



# PROTOCOL FOR SUPPORT SERVICES FOR WITNESSES AND VICTIMS OF TRAFFICKING IN HUMAN BEINGS AND DOMESTIC VIOLENCE

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PROTOCOL FOR SUPPORT SERVICES FOR WITNESSES  
AND VICTIMS OF TRAFFICKING IN HUMAN BEINGS  
AND DOMESTIC VIOLENCE

Council of Europe  
Supreme Court of Montenegro

PROTOCOL FOR SUPPORT SERVICES FOR WITNESSES  
AND VICTIMS OF TRAFFICKING IN HUMAN BEINGS  
AND DOMESTIC VIOLENCE

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All other correspondence concerning this document should be addressed to the Human Rights National Implementation Unit, Avenue de l'Europe F-67075 Strasbourg Cedex, France, Tel. +33 (0)3 88 41 20 00  
E-mail: Horizontal.Facility@coe.int

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## ABBREVIATIONS

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<b>CoE</b>	Council of Europe
<b>CCTV</b>	Close circuit television camera
<b>EU</b>	European Union
<b>NGO</b>	Non-governmental organisation
<b>UN</b>	United Nations

## DEFINITIONS

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<b>Service</b>	Support Services for Witnesses and Victims of Trafficking in Human Beings and Domestic Violence
<b>Victim</b>	For the purposes of this document, the term 'victim' is used widely to include all categories of persons who participate in court proceedings as witnesses to the injured party, as well as witnesses.





# 1. GENERAL CONSIDERATIONS

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*“The primary mission of the witness and victim support office in court is to create an environment in which giving testimony could be an empowering experience.”<sup>1</sup>*

## 1.1. Who this Protocol is for

This Protocol is intended for authorised persons from the Support Services for Witnesses and Victims of Trafficking in Human Beings and Domestic Violence (hereinafter: the Support Services) in courts, who come into contact with victims of trafficking in human beings and domestic violence during judicial proceedings. It aims to help authorised persons from the Support Services in courts to provide appropriate support and assistance to victims so that they could exercise their basic rights and needs.

The Protocol contains information about steps that should be taken in working with victims of domestic violence and trafficking in human beings involved in judicial proceedings (hereinafter: victims). It could also serve as a reference document for other relevant institutions and organisations such as social work centres, the police, Witness Protection Programme Commission, but also as an encouragement to all victims / potential victims to approach the Support Services for support both before and during trials against perpetrators of domestic violence and trafficking in human beings.

Although the standards set out in this Protocol are not legally binding, they point to the types of services that witnesses should receive under international and national legal standards.

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1 UNDP Report, Development of a Witness and Victim Support System 2014.

## **1.2. *The organisation of the Support Services for Witnesses and Victims of Trafficking in Human Beings and Domestic Violence***

The Support Services have been established by court presidents in all basic, high and misdemeanour courts across the country that have jurisdiction over cases of domestic violence and trafficking in human beings.

The goal of these Support Services is to provide emotional, logistical and legal assistance and support to witnesses and victims before, during and after testimony. The Support Services perform their duties by working directly with victims and witnesses of domestic violence and trafficking in human beings.

Authorised persons working in these Support Services are legal advisers within courts (however, authorised persons deployed in the Support Service may also have a background in psychology and social work).

## **1.3. *The purpose and object of the Protocol***

In the absence of a document governing the operation of the Support Services within basic, high and misdemeanour courts, this Protocol aims at regulating the Support Service activities in accordance with the Criminal Code of Montenegro, Code of Criminal Procedure of Montenegro, Law on Protection from Domestic Violence, Law on Free Legal Aid and international human rights standards in cases where victims of domestic violence and trafficking in human beings take part in judicial proceedings as witnesses.

The purpose of the Protocol is:

**To standardise and summarise the responsibilities of the Support Services in working with victims of domestic violence and trafficking in human beings.**

## **1.4. *How will the Protocol be used?***

The Protocol sets out the minimum standards that the Support Services have to adhere to so as to provide quality services to victims of domestic violence and trafficking in human beings. As such, it represents a starting point for the work of authorised persons.

## **1.5. *Definitions***

Although the Support Services work with all adult victims of trafficking in human beings and domestic violence who approach them, this Protocol focuses on working with particularly vulnerable categories, who require special attention during criminal and misdemeanour proceedings.

The following definitions are used in line with relevant legal regulations in Montenegro:

**Victim of domestic violence** shall mean any natural person who is subject to any act of physical, sexual, psychological or economic violence that occurs within a family or household or between former or current spouses or partners, regardless of whether the perpetrator shares the same residence with the victim;<sup>2</sup>

**Victim of trafficking in human beings** shall mean any natural person who is subject to trafficking in human beings;<sup>3</sup>

**Witness** shall mean a person in possession of information relevant to the judicial or criminal proceedings;<sup>4</sup>

**Domestic violence** shall mean any act of physical, sexual, psychological or economic violence that occurs within a family or household or between former or current spouses or partners, regardless of whether the perpetrator shares the same residence with the victim;<sup>5</sup>

**Trafficking in human beings** shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;<sup>6</sup>

**National legislation defines trafficking in human beings** in the Criminal Code of Montenegro as: (1) Anyone who by force or threat, deceit or keeping in delusion, by abuse of authority, trust, relationship of dependency, difficult position of another person or by keeping back identification papers or by giving or receiving money or other benefit for the purpose of obtaining consent of a person having control over another: recruits, transports, transfers, hands over, sells, buys, mediates in sale, hides or keeps another person for exploitation of work, submission to servitude,

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2 Council of Europe Convention on preventing and combating violence against women and domestic violence, Council of Europe Treaty Series – No. 210, Istanbul, 11 May 2011.

3 Article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe Treaty Series – No. 197; see also: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000.

4 Good practices for the protection of witnesses in criminal proceedings involving organized crime, UNODC.

5 *Ibid.*

6 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000.

commission of crimes, prostitution or begging, pornographic use, taking away a body part for transplantation or for use in armed conflicts ...”<sup>7</sup>

Under the **Law on Protection from Domestic Violence**, **domestic violence is defined** as “omission or commission by a family member in violating physical, psychological, sexual, or economic integrity, mental health and peace of other family member, irrespective of where the incident of violence occurred.”<sup>8</sup>

National legislation defines a **victim / injured person** in the Criminal Code as “a person who has experienced physical or psychological pain or suffering, property damage or violation of their human rights by an unlawful act that is defined as a criminal offence by law.”<sup>9</sup>

The Code of Criminal Procedure defines an **injured person** as a “person whose personal or property right has been violated or jeopardised by a criminal offence.”<sup>10</sup>

The Criminal Procedure Code defines a **witness** as a “person who is likely to provide information on the criminal offence and the offender and on other relevant circumstances.”<sup>11</sup>

## **1.6. International human rights standards for the protection of victims and witnesses in judicial proceedings, especially vulnerable groups (victims of domestic violence and trafficking in human beings)**

There are a number of human rights conventions and treaties governing the rights of victims and witnesses of criminal offences in general, as well as the rights of victims and witnesses of domestic violence and trafficking in human beings, which, inter alia, address the right of victims and witnesses to receive support during trials

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7 Article 444 of the Criminal Code of Montenegro, Official Gazette of the Republic Montenegro 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro 40/2008, 25/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017 and 49/2018.

8 Law on Protection from Domestic Violence (Official Gazette of Montenegro 46/10 of 6 August 2010).

9 Article 142(11) of the Criminal Code of Montenegro, Official Gazette of the Republic Montenegro 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro 40/2008, 25/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017 and 49/2018.

10 Article 22(5) of the Code of Criminal Procedure, Official Gazette of Montenegro 57/2009, 49/2010, 47/2014 – Decision of the Constitutional Court of Montenegro, 2/2015 – Decision of the Constitutional Court of Montenegro, 35/2015 (Articles 88-91 are not contained in the clean version), 58/2015 – another law, 28/2018 – Decision of the Constitutional Court of Montenegro and 116/2020 – Decision of the Constitutional Court of Montenegro.

11 Article 107(1) of the Code of Criminal Procedure, Official Gazette of Montenegro 57/2009, 49/2010, 47/2014 – Decision of the Constitutional Court of Montenegro, 2/2015 – Decision of the Constitutional Court of Montenegro, 35/2015 (Articles 88-91 are not contained in the clean version), 58/2015 – another law, 28/2018 – Decision of the Constitutional Court of Montenegro and 116/2020 – Decision of the Constitutional Court of Montenegro

and which call for the establishment and operationalisation of witness and victim support services in courts.

The UN Convention on the Elimination of All Forms of Discrimination against Women (1979), in its general recommendation No. 35, particularly stresses that states have to implement effective measures to protect and assist women complainants of and witnesses to gender-based violence before, during and after legal proceedings.<sup>12</sup>

The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) establishes standards for the responsiveness of judicial and administrative processes to the needs of victims and addresses more specifically the actual protection of the rights of victims during trials by calling for the availability of support services to victims and witnesses.<sup>13</sup>

The UN Convention on Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children specifically addresses the protection of the rights of victims of trafficking – women and children, including during trials stating that victims and witnesses must be provided with information on relevant court and administrative proceedings and assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders.<sup>14</sup>

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) provides for measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of judicial proceedings, in particular by (Article 56):

- a. providing for their protection, as well as that of their families and witnesses, from intimidation, retaliation and repeat victimisation;
- b. ensuring that victims are informed, at least in cases where the victims and the family might be in danger, when the perpetrator escapes or is released temporarily or definitively;
- c. informing them, under the conditions provided for by internal law, of their rights and the services at their disposal and the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein, as well as the outcome of their case;
- d. enabling victims, in a manner consistent with the procedural rules of internal law, to be heard, to supply evidence and have their views, needs and concerns presented, directly or through an intermediary, and considered;

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12 Committee on the Elimination of Discrimination against Women General, General recommendation No. 35 on gender-based violence against women, updating the general recommendation No. 19.

13 *Ibid.*

14 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000.

- e. providing victims with appropriate support services so that their rights and interests are duly presented and taken into account;
- f. ensuring that measures may be adopted to protect the privacy and the image of the victim;
- g. ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible;
- h. providing victims with independent and competent interpreters when victims are parties to proceedings or when they are supplying evidence;
- i. enabling victims to testify, according to the rules provided by their internal law, in the courtroom without being present or at least without the presence of the alleged perpetrator, notably through the use of appropriate communication technologies, where available.

Accordingly, the Istanbul Convention requires that appropriate structures are in place in order to provide for general and specialist support services, and that these services inform their beneficiaries of their rights and enable them to make decisions in a supportive environment that treats them with dignity, respect and sensitivity. Lastly, the Convention also requires that support services are made available to vulnerable victims and that their specific needs are addressed, including special protection measures for child victims and witnesses.

Additionally, Article 1 of the Council of Europe Convention on Action against Trafficking in Human Beings specifically provides that the purpose of the document is to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality. Article 28 of the Convention provides that each Party shall adopt such legislative or other measures as may be necessary to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, particularly for: victims, those who co-operate with the prosecuting authorities, witnesses and family members of those persons. Intimidation of victims and witnesses is almost always used to cover up evidence against the defendant. There are different types of effective protection (physical protection, relocation, identity change, etc.), which depends on assessment of the risk to which the victim and witness are exposed.<sup>15</sup>

Furthermore, Article 30 of the Convention requires the Parties to adopt such legislative or other measures as may be necessary to ensure in the course of judicial proceedings the protection of victim's private life and, where appropriate, the victim's identity and their safety and protection from intimidation, in accordance with the conditions under its internal law and, in the case of child victims, by taking special care of children's needs and ensuring their right to special protection measures. While the measures set out in Article 28 of the Convention refer to protection outside the judicial proceedings, the measures set out in Article 30 of the Convention refer to procedural measures that should be introduced. To achieve the objectives

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<sup>15</sup> Article 30. Council of Europe Treaty Series – No. 197. Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16 May 2005.

set out in Article 30, the following means may be used, in accordance with the European Convention on Human Rights and the court the practice of the European Court of Human Rights: non-public hearings, audio-visual technologies, recording of testimonies and anonymous testimony.<sup>16</sup>

The EU Strategy on victims' rights (2020-2025)<sup>17</sup> further emphasises the right of victims to receive support during trials. Directive 2012/29/EU of the European Parliament and of the Council on the establishment of minimum standards on the rights, support and protection of victims of crime provides that victims and witnesses have the right to:

- be informed of their rights and the way in which they can exercise them, their position in criminal or other court proceedings, available forms of assistance and existing victim services;
- be heard during criminal or other court proceedings and to present their views on the case;
- support and assistance during court proceedings, but also before and after it, as well as independently of criminal or other court proceedings, including obtaining information, emotional support and referral to general and specialised services for victims and the like;
- protection of privacy, physical integrity and mental well-being, as well as the right to protection from repeat victimisation.

Finally, Article 9 of the Directive specifically provides that victim and witnesses support services, shall, as a minimum, provide:

- a. information, advice and support relevant to the rights of victims, including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;
- b. information about or direct referral to any relevant specialist support services in place;
- c. emotional and, where available, psychological support;
- d. advice relating to financial and practical issues arising from the crime;
- e. unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation.

### **1.7. *National legal standards relating to the work of the Support Service***

The Protocol starts from national standards on protecting the rights of victims, which are set out in the Criminal Code of Montenegro, Code of Criminal Procedure, Law on Protection from Domestic Violence and Law on Free Legal Aid.

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<sup>16</sup> Article 30. Council of Europe Treaty Series – No. 197. Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16 May 2005.

<sup>17</sup> Brussels, 24.6.2020 COM(2020) 258 final

The Criminal Code of Montenegro provides that victims have the right to participate in trials, while Article 113 states that:

“(5) Injured parties who are victims of a criminal offence against sexual liberty, as well as children being examined as witnesses, shall be entitled to testify in separate premises before a judge and a court reporter, whereas the Prosecutor, accused person and defence attorney shall be given the possibility to view the course of hearing from other premises and to put questions to the witness, after having been duly instructed by the court thereon.”<sup>18</sup>

The Code of Criminal Procedure defines the protection of witnesses in court, including the possibility of conducting a hearing under a pseudonym and with the aid of technical devices (protective wall, voice simulators, devices for transmission of image and sound, etc.).<sup>19</sup> Also, the Code of Criminal Procedure stipulates that witnesses have the right to protection of their privacy during trials<sup>20</sup>, the right to use their native language and the right to be informed of their rights, as well as to be able to participate in trials by presenting evidence and having access to evidentiary items.<sup>21</sup>

Article 41(3) of the Law on Free Legal Aid provides that victims of trafficking in human beings and victims of domestic violence are entitled to free legal aid.<sup>22</sup>

The Law on Protection from Domestic Violence provides that any procedure with respect to domestic violence must be confidential and that no information may be disclosed on either the victim or a family member who committed violence (hereinafter: the perpetrator) where such information would lead to the identification of the victim or of their family member, unless an adult victim has explicitly consented to it. Also, the Law provides for the possibility of the victim to select a person to attend all protection procedures and actions (hereinafter: the confidant) during misdemeanour trials of perpetrators of domestic violence.<sup>23</sup>

Guidelines on non-punishment of victims serve as a good tool for police officers, state prosecutors and judges in respect of the application of the principle of impunity to victims of trafficking in human beings if the cause-and-effect relationship is established between the (potential) victim and the committed crime, or, in case of initiation of proceedings for the purposes of suspension at the earliest stage, or if the proceedings are underway before a court – so that it could be finalised within the shortest possible time, in a such a way that will result in the impunity of the victim.

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18 Criminal Code of Montenegro Official Gazette of the Republic Montenegro 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro 40/2008, 25/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017 and 49/2018.

19 Code of Criminal Procedure of Montenegro (Official Gazette of Montenegro 57/09, 49/10 and 35/15).

20 Art. 314, Code of Criminal Procedure of Montenegro (Official Gazette of Montenegro 57/09, 49/10 and 35/15).

21 Art. 14 and 8 *ibid*.

22 Official Gazette of Montenegro, 020/11 of 15 April 2011, 020/15 of 24 April 2015.

23 Law on Protection from Domestic Violence (Official Gazette of MNE, no 46/10, as of 06.08.2010).



## **1.8. Guiding principles of the Protocol**

Under international and national legal standards, the work of the Support Service should be performed on the grounds of urgency, in accordance with the urgent nature of proceedings for offences of trafficking in human beings and domestic violence.

**Accordingly, national and international standards are translated into the following overall guiding principles:**

1. The right to understand and to be understood – the Support Services assist victims to understand the criminal and misdemeanour proceedings from the first contact and during any further necessary interaction they have within the judicial proceedings.
2. The right to be informed – the Support Services provide all necessary information to victims and witnesses involved in trials as witnesses.
3. The right to safety – the Support Services take measures such as threat assessments before and after testimonies, so as to ensure that court environment is free from harm;
4. The right to be protected from repeat victimisation – the Support Services will implement a victim-sensitive approach that will minimise the risk of repeat victimisation.

**The specific guiding principles of the Protocol are as follows:**

- Respect for differences and equal approach;
- Empowerment;
- Participation and consultation;
- Confidentiality;
- Management and accountability; the Support Services are managed efficiently, which guarantees the quality of services and ensures that staff have appropriate skills and organisational support.

Based on these guiding principles, the Support Service treats victims and witnesses of trafficking in human beings and domestic violence in criminal proceedings in the following way:

- is victim-centred;
- is available to adult victims of domestic violence and trafficking in human beings, regardless of their ethnic or national affiliation, sex, disability and sexual orientation;
- provides support for the preparation of the victim for criminal proceedings (this includes support before, during and after the trial).

## **1.9. *Cooperation with other relevant institutions***

In order to provide comprehensive support to victims of domestic violence and trafficking in human beings, the Support Services should cooperate with: the police, the state prosecutor's office, state administration bodies, social work centres, local and regional government bodies, public institutions and civil society organisations, parole services and institutions for the enforcement of penalties and experts for the promotion of rights and assistance to victims.

In working with victims, the Support Service enters into memoranda of understanding with relevant state institutions, as well as with NGOs specialising in the provision of services to victims of domestic violence and trafficking in human beings.

## 2. GENERAL, PROCEDURAL AND ADMINISTRATIVE TASKS OF THE SUPPORT SERVICE IN WORKING WITH VICTIMS OF DOMESTIC VIOLENCE AND TRAFFICKING IN HUMAN BEINGS

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The Support Services perform an array of tasks when working with victims of domestic violence and trafficking in human beings. Those tasks are explained in detail below.

### General tasks:

- Providing emotional support to victims;
- Providing general procedural information on the rights of victims at pre-trial stage and during the trial in criminal and misdemeanour proceedings, in accordance with relevant regulations;
- Providing technical and practical information and assistance in navigating the court building;
- Referral to specialised institutions (social work centres) depending on the needs of victims and accompanying persons (family members);
- Facilitating contacts of victims and witnesses with court officials;
- Assistance in organising the arrival of victims at court.

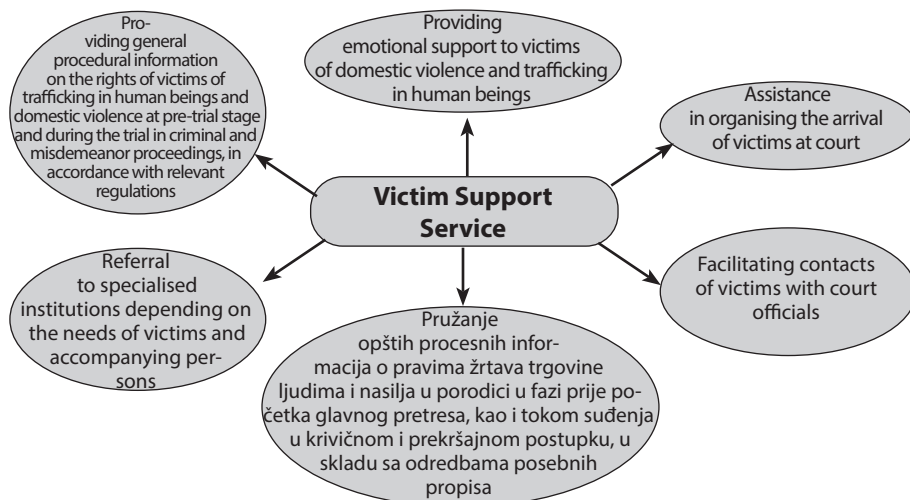


Figure 1 General tasks of the Support Service

## **Procedural and administrative tasks of the Support Services:**

- Receiving information on summoned victims based on court documents;
- Arranging for support to be provided on the basis of direct contact with the victim or witness, by order of a judge, or according to information provided by other bodies or civil society organisations;
- Organising and providing emotional support, as well as general process, technical and practical information;
- Contacting by telephone all victims of domestic violence and trafficking in human beings who have requested support from the Support Services in respect of relevant information in the judicial proceedings;
- Arranging the transport of victims of domestic violence and trafficking in human beings at the discretion of the support officer;
- Answering inquiries in written and oral form;
- Keeping records of support provided and filling in standardised forms of the Support Service;
- Preparation of quarterly work reports and their submission to the Supreme Court of Montenegro (see Annex 1 – Form 1);
- Standardising the actions of support authorised persons in working with victims of domestic violence and trafficking in human beings;
- Participation in organised forms of continuous authorised person development to sensitise the staff to the needs, vulnerabilities and difficulties affecting victims (education, supervision, workshops, professional and scientific conferences, congresses, conferences, round tables, etc.);
- Cooperation with state prosecutor's offices, police, state administration bodies, local and regional government bodies, public institutions and civil society organisations;
- Advocating for and promoting the rights of victims, pointing out their position in the system;
- Participation in working groups for drafting regulations, acts and other documents related to the rights of victims;
- Performing other professional and administrative tasks by order of the president of the court.

### 3. PROCESNI KORACI U RADU SA ŽRTVAMA NASILJA U PORODICI I TRGOVINE LJUDIMA KOJI UČESTVUJU U SUDSKIM POSTUPCIMA

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*“Participation in a trial as a witness can be a source of great anxiety for many people and may seriously affect the quality of their deposition.”<sup>24</sup>*

#### **3.1. Initial contact with the victim of domestic violence and trafficking in human beings**

The Support Service determines the extent of the support and provides support to victims of domestic violence and trafficking in human beings on the basis of information found in the information system of the Court and upon requests submitted by victims, members of their families, as well as organisations where the victim is receiving protection and specialist support services.

Data on victims and witnesses submitted to the Support Service include: case number, name and surname of the defendant, name of the criminal offence or misdemeanour, date and time of trial, judicial panel, preliminary hearing, name and surname and the address of the victim, the name and surname of the judge/ presiding judge conducting the case.

In practice, authorised persons from the Support Service can make first contact with victims of domestic violence and trafficking in human beings in the following ways:

- Through a phone call or by email, made by a victim or members of their family or organisations/institutions who provide protection and or specialist support to victims;
- By victims coming to their offices;

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<sup>24</sup> UNODC, Good practices for the protection of witnesses in criminal proceedings involving organized crime, 2008.

**Recommendation:** any written summons contains information on the existence of the Support Service in a court, with a brief description of the duties performed by the Service and contact details, on the basis of which victims may contact authorised persons from the Service by telephone, in writing or by email.

**Useful information:** contact details and a short description of the work of the Service can be found on the relevant court websites, as well as in the Information Brochure on Rights of Victims of Trafficking in Human Beings and Domestic Violence by the Council of Europe and the Supreme Court of Montenegro.

When initial contact has been established by phone or e-mail, the Support Service opens a case file of the victim (Form 2). An authorised professional requests general information from the victim such as name, surname, date of summons, hearing date and case number.

The authorised person introduces the Support Service and explains what it does and asks the victim whether they would like to come to the offices of the Support Service for an in-person interview or whether the person prefers information to be given by phone or email.

When the victim arrives at the Support Service (alone or accompanied by a confidant), the Support Services makes sure to provide a secure and pleasant environment to conduct an interview.

When the victim opts for an in-person meeting with the Support Service, the meeting is scheduled within the working hours of the Support Service, at a time that is most convenient for the victim.

If the victim prefers to receive information via electronic means, the authorised persons from the Support Service is obliged to act in a manner that it is most convenient for the person and deliver the information requested, as well as to enable the victim to choose the sex of the authorised person who will be providing support.

The authorised person from the Support Service should provide information to victims both in person and via electronic means, whenever possible and for as long as needed, before the trial and during the entire judicial proceedings.

*During the initial contact with victims, the Support Service should explain briefly what type of services victims may get, as well as that all communication, including meetings, is conducted in a safe environment, while respecting privacy and the victim's right to confidentiality.*

### **3.2. *Providing information to victims of domestic violence and trafficking in human beings***

Following the initial contact, authorised persons from the Support Service should provide useful information to victims, in simple and accessible language, orally or in writing, and using the services of an interpreter in cases where the victim's native language is not in official use in court.

Such communication should be clear, while avoiding legal terminology that might be misunderstood or misinterpreted by the victim. Providing too much information should be avoided, as it may overwhelm or confuse the victim.

Such communication should take into account the personal characteristics of the victim, including any disability, which may affect their ability to understand or to be understood.

In cases where victims are persons with disabilities, the Support Service authorised persons are required to ensure an interpreter.

The authorised person from the Service should direct the victim to the website where the Information Brochure on the Rights of Victims of Domestic Violence and Trafficking in Human Beings can be found, or provide them with a copy of the Information Booklet if the meeting is held in person. In this way, victims can get more detailed information about their rights as victims and witnesses of domestic violence and trafficking in human beings.

Support is provided by giving information about:

- assistance available to the victims, which they may request even before their appearance in court;
- a witness protection programme in criminal proceedings;
- the rights of injured parties/witnesses/victims;
- legal terminology and other relevant legal information related to the procedure (explanation of roles in criminal and misdemeanour proceedings, protection measures that may be requested before, during and after misdemeanour proceedings, the proper way of asking questions in court, etc.);
- all legal information related to the testimony, including practices regarding the hearings of the witness and the injured party in misdemeanour and criminal proceedings, the role and the possibility of becoming a protected witness and give testimony in a special room with the transmission of sound and images without the presence of the parties and participants in criminal proceedings;
- all information regarding the privacy and safety of the victim and witness;
- all technical information regarding: questions concerning arrival costs, the availability of the victim, failure to appear in court the capacity of a witness and consequences, remuneration for absence from work, etc.

In order to provide information to victims in a timely manner, court recorders should also inform the Support Service of any changes related to the trial that may affect victims (postponement of the hearing, change of date, change of the courtroom where the hearing will take place, etc.). Therefore, any such information must be conveyed to the victim and the witness in a timely manner.

### **Ethical guidelines for authorised persons from the Support Services:**

- The authorised person must not discuss the content of the testimony with victims or give legal advice concerning the testimony itself.
- The authorised person must not assist the witness in preparing evidence and must not rehearse what they are going to say.
- The authorised person must not assist the witness in answering questions or tell the witness what to say when testifying.
- If the witness becomes upset or if the authorised person has any concerns, the presiding judge should be informed of that.

The Support Service should inform the judge in a timely manner of the witness's illness, their inability to appear in court, the need for an escort, inability to testify in the courtroom, their fears and concerns and other important information.

### **3.3. *Referrals to specific services for victims of domestic violence and trafficking in human beings***

During the interview with the victim, the authorised person from the Support Service should ask the victim about things that bother them and about possible challenges they are facing. Also, during the communication with the victim either via electronic devices or in person, the authorised person should conduct an assessment of the victim's needs. This applies to victims who have contacted the Support Services before and after the trial.

When the authorised person from the Support Service, during communication with the victim, learns of additional needs that the victims has and that fall outside the responsibilities of the service, the authorised person should refer them to relevant organisations and institutions that offer such services.

In case when the victim do not have a legal adviser and if they are in need of legal aid, the authorised person from the Support Service should connect them to trained lawyers from free legal aid departments at courts working, inter alia, with victims of domestic violence and trafficking in human beings.

If the authorised person estimates and/or is told by the victim that the victim is in need of psychological counselling and/or social services, the authorised person will connect them to the competent social work centre and to an NGO that offers psychological support to victims of domestic violence and trafficking in human beings.



When making a referral, the authorised person should note in an individual case form (Annex 2) all relevant details such as: the reason for referral outlining the exact need of the victim, the institution/organisation, including contact persons from the institutions/organisations to which the victim was referred.

The authorised person from the Support Service who has made a referral is required to seek feedback from the institution/organisation to which the victims was referred.

### **3.4. *Providing emotional support to victims and witnesses***

Authorised persons from the Support Services assist victims of domestic violence and trafficking in human beings in confronting their feelings and painful experiences.

Emotional support is provided through active listening, giving appropriate information and offering feedback on questions that the victim might ask.

In the process of providing emotional support to the victim, the authorised person should help the victim make sense of what they have been through, in a calm conversation.

The authorised person from the Support Service should explain and discuss with the victim further steps that could help them feel they are regaining control of their life (see referrals under section 3.2).

Talking to the victim is a way for the victim to lift a weight off their mind and leave distressing experiences behind them.

Emotional support should be provided in a safe and neutral place, where the victim can voice their fears, worries and emotions. This can help victims cope and move on after they have fallen victim to a crime.

#### **How to provide emotional support to victims and witnesses:**

- Speak in a calm a soft voice;
- Be sympathetic towards the victim;
- Do not ask questions, but rather let the victim speak;
- Only answer when the victims is asking a specific question;
- Hold the victim's hand if you feel it is necessary;
- Reassure the victim that things will get better;
- Show the victim that they are not going alone through the process of deposition.

The authorised person from the Support Service should also give emotional support to the victim by accompanying them to the courtroom, sitting with them in the waiting area before the hearing, speaking to and accompanying the victim after the deposition, and in any other way that the victim may need and request.

### **3.5. *Pre-trial visits to the court***

Many victims and witnesses of domestic violence and trafficking in human beings benefit from visiting the court before the trial to familiarise themselves with the court.

As part of a detailed needs assessment conducted through communication with the victim, the authorised person from the Support Service will propose a pre-trial familiarisation visit to the court.

Victims and witnesses of domestic violence and trafficking in human beings may also request a visit to the court before the trial date by contacting the Support Service directly.

When such visit is arranged, the authorised person from the Support Service schedules a visit within 7 days from the date of the communication with the victim.

The authorised person from the Support Service is required to meet the victim in front of the court on at an agreed time, as well as to have a nametag so that they can be identified.

During the visit, the authorised person from the Support Service gives the information described in section 3.2. Additionally, the authorised person from the Support Service will show the victim an empty courtroom and explain to them the path of movement to and from the courtroom.

### **3.6. *Ensuring the safety of the victim during deposition***

When victims of trafficking in human beings and domestic violence approach the authorised person from the Support Service before the trial or during the trial with safety concerns over their own safety and/or the safety of their family, the authorised person should contact the police, state prosecutor and the presiding judge assigned to the case and inform them of any such threats. Those authorised persons will ensure protective measures are in place before, during and after the hearing or trial for witnesses at risk.

It is necessary to make sure that the victim is waiting in a separate area from the perpetrator.

The authorised person from the Support Service should cooperate with the police and the court security officer to make sure that court procedures aimed at ensuring the safety of the witness while testifying are in place.

The authorised person from the Support Service should cooperate with the social work centre and they may, at the request of the victim, inform the presiding judge of security concerns that the victim may have and of the victim's psychological state, and advise regarding deployment of special measures in respect of testimony, such as testifying through the use of audio-visual equipment.

When the victim and the perpetrator are leaving, the victim should be allowed to leave some time before the perpetrator in order to reduce the possibility of confrontation.

### **3.7. *Assisting the witness during testimony (deposition)***

The authorised person from the Support Service should meet the victim on the day of the trial and at a time assigned for the hearing in front of the side entrance to the court so as to avoid an encounter between the victim and the defendant.

The authorised person should accompany the victim to the courtroom and wait with them in a safe waiting area before the victim is summoned to testify.

If requested by the victim, the authorised person will accompany the victim during the trial and will sit next to them during deposition in the capacity of a confidant.

If testimony is to take place via audio-visual equipment, the authorised person should take the victim to a specially designated room, explain the process to them and sit with them during deposition.

#### **Things to explain about CCTV:**

- When the equipment is turned on, everyone present in the court can see and hear the witness on the TV screens in the courtroom;
- The witness in the CCTV room should be able to see and hear the lawyer asking questions or the judge on one of the screens;
- The witness should not be able to see the accused on any of the screens;
- The witness should not see themselves on the screens. If this is the case, this image can be turned off by the court officer;
- The witness should be able to clearly hear and see the judge and the lawyers asking questions, and their taped evidence if relevant.
- The witness can ask for a break e.g. if they need to use the toilet.
- If there is a short adjournment, the equipment is usually turned off. However, this is not always the case and the court may still be able to see and hear the witness even though the witness cannot see anything on their screen;
- When the equipment is turned off, is not transmitting or breaks down, you may assist or comfort the witness; however, you must not talk about the case, the evidence or the questions they are being asked.

After the completion of the victim's testimony, the authorised person will accompany the victim out of the court, or will sit with them in a safe room if the witness is disturbed and needs time to calm down after the testimony.

### **3.8. *Providing feedback to witnesses after the completion of trials***

After the completion of the trial, the authorised person from the Support Service will contact the victim to inform them of the outcome of the trial. If necessary, the victim can meet the authorised officer, who can explain to them in detail what the judgment means.

The authorised person from the Support Service should connect with institutions for the enforcement of penalties and parole and inform the victim of domestic violence and trafficking in human beings if: expiry of the sentence of imprisonment imposed on to the perpetrator, early release of the perpetrator and any other relevant information regarding the perpetrator's return to society.

## Annex 1 Form 1 – Quarterly Report

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Institution	Victims and Witness Support Service at _____	
Report for the months	From: _____	To: _____
Author of the report	_____	

Total number of hearings:
High Court in _____
Basic Court in _____ – criminal cases
Misdemeanour Court in _____ – misdemeanour cases
Total number of witnesses (adults): – Information provided to: – Support in testimonies provided to: – Court visits: – Legal aid provided to:
Total number of referrals:
Total number of telephone calls to the Service:
Total number of requests sent by email:
Total number of requests for information regarding assessment of victims and witnesses:
Total number of requests for support dealt with by the Service:
Number of victims interviewed:
Number of victims who could not be interviewed:



## Annex 2 Form 2 – Individual Plan

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A. Details of the victim and witness		
Surname		
Name		
Gender	M	F
Information on the case		
Victim's contact details		
Date of birth (dd/mm/yy)		

B. Date of creation of the Individual Plan			
Name and surname of the authorised person			
The way the victim came into contact with the Service			
Needs assessment			
Services provided	Service	Contact person	Date
Referrals made to			

**Notes important to the case:****C. Feedback received on referrals made:**

Services	Institution	Notes relevant for the victim's status









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