



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

Recommendation CP(2016)10
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Montenegro

*adopted at the 19th meeting of the Committee of the Parties
on 4 November 2016*

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(2012)9 of 13 November 2012 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 5 November 2014;

Having examined the second report concerning the implementation of the Convention by Montenegro, adopted by GRETA at its 26th meeting (4-8 July 2016), as well as the comments of the Montenegrin Government received on 14 September 2016;

1. Welcomes the progress made since the first round of evaluation in the following areas:
 - the further development of the legal framework for combating trafficking in human beings, by expanding the lists of forms of exploitation and aggravating circumstances and explicitly stating the irrelevance of the victim's consent to the intended exploitation as part of the criminalisation of trafficking in human beings, as well as adopting legal provisions for granting a recovery and reflection period of up to 90 days and a temporary residence permit to victims of trafficking independently of their co-operation with law enforcement authorities;
 - reinforcing of the multi-agency approach to victim identification by signing an updated Memorandum of Co-operation between State institutions and NGOs on action against human trafficking and expanding the list of stakeholders involved in the initial identification of victims of trafficking;

- involving NGOs in the development and co-ordination of anti-trafficking policy by appointing an NGO representative to the Working Group monitoring the implementation of the National Action Plan and including NGOs in the co-ordination body under the Memorandum of Co-operation;
- the efforts made to provide training on human trafficking to relevant professionals, expand the categories of staff targeted, and adopt a multi-stakeholder approach to training;
- the steps taken in the area of prevention through general awareness-raising activities, measures targeting displaced persons and persons without identify documents, and actions plans in the area of gender equality and for the social inclusion of Roma and Egyptians;
- the steps taken to prevent trafficking in children through the inclusion of information on the risks of trafficking in school curricula and the involvement of the Ombudsman's Office in the prevention of the exploitation and trafficking of children;
- the legislative changes to the procedures for granting residence and work permits which limit the risk of abuse by employers.

2. Recommends that the Montenegrin authorities take measures to address the following issues for immediate action identified in GRETA's report:

- take additional steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:
 - 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;
 - further sensitising relevant officials, in particular labour inspectors, prosecutors and judges, about human trafficking for the purpose of labour exploitation and the rights of victims in order to proactively identify victims of trafficking, paying particular attention to migrant workers;
 - paying increased attention to detecting victims of trafficking among asylum seekers and persons placed in the immigration holding centre;
 - strengthening multi-disciplinary co-operation between all relevant partners;
- take further steps to improve the identification and assistance of child victims of trafficking, including by:
 - ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of human trafficking by paying particular attention to children in street situations, children from the Roman, Ashkali and Egyptian communities and unaccompanied minors;
 - providing adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training;
 - providing further training to stakeholders (police, centres for social work, NGOs, health-care and education professionals) as well as guidance for the identification of child victims of trafficking;
 - promoting a multi-disciplinary approach between all partners involved;
- take steps to facilitate and guarantee access to compensation to victims of human trafficking, including children, including by:

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- 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;
 - enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation;
 - including victim compensation into training programmes for law enforcement officials, prosecutors and judges;
 - making full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking;
- take additional measures to guarantee the application of the non-punishment provision, including by adopting a specific legal provision and/or the development of guidance for relevant professionals on the scope of the non-punishment provision.
 - take measures to ensure that human trafficking cases, including those involving public officials, are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions, including by:
 - sensitising prosecutors and judges to the rights of victims of human trafficking and encouraging the development of specialisation among prosecutors and judges to deal with human trafficking cases;
 - providing specialised training to investigators and prosecutors to reinforce financial investigations and the confiscation of criminal assets;
 - making every effort to investigate and prosecute cases of human trafficking under section 444 of the CC which carries heavier penalties than section 210 of the CC.
3. Requests the Government of Montenegro to report to the Committee of the Parties on the measures taken to improve the implementation of the Convention in the above-mentioned areas by 4 November 2017.
4. Recommends that the Government of Montenegro takes measures to implement the further conclusions of GRETA's second evaluation report.
5. 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.