



**Committee of the Parties
to the Council of Europe Convention
on Action against Trafficking in Human Beings**

**Recommendation CP/Rec(2021)04
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Montenegro**

*adopted at the 28th meeting of the Committee of the Parties
on 4 June 2021*

The Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings (hereinafter referred to as "the Convention"), acting under the terms of Article 38(7) of the Convention;

Having regard to the purposes of the Convention to prevent and combat trafficking in human beings, while guaranteeing gender equality, protect the human rights of victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, ensure the effective investigation and prosecution of the offences related to trafficking in human beings, and promote international co-operation;

Bearing in mind the provisions of Article 36(1) of the Convention concerning the monitoring role of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the implementation of the Convention;

Having regard to the Rules of Procedure of the Committee of the Parties;

Having regard to the instrument of ratification deposited by Montenegro on 30 July 2008;

Recalling Committee of the Parties' Recommendation CP(2016)10 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Montenegro and the report of the Montenegrin authorities on measures taken to comply with this recommendation, submitted on 6 November 2017;

Having examined the third report concerning the implementation of the Convention by Montenegro, adopted by GRETA at its 40th meeting (22-26 March 2021), as well as the comments of the Montenegrin Government received on 24 May 2021;

Bearing in mind the focus of the third evaluation round of the Convention on access to justice and effective remedies for victims of trafficking;

Considering the conclusions and proposals contained in Appendix I of GRETA's third report on topics related to the third evaluation round and follow-up topics specific to Montenegro;

Welcoming the measures taken and progress achieved by the Montenegrin authorities in implementing the Convention, and in particular:

- the adoption of a new Strategy for combating trafficking in human beings (THB) covering the period 2019-2024;
- the adoption of Standard Operating Procedures (SOPs) for the identification of victims and the setting up of a multi-disciplinary identification team;

- the setting up of the Operational Team for Combating Trafficking in Human Beings, which has resulted in an increase in the number of prosecutions and convictions;
- the amendments to the Law on Free Legal Aid, according to which victims of THB are recognised as privileged beneficiaries of free legal aid, without an evaluation of their financial standing;
- the adoption of guidelines on the non-punishment of victims of human trafficking;
- the participation in international co-operation in the fight against trafficking in human beings.

A. Recommends that the Government of Montenegro take measures to address the following issues for immediate action¹ identified in GRETA's report:

1. take further steps to facilitate and guarantee access to justice for victims of THB, in particular by ensuring that:

- a lawyer is appointed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the persons concerned have to decide whether or not they want to co-operate with the authorities and/or make an official statement;
- the authorities and the Bar Association encourages training and specialisation of lawyers to provide legal aid to trafficking victims, and trafficking victims are systematically appointed a specialised lawyer with experience in criminal cases (paragraph 54);

2. make efforts to guarantee effective access to compensation for victims of THB, in particular by:

- ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;
- making full use of the legislation on the seizure and confiscation of criminal assets to secure compensation to victims of THB, and ensure that recoverable property which is seized in criminal proceedings is returned as soon as possible to the victim;
- introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation has not been considered;
- including the topic of compensation in training programmes for lawyers, prosecutors and judges and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB;
- ensuring that all victims of human trafficking, regardless of nationality and residence status, are eligible for state compensation, by bringing into force the Law on Compensation for Damages to Victims of Violent Crimes without further delay; in this context, the setting up of a victim compensation fund which uses confiscated assets of perpetrators of human trafficking to fund compensation should be treated as a priority (paragraph 76);

¹ The number of the paragraph setting out GRETA's proposals in the report is indicated in brackets.

3. take measures to further strengthen the criminal justice response to THB, including by:
 - ensuring that human trafficking offences are proactively and promptly investigated, regardless of whether a complaint about the reported crime has been submitted or not, making use of all possible evidence, such as evidence gathered through special investigation techniques, financial evidence, documents and digital evidence, so that there is less reliance on testimony by victims or witnesses;
 - requiring consideration of allocation of specialist financial investigators to every THB case;
 - strengthening efforts to investigate, prosecute and secure convictions in cases of trafficking for the purpose of labour exploitation, with the involvement of labour inspectors and tax inspectors (paragraph 96);
4. strengthen the prevention of trafficking for the purpose of labour exploitation, including by:
 - ensuring that the Labour Inspectorate has adequate human and financial resources to carry out inspections with a view to preventing and detecting cases of THB for the purpose of labour exploitation;
 - strengthening co-operation between labour inspectors, law enforcement officers, tax and revenue authorities, trade unions and civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;
 - separating immigration enforcement functions from labour inspectorate roles, and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;
 - developing safe reporting and complaint mechanisms for cases of labour exploitation (paragraph 154);
5. further strengthen the identification of victims of THB, including by:
 - making the SOPs for the identification of victim of THB binding and training all relevant professionals on their use, including staff working at facilities for asylum seekers and detained migrants;
 - involving the specialised police division for combating THB in joint inspections with the Labour Inspectorate;
 - ensuring that law enforcement officials, social workers, NGOs and other relevant actors adopt a more proactive approach and increase their outreach work to identify victims of human trafficking for the purpose of sexual exploitation as well as labour exploitation;
 - ensuring that whenever there are reasonable grounds to believe that a foreign national is a victim of THB, the person concerned has access to a recovery and reflection period;
 - enhancing co-ordination between the asylum procedure and the system for assisting victims of THB, in order to ensure that persons identified during the asylum procedure as vulnerable and at risk of trafficking have access both to refugee status and to assistance/protection as victims of THB;
 - enabling specialised NGOs with experience in identifying and assisting victims of trafficking to have regular access to facilities for asylum seekers and detained migrants in order to support identification of presumed victims of THB;
 - systematically informing all asylum seekers, in a language they can understand, about their rights in the framework of the asylum procedure, and the legal rights and the services available to victims of trafficking;

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

B. Recommends that the Montenegrin authorities take measures to implement the other proposals for action listed in Appendix 1 of GRETA's third evaluation report.

C. Requests the Government of Montenegro to report to the Committee of the Parties on the measures taken to comply with this recommendation by **4 June 2023**.

D. Invites the Government of Montenegro to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.