Article 8 of Sovereign Order No. 605 of 1 August 2006 ratifying the Palermo Convention.³⁶ All the elements of the definition of trafficking in human beings in Article 4 of the Council of Europe Convention are covered, including the irrelevance of the victim's consent and, in the case of child victims, of the element of means. In its previous report, GRETA expressed concern that Article 1 of Order No. 605 limited the offence of THB to acts of a transnational nature involving an organised criminal group. In order to address these concerns, Order No. 9.966 of 30 June 2023 removed Article 1 of Order No. 605.

72. The penalty for trafficking in human beings is five to 10 years' imprisonment and a fine of between €18 000 and €90 000 (Article 9 of Order No. 605). In response to GRETA's previous recommendation, aggravating circumstances for the offence of trafficking in human beings were introduced by the aforementioned Order No. 9.966. Aggravated sentences of 10 to 20 years' imprisonment are now imposed if the offence: endangered the life of the victim intentionally or through gross negligence; was committed against a minor; was committed by a public official in the exercise of their duties; was committed with the involvement of a criminal organisation (Article 9(2) of Order No. 605). All the aggravating circumstances provided for in Article 24 of the Convention are now covered.

73. All legal persons (except the state, district councils and public institutions) bear criminal liability for any crime, misdemeanour or petty offence (Article 4(4) CC). Penalties include fines, dissolution, disqualification from professional activities, placement under judicial supervision, permanent or temporary closure and confiscation (Articles 29(1) et seq. CC).

³⁶ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraphs 29 and 145.

74. It is not a criminal offence to use the services of a person known to be a victim of trafficking.

75. During the visit, it was stressed that although trafficking in human beings is a criminal offence, it has not been included in the Criminal Code – i.e. introduced by a law – but has been established by a sovereign order. The Monegasque Constitution empowers the Prince to ratify international treaties and agreements, provided that ratification does not entail the amendment of existing legislation (Article 14), which is why the Palermo Convention would have been ratified by a sovereign order without any amendment to the Criminal Code. In the view of some interlocutors, this is incompatible with the Constitution, which states that “no one may be prosecuted except in the cases provided for by the law” (Article 19) and that “no penalty may be established or applied except by law” (Article 20). The government stated that, while the application of an international treaty requires certain implementation measures in addition to those aimed at making the treaty enforceable in domestic law, under the Monegasque Constitution, such measures may be taken by sovereign order even in areas that are normally the preserve of legislation, including in the sphere of criminal law. It stressed that other acts have been made criminal offences by means of sovereign orders.³⁷ GRETA is concerned that the failure to include the offence of trafficking in human beings in the Criminal Code undermines the prosecution and punishment of trafficking cases to be examined by Monegasque courts. In such cases, the law enforcement authorities might prefer to lodge prosecutions on the basis of offences which actually appear in the Criminal Code, both as an easier option and in order to avoid the risk of contentious proceedings. There is a strong risk that the constitutionality of criminalisation could be raised as an issue in proceedings in the future and, in the event of it being found unconstitutional, the entire procedure could be derailed.

76. In Monaco, criminal investigations may be initiated *ex officio* or on the basis of a complaint from the victim. Criminal proceedings are based on the principle of discretionary prosecution, which means that the public prosecutor is not obliged to prosecute. If the latter decides not to proceed, however, the victim must be informed (Article 34 CCP) and may initiate criminal proceedings by filing a complaint with an investigating judge and claiming damages (Article 74 CCP).

77. Should a THB case be detected, the investigation would be carried out by the Specialised Groups Section of the Judicial Police Division, under the supervision of the public prosecutor (at the preliminary investigation stage) or the investigating judge (at the investigation stage). GRETA understands that cases involving trafficking in human beings must be subject to a criminal investigation by an investigating judge, as this is a serious crime. The Financial Investigation Section would provide support to the Judicial Police Division by carrying out financial investigations relating to trafficking. In December 2022, Monaco overhauled the rules of criminal procedure by introducing the legal framework of preliminary investigations (Title V bis of the Criminal Code) and extending the range of investigative measures used by the police under the public prosecutor’s supervision. The criminal investigation by the investigating judge was reformed by Law No. 1534 of 9 December 2022 amending certain provisions of the CCP relating to the judicial investigation and to applications for a retrial in criminal proceedings.

³⁷ Sovereign Order No. 5.252 of 19 March 2015 on the recycling of euro coins and notes, Sovereign Order No. 1.675 of 10 June 2008 on procedures for freezing funds to implement economic sanctions and Sovereign Order No. 15.321 of 8 April 2002 on procedures for freezing funds to combat terrorism, which were repealed by Sovereign Order No. 8.664 of 26 May 2021 on procedures for freezing funds and economic resources in application of international economic sanctions, which also provides for a criminal offence; Sovereign Order No. 67 of 23 May 2005 implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora adopted in Washington on 3 March 1973; Sovereign Order No. 16.382 of 20 July 2004 on the application of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction adopted in Geneva on 3 September 1992.

78. Special investigative techniques may be used with the authorisation and under the supervision of the investigating judge, some examples being the interception of telecommunications or electronic communications,³⁸ the use of real-time location data³⁹ and the monitoring of banking transactions.⁴⁰ The recording of words or images⁴¹ and undercover operations⁴² may only be used for THB offences involving an organised criminal group or other offences such as grievous bodily harm to children, sexual exploitation of children, pimping, drug trafficking and terrorism. Similarly, undercover investigations may only be carried out in THB cases involving rape, sexual assault, indecent assault, arbitrary arrest and detention, false imprisonment or inciting minors to transport or sell drugs.⁴³

79. The legal framework for the seizure and confiscation of the property and assets of alleged traffickers is described in paragraph 63. GRETA notes that MONEYVAL's most recent report on Monaco (January 2023) states that although the authorities have made efforts to improve criminal asset recovery, significant shortcomings remain. The number of parallel financial investigations is inadequate. Monaco has no strategy or official policy for asset recovery. Provisional measures such as seizure are only implemented to a modest extent because of difficulties and delays in identifying and locating assets and because of the limited powers granted to the public prosecutor.⁴⁴

80. There is no plea-bargaining procedure in Monegasque law. Although the reform of criminal procedure in December 2022 gave the Public Prosecution Department more scope to use alternatives to prosecution, these may not be applied in cases of THB because it is a serious crime (i.e., an offence that carries a penalty of five years or more in prison).

81. No investigations into trafficking in human beings were opened in Monaco during the reporting period. Since the entry into force of the Convention with respect to Monaco, only one case of suspected THB for the purpose of labour exploitation was detected in 2018 and no prosecution was brought.⁴⁵ However, the Monegasque authorities have complied with several requests for international mutual assistance in criminal matters from third countries in cases of trafficking in human beings (see paragraph 115).

82. Although several criminal proceedings concerning pimping have been brought in Monaco since 2019, according to the authorities, no indicators of THB were detected in these cases. For example, in April 2020, an investigation into a large-scale pimping and drug trafficking network was opened as a result of a police patrol of nightclubs. Several Brazilian women had been recruited to be engaged in prostitution in French cities on the Côte d'Azur and in Monaco and were living in France. A joint investigation team was set up with France and, in June 2022, members of the network were tried before the Nice Criminal Court.⁴⁶ In Monaco, criminal proceedings against the manager of the nightclub were awaiting the indictment at the time of GRETA's visit. According to the Monegasque authorities, there were no indicators of THB in this case. Several of the women who had been recruited were registered sex workers in Monaco.

³⁸ Articles 106(1) et seq. CCP.

³⁹ Articles 106(16)(1) et seq. CCP.

⁴⁰ Articles 106(11)(1) et seq. CCP.

⁴¹ Articles 106(12) et seq. CCP.

⁴² Articles 106(17) et seq. CCP.

⁴³ Articles 47(2) et seq. CCP.

⁴⁴ Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), Fifth Round Mutual Evaluation Report on Monaco, December 2022, <https://rm.coe.int/moneyval-2022-19-eng/1680a9d7d0>

⁴⁵ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraph 94.

⁴⁶ <https://www.nicematin.com/justice/des-dizaines-descort-girls-impliquees-dans-un-dossier-tentaculaire-de-proxenetisme-et-traffic-de-droque-a-beausoleil-780850>

83. In another case, a man was found guilty of pimping by the Monaco Criminal Court in December 2022.⁴⁷ The investigation had been initiated following a police check outside a Monegasque hotel. It had led to the pimp and two women in prostitution being taken into police custody and to an Airbnb apartment in Nice being searched in co-operation with France. According to the Monegasque authorities, no organised criminal organisation was involved in this case and there were no indicators of trafficking in human beings.

84. With regard to labour exploitation, following a labour inspection in the food service industry, the Monaco Criminal Court convicted several Comorian nationals in November 2022 for making false declarations in order to obtain a work permit, forgery and use of forged documents. As part of the investigation, their home in Beausoleil (France) was searched in co-operation with the French authorities. It was found that they were using the identity of another person to work in Monaco and that several of them were living together in appalling conditions.⁴⁸ According to the authorities, there were no indicators of trafficking in this case, as the individuals in question were not forced to work against their will, were aware of their irregular status and were being paid by their employers. It is GRETA's understanding that the same case was also investigated in France with regard to the existence of an illegal immigration network.

85. In the light of the discussions held during the visit, GRETA is concerned that the relevant professionals may have a restrictive interpretation of what constitutes trafficking in human beings, in particular requiring the exercise of coercion or duress over the victim and not taking into consideration the element of means related to the abuse of a position of vulnerability. Some interlocutors also continued to associate THB with the existence of an organised criminal group. GRETA is furthermore concerned that the fact that the offence of trafficking in human beings does not appear in the Criminal Code undermines the effectiveness of law enforcement and the identification of victims, and leads the investigating and prosecuting authorities to initiate proceedings on the basis of other offences which are expressly provided for in the Criminal Code.

86. GRETA urges the Monegasque authorities to take further steps to strengthen the criminal justice response to THB, including by:

- **taking the necessary legislative measures to ensure that the offence of trafficking in human beings can be effectively investigated, prosecuted and punished, including by adding the offence to the Criminal Code;**
- **ensuring that human trafficking offences for any form of exploitation are promptly and proactively investigated, regardless of whether a complaint is filed by the victim or an organised criminal group exists, and using all available evidence, including evidence gathered through special investigative techniques, suspicious activity reports, documents and digital evidence, rather than relying solely on the testimony of victims or witnesses;**
- **ensuring that human trafficking offences are prosecuted as such, rather than as lesser offences, every time the circumstances of the case allow this, and lead to effective, proportionate and dissuasive sanctions for those convicted.**

87. In addition, GRETA considers that the Monegasque authorities should strengthen training and awareness raising among law enforcement officials, prosecutors and judges on trafficking in human beings, including the various constituent elements of the crime and the need to adopt a victim-centred approach.

⁴⁷ <https://www.monacomatin.mc/justice/il-louait-un-airbnb-a-nice-pour-loger-les-jeunes-filles-quil-exploitait-un-proxenet-arrete-en-flagrant-delit-a-monaco-811882>

⁴⁸ <https://www.nicematin.com/justice/le-defile-de-travailleurs-sans-papiers-au-tribunal-de-monaco-cache-t-il-un-reseau-dimmigration-illegale-809765>

8. Non-punishment provision (Article 26)

88. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state's obligation to investigate and prosecute those responsible for THB.⁴⁹ Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

89. In Monaco, there is no specific legal provision concerning the non-punishment of victims of THB. As noted in GRETA's previous report, Article 44 of the Criminal Code provides for various grounds of exemption from liability, including acting under compulsion, which is when the perpetrators of serious crimes or lesser offences "were forced into it and unable to resist".⁵⁰ According to the information provided during the visit, the concept is similar to that of the state of necessity under French law. In this way, coercion linked to a position of vulnerability and financial coercion exerted on a victim's family could be taken into account. However, there is still no relevant case-law. In the case of administrative offences, such as infringements of the right of residence or tax offences, there is no provision for the non-punishment of THB victims. Nevertheless, the authorities stated that under the case-law of the Supreme Court a victim could be exempt from liability in the event of failing to fulfil their administrative obligations on the basis of force majeure.⁵¹

90. In their comments on the draft report, the Monegasque authorities indicated that the introduction of a specific provision on the non-punishment is not currently envisaged.

91. No guidelines have been issued on the application of the non-punishment provision. At the time of its previous evaluation, GRETA was informed that the Department of Justice envisaged sending a general policy instruction to the Public Prosecutor on applying Article 44 of the Criminal Code in a manner compatible with the provisions of Article 26 of the Convention. However, no such instruction appears to have been adopted. Furthermore, on the basis of the information provided during the visit, it does not appear that the principle of non-punishment is reiterated in the draft circular on the identification and assistance of THB victims, nor that any training courses held during the reporting period (see paragraph 106) covered the issue.

92. As mentioned in the previous report,⁵² the possibility of applying the general criminal law provision on the "state of necessity" cannot be considered an adequate response because it is narrower in scope than the non-punishment principle enshrined in the Convention. Furthermore, in practice, prosecutors leave it to the courts to decide whether the conditions for a state of necessity are met, thus making victims of THB susceptible to prosecution and pre-trial detention and shifting the burden of proof to the victim. Lastly, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

93. **GRETA urges the Monegasque authorities to take steps to guarantee the principle of not imposing penalties on victims of trafficking in human beings who have committed offences, including administrative offences, to the extent that they have been compelled to do so. This should entail the adoption of specific legal provisions and/or the development of guidance on the non-punishment principle for police officers and prosecutors, and the inclusion of this principle in the training of police officers, prosecutors, judges and lawyers.**

⁴⁹ 2nd General Report.

⁵⁰ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraph 156.

⁵¹ Supreme Court, 31 May 2022, Association des propriétaires de Monaco v. State of Monaco.

⁵² See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraph 157.

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

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

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

96. In Monaco, under Article 24(1) of the Civil Code, the president of the court of first instance can protect presumed victims by issuing "protection orders". These may include measures prohibiting the alleged perpetrator from entering into contact with the victim or from appearing or residing in certain places, as well as emergency accommodation for the victim. While these orders were initially reserved for certain types of victims, in particular victims of marital or domestic violence, they were extended to all victims of crimes and offences by Law No. 1.478 of 12 November 2019 amending certain provisions relating to penalties. They are issued at the request of the public prosecutor, the victim themselves or an approved civil society organisations (such as AVIP) with the victim's consent. The protection order must be issued within 24 hours of the application being made to the court. It can also be issued by the public prosecutor during the preliminary investigation if the case is urgent (Article 37(1) CCP), or by the investigating judge during the judicial investigation (Article 91(3) CCP).

97. Furthermore, if the testimony of a victim of trafficking before the investigating judge is likely to endanger their life or physical safety, or that of members of their family or friends, anonymous testimony can be used (Articles 147(1) to 147(6) CCP). In such cases, all necessary steps must be taken to keep the victim's identity secret, if necessary by using technology that renders their voice and/or image non-identifiable. During the trial phase, the court may decide to hold proceedings in camera under Article 292 CCP.

98. Since the enactment of Law No. 1.478 of 12 November 2019, the possibility of imposing additional penalties prohibiting individuals from entering into contact with victims and/or barring them from certain places has been extended to the perpetrators of any crime or offence, including traffickers.

99. In the case of child victims, specific protection arrangements exist, such as conducting hearings in a child-friendly interview room and having a psychologist present (see paragraphs 123 and 124).

100. According to information gathered during the visit, the system for protecting victims of crime generally works well, and the judicial authorities are very quick to act. GRETA notes, however, that there

are no agreements with other countries, notably France, for receiving victims outside Monaco's borders; given the size of the Principality, there are concerns about the protection and anonymity of victims.

101. GRETA invites the Monegasque authorities to ensure that all measures aimed at protecting victims of criminal offences are effectively made available to victims of trafficking and witnesses in any trafficking cases that might be detected by the authorities, so that those individuals are not subjected to reprisals and intimidation during the investigation, as well as during and after the judicial proceedings.

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

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

103. There are no authorities in Monaco that specialise in trafficking in human beings, given the size of the country and the absence of trafficking cases. Within the Police Department, criminal investigations into suspected cases of trafficking are the responsibility of the Judicial Police Division (63 investigators, including 22 women), in particular the Specialised Groups Section. This section consists of investigators, most of whom have specialised training, and deals with combating drugs, pimping, major and organised crime, cases that require the use of special investigative techniques (Organised Crime Investigation Group, with five investigators) and cases involving minors or vulnerable victims such as the elderly (Minors and Social Protection Investigation Group, with six investigators). The Judicial Police Division also includes a Financial Crime Section, which supports the other sections in carrying out parallel asset investigations, and an International Co-operation and Cybercrime Section, which assists the other sections in executing international letters rogatory and comprises police officers who are specialists in cybercrime.⁵³

104. From 27 to 30 June 2023, the Head of the Specialised Groups Section attended a training session in France, at the Central Office for the Suppression of Trafficking in Human Beings (OCRTEH). A report on the training session, including all the teaching material provided, was made available on the criminal investigation police division's documentary database for all police staff. A guide on trafficking in human beings and money laundering has also been disseminated.

105. Monaco's Public Prosecution Office had four prosecutors at the time of GRETA's visit (two women and two men). While there is no specialisation within the department, one of the prosecutors acts as contact prosecutor (*procureur référent*) for human trafficking cases but does not appear to have received any specific training for this role. As stated in paragraph 77, trafficking cases would automatically be investigated by a judge and, at the time of GRETA's visit, there were three investigating judges in Monaco.

106. Monaco's Public Prosecution Office and courts are made up partly of Monegasque and partly of French judges and prosecutors. All the Monegasque members of the judiciary are trained at the National School for the Judiciary (ENM) in France, where the subject of human trafficking is addressed in basic training and also offered in in-service training. In the previous evaluation round, the Department of Justice ran a training course on trafficking for members of the judiciary and other civil servants.⁵⁴

107. In 2022, several training sessions were held by the Civil Service Directorate of Human Resources and Training, and led by the French association ALC (*Agir pour le lien social et la citoyenneté*), which oversees a shelter and support system for victims of trafficking in France (Ac.Sé scheme). The training

⁵³ For further information: <https://www.gouv.mc/Gouvernement-et-Institutions/Le-Gouvernement/Departement-de-l-Interieur/Direction-de-la-Surete-Publique/Division-de-Police-Judiciaire>

⁵⁴ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraph 47.

session covered the legal definition of trafficking, indicators of THB and victim identification, conducting identification interviews and victim support and protection arrangements. Participants included representatives of the Labour Inspectorate, the Police Department, the Ministry of Foreign Affairs and Co-operation and the Princess Charlene Children's Home.

108. According to the information shared with GRETA, all SICCFIN analysts have undergone training on the role of financial intelligence units (FIUs) in combating the various forms of modern slavery. The training was provided via the Egmont Group, an international forum for FIUs to share information.⁵⁵

109. The Monegasque authorities have indicated their intention to expand the range of THB training on offer. GRETA welcomes the fact that Order No. 9.966 of 30 June 2023 provides for regular training for professionals working in contact with trafficking victims, in particular judges, prosecutors, health-care professionals, criminal police officers and officials, child welfare professionals and social workers. Other regular training is also to be provided for professionals working with child victims of trafficking. In their comments on the draft report the Monegasque authorities stated that two training sessions on THB were planned in 2024 for judges, prosecutors, health-care professionals, criminal police officers and officials, child welfare professionals and social workers. In addition, an e-learning module aimed at raising awareness was to be on offer to all state officials in the course of 2024. The new Monegasque Institute for Training in the Legal Professions, set up in 2021 to prepare candidates for examinations enabling them to practise as lawyers, judges or prosecutors and to organise in-service training seminars for these professions, is also planning to develop training on human trafficking.⁵⁶

110. GRETA considers that the Monegasque authorities should ensure, in accordance with Article 29 of the Convention, that persons are specialised in the fight against trafficking in human beings and the protection of victims within the law enforcement and criminal justice system. In this connection, they should develop training on THB among the professionals concerned (law enforcement officials, prosecutors and judges). Such training should be regular and targeted, providing specific guidance geared to the role of each profession, in order to ensure successful investigation, prosecution and adjudication of trafficking cases (see also paragraph 87).

11. International co-operation (Article 32)

111. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to engage in extensive co-operation with one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the Convention neither cancels nor replaces relevant international or regional instruments⁵⁷ on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

112. As explained in the previous report, the Principality of Monaco is party to several multilateral conventions facilitating international co-operation on human trafficking, including the European Convention on Mutual Assistance in Criminal Matters, the Convention on Laundering, Search, Seizure and

⁵⁵ For further information on the Egmont Group, in particular its Centre of Excellence and Leadership (ECOFEL): <https://ecofel.org/modern-slavery/>

⁵⁶ For further information on the Institute: <https://www.gouv.mc/Gouvernement-et-Institutions/Les-Institutions/La-Justice/L-Institut-monegasque-de-formation-aux-professions-judiciaires>

⁵⁷ For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

Confiscation of the Proceeds from Crime and the Convention on Cybercrime. Monaco has also signed numerous bilateral agreements in judicial matters, notably with Australia, Belgium, the Czech Republic, Denmark, France, Germany, Italy, Liberia, the Netherlands, Russia, Spain, Switzerland, the United Kingdom and the United States.⁵⁸ Given Monaco's geographical position and historical links with France, co-operation between these two countries is extensive, particularly in the field of mutual legal assistance, and when it comes to seconding French police officers, judges and prosecutors and training Monegasque professionals (see paragraphs 106 and 107).

113. In the absence of an international convention applicable to relations with third countries, there is still scope for co-operation under ordinary legislation, which was recently revised by Law No. 1.536 of 9 December 2022 amending Title XI of Book IV of the Code of Criminal Procedure on international mutual legal assistance.⁵⁹ That includes the possibility of using joint investigation teams. GRETA understands, however, that pursuant to Order No. 605 (Article 23), direct co-operation between detection and law enforcement services of third countries is only possible for offences covered by the Palermo Convention and its two additional protocols, i.e. offences that are transnational in nature and involve an organised criminal group.⁶⁰ GRETA notes with regret that the June 2023 amendments to Order No. 605 did not remove this restriction.

114. Monaco is a member of INTERPOL, which facilitates police co-operation and the exchange of information in THB cases. A co-operation agreement with Europol has also been in force since 2011 (it was revised in 2018) and includes trafficking among the areas in which the two parties are to work together. To date, no reports received via INTERPOL and Europol have related to trafficking in human beings.

115. During the reporting period, the Principality of Monaco responded to several requests for mutual legal assistance concerning suspected cases of THB. In 2020, the Monegasque judiciary was asked by the French authorities to interview in Monaco the manager of a property company who had been living in the Principality and was suspected of labour exploitation on a construction site in France. In another case involving suspected drug trafficking and THB, the Monegasque justice system was asked by the French authorities to use the co-ordinates activated by a suspect's telephone in Monaco. In June 2023, at the request of the Romanian authorities, the Monegasque judiciary arrested and extradited a person present in Monaco who had been convicted in Romania of trafficking offences. Lastly, as mentioned in paragraphs 82 and 83, the few pimping cases brought in Monaco during the reporting period were all investigated by a joint Franco-Monegasque team.

116. Monaco continues to contribute financially to OSCE and UNODC projects to combat THB. According to the authorities, since 2011 nearly one million euros has been allocated to a UNODC project to combat child trafficking in Senegal.

117. GRETA welcomes the efforts made by the Monegasque authorities in terms of international co-operation and invites them to pursue these efforts and ensure that co-operation can be developed with third countries, including in THB cases that are neither transnational in nature nor involve an organised criminal group.

⁵⁸ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraph 179.

⁵⁹ <https://www.conseil-national.mc/2022/12/21/n1536-loi-du-9-decembre-2022-portant-modification-du-titre-xi-du-livre-iv-du-code-de-procedure-penale-relatif-a-lentraide-judiciaire-internationale/#:~:text=Ce%20projet%20de%20loi%20a,demande%20devant%20les%20juridictions%20mon%C3%A9gasques.>

⁶⁰ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraph 180.

12. Cross-cutting issues

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

118. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.⁶¹ The Council of Europe Gender Equality Strategy 2018-2023 notes that while accessing justice might be difficult for everyone, it is even more so for women, due to gender inequality in society and in the justice system, and therefore one of the objectives of the Strategy is to ensure the equal access of women to justice.⁶² GRETA notes that in the case of trafficking in human beings, gender stereotypes, prejudices, cultural barriers, fear and shame impact women's access to justice, and these barriers may persist during investigations and trials. This is particularly true for some groups of women, such as victims of gender-based violence, migrant women, refugee and asylum-seeking women, women from ethnic minorities and women with disabilities. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or child care.⁶³ Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".⁶⁴

119. As described in the previous report, the purpose of the Monegasque Committee to Promote and Safeguard Women's Rights is to monitor and evaluate national policies and measures taken to promote equality between women and men and to prevent and combat all forms of violence and discrimination against women.⁶⁵ It is made up of representatives of the government bodies concerned, and its work is prepared and implemented by an inter-ministerial delegate. Since it was set up in 2018, the committee has never yet addressed the issue of trafficking in women and girls or, more generally, inequalities in women's and girls' access to justice. This is said to be mainly due to a lack of human resources (the inter-ministerial delegate's team being made up of two people, the delegate herself and one other person), which has led to government action being concentrated on certain topics such as marital and sexual violence and gender equality.

120. While the Monegasque authorities have taken steps to take account of the particular vulnerability of child victims in judicial proceedings (see paragraph 123), no such approach seems to have been adopted with respect to the vulnerability of women. The authorities have reiterated that women and men have access to justice on the same terms and their vulnerability can be taken into account regardless of gender. GRETA underlines that implementing gender-sensitive procedures is not the same as discriminating in favour of women or granting them preferential treatment, but is about taking appropriate measures to address their particular vulnerability. That could mean running training courses for relevant professionals on women's access to justice, on gender-sensitive interviewing, on combating sexist stereotypes in judicial proceedings, etc. In their comments on the draft report, the authorities stated that the organisation of awareness-raising of gender-sensitive procedures could be envisaged by the Monegasque Institute for Training in the Legal Professions.

⁶¹ CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en

⁶² Council of Europe Gender Equality Strategy 2018-2023, pp.24-26, <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>

⁶³ Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13 available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

⁶⁴ Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

⁶⁵ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraph 20.

121. **GRETA considers that the Monegasque authorities should further develop the implementation of gender-sensitive judicial proceedings, including through training for law enforcement officials and the Public Prosecution Department, and also for judges, on conducting interviews with victims based on a gender-sensitive approach.**

122. **GRETA also invites the Monegasque authorities to strengthen the Monegasque Committee to Promote and Safeguard Women's Rights so that it can play a greater role in combating trafficking in women and girls.**

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

123. For child victims of crime, several protection measures are available under the CCP, but most do not apply to THB victims as such. During hearings before the investigating judge, children must be assisted by a lawyer, appointed by the court if necessary, if they are victims of certain crimes listed in Article 268(2) CCP⁶⁶ and which do not include human trafficking. So unless the child victim of trafficking is also a victim of one of these crimes, access to a lawyer is governed by ordinary law, which makes it subject to means-testing (see paragraph 41). Similarly, if this is in the child's best interests, interviews with child victims of the offences mentioned in the above-mentioned Article 268(2) are videotaped, and the tapes may be used during proceedings, thus avoiding the need for the child to testify again (Article 268(3) CCP). Lastly, interviews with or cross-examination of child victims of certain criminal offences referred to in Article 268(4) CCP⁶⁷ are conducted in the presence of a psychologist or specialist paediatrician, or a member of the child's family or an ad hoc guardian. Again, trafficking is not one of the offences covered by this article.

124. At the Police Department, there is a dedicated room for interviewing child victims. This room is equipped with technology that allows the interview to be followed from another room behind one-way glass, in order to limit the number of people in contact with the child. The police officers involved in these interviews have received special training in France on interviewing children ("Mélodie" interviews).

125. Measures to protect unaccompanied child victims were described in the previous report.⁶⁸ The police arrange for the child to have a medical examination and try to establish their identity, in order to trace their legal guardians and understand how they come to be unaccompanied on Monegasque territory. While these checks are being carried out, the court will place the children in the Princess Charlene Children's Home (see paragraph 166). An ad hoc guardian is appointed until a legal guardian can be found.

126. If there are doubts as to whether the victim is a minor, use may be made of a method of age assessment based on a bone X-ray and examination by a psychiatrist or a psychologist at the demand of the judicial authority. GRETA refers to Recommendation CM/Rec(2022)22 of the Committee of Ministers of the Council of Europe on human rights principles and guidelines on age assessment in the context of migration⁶⁹ and to the Guide on age assessment produced by the Council of Europe for policy-makers.⁷⁰

127. According to the authorities, the draft circular on the identification and assistance of THB victims includes a section on specific measures for child victims, setting out the principle of presumption of minority, the procedure for unaccompanied minors, educational and social protection measures and privacy arrangements. As stated in paragraph 108, Order No. 9.966 of 30 June 2023 provides for the introduction of appropriate, regular training for professionals likely to come into contact with child victims

⁶⁶ Threats (Articles 230 to 234(1) CC), wilful assault and battery and other intentional crimes and misdemeanours (Articles 236 to 239, 243 to 245, 247, and 249(2) CC), sexual harassment, sexual abuse, rape and sexual assault (Articles 260(1) to 264(2) CC), other offences against decency, including pimping (Articles 265, 266, and 269 CC) and refusal to produce a child, etc. (Articles 294 to 294(8) CC).

⁶⁷ Ibid.

⁶⁸ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraphs 108 and 109.

⁶⁹ https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a96350

⁷⁰ <https://rm.coe.int/age-assessment-council-of-europe-member-states-policies-procedures-and/168074b723>

of trafficking (including judges, prosecutors, health-care professionals, criminal police officers and officials, child welfare professionals, service providers and social workers). The aim will be to enable them to deal as effectively as possible with child victims, their identification, referral and protection, while respecting the best interests of the child.

128. GRETA has been informed that, in practice, the system for protecting child victims during criminal proceedings works well, and that a psychologist is usually present during interviews and cross-examination. It is concerned, however, that, as the law currently stands, child victims of trafficking identified by the Monegasque authorities cannot benefit as such from the protective measures provided for in criminal proceedings.

129. GRETA urges the Monegasque authorities to adopt such legislative or other measures as may be necessary to ensure that child protection measures in criminal proceedings (in particular mandatory assistance by a lawyer, the presence of a psychologist during hearings, videotaping of interviews) benefit all child THB victims as such, regardless of whether they are victims of related offences.

130. GRETA also considers that the authorities should continue to develop training on conducting child-friendly interviews for the professionals concerned (in particular police officers, judges, prosecutors, psychologists, child protection officials).

c. role of businesses

131. There is no national action plan for implementing the Guiding Principles on Business and Human Rights, contrary to the recommendation of the United Nations, and there are no projects under way regarding the due diligence of companies to avoid human rights violations in their supply chains.

132. No awareness-raising campaigns aimed specifically at businesses have been carried out on issues relating to trafficking or human rights more generally, despite the fact that labour exploitation is a subject of concern in Monaco (see paragraph 145 et seq.).

133. Action has, however, been taken to prevent the laundering of funds derived from trafficking. In June 2023, SICCFIN published on its website⁷¹ and social media information and tools for financial institutions and agencies to help them better prevent and detect financial flows associated with modern slavery and THB. The same information was sent by post to the Monaco Association for Financial Activities (AMAF) so that it could circulate it among its members, i.e. all banks in Monaco. According to the Monegasque authorities, in 2023 the Financial Intelligence Unit received four reports indicating suspicions of predicate offences for THB.

134. GRETA considers that the Monegasque authorities should strengthen their co-operation with the private sector and raise companies' awareness of their responsibility and the important role they have to play in preventing and eradicating trafficking in human beings, including in supply chains. GRETA refers in this connection to the United Nations Guiding Principles on Business and Human Rights⁷² and to Council of Europe Committee of Ministers recommendations CM/Rec(2016)3 on human rights and business and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation.⁷³

⁷¹ <https://siccfm.mc/Actualites/Lutte-contre-l-esclavage-moderne-et-la-traite-des-etres-humains>

⁷² http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁷³ [Recommendation CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

[Recommendation CM/Rec\(2022\)21](#) of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and [Explanatory Memorandum](#), adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers' Deputies.

d. measures to prevent and detect corruption

135. Trafficking in human beings can occur in various contexts. Human traffickers may form part of organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits. Other Council of Europe legal instruments, in particular those designed to combat corruption, money laundering and cybercrime, are also relevant to combating human trafficking. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context.

136. According to the Monegasque authorities, no cases of corruption or money laundering linked to human trafficking have been detected by the country so far. Two money laundering National Risk Assessments (NRAs) have already been conducted (2016/2017 and 2020/2021), but trafficking did not emerge as a predicate offence for money laundering.

137. Recent measures taken in relation to corruption are framed by the “National Strategy for Tackling ML/TF, Proliferation of Weapons of Mass Destruction and Corruption” for the period 2022-2024. Responsibility for its implementation lies with a Co-ordination and Follow-up Committee which was set up in February 2023 and brings together the various government bodies concerned, with SICCFIN (Financial Information and Monitoring Department) acting as secretariat.

138. In its interim compliance report on Monaco on preventing corruption in respect of parliamentarians, judges and prosecutors (2023), GRECO considered that progress had been made, in particular with regard to MPs’ integrity, judicial appointments and the transparency of instructions to prosecute issued by the State Secretary for Justice in individual cases. That said, some recommendations were still outstanding, in particular as regards the appointment of members of the Supreme Court and the composition of the High Judicial Council.⁷⁴

74

<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680aabd68>

V. Topics specific to Monaco

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

139. As stated in paragraph 11, no cases of THB for the purpose of labour exploitation have been detected in Monaco so far. There is nevertheless still a risk of exploitation in certain economic sectors, such as domestic work, work on private yachts, hotels and restaurants and construction. These sectors are heavily reliant on foreign labour.

140. The Labour Inspectorate is responsible for enforcing the statutory provisions concerning working conditions and worker protection (Law No. 537 of 12 May 1951 on the Labour Inspectorate). Its remit extends to all private-sector employees, including domestic workers. Acting on its own initiative or in response to a complaint, it conducts inspections of all premises where a business or trade is carried on and where employees work. It does not, however, have the authority to carry out inspections in private homes: this is something that can only be done by the police following a court decision. According to the authorities, inspections are always unannounced. Joint inspections with the Administrative Police Division are possible, particularly if there are suspicions that persons present in the country irregularly are being employed, or that work is undeclared. The Inspectorate is also responsible for providing employees with information on their rights, on the spot, by telephone or by e-mail.

141. At the time of GRETA's visit, the Labour Inspectorate comprised a head of department and 15 staff (senior labour inspectors, labour inspectors, occupational health and safety inspectors, administrative staff),⁷⁵ for the Principality's 54 000 employees and 6 100 companies. GRETA understands that workplace inspections fall within the remit of the four senior labour inspectors. According to data provided by the authorities, 427 entities with a total workforce of 1 926 were inspected in 2019, and 47 people were identified as being without work permits. In 2020, in the context of the COVID-19 pandemic, 159 inspections were carried out in companies or on worksites (involving 839 employees), and 405 (involving 3,349 employees) were carried out in 2021. In 2022, 526 entities were inspected and of the 3 790 employees concerned, only 15 did not hold a work permit. Finally, in 2023, 265 inspections were carried out (involving 1,284 employees); the reduced number of inspections is due to the long-term absence of a staff member of the Inspectorate.

142. As stated in GRETA's previous report, Monegasque labour inspectors are trained alongside French inspectors at France's National Institute of Labour, Employment and Vocational Training (Lyon). They are sensitised to trafficking, but do not receive a dedicated training on the subject. In response to GRETA's previous recommendations, two Monegasque labour inspectors attended the training session on human trafficking held in 2022 by the Civil Service Directorate of Human Resources, in partnership with the Ac.Sé scheme (see paragraph 107). They were made aware of the different forms of labour exploitation, and taught about the main indicators for identifying victims and how to conduct identification interviews and provide information about the support and protection available to THB victims.

143. While the number of annual inspections seems to have increased since the previous evaluation, GRETA is concerned that the Labour Inspectorate has insufficient human resources to effectively prevent and detect cases of exploitation and trafficking.⁷⁶ It also understands that inspectors are never accompanied by interpreters to facilitate communication with foreign employees, thereby further reducing the chances of detecting abuse. Nor is any documentation giving guidance on detecting victims of exploitation and trafficking provided to Labour Inspectorate staff.

⁷⁵ For further information on the role of each profession, see:

<https://monservicpublic.gouv.mc/thematiques/emploi/activite-salariee/rerelations-avec-l-entreprise/inspection-du-travail>

⁷⁶ See ILO, Guidelines on general principles of labour inspection (2022), pp.20-21. See also ILO Committee on Employment and Social Policy, Strategies and practice for labour inspection (2006) GB.297/ESP/3, paragraph 13.

144. In addition, there are no targeted prevention or detection measures, particularly for migrant workers in sectors considered to be at risk from exploitation. The Monegasque authorities have stated that any foreigner wishing to settle and work in the Principality must first apply for a residence permit and a work permit, which are subject to strict conditions. They must also attend an interview with an officer from the Administrative Police Division, if necessary in the presence of an interpreter, thereby helping to detect THB risks early on. GRETA notes, however, that no documents warning of the risks of labour exploitation and trafficking are issued to migrants employed in high-risk sectors, and no information on the subject is available on the Labour Inspectorate website. Nor is any effort made to raise awareness among NGOs or bodies representing foreign workers.

145. With regard to domestic work, GRETA was informed that, during the Covid-19 pandemic, awareness-raising efforts were made among building caretakers to identify domestic workers in vulnerable or precarious situations. This awareness raising did not cover the risks of human trafficking or exploitation, however. There are also major concerns regarding domestic workers who come to Monaco for short periods and live with their employers and who are very difficult to reach.

146. The situation of people working on yachts also continues to give rise to concern.⁷⁷ The Labour Inspectorate does not have the authority to board vessels, and nor does the Marine and Airport Police Division, except in cases of flagrante delicto. No effort is made to raise awareness among these workers, who may be in the Principality on a very occasional basis, and whose employment relationship is subject to the law of the vessel's flag state.

147. There are fears, too, that the legislation on the labour market could encourage abuse and exploitation. As stated in the previous GRETA report, dismissal without cause is subject only to a period of notice and compensation capped at six months' pay. The Monegasque authorities pointed out that if dismissal without cause were used to conceal an unlawful motive (e.g. discrimination), it would result in the payment of damages. GRETA notes, however, that it is generally very difficult to prove that a dismissal was based on unlawful grounds. The risks of exploitation are also heightened by the labour market situation: given the country's size, the number of companies is limited and a worker could easily be given a bad reputation. Also, every time a person changes employer they have to obtain a new work permit, with the fear that it will be refused by the authorities and that they will have to leave the Principality (see paragraph 53). According to some interlocutors, this results in many individuals agreeing to working conditions that are contrary to legislation, or even incompatible with human dignity, for fear of losing their job and not getting another. GRETA points out that workers' dependence on their employers is a risk factor for labour exploitation and for trafficking in human beings.

148. Lastly, Monaco's laws and policies on immigration are particularly rigid, and this could put some THB victims in a situation where they are dependent on the traffickers. Victims might be reluctant to go to the authorities for fear of being deported. The authorities' efforts seem to be focused on detecting undeclared employment, with an approach centred on the employee as the offender. For example, in the case mentioned in paragraph 84 the Comorian nationals illegally employed in Monaco were all prosecuted, convicted and deported. The possibility of abuse of a position of vulnerability does not appear to have been investigated.

⁷⁷

See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraph 67.

149. **GRETA urges the Monegasque authorities to take further steps to prevent and combat trafficking for the purpose of labour exploitation, taking into account Recommendation CM/Rec(2022)21 of the Committee of Ministers of the Council of Europe on preventing and combating trafficking in human beings for the purpose of labour exploitation,⁷⁸ and in particular to:**

- **strengthen the capacities and resources of the Labour Inspectorate (staff, training, operational tools) so that they can be actively involved in the prevention of trafficking for the purpose of labour exploitation and the detection of possible victims;**
- **map the sectors considered to be at risk from labour exploitation and trafficking in human beings and increase the number of unannounced inspections carried out in these sectors. Inspections should involve interpreters whenever necessary to facilitate communication with foreign workers;**
- **set up safe reporting mechanisms and effective complaint mechanisms for workers, in particular among migrants, so that victims can report abuse or exploitation without fear of reprisals;**
- **build awareness among the general public and, more specifically, among migrant workers, including those seconded to the Principality, of the risks linked to trafficking for the purpose of labour exploitation and the rights of trafficking victims. In particular, such awareness-raising should focus on the risks associated with workers being dependent on their employers.**

150. **GRETA also considers that the Monegasque authorities should:**

- **assess to what extent labour market regulations encourage exploitation and trafficking, and address any gaps identified, including through legislative changes;**
- **increase co-operation with trade unions, civil society organisations and the private sector in preventing and combating trafficking for the purpose of labour exploitation.**

2. Identification of victims of trafficking

151. In its previous report, GRETA urged the Monegasque authorities to ensure that professionals likely to come into contact with possible victims of trafficking have operational tools at their disposal for the detection and proactive identification of THB victims. It also urged the authorities to develop a clear procedure for the identification of child victims of trafficking, and to ensure that the relevant stakeholders receive appropriate training and guidance in this area.⁷⁹

152. A detailed list of indicators was drawn up by the Department of Public Safety and circulated in September 2023 to police officers likely to be involved in detecting people who might have been trafficked. It includes general indicators, to be used during initial interviews with possible victims and during subsequent interviews and investigations, and specific indicators concerning different forms of exploitation (sexual exploitation, labour exploitation, forced begging, forced criminal activity, organ removal, exploitation of under-age victims and victims recruited using the "lover-boy" method). The list is accompanied by a departmental memorandum setting out the constituent elements of the crime of trafficking in human beings and (in outline) the procedures for taking action in the event of a victim being detected.

⁷⁸ https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a7b75c

⁷⁹ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraphs 95 and 114.

153. Monaco still has no official procedures for identifying child victims of trafficking. According to the Monegasque authorities' report to the Committee of the Parties (June 2022), discussions were under way as to whether a procedure for identifying child THB victims should be included in a bill currently being considered but they have still not reached a conclusion.

154. In cases where foreigners who are in the country irregularly are being deported, no steps appear to be taken to carry out a risk assessment that takes full account of the risks of trafficking or re-trafficking on return.

155. As stated in paragraph 16, a draft circular on the identification and assistance of THB victims is currently being prepared. It should include a specific section on the detection and identification of possible victims of trafficking, specifying the measures to be taken in the event of detection and reiterating the provisions that specifically apply to the Department of Public Safety when dealing with victims. The appendices should also contain a list of indicators designed to facilitate the detection of possible victims of trafficking, guidelines for the prior identification of victims of trafficking and specific guidance for the police. According to the information given to GRETA, if a possible victim of THB is detected, the Department of Public Safety (DSP) must be informed and will ensure that information is passed up to the highest level of the state (Minister of Interior and Head of Government).

156. Furthermore, as mentioned in paragraph 107, in April and June 2022, several training sessions were held by the Civil Service Directorate of Human Resources and Training with the aim, among other things, of enhancing participants' victim identification skills. Bringing together officials from the Labour Inspectorate, the Police Department, the Ministry of Foreign Affairs and Co-operation and the Princess Charlene Children's Home, the training focused on the main indicators for identifying victims, spotting signs of control that may make it difficult to gain victims' trust, and conducting victim identification interviews. A standard form for identifying victims of trafficking was distributed to participants. The Monegasque authorities were unable to tell GRETA how many people attended these various training events. In addition, Order No. 9.966 provides for regular training for professionals likely to come into contact with victims of trafficking and child victims of trafficking, in particular to facilitate their identification.

157. GRETA acknowledges the efforts made by the Monegasque authorities during the reporting period, in particular through the adoption of the list of indicators of the Department of Public Safety and the organisation of several training sessions. It notes with regret, however, that no progress has been made on the draft circular concerning the identification and care of THB victims, even though work on this document had already begun at the time of the previous evaluation.

158. GRETA is concerned that the absence of identified victims of trafficking in Monaco is due to limited efforts to proactively detect possible victims among vulnerable persons, in particular domestic workers and migrant workers in general (see also paragraphs 144-145). There has not yet been any awareness raising among the general public or measures to encourage possible victims to come forward. GRETA has nevertheless been informed that there will be an awareness-raising campaign to mark European Anti-Trafficking Day on 18 October 2023 but, despite GRETA's request, no information was provided as to whether this campaign was actually implemented.

159. Some interlocutors also lamented the lack of sufficient knowledge among professionals likely to come into contact with THB victims. During the visit, several persons interviewed conflated trafficking in human beings with pimping involving an organised criminal group, and with lack of consent on the part of the victims.

160. Lastly, the fact that many people are in Monaco for short stays (sometimes just a few days) makes it difficult to detect possible victims among them, whether they are victims of trafficking for sexual exploitation, labour exploitation or other purposes.

161. **GRETA urges the Monegasque authorities to take further steps to improve the identification of possible victims of trafficking in human beings, whatever the forms of exploitation, and in particular to:**

- **finalise the adoption of the draft circular on the identification and assistance of THB victims, and to ensure that it provides all professionals likely to come into contact with possible victims of trafficking (including police officers, labour inspectors, social workers, health-care professionals) with a clear procedure and guidance for detecting and identifying victims of trafficking, and referring them for assistance;**
- **step up efforts to proactively detect victims of THB among persons vulnerable to trafficking, in particular domestic workers, migrant workers and people in an irregular situation.**

162. **GRETA also considers that the Monegasque authorities should:**

- **ensure that, before any deportation from the Principality of Monaco, a prior assessment of the risks is carried out, taking full account of the risks of trafficking or re-trafficking on return, in compliance with the obligation of non-refoulement. GRETA refers in this connection to its Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.⁸⁰**
- **further develop training for professionals who may come into contact with THB victims (law enforcement officials, prosecutors, judges, labour inspectors, social workers, health-care workers, child care workers) on the role they have to play in detecting and identifying victims.**

3. Assistance to victims

163. In its previous report, GRETA urged the Monegasque authorities to adopt such legislative or other measures as might be necessary to provide assistance to all victims of human trafficking and help them with their physical, psychological and social recovery.⁸¹

164. There have been no significant changes to the arrangements for assisting victims of trafficking in Monaco. As explained in the previous report, assistance to victims is mainly the responsibility of the Department of Social Welfare and Social Services (DASO).⁸² According to the authorities, in the event that a victim of trafficking should be detected, they could be provided, depending on their needs, with accommodation, psychological support, financial and other material assistance, state medical insurance, and vouchers with which to buy food and hygiene products. They would also be referred to the Victims of Crime Association (*Association pour les Victimes d'Infractions Pénales*, AVIP), notably for legal assistance (see below). DASO has various accommodation facilities, including secure emergency housing, where victims can stay. According to some of the people GRETA spoke to, for a while DASO made access to emergency accommodation conditional on the victim filing a complaint. That practice has now been discontinued, and a presumed victim can be placed in emergency housing or a hotel whether they have filed a complaint or not. The maximum length of stay in emergency accommodation is normally two years but the authorities indicated that an extension is possible, depending on the seriousness of the victim's circumstances.

⁸⁰ <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

⁸¹ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco paragraph 106.

⁸² See GRETA's Combined 1st/2nd Evaluation Round report on Monaco paragraphs 98 to 105.

165. Victims of trafficking can also receive assistance from AVIP. This state-approved association mainly provides legal and psychological support to victims of crime, regardless of whether a complaint has been filed. During 2022, AVIP provided assistance to 65 new people, mainly women victims of intimate partner violence, sexual assault, harassment and wilful assault and battery.⁸³ It also runs a telephone helpline. The association operates mainly with funding from the state which has provided it with premises so that it can receive victims. Since 2019, AVIP has been able to provide temporary emergency accommodation for victims of intimate partner or family-related violence who cannot be cared for by the state or pending action by the state. At the time of GRETA's visit, the association had two employees and four therapists. None of them had received any training on victims of trafficking, as the phenomenon is not widespread in the country. The annual budget granted to AVIP by the State has increased four-fold over the last five years, from 38 000 euros in 2018 to 165 000 in 2023.

166. As regards assistance to child victims of trafficking, as described in the previous report, this comes under the Children and Families Office of DASO.⁸⁴ The children would be housed in the Princess Charlene Children's Home, which GRETA visited again during the 3rd evaluation round. As part of the assistance provided to child victims, a personalised plan would be drawn up for each child, including assistance from a social worker and child care worker, schooling and educational support if necessary. Once they reach the age of majority, victims can continue living in the Princess Charlene Children's Home in apartments specifically dedicated to young adults.

167. GRETA commends the material conditions and care arrangements at the DASO accommodation facilities visited and at the Princess Charlene Children's Home. It understands, however, that there are no legal texts setting out all the rights and assistance measures available to victims of trafficking in Monaco. The measures described in the previous paragraphs are accessible under the conditions laid down in ordinary law, i.e. generally on the basis of Monegasque nationality or a residence permit. Only access to emergency medical care is possible regardless of the victim's right of residence. As explained in paragraphs 171 and 173, however, there is still no residence permit for victims of trafficking, nor is there any period for recovery or reflection, and victims have only very limited opportunities to regularise their residence status.

168. The Monegasque authorities reiterated that if a victim of trafficking does not have a Monegasque residence permit, exemptions may be granted on a case-by-case basis in the light of the victim's exceptional circumstances, as in the situation of Ukrainian refugees. Given the size of the Principality and its administration, such exemptions could be granted quickly and easily. In the opinion of GRETA, however, case-by-case exemptions are not sufficient to ensure compliance with Article 12 of the Convention. This creates legal uncertainty regarding the possibility for victims of trafficking to claim rights which they derive from the Convention but which are not provided for in Monegasque law. GRETA understands that there are no plans to address this shortcoming in the draft circular on the identification and assistance of THB victims.

169. GRETA once again urges the Monegasque authorities to adopt such legislative or other measures as may be necessary to ensure that all victims of trafficking, regardless of their nationality and residence status, receive assistance in accordance with Article 12 of the Convention.

170. GRETA also considers that the Monegasque authorities should continue to develop training for relevant professionals (in particular social workers and child welfare professionals) so that the assistance they provide is specialised and geared to the needs of any THB victims detected.

⁸³ 44 female victims of violence sought assistance from AVIP in 2022, 36 in 2021 and 42 in 2020.

⁸⁴ See GRETA's Combined 1st/2nd Evaluation Round report on Monaco paragraphs 19, 97 et seq.

4. Recovery and reflection period and residence permits

171. In its previous report, GRETA urged the Monegasque authorities to provide in domestic legislation for a recovery and reflection period for victims of trafficking, and also for the possibility of granting a residence permit to victims, in accordance with Articles 13 and 14 of the Convention.⁸⁵

172. Monegasque law still makes no provision for granting a recovery and reflection period to any victims of trafficking who might be detected in Monaco. According to the authorities, the draft circular is to include a section on the recovery and reflection period, setting out the purpose of the recovery period and the procedure for a presumed victim to benefit from it. As matters stand at present, the Head of Police is to inform the Government Advisor-Minister of Interior of any trafficking that might occur and of the fact that there are one or more victims. The Minister of Interior must then inform the Minister of State (Head of Government) within 48 hours so that the latter can take an individual decision, not published in the Official Journal (OJ), to grant the recovery and reflection period. This would be granted for a period of 30 days, renewable for up to 90 days.

173. During this period, no deportation order could be issued against the victim. The draft circular would point out that the recovery and reflection period may be withdrawn from the victim for reasons of public order, pursuant to Article 13 of the Convention. Victims would be issued with a receipt, a template for which is appended to the draft circular. They would have access to various means of social support and assistance, of which they would be informed by DASO, such as being given shelter in emergency accommodation, free health care via the State Medical Aid scheme, counselling, welfare assistance and financial aid.

174. At the same time, there are still no specific provisions relating to residence permits for victims of trafficking in Monaco, whether to enable them to remain in the country because of their personal situation or for the purpose of co-operating with the authorities in connection with an investigation or criminal proceedings. As stated in the previous GRETA report, THB victims' right to stay is governed by ordinary law, namely Order No. 3.153 of 19 March 1964 which lays down the conditions governing entry and residence of foreign nationals in Monaco. These conditions are very restrictive. Among other things, foreign nationals must have applied for a residence permit before entering the Principality (except for minors under the age of 16). An initial residence permit may be issued for a maximum period of one year to a person who has a work permit in Monaco or who can show that they have sufficient means of subsistence without needing to work. Obtaining a work permit in Monaco is subject to priority criteria. In addition, given Monaco's geographical position and the international agreements with France by which it is bound, any foreigner residing in Monaco must be in possession of documents allowing them to enter France.

175. As Monegasque law currently stands, it seems very difficult, if not impossible, for a victim of trafficking to remain in Monaco. According to the authorities, work on residence permits for victims of trafficking is under way but has not yet been completed as it requires discussions with France, under a 1963 neighbourhood agreement. Relevant additions will therefore be made to the draft circular on the identification and assistance of THB victims at a later date. In their comments on the draft report, the authorities stated that this might entail a temporary six-month stay permit that would be renewable, along the lines of what was done for Ukrainian refugees, which would be recognised by France. It could be issued in the light of needs to co-operate with the judiciary or on grounds of public order.

⁸⁵

See GRETA's Combined 1st/2nd Evaluation Round report on Monaco, paragraphs 121 and 126.

176. **Noting with regret that no tangible progress has been made since the previous evaluation as regards the recovery and reflection period and the granting of residence permits to victims of trafficking, GRETA once again urges the Monegasque authorities to provide in their internal law for:**

- **a recovery and reflection period for victims of trafficking in human beings, in accordance with Article 13 of the Convention;**
- **the possibility of issuing a renewable residence permit to trafficking victims in cases where the competent authority considers that their stay is necessary owing to their personal situation or for the purpose of their co-operation with the authorities in connection with an investigation and/or criminal proceedings, in accordance with Article 14 of the Convention.**

Appendix 1 – List of GRETA’s conclusions and proposals for action

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

Topics related to the third evaluation round of the Convention

Right to information

- GRETA considers that the Monegasque authorities should take the necessary measures to ensure that presumed victims of THB detected in Monaco are proactively provided with information as soon as they come into contact with a competent authority. In particular, these measures should include:
 - ensuring that information takes into account the victim’s age, maturity, intellectual and emotional capacity, literacy and any mental, physical or other disability which may affect the ability to understand. It should also be provided regardless of the victim’s ability or willingness to co-operate in criminal proceedings and should refer to the right to a recovery and reflection period, the services and support measures available, the right to legal aid, the compensation procedure and other relevant civil and administrative remedies and procedures;
 - further training for frontline professionals (in particular members of the police) on the rights of THB victims and how to inform them of these rights, including how to exercise them (paragraphe 37).

Legal assistance and free legal aid

- GRETA considers that the Monegasque authorities should take further steps to guarantee the right to legal assistance and free legal aid to any trafficking victims detected in Monaco, in particular by:
 - ensuring that legal assistance is systematically provided as soon as there are reasonable grounds for believing that a person is a victim of trafficking and before the person concerned has to decide whether or not to co-operate with the authorities and/or make an official statement. Law enforcement officials, prosecutors and judges should be made aware of this requirement;
 - developing training on trafficking in human beings for lawyers who may provide legal aid to victims of THB and encouraging the Monaco Bar Association and the Monegasque Institute for training in the legal professions to offer such training (paragraph 47).

Psychological assistance

- GRETA urges the Monegasque authorities to adopt such legislative or other measures as may be necessary to ensure that all victims of THB, irrespective of their nationality and residence status, receive psychological assistance, in accordance with Article 12(1) of the Convention (paragraph 51).

Access to work, vocational training and education

- GRETA urges the Monegasque authorities to adopt such legislative or other measures as may be necessary to ensure access to the labour market, vocational training and education for all victims of THB, in line with Article 12(4) of the Convention (paragraph 56).

Compensation

- GRETA welcomes the authorities' efforts to introduce a state compensation scheme covering victims of trafficking in human beings and considers that the Monegasque authorities should adopt without delay the texts implementing Law No. 1.555 in order to render the new scheme fully operational (paragraph 66);
- Furthermore, GRETA considers that the Monegasque authorities should take further steps to facilitate and guarantee effective access to compensation for victims of trafficking, in particular by informing victims in an appropriate and systematic manner about their right to seek compensation in criminal or civil proceedings and ensuring that they are provided with legal assistance from the outset of the proceedings in order to exercise their right to compensation (paragraph 67).

Investigations, prosecutions, sanctions and measures

- GRETA urges the Monegasque authorities to take further steps to strengthen the criminal justice response to THB, including by:
 - taking the necessary legislative measures to ensure that the offence of trafficking in human beings can be effectively investigated, prosecuted and punished, including by adding the offence to the Criminal Code;
 - ensuring that human trafficking offences for any form of exploitation are promptly and proactively investigated, regardless of whether a complaint is filed by the victim or an organised criminal group exists, and using all available evidence, including evidence gathered through special investigative techniques, suspicious activity reports, documents and digital evidence, rather than relying solely on the testimony of victims or witnesses;
 - ensuring that human trafficking offences are prosecuted as such, rather than as lesser offences, every time the circumstances of the case allow this, and lead to effective, proportionate and dissuasive sanctions for those convicted (paragraph 86);
- In addition, GRETA considers that the Monegasque authorities should strengthen training and awareness raising among law enforcement officials, prosecutors and judges on trafficking in human beings, including the various constituent elements of the crime and the need to adopt a victim-centred approach (paragraph 87).

Non-punishment provision

- GRETA urges the Monegasque authorities to take steps to guarantee the principle of not imposing penalties on victims of trafficking in human beings who have committed offences, including administrative offences, to the extent that they have been compelled to do so. This should entail the adoption of specific legal provisions and/or the development of guidance on the non-punishment principle for police officers and prosecutors, and the inclusion of this principle in the training of police officers, prosecutors, judges and lawyers (paragraph 93).

Protection of victims and witnesses

- GRETA invites the Monegasque authorities to ensure that all measures aimed at protecting victims of criminal offences are effectively made available to victims of trafficking and witnesses in any trafficking cases that might be detected by the authorities, so that those individuals are not subjected to reprisals and intimidation during the investigation, as well as during and after the judicial proceedings (paragraph 101).

Specialised authorities and co-ordinating bodies

- GRETA considers that the Monegasque authorities should ensure, in accordance with Article 29 of the Convention, that persons are specialised in the fight against trafficking in human beings and the protection of victims within the law enforcement and criminal justice system. In this connection, they should develop training on THB among the professionals concerned (law enforcement officials, prosecutors and judges). Such training should be regular and targeted, providing specific guidance geared to the role of each profession, in order to ensure successful investigation, prosecution and adjudication of trafficking cases (paragraph 110).

International co-operation

- GRETA welcomes the efforts made by the Monegasque authorities in terms of international co-operation and invites them to pursue these efforts and ensure that co-operation can be developed with third countries, including in THB cases that are neither transnational in nature nor involve an organised criminal group (paragraph 117).

Gender-sensitive criminal, civil, labour and administrative proceedings

- GRETA considers that the Monegasque authorities should further develop the implementation of gender-sensitive judicial proceedings, including through training for law enforcement officials and the Public Prosecution Department, and also for judges, on conducting interviews with victims based on a gender-sensitive approach (paragraph 121);
- GRETA also invites the Monegasque authorities to strengthen the Monegasque Committee to Promote and Safeguard Women's Rights so that it can play a greater role in combating trafficking in women and girls (paragraph 122).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA urges the Monegasque authorities to adopt such legislative or other measures as may be necessary to ensure that child protection measures in criminal proceedings (in particular mandatory assistance by a lawyer, the presence of a psychologist during hearings, videotaping of interviews) benefit all child THB victims as such, regardless of whether they are victims of related offences (paragraph 129);
- GRETA also considers that the authorities should continue to develop training on conducting child-friendly interviews for the professionals concerned (in particular police officers, judges, prosecutors, psychologists, child protection officials) (paragraph 130).

Role of businesses

- GRETA considers that the Monegasque authorities should strengthen their co-operation with the private sector and raise companies' awareness of their responsibility and the important role they have to play in preventing and eradicating trafficking in human beings, including in supply chains. GRETA refers in this connection to the United Nations Guiding Principles on Business and Human Rights and to Council of Europe Committee of Ministers recommendations CM/Rec(2016)3 on human rights and business and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation (paragraph 134).

Follow-up topics specific to Monaco

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

- GRETA considers that the Monegasque authorities should:
 - undertake and support research on THB-related issues in order to assess the reality of the phenomenon and provide an evidence base for future policy measures;
 - adopt a strategic policy document on action against trafficking in human beings, including measures for prevention, awareness raising, training of the relevant professionals and proactive identification of victims, or incorporate such measures in a more general strategic policy document, ensuring that the necessary resources are allocated and that a precise timetable for its implementation is established (paragraph 20).

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

- GRETA urges the Monegasque authorities to take further steps to prevent and combat trafficking for the purpose of labour exploitation, taking into account Recommendation CM/Rec(2022)21 of the Committee of Ministers of the Council of Europe on preventing and combating trafficking in human beings for the purpose of labour exploitation, and in particular to:
 - strengthen the capacities and resources of the Labour Inspectorate (staff, training, operational tools) so that they can be actively involved in the prevention of trafficking for the purpose of labour exploitation and the detection of possible victims;
 - map the sectors considered to be at risk from labour exploitation and trafficking in human beings and increase the number of unannounced inspections carried out in these sectors. Inspections should involve interpreters whenever necessary to facilitate communication with foreign workers;
 - set up safe reporting mechanisms and effective complaint mechanisms for workers, in particular among migrants, so that victims can report abuse or exploitation without fear of reprisals;
 - build awareness among the general public and, more specifically, among migrant workers, including those seconded to the Principality, of the risks linked to trafficking for the purpose of labour exploitation and the rights of trafficking victims. In particular, such awareness-raising should focus on the risks associated with workers being dependent on their employers (paragraph 149);

- GRETA considers that the Monegasque authorities should:
 - assess to what extent labour market regulations encourage exploitation and trafficking, and address any gaps identified, including through legislative changes;
 - increase co-operation with trade unions, civil society organisations and the private sector in preventing and combating trafficking for the purpose of labour exploitation (paragraph 150).

Identification of victims of trafficking

- GRETA urges the Monegasque authorities to take further steps to improve the identification of possible victims of trafficking in human beings, whatever the forms of exploitation, and in particular to:
 - finalise the adoption of the draft circular on the identification and assistance of THB victims, and to ensure that it provides all professionals likely to come into contact with possible victims of trafficking (including police officers, labour inspectors, social workers, health-care professionals) with a clear procedure and guidance for detecting and identifying victims of trafficking, and referring them for assistance;
 - step up efforts to proactively detect victims of THB among persons vulnerable to trafficking, in particular domestic workers, migrant workers and people in an irregular situation (paragraph 161);
- GRETA also considers that the Monegasque authorities should:
 - ensure that, before any deportation from the Principality of Monaco, a prior assessment of the risks is carried out, taking full account of the risks of trafficking or re-trafficking on return, in compliance with the obligation of non-refoulement. GRETA refers in this connection to its Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.
 - further develop training for professionals who may come into contact with THB victims (law enforcement officials, prosecutors, judges, labour inspectors, social workers, health-care workers, child care workers) on the role they have to play in detecting and identifying victims (paragraph 162).

Assistance to victims

- GRETA once again urges the Monegasque authorities to adopt such legislative or other measures as may be necessary to ensure that all victims of trafficking, regardless of their nationality and residence status, receive assistance in accordance with Article 12 of the Convention (paragraph 169);
- GRETA also considers that the Monegasque authorities should continue to develop training for relevant professionals (in particular social workers and child welfare professionals) so that the assistance they provide is specialised and geared to the needs of any THB victims detected (paragraph 170).

Recovery and reflection period and residence permits

- Noting with regret that no tangible progress has been made since the previous evaluation as regards the recovery and reflection period and the granting of residence permits to victims of trafficking, GRETA once again urges the Monegasque authorities to provide in their internal law for:
 - a recovery and reflection period for victims of trafficking in human beings, in accordance with Article 13 of the Convention;
 - the possibility of issuing a renewable residence permit to trafficking victims in cases where the competent authority considers that their stay is necessary owing to their personal situation or for the purpose of their co-operation with the authorities in connection with an investigation and/or criminal proceedings, in accordance with Article 14 of the Convention (paragraph 176).

Appendix 2 – List of national authorities, non-governmental organisations and other organisations with which GRETA held consultations

National authorities

- Ministry of Foreign Affairs and Co-operation
- Department of Public Safety (police)
 - Criminal Police Division
 - Administrative Police Division
 - Urban Police Division
 - Administration and Training Division
 - Maritime and Airport Police Division
- Department of Justice
- Monegasque Institute for training in the legal professions
- Public Prosecutor's Office
- Court of First Instance
- Court of Appeal
- Department of Social Welfare and Social Services
- Princess Charlene Children's Home
- Department of Legal Affairs
- Financial Information and Monitoring Department
- Business Development Agency
- Tourist and Convention Authority
- Department of Health Affairs
- Department of Employment
 - Employment Office
 - Labour Inspectorate
- Inter-ministerial Delegation to Promote and Safeguard Women's Rights
- Department of Education, Youth and Sport
- National Council (Parliament)
- High Commissioner for the Protection of Rights, Liberties and Mediation (Ombudsperson)

NGOs and other organisations

- Victims of Crime Association (AVIP)
- Bar Association of Monaco
- Monegasque Trade Unions Federation (USM)

Government's comments

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Monegasque authorities on 11 April 2024 and invited them to submit any final comments. The comments of the authorities (available in French only), submitted on 14 May 2024, are reproduced hereafter.

CONSEIL DE L'EUROPE

Projet de rapport d'évaluation du GRETA Groupe d'experts sur la lutte contre la traite des êtres humains

3^{ème} cycle d'évaluation
Accès à la justice et à des recours effectifs pour les victimes de la traite

Observations de Monaco du 5 juin 2024
sur le Projet de rapport final n° GRETA(2024)08 révisé transmis le 29 mai 2024

IV. Accès à la justice et à des recours effectifs pour les victimes de la traite des êtres humains

5. Accès à l'emploi, à la formation professionnelle et à l'enseignement (article 12)

Ordre de priorité d'embauchage

Paragraphe 53 p. 16 : « A Monaco, les victimes de la traite qui seraient détectées par les autorités peuvent accéder au marché du travail dans les conditions du droit commun. Celles-ci sont particulièrement restrictives pour les personnes étrangères.

En effet, la Constitution du pays garantit aux Monégasques le droit à la priorité nationale pour l'accès aux emplois publics et privés.

Pour pouvoir embaucher ou réembaucher une personne étrangère, l'employeur doit obtenir préalablement une autorisation écrite du Service de l'Emploi qui est délivrée selon l'ordre de priorité suivant : 1°) étrangers mariés à une personne de nationalité monégasque et étrangers dont l'un des parents est monégasque; 2°) étrangers vivant en union libre mais dans les liens d'un contrat de vie commune avec une personne de nationalité monégasque ; 3°) étrangers, père ou mère d'un enfant de nationalité monégasque dont l'un des parents est monégasque; 4°) étrangers domiciliés à Monaco ; 5°) étrangers domiciliés dans les communes limitrophes, autorisés à y travailler, et ayant déjà exercé une activité professionnelle à Monaco. A chaque changement d'employeur, de fonction ou de profession, une nouvelle autorisation de travail est requise.

Il convient de rappeler que les emplois du marché du travail monégasque sont occupés à une grande majorité par des personnes de nationalité autre que monégasque et les conditions ci-dessus énumérées ne conduisent donc pas à rendre de facto l'accès au marché particulièrement restrictif.

7. Enquêtes, poursuites, sanctions et mesures (articles 22, 23 et 27)

Amende encourue pour la traite d'êtres humains

Paragraphe 72 p. 19 : « La traite des êtres humains est punie de cinq à dix ans d'emprisonnement, ainsi que d'une amende de 18 000 à 90 000 euros (article 9 de l'Ordonnance n° 605). Afin de répondre à une recommandation précédente du GRETA, des circonstances aggravantes de l'infraction de traite ont été introduites par l'Ordonnance n° 9.966 précitée.

Il est désormais prévu une peine aggravée de 10 à 20 ans d'emprisonnement lorsque : l'infraction a mis en danger la vie de la victime délibérément ou par négligence grave ; l'infraction a été commise à l'encontre d'une personne mineure ; l'infraction a été commise par un agent public dans l'exercice de ses fonctions ; l'infractions a été commise dans le cadre d'une organisation criminelle (article 9 alinéa 2 de l'Ordonnance n° 605). L'ensemble des circonstances aggravantes prévues par l'article 24 de la Convention sont ainsi couvertes. »

Il est à préciser que la peine d'amende encourue pour l'infraction de traite est celle de l'amende prévue au chiffre 4 de l'article 26 du Code pénal (18 000 à 90 000 euros), dont le maximum peut être porté au décuple. En cas de circonstance aggravante, la peine d'amende prévue au chiffre 4 de l'article 26 du Code pénal (18 000 à 90 000 euros) peut être multipliée par vingt.

Signature et ratification des accords internationaux

Paragraphe 75 p. 20 : « Il a été souligné, au cours de la visite, que la traite n'est pas érigée en infraction par le code pénal – donc par une loi – mais par une ordonnance souveraine. La Constitution monégasque donne en effet pouvoir au Prince de ratifier des traités et accords internationaux sauf lorsque la ratification entraîne la modification de dispositions législatives existantes (article 14), raison pour laquelle la Convention de Palerme aurait été ratifiée par une ordonnance souveraine sans modification du code pénal.

Pour certains interlocuteurs, ceci est contraire à la Constitution qui prévoit que “Nul ne peut être poursuivi que dans les cas prévus par la loi” (article 19) et “Nulle peine ne peut être établie ni appliquée qu'en vertu de la loi” (article 20).

Le gouvernement a indiqué que si l'application d'un traité international nécessite certaines mesures d'application en plus de celles tendant à rendre le traité exécutoire en droit interne, selon la Constitution monégasque, ces mesures d'application peuvent être prises par voie d'ordonnance souveraine même dans les matières normalement réservées à la loi, y compris la matière pénale. Il a souligné que d'autres incriminations ont été introduites par voie d'ordonnance souveraine.

Le GRETA s'inquiète que l'absence d'infraction de traite dans le code pénal nuise à la poursuite et à la sanction des affaires de traite qui seront examinées par les juridictions monégasques. Dans de telles affaires, les autorités répressives pourraient privilégier les poursuites sur le fondement d'infractions qui figurent dans le code pénal, par facilité mais également pour éviter le risque contentieux. En effet, la constitutionnalité de l'incrimination risque fortement d'être soulevée dans le cadre d'un futur contentieux et, en cas d'inconstitutionnalité, cela ferait échec à l'ensemble de la procédure.

L'affirmation selon laquelle « La Constitution monégasque donne en effet pouvoir au Prince de ratifier des traités et accords internationaux sauf lorsque la ratification entraîne la modification de dispositions législatives existantes (article 14), raison pour laquelle la Convention de Palerme aurait été ratifiée par une ordonnance souveraine sans modification du code pénal. » n'est pas exacte.

Il conviendrait de préciser sur ce point que l'article 14 de la Constitution donne dans tous les cas pouvoir au Prince pour signer et ratifier les traités et accords internationaux.

En outre, ces dispositions prévoient quatre hypothèses où la ratification par le Prince doit être précédée du vote par le Conseil National d'une loi d'approbation de ratification du traité ou de l'accord international, ce, lorsque :

- 1°) les traités et accords internationaux affectent l'organisation constitutionnelle ;
- 2°) la ratification des traités et accords internationaux entraîne la modification de dispositions législatives existantes ;
- 3°) les traités et accords internationaux emportent adhésion de la Principauté à une organisation internationale dont le fonctionnement implique la participation de membres du Conseil National ;
- 4°) l'exécution des traités et accords internationaux a pour effet de créer une charge budgétaire relative à des dépenses dont la nature ou la destination n'est pas prévue par la loi de budget.

Au demeurant, en sus de la signature et de la ratification de l'accord international ou du traité, le système monégasque d'entrée en vigueur de la norme conventionnelle internationale en droit interne nécessite la publication d'une ordonnance souveraine assurant sa publicité et le rendant exécutoire.

En outre, si l'application d'un traité nécessite certaines mesures d'application en plus de celles tendant à rendre le traité exécutoire en droit interne, ces mesures d'application peuvent intervenir par voie d'ordonnance souveraine, conformément à l'article 68 de la Constitution, même dans les domaines normalement réservés à la loi, y compris en matière pénale.

En l'espèce, la Principauté ayant considéré que la ratification de la Convention sur la lutte contre la traite des êtres humains conclue à Varsovie le 16 mai 2005 ne remplissait pas les conditions du recours à une loi d'approbation (cf. *supra*), cette Convention a été ratifiée sans l'intervention d'une loi d'approbation. L'Ordonnance Souveraine n° 5.803 du 11 avril 2016 l'a ensuite rendue exécutoire.

Mais, compte tenu des recommandations du GRETA, le véhicule normatif dans lequel l'infraction de traite était érigée a par la suite été complété. C'est ainsi que l'Ordonnance Souveraine n° 605 du 1er août 2006, a été modifiée par l'Ordonnance Souveraine n° 9.966 du 30 juin 2023, étant précisé que l'Ordonnance Souveraine n° 605 avait été adoptée à l'origine pour l'application de la Convention des Nations Unies contre la criminalité transnationale organisée, de son Protocole additionnel visant à prévenir, réprimer et punir la traite des personnes, en particulier des femmes et des enfants, et de son Protocole additionnel contre le trafic illicite de migrants par terre, air et mer, adoptés à New York le 15 novembre 2000 .

A cet égard, l'affirmation de certains interlocuteurs suivant laquelle les infractions pénales prévues par ordonnance souveraine seraient contraires à la Constitution est erronée, en ce qu'elle méconnaît une spécificité constitutionnelle de la Principauté contenue à l'article 68 de la Constitution, qui prévoit que « *Le Prince rend les Ordonnances nécessaires [...] pour l'application des traités ou accords internationaux* ».

Il s'agit d'une habilitation constitutionnelle générale permettant au Prince, pour l'application des traités internationaux, d'adopter par ordonnance des mesures qui sont normalement du domaine de la loi⁸⁶, y compris en matière pénale.

Il est considéré de manière constante que si l'application d'un traité nécessite certaines mesures d'application en plus de celles tendant à rendre le traité exécutoire en droit interne, ces mesures d'application peuvent intervenir par voie d'ordonnance souveraine même dans les matières normalement réservées à la loi, y compris la matière pénale.

Le Tribunal Suprême a jugé il y a longtemps déjà que le Prince pouvait sans méconnaître le principe de légalité des délits et des peines prévu par l'article 20 de la Constitution, édicter, par voie d'ordonnances des dispositions pénales, dès lors qu'elles sont directement nécessaires à l'application d'un accord international (T.S., 31 janvier 1975, *Sieur Corruble*).

C'est la raison pour laquelle l'Ordonnance Souveraine n° 605 du 1er août 2006 et l'Ordonnance Souveraine n° 9.966 du 30 juin 2023 ont pu, conformément à la Constitution, introduire des dispositions pénales pour l'application de la Convention contre la criminalité transnationale organisée et ses protocoles additionnels et de la Convention sur la lutte contre la traite des êtres humains.

Cette interprétation est corroborée par la pratique juridique monégasque traditionnelle, tant sous l'empire de la Constitution actuelle, que sous l'empire de la loi constitutionnelle du 5 janvier 1911, qui a conduit à l'adoption d'ordonnances souveraines comportant des dispositions répressives pour assurer l'application de conventions internationales.

L'Ordonnance Souveraine n° 1.691 du 17 décembre 1957 portant code de la route, qui prévoit les infractions aux dispositions dudit code (articles 207 à 207 quater), a été prise pour l'exécution des conventions internationales de Genève du 19 septembre 1949.

La Constitution de 1962 n'était pas encore applicable, mais l'alinéa 2 de l'article 21 du texte constitutionnel alors en vigueur (la loi constitutionnelle du 5 janvier 1911, modifiée) comportait des dispositions identiques à celles de l'article 68 de la Constitution actuelle et l'article 7 prévoyait pareillement le principe de légalité des peines.

De plus, il est important de relever qu'en pratique, des sanctions pénales sont prononcées sur le fondement de ces infractions introduites par ordonnance souveraine⁸⁷, sans que la constitutionnalité de ces infractions soit mise en cause.

De même, le Code des taxes sur le chiffre d'affaires, adopté par l'Ordonnance Souveraine n° 11.887 du 19 février 1996 portant codification de la législation concernant les taxes sur le chiffre d'affaires, prise en application de la convention fiscale franco-monégasque du 18 mai 1963, renvoie, en vertu de son article 114, à une ordonnance souveraine pour la définition des sanctions pénales encourues pour fraude fiscale. Tel a été l'objet de l'Ordonnance Souveraine n° 653 du 25 août 2006 relative à l'impôt sur les bénéfices et à la taxe sur la valeur ajoutée, laquelle donne lieu pareillement au prononcé de sanctions pénales⁸⁸.

⁸⁶ M. TORELLI, « *La révision de la Constitution et les relations internationales* », Revue de droit monégasque, p. 124-125.

⁸⁷ Cf. not. T. corr., 16 décembre 2011, Ministère public c/ I. EV.

⁸⁸ Cf. not. Cour d'appel, 29 avril 2013, I. A., G. B. et O. C. c/ Ministère public.

Compte tenu de ce qui précède, l'insertion de l'infraction de traite dans le corpus juridique monégasque par l'Ordonnance Souveraine n° 605 ne constitue nullement un obstacle aux poursuites et aux sanctions des affaires de traite.

11. Coopération internationale (article 32)

Coopération judiciaire

Paragraphe 113 p. 27 : « En l'absence de convention internationale applicable aux relations avec un Etat tiers, il sera toujours possible de coopérer sur le fondement du droit commun, récemment réformé par la Loi n° 1.536 du 9 décembre 2022 portant modification du Titre XI du Livre IV du CPP relatif à l'entraide judiciaire internationale. Cela inclut la possibilité de recourir à des équipes communes d'enquête.

Le GRETA comprend toutefois qu'en application de l'Ordonnance n° 605 (article 23), la coopération directe entre les services de détection et de répression de ces Etats n'est possible que pour les infractions visées par la Convention de Palerme et ses deux protocoles additionnels, soit des faits de caractère transnational et impliquant un groupe criminel organisé. Le GRETA regrette que la réforme de l'Ordonnance n° 605 intervenue en juin 2023 n'ait pas supprimé cette restriction ».

La coopération judiciaire sur le fondement du droit commun, récemment modifié, ne conditionne pas l'entraide judiciaire au caractère transnational et impliquant un groupe criminel organisé de l'infraction (cf. articles 596-2 et s. du Code de procédure pénale).

L'article 23 de l'Ordonnance Souveraine n° 605 du 1^{er} août 2006, susvisée, ne concerne que la coopération directe entre les services de détection et de répression en application du chiffre 2 de l'article 27 de la Convention des Nations Unies contre la criminalité transnationale organisée, ce qui ne concerne donc pas l'entraide judiciaire de droit commun.

12. Questions transversales

d. mesures de prévention et de détection de la corruption

Paragraphe 138 p. 32 : « Dans son rapport de conformité intérimaire sur Monaco consacré à la prévention de la corruption des parlementaires, des juges et des procureurs (2023), le GRECO a estimé que des progrès avaient été réalisés, en particulier s'agissant de l'intégrité des parlementaires, la nomination des magistrats et la transparence des instructions données par le Secrétaire d'Etat à la Justice dans des affaires individuelles. Certaines recommandations restaient toutefois en suspens, en particulier concernant la nomination des membres du Tribunal suprême et la composition du Haut Conseil de la Magistrature ».

Il est à préciser que la Principauté est sortie du 4^{ème} cycle d'évaluation du GRECO portant sur la prévention de la corruption des parlementaires, juges et procureurs et a donc satisfait aux exigences du GRECO.