

Peer assessment mission Montenegro on fighting against trafficking in human beings

(Reference code: JHA IND/EXP 64593)

Mission timeframe: from 17/07/2017 to 20/07/2017

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1. Background

According to the US Trafficking in Persons Report 2017¹, Montenegro is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. Presumed victims of sex trafficking identified in Montenegro are primarily women and girls from Montenegro, neighboring Balkan countries, and, to a lesser extent, other countries from Eastern Europe.

Children, particularly Roma, are subjected to forced begging. Romani girls from Montenegro reportedly have been sold into marriages in Romani communities in Montenegro. This is a population at risk.

Montenegro is more likely a country of destination for some specific areas of sexual exploitation. Several police operations have identified indications of this trend in the area of prostitution, especially in the coastal area during the tourist season, in hotels, night's club....

Despite the fact that in recent cases investigated in Montenegro human trafficking has not been prosecuted nor proven in court, prostitution and entertainment industry, which includes sexual exploitation in particular in coastal cities during the tourist season, are a potential risk for the occurrence of criminal offences of human trafficking. Particularly risk areas are the areas of Budva, cities in the Bay of Kotor and the area of Bar and Ulcinj.

2. Introduction

¹ US report 2017 Trafficking in Persons : Montenegro has been rated TIER 2 Watch list

The Montenegrin authorities adopted a 2017-2018 Action plan for the implementation of its 2012-2018 Strategy for the Fight against Trafficking in Human Beings, including GRETA report's recommendations². However, its impact remains limited and further efforts are needed regarding victim identification, including children, and more pro-active investigations into allegations of trafficking are highly recommended.

Montenegro is required to fulfil certain benchmarks relevant for this peer review in the framework of the EU-accession negotiations under chapter 24, such as:

- To continue to implement its strategy against human trafficking, develop a comprehensive and victim-oriented approach, closely monitor the effects it generates and taking remedial action where needed,
- To establish an initial track record of efficient and effective investigation, prosecution and convictions in organised crime cases, including trafficking in human beings.

The aim of the peer review is to elaborate a comprehensive assessment of the strategic, legal and institutional framework and measures taken so far by the Montenegrin authorities for the purpose of preventing the trafficking in human beings, protecting the victims and efficiently investigating and prosecuting and convicting these crimes.

3. Executive Summary

Despite progress achieved in the field of fight against human being trafficking in Montenegro, namely recent improvement of legal framework for combatting trafficking in human beings: additional forms exploitation added to the Criminal Code, the list of aggravating circumstances expanded, the irrelevance of victim's consent to the intended exploitation stipulated, and the new law on Foreigners that provides a recovery and reflection period up to 90 days for victims de trafficking, and the possibility of granting a temporary residence permit to victims, independently to their cooperation with law enforcement authorities, there is still a need for improvement in order to better tackle such phenomenon.

During the peer review, some issues were repeatedly identified, and they are not new to the Montenegrin authorities such as encouraging the law enforcement officials, social workers, NGOs to proactively identify victims of trafficking and also to develop political strategy to discourage demand for the services of trafficked people. Finally, one of the main findings is the lack/absence of investigation, prosecution and indictment that are properly done under the provision of trafficking in persons that could lead to effective, proportionate and dissuasive sanctions.

During the peer review, from several interlocutors, one explanation given to the absence of identification of cases was the threat to damage the image of the country. As an answer, it was told to the Montegrins authorities, to the police and judiciary representatives that it is more the absence of identification that raises even more the attention of the international community.

² GRETA report : publication of Greta's second report on Montenegro : published on 28 september 2016

4. Findings

Strategic and legislative framework

In terms of **strategic framework**:

▪ **National Strategy for combating trafficking in human beings** for the period **2012-2018** adopted on 13 September 2012, by the Government of Montenegro. It is further spelled out in annual action plan, currently there is one for 2017-2018. The strategy defines six focus areas: prevention and education; identification of victims of trafficking in human beings; assistance, protection and reintegration of victims; efficient prosecution; international co-operation; and co-ordination and partnership. According to the authorities, the strategy's objectives were defined in the light of the recommendations of relevant international actors, including the UN Committee on the Rights of the Child, UN Committee on the Elimination of Discrimination against Women (CEDAW) and the US Department of State Trafficking in Persons Report.

It is recommended that since the action plan is providing for some impact indicators, it shall also include some other types of impact indicators such as: figures of victims identified, figures of prosecuted perpetrators, figures of sentenced perpetrators, figures of actions that were implemented at a local level.

▪ **The Memorandum of Co-operation in the fight against THB**, from 2007, which sets up operational procedures for identifying and assisting victims of THB, was reviewed and updated in 2013. Signatories to the Memorandum are the Supreme Court, the State Prosecutor's Office, the Ministry of the Interior, the Ministry of Health, the Ministry of Labor and Social Welfare, the Ministry of Education, the Office for the Fight against Trafficking in Human Beings, the Centre for children and family protection in Bijelo Polje, the Red Cross of Montenegro and six NGOs. The Memorandum contains an Annex for each signatory describing its role and tasks in the prevention of THB, identification, assistance and prosecution.

▪ Montenegro adopted the **Integrated Border Management Strategy 2014- 2018** and the Framework Action Plan for its implementation 2014-2018. Some trainings\specialization for border workers in order to identify victims of trafficking in human were concluded.

▪ **Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016 – 2020**, with specific references to *preventing and combating begging* (children of Roma community), *preventing children marriages* (child forced and arranged marriages are still a major problem in Roma and Egyptian community) and *fighting against human trafficking* (Roma and Egyptians are particularly at risk of becoming victims of trafficking).

At *institutional level*, Montenegrin authorities involved in preventing and combating trafficking in human being could be mentioned:

▪ **The National Office for the Fight against Trafficking in Human Beings**, which is headed by the National Anti-trafficking Coordinator, is responsible for coordinating the activities of public bodies and NGOs in the implementation of the *National Anti-trafficking Strategy and Action Plans*. The National Office for the Fight against Trafficking in Human Beings, which is positioned within the Ministry of Interior, in the Cabinet of the Minister, is the umbrella institution in the fight against human trafficking. However, since, the strategy to fight against human being trafficking has cross cutting issues; it would

appear to be more relevant for the National Office to be directly under the government or being an independent body rather depending on a Ministry.

The Office coordinates the activities of all entities responsible for the fight against trafficking in human beings in Montenegro, manages the work of the Government Shelter for Victims of Trafficking in Persons, initiates, creates and monitors the implementation of the state policy of combating trafficking in human beings, monitors and initiates the harmonization of national policy with international standards in the field of combating trafficking in human beings, unifies statistical data on the issues of trafficking. In addition to the Head of the National Office for the Fight against Trafficking in Human Beings, 5 advisors and 2 senior administrative clerks were also employed therein.

Coordination team for monitoring of the implementation of the Agreement on cooperation in fight against trafficking in human beings is obliged to submit consolidated biannual reports on the implementation of the Memorandum of Co-operation to the Working group for monitoring the implementation of the National Strategy.

- A **Co-ordination Body for monitoring the implementation** of the **Memorandum** was set up, composed of representatives of the signatories. Besides holding regular meetings, it has to be convened ad hoc whenever a potential victim of THB is identified. Each partner organization has appointed a contact person. The officer nominated as contact person by the Police Department is reachable 24 hours a day via mobile phone to provide support to other signatories of the Memorandum.

- **Police unit for the fight against trafficking in human beings and illegal migrations** is part of *Department for the Fight against organized crime and corruption of the Police Directorate*, comprising of three police officers dealing exclusively with THB cases. The Unit co-operates closely with police officers in local police departments responsible for THB offences, (one representative in each unit). Police officers deployed at local level have undergone periodic training on the topic of human trafficking.

As a good practice, since 2012, joint police patrols together with police officers from Albania, Croatia, Italy, Serbia and “the former Yugoslav Republic of Macedonia” have taken place during the tourist season.

The *specialised police anti-trafficking unit* regularly checks premises where THB could occur, in particular as concerns sexual exploitation, and establishes contacts with persons that could be victims. According to the police, most of the possible cases of trafficking for the purpose of sexual exploitation are prosecuted as cases of mediation in prostitution\pandering due to the lack of evidences and reluctance of the victims to act as witnesses\injured parties.

In terms of **legislative framework** human trafficking phenomenon is envisaged mostly in Criminal Code but also in other legal provisions as follows:

- **Pandering (Article 210 CC)** provides penalties as *a fine or a prison term up to one year* (adults) and *prison term from two to ten years*, in case of committing against minors. Penalties should be *increased*, due to the high risk that sexual exploitation as trafficking is in most of the cases starting as a pandering activity and if the traffickers know that they can get away with a *fine* the preventing role of the law is very low. Also at the level of general perception, civil society, including presumptive victims, there

is a tolerance regarding that sexual exploitation, as long as this is not a serious crime, being punished with a fine.

- **Concluding a Void Marriage (Article 214 CC) and Customary Marriage with Juvenile (Article 216 CC)**, crimes which can be easily confused with trafficking exploitation in forms of *child, early and forced marriages*, and therefore a close attention should be paid to a proper investigation and prosecution. Also the same comment about lower penalties applies as in case of pandering related to trafficking.

- **Unlawful employment (Article 225a CC)** provides penalties for anyone who employs persons in work *exploitation conditions* or knowing those persons are *victims of human trafficking*, among others conditions.

- **Trade in human organs (Article 295a CC)**, another crime which might be a form of trafficking exploitation and which is criminalised distinctly, and therefore rising risk that traffickers are prosecuted for a less serious crime.

- **Trafficking in Persons (Article 444 CC)**, envisages all types of exploitation accordingly with European provisions in this field, including two *new forms, conclusion of an unlawful marriage and exploitation in armed conflicts*. The Montenegrin authorities have clarified that the term “*unlawful marriage*” covers *forced and child marriages*.

No provisions were noted for punishing *incitement, aiding, abetting and attempt* to commit trafficking in human being. Also no provision is found on *non prosecution/non-application of penalties to the victims* of trafficking who due to their exploitation commit specific crimes (prostitution, use of counterfeit documents, illegally cross-border, etc).

- The **Law on Foreigners**, in force since 1 January 2015, introduced a *recovery and reflection period* for victims of human trafficking in section 52 (“Period of reflection”), for 90 days, but *specifically for foreigners (non-nationals) presumed victims* which have to decide whether to co-operate in criminal proceedings or whether to join the prosecution or be a witness in the proceedings, with no reference to national victims or to assistance received in that period. Also the Law on Foreigners harmonised the procedures for granting a residence and work permits, thereby *reducing the possibility of employers to exert pressure on employees*. Montenegrin authorities mention that *victims of trafficking won’t be expelled from country even if they have entered illegally and that they are allowed to work even with no resident permit*.

- The **Law on Asylum** of Montenegro is partially aligned with the EU *acquis*, as is the relevant secondary legislation. We point out that there is a genuine lack of interest of asylum seekers for receiving protection in Montenegro; statistical indicators clearly show that the asylum seekers still view Montenegro as a *transit state*. The Government adopted the Rulebook on internal organisation and job descriptions of the Ministry of Labour and Social Welfare under which is the Administration for the Care of Refugees - Centre for Accommodation of Asylum Seekers.

The Centre for Accommodation of Asylum Seekers is projected for 65 seekers, with the possibility of increasing the capacity to 100 beds in case of need. Also, depending on the number of asylum seekers, the alternative accommodation capacities (lease of private facilities) will be continuously engaged, with the

capacity of up to 150 beds. During their accommodation in this Centre, no victims of human trafficking were identified among them and no asylum was granted on the basis of human being trafficking cases.

- The **Law on Social and Child Protection**, provides rights and entitlements both for nationals but also for foreign children. Accordingly to this law a *child* is a person under 18 years old (Article 19). In achieving social and child protection objectives, the victims of trafficking in human beings shall be protected in particular.

- *Protection measures for witnesses and victims of THB* are stipulated by the **Law on Witness Protection** and the **Criminal Procedure Code (CPC)**. The CPC stipulates that the protection of witnesses includes hearing of witnesses under pseudonym and hearing with the assistance of technical devices (protective wall, voice simulators, devices for transmission of image and sound). Criminal courts provide for a victim and witness support service which assists the victim or witness, for example by preventing possibilities of physical assault or insults on the court premises prior to and after the trial. Witness protection can also be provided outside criminal proceedings, in accordance with the Law on Witness Protection. It also provides for the protection of the witness' relatives. The Witness Protection Unit is part of the Police Directorate.

- The **Law on Compensation for Damages to Victims of Violent Crimes** was adopted on 1 July 2015. It foresees that compensation for physical and psychological damage as well as for loss of earnings will be provided by the State when it cannot be obtained from the perpetrator. The crime has to be reported to the police or the Prosecutor's Office. Compensation is envisaged in cases where the victim suffered a serious bodily injury or serious impairment of his/her physical and mental health, or died. Citizens of Montenegro, citizens of State Parties to the European Convention on the Compensation of Victims of Violent Crimes, citizens of Council of Europe and EU member states with permanent residence in Montenegro, as well as EU nationals and persons lawfully residing in the EU, are eligible for compensation under the law. The compensation covers the costs of health care, loss of earnings and funeral expenses. If the criminal act caused incapacity for work, a lump sum not exceeding 10 average monthly net earnings would be paid. The procedure for compensation has to be initiated by a written request to the Ministry of Justice not later than six months from the date of the offence. A commission will be set up by the Government to decide on compensation awards. Compensation can be awarded before the initiation of judicial or other proceedings if it is necessary for the timely elimination of harmful consequences for the physical and psychological health of the victim. Following the payment of compensation to the victim or his/her dependents all rights relating to the perpetrator of the offence are transferred to the State up to the amount of compensation paid.

Considering that the availability of State compensation is a requirement under Article 15, paragraph 4, of the EU Convention, the Law on Compensation for Damages to Victims of Violent Crimes *will only enter into force when Montenegro accedes to the EU*.

Victim identification,

Whether it is a question of changing the legislation, increasing cooperation or raise public awareness through national campaigns, victim identification remains inadequate, Montenegrin authorities should step up their efforts to detect potential victims.

Law enforcement officials, social workers, labor inspectors and other relevant actors must adopt a more proactive approach and increase their outreach work to identify potential victims of trafficking.

The Montenegrin authorities continue to use the term “identified victim of trafficking” only in cases where there is a final conviction for THB. All persons who are recognized as victims of THB by the police are assigned the status of “potential victim of THB”. The status of “potential victim”, however, gives the person concerned rights to assistance and protection, including a recovery and reflection period, which is comparable to the status of a formally identified victim of trafficking in other jurisdictions.

Although the specialized police units launched several operational activities no victims were identified in 2015 and 2016, and in the end no perpetrators were convicted for trafficking in human beings in the same period.

It is of highest importance to identify victims of THB and therefore the capacity of all authorities and NGOs that may encounter victims of THB must be improved. Further awareness raising and training for authorities is required in order to make clear that a person can be a victim of THB even though the perpetrator is a family member. It is crucial to stress that THB is not to be considered as a private family matter but should be regarded as a severe crime and the suspected victim should receive the assistance he/she is entitled to.

Victim assistance and protection by NGO

It is also highly important that persons who are presumed to be victims of THB for all forms of exploitation receive the assistance and protection they are entitled to, regardless of their willingness to participate in a criminal proceeding.

A strong victim based approach is required.

Therefore, the collaboration and referral between relevant authorities, such as the Police, and NGOs (shelters) must be strengthened.

An SOS hotline for victims of trafficking is operated by the NGO Montenegrin’s Women’s Lobby with funding from the Office for the Fight against Trafficking in Human Beings. The toll-free hotline can be reached around the clock. In case of reports of possible trafficking situations, the hotline operators inform them about their possibilities and, depending on the received information, inform the Office for Fight against THB on the received requests. The Office takes all the received information to a higher level of processing, forwarding them to the Police Directorate, which takes measures and actions within its competence on verifying the claims contained in the telephone reporting. However, no call led in the end to the identification of a victim of THB from 553 calls in 2015 and 466 calls in 2016. The hotline is more considered by the general public as a source of information instead of rapportation.

We most differentiate between differentiate between different kind of calls:

- a lot of calls have nothing to do with new possible cases of trafficking;
- some callers are former victims who stayed at the shelter asking information because they trust the organisation;
- some callers did a rehabilitation training and require extra info on the topic;
- some call to report a possible case of THB;

- students also call the hotline to learn more about trafficking;
- there is no particular relevant trend in the timing of the received calls. It rises slightly during the tourist season;
- minors call as well to obtain info on THB.

Government-recognized **Montenegrin Women's Lobby** (MWL) shelter includes accommodations for victims, a hotline call service and a reintegration centre;

MWL is an organization which has been selected to provide assistance to potential human trafficking victims during their stay in the state Shelter for human trafficking victims. The state Shelter also holds an SOS line for human trafficking victims, where activists of NVO MWL are engaged too. Functioning of the Shelter (a rent to lease a house, everyday costs, provision of all the costs to meet the basic needs of the beneficiaries during their stay in the shelter) including an operation of the SOS line and the provision of a fee for engagement for 4 activists. Shelter is financed entirely by the state through the budget of the National office for the fight against trafficking in human beings.

The MWL accommodations for victims are located in a secret location. It has a small number of beds, but it can accommodate small families. The accommodations are generally quite small when compared to the SOS Nikšić's.

SOS Nikšić also has an office and some accommodations in separate location with the shelter located at a secret location.

The MWL hotline service is connected with the shelter's landline and managed by the shelter staff. After 17:00, the landline switches over to a personal line. Each weekday, a report of the received calls is prepared and sent to the National THB Office. If there are any urgent calls, the police are contacted immediately.

SOS Nikšić also operates a call line which is meant to provide help in cases of violence.

There seems to be no notable trend in terms of the call times (morning versus evening), but there does seem to be an increase in call volume during the tourist season. Many of the calls are of an educational matter, identical to the SOS hotline from the Woman's Lobby. The hotline is also used by ex-clients of the shelter and by those who have participated in training programs to keep in touch with the staff.

The MWL also operates a **Facebook group** where they share information and try to raise awareness. They try to target Roma males specifically.

The MWL NGO recognizes that trafficking is becoming less visible with the increased use of social media and as such, they must work harder to identify victims.

The MWL shelter also operates a **reintegration centre** which is located outside of the city centre and focuses on helping the Roma.

The MWL reintegration centre provides vocational training and certification for those who have completed a program. While this is an effective method, one is not eligible to participate if they do not first have their primary school education. As a result, many of the Roma can't apply because of the lack of education. Currently, there are four employees who share their time between the shelter, the reintegration centre and the hotline; each is paid for their work through government funding.

This is the data from MWL shelter:

the data provided were submitted by the National office for the fight against trafficking in human beings. Persons who were accommodated in this period in the state shelter for human trafficking victims were identified by the coordination team for monitoring the implementation of the agreement on cooperation in fight against trafficking in human beings as potential human trafficking victims and in accordance with the agreement they were provided all the necessary assistance and protection.

- 2015 – 3 presumed victims assisted

All three are minors, belonging to Roma population, Montenegrin citizens (potential victims of trafficking in human beings, all forms of exploitation – unauthorized marriage).

- 2016 – 3 presumed victims assisted

Minors, Roma, Montenegrin citizen (potential victim of trafficking in human beings, all forms of exploitation – unauthorized marriage). After leaving the Shelter, as assessed by the social workers, the presumed victims were transferred to a long-term accommodation into the Children's Home “Mladost” – Bijela, until the age of majority.

- 2017 – 2 presumed victims assisted

1.Minors, citizen of Serbia, Roma. Upon request of the Centre for Protection of Victims of Trafficking in Human Beings Belgrade, she was found in Podgorica and taken back to the competent Centre for Social Work in Serbia. She stayed in the Government’s Shelter from 13 January to 19 January 2017.

2.Minor, citizen of Serbia, Roma. A potential victim of agreed/forced marriage in Niksic. She stayed in the shelter from 2 February to 20 February 2017, after which she was transferred to the competent Centre for Social Work in Serbia.

Positive notes from the working visit at NGO shelters

Overall, there was an **observable change in operating mentality**: they seemed more focused and engaged than during the previous visit

- the employees are engaged in (regular) visits to hotspots to monitor and to look out for victims; they are more active in fieldwork
- they are demonstrating a greater effort at establishing an international network
- more visibility campaigns

The shelter has more activities for victims to engage themselves in and make themselves useful: *sewing machines, self-improvement, courses, learn skills; better keeps them busy.*

Niksic is a good example of local authorities working together e.g. the development of a Local Action Plan which contains measures and activities which are recognized in the National Anti-THB Plan, but tailored to the local context. The Local Action Plan was developed collaboratively with the police, primary care centres, Roma NGOs, education centres, and a local employment centre. It was developed, *i.e.*, to help prevent trafficking: be it prostitution, forced marriages and other forms of exploitation. Niksic is planning to open a day-care centre in September 2017 in an effort to help Roma children; by next year, they hope to have a shelter which can host children for up to fifteen days.

The local government, the police and the civil society associations arrange meetings with the Roma community in an effort to prevent forced marriages.

Investigation, prosecution and procedural law

Pursuant to article 158 of the Code of Criminal Procedure (CPC), special investigation techniques can be used when the suspected crime is punishable by imprisonment of 10 years or more. This is the case for trafficking in human beings (article 444 of the CC), trafficking in minors for adoption (article 445 of the CC) if the offence is committed in an organized manner by several persons, and slavery and transportation of enslaved persons (article 446 of the CC).

The available special investigation techniques are listed in article 157 of the CPC and the competence to order such measures in article 159 of the CPC.

The measures listed in article 157, paragraph 1, of the CPC have to be ordered in writing by the investigative judge and include: secret surveillance and recording of telephone conversations, other telecommunications, or private conversations held in private or public premises or places; taking photographs and video recording in private premises; and secret supervision and technical recording of persons and objects.

The measures listed in article 157, paragraph 2, of the CPC have to be ordered in writing by a prosecutor and include: simulated purchase of objects or persons and simulated giving and taking of bribes; supervision of transport and delivery of objects of criminal offence; recording conversations with the consent of one of the interlocutors; use of undercover agents.

Financial investigations are envisaged in case of reasonable suspect of committing a crime against humanity or other values protected by international law, which includes trafficking in human beings. According to the authorities, no financial investigations have been conducted so far in cases related to THB.

International Co-operation at the police level is carried out on the basis of bilateral agreements, through INTERPOL or the Southeast European Law Enforcement Centre (SELEC). The Police Directorate of Montenegro is a member of the SELEC's working group in the fight against human trafficking and illegal migration. In 2014, Montenegro concluded an operational Agreement on co-operation with EUROPOL.

Cases of trafficking in human beings are often investigated, prosecuted and brought to court as other offences (e.g. Pandering, article 210 CC) that are easier to prove, but carry lower penalties (a maximum penalty under article 210 of the CC is one year imprisonment) and deprive the victims of an appropriate status. It is at this stage not possible to justify such procedural choices. However, lack of awareness of the crime and misperception of the phenomenon and its consequences for the victims might be a first step for the explanation.

Data and statistics results for 2015 - 2016 and first half of 2017

Special State Prosecutor's Office

The Special State Prosecutor's Office doesn't have any case of trafficking in human beings in the reporting period (2015- 2017). Those cases are in SSPO's jurisdiction only if they are committed in an organized manner, while in the absence of organization element, the Higher Prosecution is competent.

High State Prosecutor's Office

In 2017, the High State Prosecutor's Office in Podgorica carried out investigation against two persons for the criminal offense of rape, under provision 204 of the Criminal Code of Montenegro. After investigation, there was a reasonable suspicion that these people committed also a criminal offense of trafficking in human beings under provision 444 of the Criminal Code of Montenegro. Thus, an order on extension of investigation was issued on 5 July 2017 against these two people, and subsequently, on 6 July 2017, was filed an indictment for the criminal offense of trafficking in human beings under Art. 444 of the Criminal Code of Montenegro. At the time of this report, the confirmation of the indictment was not ruled yet.

It is important to underline that in the previous period, precisely in 2010, the High State Prosecutor's Office in Podgorica, filed an indictment against six people, while in 2012 an indictment was filed against one person, for the criminal offense of trafficking in human beings, and in both cases were issued convicting judgments against all persons.

Between 2015 -2016 no indictments were issued related to trafficking in human beings.

In the High State Prosecutor's Office in Bijelo Polje, during 2015, 2016 and 2017 there were no formed cases for the criminal offense of trafficking in human beings under Art. 444 of the Criminal Code of Montenegro.

Police Directorate – Unit for fight against trafficking in human beings and illegal migrations

The approach to combat human trafficking at the Police Directorate level is based on a series of planned measures and actions, both preventive and repressive, which are detailed in the plan for the implementation of the "Trafiking" Action. This action and its activities are directed from the before mentioned Group towards all Centers and Security Departments in Montenegro. Planned focus activities involve the identification of victims and potential victims of human trafficking, identification of interesting objects, persons, sites, further local and international information checking, and reporting to the Department for Organized Crime and Corruption on the achieved results.

In accordance with the obtained information and field data in cooperation with the competent prosecutor's office, the Group's officers dealing with the suppression of human trafficking initiate investigations that involve the implementation of special investigative techniques (telephone communications control, physical monitoring, use of covert investigators, etc.). The further jurisdiction of the Prosecution is to perform the final qualification of the criminal offense.

Taking into account the period from 2013, and even earlier, it has been identified in Montenegro that sexual exploitation is the most pronounced during the summer tourist season. This form of exploitation is manifested through the functioning of the so-called "nightclubs" or through the criminal activities of individuals who play the role of organizers and middle-man in providing sex services.

As a result of the Action "Trafiking" through the implementation of operative work in 2015, 83 pieces of information have been processed, in 2016, 66, and up to June 2017, 47 pieces of information have been processed. Still none of those resulted in identification of victims or in initiating cases under prosecutor office coordination. As to explain such results, the local authorities indicated that in each case there was a lack of evidence in order to proceed further under the incrimination of human being trafficking.

Judiciary

For the Art. 444 of the Criminal Code, there were no cases in the work before courts during 2015, 2016 and the first half of 2017.

NGO data on the number of beneficiaries that have stayed in the shelter, assistance provided, have been submitted by the National office for the fight against trafficking in human beings. 2015 – 3 presumed victims assisted

All three are minors, belonging to Roma population, Montenegrin citizens (potential victims of trafficking in human beings, all forms of exploitation – unauthorized marriage).

- 2016 – 3 presumed victims assisted

Minors, Roma, Montenegrin citizen (potential victim of trafficking in human beings, all forms of exploitation – unauthorized marriage). After leaving the Shelter, as assessed by the social workers, the presumed victims were transferred to a long-term accommodation into the Children's Home “Mladost” – Bijela, until the age of majority.

- 2017 – 2 presumed victims assisted

1. Minors, citizen of Serbia, Roma. Upon request of the Centre for Protection of Victims of Trafficking in Human Beings Belgrade, she was found in Podgorica and taken back to the competent Centre for Social Work in Serbia. She stayed in the Government's Shelter from 13 January to 19 January 2017.

2. Minor, citizen of Serbia, Roma. A potential victim of agreed/forced marriage in Niksic. She stayed in the shelter from 2 February to 20 February 2017, after which she was transferred to the competent Centre for Social Work in Serbia.

Main conclusions

Difficulties to identify victims

- Despite NGO efforts in hotspots (focusing on prevention/awareness), there is still a significant **lack of victims identified** especially considering that zero victims have been found in neither the sex industry nor in forced labour.
- Human trafficking is increasingly invisible making it more difficult to identify victims; transactions and discussions are occurring more and more frequently online which makes traffickers and victims more difficult to trace and to identify.

Room of improvement to protect victims

- The hotline needs to be made more visible to the public; number of calls received 2016 = 466
- Victims still have to go through the interview process alone. Allowing NGOs to participate to the interview process together with the victim fosters trust between the victim and the police. Currently, there is a significant lack of trust amongst the different partners: police, NGOs, government, prosecutor etc.
- Victims are not recognized as such in the current system. No **status is given unless there is a conviction**; it is acknowledged that they are victims, but they are not legally recognised as such until there is a conviction (no conviction, no status).
- NGO's staff is not trained enough due to the short period of time that they are working at the same place; at the time of the evaluation, no specialised NGO in assisting trafficking victims were identified, most of them are dealing also with other categories of victims (domestic violence);
- Social Enterprise Law provides that only those with primary school or only those registered as unemployed can participate in the NGO's vocational training programs available at the reintegration centre. As such, the government denies funding for the victims of THB who in general did not have primary school education nor have been registered as unemployed. It does not allow a certificate to be granted despite the fact that the reintegration centre continues to provide the training for these vulnerable people/victims of human trafficking.

- Courts offer also assistance and protection for victims\injured parts\witnesses through professionals from special departments, public is not aware but about this possibility, and not even most of the officials too; no cases assisted yet;
- NGO would like to be aware when criminals are being released
- No definition of child marriage; acceptable age must be set in law and violations must be criminalized and written in Criminal Law and Family Law

Lack of prosecution under THB incrimination / low penalties give a bad signal to perpetrators

- The penalties given to perpetrators of human trafficking are still too low and do not adequately discourage or punish perpetrators.
- Police have said that the criteria for being considered as a victim of human trafficking are too demanding, making persecution even more difficult
- At the level of Police units (in particular for local ones) it seems that investigating trafficking in human being is not a priority, this crime being approached from the point of view of other crimes, which in fact are forms\part of exploitation: *Pandering (Article 210 CC)*, *Concluding a Void Marriage (Article 214 CC)*, *Customary Marriage with Juvenile (Article 216 CC)*, *Unlawful employment (Article 225a CC)*, *Trade in human organs (Article 295a CC)*;
- Specialised police units should be more involved in *operational activities* which can conclude in more intelligence gathered but also as evidence that can be further identified by prosecutors as a trafficking case;
- For both child-begging and early marriages, indictment and harsher penalties are needed, especially targeting parent who are exploiting their children;
- In cases with *presumptive labour exploitation* multi-disciplinary teams from police, labour inspection and tax administration controls national but foreign workers too; no victims of human trafficking were identified yet.
- In terms of *international co-operation* no request or other intelligence are forwarded to Montenegrin police authorities, data that can indicate some THB victims or cases;
- Police local units doesn't recognize *organized characteristic* of criminal groups or cases, especially due to temporary phenomenon during touristic season;
- Data obtained at the level of local police conclude that women involved in *prostitution* are coming in Montenegro from neighbouring countries as an opportunity to gain more money, especially during touristic season;
- Police considers that in terms of *number of specialized officers* dealing with combating THB there are enough units but at this point there is no phenomenon to investigate;
- Even prostitution is criminalised, prostitutes usually aren't penalised, but treated as presumed victims; eventually a fine can be issued but in most of the cases this doesn't happen;
- At the local police units there is only one police officer which have among other competences and attributions also the responsibility to monitor any suspicion related to trafficking in human beings, and if there is a presumed victim\case, they report to central unit in Podgorica for\to further steps\take over; also, all intelligence gathered and other activities which are part of Action Plan are reported monthly to central unit from Podgorica;
- At the prosecutor level, indeed, the testimony of the victim is of the utmost importance, it should however not be the core element for deciding whether it should be prosecuted under provision of THB or not. Collecting various sources of evidence shall be encouraged before the indictment.

Need of reinforcement of inter-agency cooperation and communication with NGO

NGO representatives meet with governmental officials only once time a year, basically for statistical reasons and for drafting the annual report, fact that underline poor cooperation between them; A

representative of the NGO is a member of the working group for monitoring the implementation of the national strategy for the fight against trafficking in human beings which according to the plan and program meets quarterly, and if necessary more often. Also 6 NGOs are members of the Coordination team for monitoring the implementation of the Agreement on cooperation in fight against trafficking in human beings and are being orderly invited to the meetings which are organized on this occasion.

5. Recommendations

1. At a political level / Office to the national coordinator on fight against THB

- To strengthen the monitoring mechanism of the action plan to effectively check (e.g. on an annual basis) the impact of the action plan, including through the systematic use of impact indicators.
- Law on compensation to victims of violent crimes: to implement the 2015 law (establishing the fund for the victims) instead of waiting until EU accession for doing so.
- To ensure that at the highest political level (Minister of justice and minister of interior) THB is considered as a priority for the country and to instruct the relevant services accordingly and ensuring that there is sufficient staff for implementing the national strategy on THB;
- SOCTA : to make a better link between the SOCTA priorities and the operational priorities.
- To the NACT : to strengthen the NRM and to monitor the system of assistance and protection of victims

2. Police and Judiciary

- To identify victims of THB among vulnerable groups and refer them to NGO for further assistance, protection and reintegration;
- To increase the number of cases of THB investigated\prosecuted\convicted, also by encouraging the double incrimination (THB+Pandering*Concluding a Void Marriage\Customary Marriage with Juvenile, etc*);
- To increase the number of specialized and dedicated staff units to deal with THB ; to take in consideration creating a pool of specialized prosecutors in order to deal with THB cases (to become accountable to the number of cases prosecuted);
- To take into consideration when investigating and prosecuting this types of offences all means that could "force" into exploitation as prescribed by CC Art 444 (not only use of violence, or threat...) as an element of THB offence.
- To develop trainings for police and prosecutors and judges /TAEIX training base on EU / EHRC / jurisprudence in order to clarify the element of the THB incrimination under art. 444 criminal code of Montenegro.
- To develop trainings for police/ prosecutors and judges on forced and early marriages as a qualification of THB (art.216 customary marriage with a juvenile).
- At a local level, in order to have a pro-active approach, to encourage law enforcement institutions (judges/prosecutions) and the civil society to set up a platform for regular meeting in order to discuss about the current trend and identify the potential victims.

- To better cooperate with NGO, in terms of referring presumed victims but also in terms of protection during the trial before court (support the testimony of the victim, including special protection of the witness\injured part\victim);
- To increase financial investigations in THB cases, due to the fact that large amounts of money could be laundered through the process of exploitation;
- To increase international co-operation due to transnational trend of the phenomenon, but also due to the destination country characteristic for Montenegro;
- To establish a system of regular exchange of information between police and prosecutors
- To guaranty a greater gender diversity in the THB police task force since currently, it is male-dominated. It would help for the victims' interviews.

3. NGO

- To have a dedicated NGO dealing only with THB
- To assist the victims in explaining the police / judicial process and to accompany them to the police station. It will reassure the victim and give strength to her/his statement.
- To better implement MOU between police and NGO in order to grant the status of victim earlier in the investigation
- To increase prevention campaign in regards of THB / (ie providing leaflet at the border/ airport to the potential victims)
- NGO staff member should be present during the interview process with the police; certainly during the first interview, but subsequently as well to build trust
- More cooperation and coordination between the government departments (trafficking office, specialized police unit, prosecutor) and the NGOs; each department has to make an effort for this to function; the more cooperation there is, the more likely a conviction is likely
- Information of law, must ensure that there are law practitioners present to provide their legal expertise. This means that a victim should be entitled to legal support and information. But victims are not aware of that. It should be offered automatically.
- Allow THB victim status to be granted regardless of prosecution/conviction
- The Government should provide an additional specific amount of funds per recognized victim to the reintegration centre so that the centre has a better financial capacity to provide these valuable trainings. Victims must first be granted official THB victim status (not the current situation where this only occurs after a conviction) and from there, funding could be allotted per recognized victim
- Courses need to be made available and adequately funded to allow the Roma to obtain their primary education so that from there, they can participate in these trainings if so desired. These special courses aim to improve literacy, but not just that alone. They also provide training for particular skills to obtain jobs.
- Eligibility for the programs needs to be expanded so that unregistered individuals and those without primary education can also participate *with* government funding
- More shelters or day-care centres are needed to provide activities, showers, shelters and to help keep kids off the streets