

Title of the mission: EXPERT MISSION ON PROTECTION SYSTEM FOR VICTIMS OF HUMAN TRAFFICKING

Mission timeframe: from 22/01/2024 to 25/01/2024

Disclaimer

The views articulated and expressed in this report are purely those of the author and may not in any circumstances be regarded as stating an official position of the European Commission.

Contents

1.	Background	1
2.	Introduction	1
2.1.	Mission's Objective.....	1
2.2.	Methodology of the Evaluation	2
3.	Executive Summary.....	2
4.	Findings.....	3
4.1.	Positive and encouraging aspects of the current anti-trafficking policies in Montenegro	3
4.2.	Challenges	4
5.	Recommendations	6
5.1.	Recommendations related to the funding for the public and private social service providers.....	6
5.2.	Recommendations related to the licensing system of social service providers	6
5.3.	Recommendations related to the quality of social service providers and their social services	7
5.4.	Recommendations related to the shelters.....	8
5.5.	Recommendations related to the multisector and multidisciplinary collaboration	9
5.6.	Recommendations related to the long term reintegration of victims.....	9
5.7.	Recommendations related to children	10
5.8.	Recommendations related to the work of law enforcement agencies and judicial authorities	10
5.9.	Recommendations related to the collaboration of victims on the judicial proceedings	10
6.	Annexes	11

1. Background

2. Introduction

2.1. Mission's Objective

The mission's main objective is defined as follows: to provide to the Montenegrin State recommendations on the organisation of the provision of support to victims of THB.

More in particular the following questions were raised by the government partners:

- ✓ How to improve the way the State selects the NGOs responsible for the support to victims? How the selection could be organized? What are the safeguards and monitoring mechanism that could be implemented? How to guarantee that a licenced NGO has trustworthy staff?
- ✓ How to improve, maintain and control the quality of the NGOs' work?
- ✓ What measures can be taken to ensure long-term collaboration between NGOs and the State on the issue of THB? With regards to funding, duration of NGOs' accreditation, and other elements?
- ✓ What kind of services should be provided to the victims throughout the protection and integration procedure? How to ensure reintegration of victims in the long run? How to prevent revictimization?
- ✓ How to implement the victim support services in accordance with the State organisation?
- ✓ How could the State cooperate with the licensed NGOs? At policy level? At operational level? For example for the judicial follow up of victims?

2.2. Methodology of the Evaluation

The evaluation was realised through following steps:

- ✓ Analysis of documentation ante mission
- ✓ Meetings with relevant stakeholders during the 3-day mission (cf. agenda of the mission)
- ✓ Discussion of preliminary findings and recommendations at end of mission with stakeholders
- ✓ Analysis of documentation post mission
- ✓ Drafting of findings and recommendations individually
- ✓ Compilation of findings and recommendations

3. Executive Summary

This section will be completed when the report is finalized.

4. Findings

4.1. Positive and encouraging aspects of the current anti-trafficking policies in Montenegro

Crucial principles of the EU Anti-Trafficking Directive 2011/36 are implemented with interesting expertise in Montenegro. In particular, the following elements can be highlighted:

- ✓ The national legal framework regarding anti-trafficking policies and protection of victims is well developed and provides a strong backbone, with among others the following documents: National Strategy for Combating Human Trafficking in Montenegro, THB Cooperation Agreement between Ministries, Criminal Code, Law on Witness Protection, Law on Compensation to Victims of Violence, Law on Free legal Aid, Law on Social and Child Protection.
- ✓ At operational level, the 'Team for Formal Identification of Trafficking Victims' is a key player in the protection of victims. It is responsible for confirming the identification of victims of THB. Composed by professionals from different bodies (Ministry of Interior, Ministry of Labour and Social Welfare, Ministry of Human and Minorities Rights, Police and NGO), it brings together different areas of expertise, which is clearly an added value. Once the team's decision has been notified, the victim will be able to benefit from the rights arising from the specific protection procedure. The team's decision is taken in an informed way, with input from a variety of sources. The Team's Standards Operating Procedures to assess and identify victims of THB can be considered as a good practice.
- ✓ At policy level, the 'Coordination Body' (set up to implement the THB Strategy) has a crucial role in coordination and development of strategies. Headed by a representative of the Ministry of Interior, this body gathers representatives from all relevant ministries (such as Labour and Social Welfare, , Education, Culture, Human and Minorities Rights, Tourism, Health and Justice) and from relevant authorities (such as police, inspectorate, prosecution, court, and NGOs). It meets 4 times a year (or more if necessary).
- ✓ Victim support is formally unconnected with legal proceedings and unconditional to the victim's willingness to file a complaint. The victim is not required to take part in the legal proceedings in order to benefit from protection. This is fully in line with article 11.3 of the EU Anti-Trafficking Directive 2011/36.
- ✓ The principle of non-punishment has recently been confirmed on December 2023 by Law, together with an amendment to the criminal code to change the terminology of the term "minor" to "child" therefore raising the age of "children" from 14 to 18. There are also legal provisions on the free legal aid for victims of THB. Both measures are in line respectively with article 8 and article 12.2 of the EU Anti-Trafficking Directive 2011/36.
- ✓ Victims of THB were provided with accommodation in shelters. The shelters visited have adequate space, professional and motivated teams (state run shelter in Ljubovic in Podgorica, and the NGO-run shelter in Niksic). The NGO "SOS Nikisic" has already has many years' experience in dealing with domestic violence, and has developed a follow-up program for victims of THB.
- ✓ The victims can also be assisted by a trustworthy person during hearing procedures what's important to help her/him overcome her/his apprehensions.
- ✓ There is a general licensing procedure for social services, which falls under the competency and responsibility of the Ministry of Labor and Social Welfare.
- ✓ There is a general licensing procedure for social workers via the Institute for Social and Child Protection, whose role is to license social workers, build their capacity, and provide accreditation to training programmes. All professionals (regardless of their function) who work in social and child protection in Montenegro need a license from this institute.

- ✓ Since 2019 the State has been taking different initiatives and has financed different programs for public and private social service providers to conduct trainings, awareness campaigns, and to develop victim support services.

4.2. Challenges

Alongside these good practices, the experts noted some challenges and difficulties that can be summarised as follow:

Challenge 1: Existing service providers for victims of THB and other forms of GBV don't have sustainable resources to ensure their support to victims.

- ✓ The current system of funding social services (run both by the authorities and the NGOs) has allowed the allocation of funds to the activities of an organization that was initially licensed but has been involved in possible abuses of beneficiaries.
- ✓ The conditions for obtaining the fundings are numerous and strict, with the result that the shelter/NGOs must practically already exist in order to obtain funding; Moreover, the license is granted for only one year which makes difficult for the NGOs working on THB to develop long term projects. Of course, it is usual for states to have an annual based budget, but there is a need to ensure a degree of stability in the granting of licences and the funding that goes with it.
- ✓ The NGOs funded to help victims are in fact carrying out public service missions, since they help the states meeting the obligations incumbent to them. However, we note that NGOs are only funded for approximately half of the necessary amounts.
- ✓ Regarding the reintegration aspect, it is also noted that the support provided to the victims should be better defined and organized via institutions clearly identified and receiving enough funding for this purpose.

Challenge 2: The assessing and monitoring mechanism of the quality of the services provision are not sufficiently developed.

- ✓ While the current licensing system of social services in general is an added value, some issues exist and influence negatively the sustainability of the system. There are difficulties in applying this system to social and protection services provided to victims of THB. Although there is a general framework on minimum quality standards to be respected by any social service provider, no specific minimum quality standards are developed based on the profile of the social services for victims of THB with the aim to address their specific needs and ensure their social integration.
- ✓ The accommodation capacities of the licensed centres do not fully comply with the requirements and needs for this type of social services.

Challenge 3: Long term reintegration of THB victims is not sufficiently ensured.

- ✓ Article 11 of EU Anti-Trafficking Directive 2011/36 states that Member States shall take the necessary measures to ensure that assistance and support is provided to victims before, during and for a sufficient period after the conclusion of criminal proceedings.
- ✓ The application of these measures presupposes a system of reception, assistance and follow-up in the short and longer term that is stable.
- ✓ On the one hand, it is necessary to guarantee the stability of reception and social services to ensure that support for victims covers both the period of reflection and the minimum follow-up that may continue after legal proceedings.

- ✓ On the other hand, guaranteeing the stability of victim support services is also in the interests of the authorities and the police. It is in the interests of the judicial authorities to ensure the victims are involved in the proceedings, to be able to make statements or give evidence. Good cooperation between victim support services and the authorities must therefore be established, and this can only be achieved over the long term.
- ✓ During the visit, the experts noted that a low number of victims are willing to take part in the legal proceedings. One reason for this is that some of them prefer to return to their origin country, while another is that the organization of long-term support is lacking, which can be an obstacle for victims.
- ✓ The Roma (adults and children) have a high risk to be exploited through begging, but also through labour exploitation and sexual exploitation, and are not receiving enough social support in order to strengthen their resilience regarding the risk of THB, nor to facilitate their social integration.

Challenge 4: Risks of secondary victimization, issue with the law enforcement agencies attitude, lack of support to victims during the judicial proceedings

- ✓ The absence or difficulty for victims to take part in legal proceedings can also be linked to the attitude of law enforcement agencies. Even if this comment is not applicable to all services, we note that certain reported attitudes are likely to result in secondary victimization for victims, which will hinder their collaboration. Article 12.4 of the EU Anti-Trafficking Directive 2011/36 pays specific attention to the risks of second victimisation and the initiatives that states must take to prevent this.
- ✓ It was also pointed out that law enforcement agencies should be more proactive in tracking down THB cases and be more reactive when suspicions situations are brought to their attention. It is reminded that it is important to act as quickly as possible, as traffickers who suspect police intervention will tighten their grip on the victim to discourage him/her from telling the truth about his/her situation.
- ✓ Moreover, although free legal aid is provided for by law, there are few lawyers trained in the issue of THB, although this could be a confidence-building factor for the victim.

Challenge 5: Lack of convictions on THB in general and absence of judicial cases regarding THB for labour exploitation

- ✓ There are few if any conviction for THB which means that there needs to be more connections between the services that protect victims, the police and the public prosecutor's office. Clear guidelines are also needed to enable prosecutions to be organised on the basis of the offence of THB.
- ✓ Eventually, there doesn't seem to be enough attention paid to the issue of economic exploitation, so that it is very rare to identify male victims and there are no specific shelters for them.
- ✓ The Montenegrin legal framework counts many other crimes (e.g. child neglect) that can be used to charge traffickers. As a consequence, prosecutors tend to press charges for other crimes and courts tend to convict for other crimes.
- ✓ Traffickers are not convicted. There are no barriers to stop their lucrative activities.

Challenge 6: Lack of awareness and training on THB among law enforcement officials

5. Recommendations

5.1. Recommendations related to the funding for the public and private social service providers

- ✓ The NGOs licensed by the State and providing support to victims of THB perform de facto public service missions for the State, helping it to meet the obligations arising from international provisions. As a consequence, funding for NGOs licensed for this purpose should, as far as possible, cover more than half of their expenses, if not full funding. The State funding to the social service providers should actually cover 100% of the essential minimum services. The NGOs cannot function sustainably when their managers need to spend their time to raise funds for the services for which they are licensed. (At the same time, it is understandable to expect from NGOs to raise their own funds via projects and donations with regards to non-essential and extra services to the victims.) This measure will ensure a certain level of stability and sustainability to the NGOs and by consequence benefit the quality of the services and staff (who will not need to worry about their next salary or temporary contract).
- ✓ The financing process of the public and private social service providers should be a more transparent and comprehensive one; it should be designed by the State in close cooperation with NGOs and public social service providers in order to cover not only accommodation, but also the costs related to psychological counselling, psychotherapy, social integration on the long term, the costs related to specialised staff, training of staff and medical aid (not covered by the health system).
- ✓ It is important to develop a monitoring and assessment system for controlling expenditure of subsidised services/NGOs.
- ✓ The authorities should ensure the funding to be allocated in a transparent manner, by public calls with clear procedures and objective criteria.
- ✓ Improve the efficiency of the public funds given to public or private social service providers by developing a control and recovery mechanism of allocated amounts used not properly.
- ✓ It is also recommended to Develop a multiannual financing programs for promoting development of licensed social services for THB victims
- ✓ The Montenegrin State should Include licensing and funding not only for shelter and residential support services but also for long-term non-residential follow-up services for victims once they have left the shelter (which is meant to be a temporary short-term measure) to ensure reintegration in society and prevent revictimization.
- ✓ International good practice includes that governments provide secure and sustainable funding with multi-annual contracts. These contracts need to outline the conditions and quality standards that apply. Regular reporting allows for monitoring in the areas of both financing and implementation of the quality standards. The funding should also cover the work of the social service providers in the area of awareness raising and providing training to different professionals and groups.
- ✓ The Montenegrin State should provide multi-annual funding to the NGOs providing support to victims of THB. This will ensure stability, sustainability, and visibility.

5.2. Recommendations related to the licensing system of social service providers

- The licensing system should include safeguards to ensure the reliability of the people and services provided to help victims of THB; greater sustainability for NGOs supporting victims of THB should be examined.
- It is essential that the process of controlling and monitoring the quality of social services to specify clear provisions on the possibility of suspending or withdrawing the licence of a social service.

- The Montenegrin authorities should improve the regulation of the evaluation, certification, monitoring and control process for quality assurance in the field of social services, including through the assumption of this responsibility by the Ministry of Finance and Social Welfare.
- An in steps licensing mechanism should be established: first a temporary, provisional license (including funding) to allow the NGO to respond to all the requirements within X months. If the NGO does not respond to all the requirements, it will have to return the funds to the authorities. If the NGO responds to all the requirements, it will receive a definite license.
- Establish a licensing system that includes the possibility, procedures and criteria to temporarily and permanently revoke licenses.

5.3. Recommendations related to the quality of social service providers and their social services

- The specialised services for victims of THB should be provided in accordance with the relevant EU Directives (Anti-Trafficking Directive 2011/36 and Victims' Rights Directive 2012/29) and Council of Europe Conventions (Warsaw Convention n°197 on Victims of Human Trafficking and Istanbul Convention N°210 on Violence against Women). This should be explicitly mentioned in the conditions and standards of the licensing mechanism mentioned above.
- In general, quality in social services represents the set of requirements and conditions that must be met by social service providers and by their social services in order to meet the needs and expectations of beneficiaries. Quality in social services should be a permanent concern for the providers, the staff working for these providers and the public authorities funding and licensing these providers.
- Quality assessment and monitoring in the field of social services should be based on standards, criteria and indicators. When developing these standards, criteria and indicators it is important to take into account the principles of quality in social services, such as:
 - o Ensure, without any kind of discrimination, effective, accessible, comprehensive, sustainable social services centred on the individual needs of the beneficiary;
 - o In the relationship between providers and their beneficiaries: ensure the use of information and the use of fair, transparent and accessible means of communication, ensure confidentiality and security of personal data and information, implement safeguards to prevent and combat the risk of physical, psychological or financial abuse of the beneficiary;
 - o Develop active involvement of beneficiaries and their families in the planning, delivery and evaluation of social services;
 - o Implement effective coordination between the public and private sectors, encouraging partnerships to ensure the sustainability and continuity of social services, promoting the development of community/community-based social services and their integration with health, education and other services of general interest;
 - o Provide human resources involved in the provision of social services and improving working conditions.
- It is essential that the elaboration process to design these standards, criteria and indicators is realized through a proactive cooperation between the authorities, public and private social service providers.
- With regards to social services provided to victims of THB, the following attention standards need to be included:
 - o Informing victims about their right to and the existence of shelter, temporary accommodation, and social support is one of the necessary links in the support chain. The information process does not only apply to law enforcement and social service providers, but also to the public entities that provide medical and educational services, and thus indirectly contribute to the fight against THB.

- It is important that every victim of THB has access to shelter, accommodation and social support according to her/his needs.
- It is important that victims of THB have access to distinct shelter or social housing according with gender.
- ✓ With regards to the quality of staff: All the staff working for victim support services should have a clean criminal record to ensure safety of the victims and avoid revictimization. Following elements need to be taken into account:
 - It may be legally foreseen that the department in charge of granting a licence can request information from the criminal records of people employed by an NGO that has applied for a licence. The information should be limited to certain offences (e.g. domestic violence, etc.) and access to the information could have a longer period for this service.
 - Recommendation to the attention of the Ministry of Justice and Ministry of Public Administration: the current rules regarding proof of good conduct should be adapted to ensure the possibility of 'full disclosure' of criminal records for staff who will work with children and victims of THB.
- ✓ With regards to shelters in particular: there is no international standard format for shelters for victims of THB, but the main guiding principles are similar. Support service providers can arrange their services in line with the available financial resources, accommodation resources and well-trained staff. This entails that shelters can be small (e.g. an apartment with a couple of rooms) or large (e.g. multi-floor building). This also means that shelters can be a part of a unit within larger organisations (e.g. also catering to victims of GBV or within a child protection service). The following overall principles are essential:
 - A safe and secure living environment for all shelter residents;
 - A safe and secure working environment for shelter staff;
 - Well-trained staff working in a collaborative and interdisciplinary manner;
 - A holistic approach based on needs assessment using an individually tailored 'assistance or reintegration plan';
 - Using a victim-centered approach, where the rights, needs and context of each individual victim are taken into account;
 - Choosing for a composition of the staff according to the overall needs and resources of the particular shelter, taking into consideration the following elements: (1) maximum number of residents to be assisted; (2) range of services offered by the shelter; (3) maximum duration of stay at the shelter.
- ✓ Authorities should improve the role of Public institution Centres for Social Work in identifying potential victims of THB, in providing to them information about their rights and referring them to the specialised centre, in monitoring the assistance and support received and the social integration

5.4. Recommendations related to the shelters

- ✓ Taking into account the cultural specificities of each region in Montenegro and taking into account the time needed for travelling between regions, it would seem relevant – in an ideal situation - to have one shelter for children and one shelter for adults in each region (North, South, and Podgorica).
- ✓ These shelters can be separate units within existing larger organisations. This may be a financially more sustainable solution since the overhead costs (such as management, administration, accountancy, maintenance) can be shared. However, some aspects cannot be shared and should be

clearly separated: accommodation need to be separate, as well as staff working with victims of THB who need a particular set skills, competencies and training.

5.5. Recommendations related to the multisector and multidisciplinary collaboration

- ✓ The authorities should strengthen the 'Team for Formal Identification of Trafficking Victims' by giving it more responsibilities, not only for the identification, but consider the following possibilities:
 - Allowing this team to push the law enforcement officers to follow-up the lead after the identification and to take on the investigation actively;
 - Including this team in the monitoring of the work of NGOs;
 - Including this team in monitoring the reintegration process of identified victims.
- ✓ The Montenegrin State should review the Cooperation Agreement and Standard Operating Procedures, ensuring that the roles and responsibilities of each (public and non-governmental) actor are clearly defined.
- ✓ The responsible departments should develop a Code of Conduct with minimum standards for all partners involved, to ensure that every partner and professional in the field is actually taking his/her responsibility and acts according to the above mentioned Cooperation Agreement and Standard Operating Procedures as soon as they encounter a situation of presumed trafficking.
- ✓ The National Referral Mechanism should not only involve the Ministries, Departments and Agencies coordinating the antitrafficking response, but also the competent public authorities and NGOs that provide assistance to victims of THB on the national, regional and local levels.
- ✓ The scale of cooperation among public authorities and private organisations is crucial for the level of efficiency in identification of victims of THB and provision of quality services.
- ✓ Making the link to the funding: International practice shows that support given by the state to NGOs in the provision of comprehensive assistance to victims of THB not only enhances the quality of the social assistance and services provided, but also enables the establishment of a new level of cooperation between national actors in the fight against human trafficking.

5.6. Recommendations related to the long term reintegration of victims

- ✓ Long-term non-residential support is essential for reintegration and to prevent revictimization. This support could be provided by specialised staff within either:
 - The specialised shelters for victims of THB. This can be positive for the continuity of the services and for the existing trust relation between the victim and his/her person of trust within the shelter.
 - The existing NGOs with licensed counselling centres who provide non-residential social services to other vulnerable groups. They would need to receive additional training and supervision.
 - The local 'centres for social welfare'. They would need to receive additional training and supervision.
 - In any of the above mentioned options, these service providers would need to receive sufficient funding and resources to recruit and train new staff to provide the long-term non-residential support.

5.7. Recommendations related to children

- ✓ Recommendation to revise the Family Law to raise the minimum age for entering marriage to 18 years (instead of the current 16 years with parental consent).
- ✓ Increasing the involvement of state authorities in preventing and combating the exploitation of children through labour and begging phenomena that contribute to the increased risk of these children becoming victims of human trafficking.
- ✓ Ensuring access of child victims of trafficking to specialised services with an integrated approach, such as: emergency protection, residential care, accommodation, medical and psychological assistance, food, clothing, support for family, school and professional integration/reintegration.
- ✓ Providing multidisciplinary assistance to child victims of THB based on case management.

5.8. Recommendations related to the work of law enforcement agencies and judicial authorities

- ✓ In order to improve investigation and prosecution work and to combat second victimisation, clear instructions should be drawn up for law enforcement services. This could be in the form of a criminal policy directive or equivalent which would include sections on :
 - the appointment of specialist prosecutors and their role ;
 - how police and inspectorates should deal with potential victims (avoiding second victimisation);
 - initial measures to be taken during a check or intervention (separating presumed victims from presumed perpetrators, etc.);
 - the importance of confiscation measures to compensate victims.
- ✓ Law enforcement officials (i.e. police, labour inspectorate, public prosecutor) should have sufficient knowledge about THB, about its impact on human behaviour and physical and psychological health of victims, and about the importance of not blaming or condemning the victim. Therefore, training on THB should be an integral element of regular training curricula for police, labour inspectorate and public prosecutors. Training should also take into account ethical and safety recommendations, such as those elaborated by the World Health Organisation¹.
- ✓ Law enforcement officials should be more proactive in the fight against THB and take the initiative to investigate (instead of waiting for complaints by victims and NGOs).
- ✓ Judicial authorities and courts should take action by prosecuting and convicting traffickers. Serious convictions can have a deterrent effect on other criminals and traffickers.

5.9. Recommendations related to the collaboration of victims on the judicial proceedings

- ✓ Few victims take part in legal proceedings, and one of the reasons for this may be that few of the lawyers who provide free legal aid are aware of the issue of human trafficking. It is therefore recommended that training be set up for this purpose. It could also form part of training for junior lawyers.
- ✓ A more committed cooperation between public authorities and NGOs is required in order to develop specific minimum qualitative standards for every type of social service taking into consideration a minimum qualitative base.

¹ UN World Health Organization (WHO), WHO Ethical and Safety Recommendations for Interviewing Trafficked Women, 23 October 2003, <https://www.refworld.org/policy/opguidance/who/2003/en/20435> [accessed 23 February 2024]

6. Annexes

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