



# Генеральная Ассамблея

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## Совет по правам человека

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**Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие**

## Поездка в Черногорию

**Доклад Специального докладчика по вопросу о торговле людьми, особенно женщинами и детьми\* \*\***

### *Резюме*

В ходе своей поездки в Черногорию Специальный докладчик по вопросу о торговле людьми, особенно женщинами и детьми, Мария Грация Джаммаринаро рассмотрела основные формы торговли людьми на внутреннем и международном уровнях. Она высоко оценила усилия Черногории в сфере предупреждения отдельных форм торговли людьми, в особенности торговли детьми для целей попрошайничества и противозаконного вступления в брак, предпринимаемые в русле инклюзивных стратегий, которые ориентированы на общины, затронутые подобными явлениями. Она приветствовала создание нового оперативного подразделения по выявлению, расследованию и судебному преследованию случаев торговли людьми с перспективой внедрения многодисциплинарного подхода к вопросам выявления и защиты. При этом она выразила озабоченность в связи с пробелами в системе оказания поддержки жертвам, в частности с недостаточным уровнем финансирования поставщиков услуг по оказанию помощи лицам, пострадавшим от торговли людьми. Специальный докладчик также проанализировала положение Черногории как транзитной страны балканского маршрута и необходимость активизации усилий по оказанию поддержки уязвимым мигрантам и раннему выявлению среди них жертв торговли людьми.

\* Резюме доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен.

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## **Annex**

# **Report of the Special Rapporteur on trafficking in persons, especially women and children, on her visit to Montenegro**

## **I. Introduction**

1. On the invitation of Montenegro, the Special Rapporteur conducted an official visit to the country from 1 to 8 November 2019 to assess the situation of trafficking in persons, especially women and children, and identify the progress made and remaining challenges in combating that human rights violation.
2. The Special Rapporteur would like to express her sincere gratitude to the Government for the invitation and the full cooperation extended to her prior to and during the visit, which demonstrates the country's commitment to combating trafficking in persons.
3. In Montenegro, the Special Rapporteur met with ministers and government officials from the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Human and Minority Rights, the Ministry of Justice, the Ministry of Labour and Social Welfare, the Ministry of Education, the Ministry of Health, the Office of the Head State Prosecutor, the Supreme Court and the Police Directorate, the President of the parliamentary Committee on Human Rights and Freedoms and the Deputy Ombudsperson for children rights, social prevention and youth and her staff. She visited the registration and reception centre for foreigners and asylum seekers in Spuz and the alternative accommodation centre for asylum seekers in Konik. She also met with civil society organizations working on the issue of trafficking in persons and related matters and visited two shelters, one in Niksic and one in Podgorica. She also held discussions with the United Nations resident coordinator and representatives of United Nations agencies, funds and programmes, as well as with members of the diplomatic community present in Montenegro.

## **II. Main findings**

### **A. Forms and manifestations of trafficking in persons**

4. Despite the fact that insufficient official information is available, it is known that Montenegro is a country of transit and destination for migrants following the so-called "Balkan route". Given their situation of vulnerability, migrants face the risk of being trafficked and exploited during their journey. However, internal trafficking also occurs, especially affecting Roma communities.
5. Trafficking is believed to be particularly present in the coastal part of the country and to occur primarily during the summer season, and trafficking in persons for the purposes of sexual exploitation, labour exploitation, domestic servitude and begging has raised concerns. In a recently identified case, two Pakistani men were victims of trafficking in persons for the purposes of labour exploitation within the context of the hospitality industry. Civil society expressed concern that the actual number of cases was greater than what had currently been identified. Civil society reported allegations of women and girls trafficked for sexual exploitation in clubs and hotels, as well as in yachts placed outside the coast of Montenegro, but there has been no official identification of such cases. Potential victims in coastal towns would be both nationals of Montenegro and those of neighbouring countries.
6. Children, particularly from non-domiciled Roma communities, are vulnerable to forced and organized begging, while girls, both from Montenegro and abroad, have reportedly been sold into marriage in Roma communities in Montenegro and other countries. The cases identified in the past year in which prosecution had been initiated include the case of a Roma girl who was sold by her father for €5,000 into an arranged marriage. A case of trafficking for begging was identified concerning four minors belonging to the Roma community who were forced to beg within the framework of an organized begging context.

Authorities have reported that the trafficking of children for forced begging follows a seasonal pattern. Children from Roma communities from neighbouring countries enter Montenegro in the summer season to beg in coastal touristic areas.

7. Regarding cases of the trafficking of women and girls, common characteristics applicable to cases in the Western Balkans appear to include a history of domestic violence and physical, psychological and emotional abuse, parental neglect and extreme poverty. Domestic violence is widespread in Montenegro. There is a high level of tolerance of violence, especially against women and children, across society. In the northern rural part of the country, there is a high level of tolerance and denial regarding unlawful marriage, which accounts for the low level of reported cases.

8. Moreover, since 2017, Montenegro has become a significant transit country for migrants following the Balkan route. Through the so-called “southern Balkan route”, people transit from Albania, through Montenegro and towards Bosnia and Herzegovina. According to official government statistics, the number of migrants in transit increased, from 799 migrants in 2017 to 4,580 migrants in 2018 and to 6,380 in the period between January and October 2019. In the month of October 2019 alone the number of migrants in transit reached 1,038. That may also mean that the number of potential trafficking victims is increasing. Migrants in Montenegro see the country merely as a transit zone. While many of them express a first intention to seek asylum in the country, only very few stay long enough to complete the procedure for the determination of their refugee status. Reports indicate that such migrants only stay in the country until they find the means to continue their journey towards other European countries. In those circumstances, identification of cases of trafficking among migrants in transit is challenging. Migrants are not likely to reveal to public officials elements that could lead to the identification of trafficking situations, owing to the fear of being delayed in their onward journey.

9. Because Montenegro is a transit country, a noteworthy trend that has been observed is criminal groups forcing migrants making irregular crossings with debts to act as “guides” for other migrants moving through the region. The “guides” stay in transit areas and act as facilitators and controllers for other migrants. As they pay their debts to traffickers, the migrants acting as “guides” move on to sites closer to their final destination. Such arrangements while in transit can last for several years, until the debt is paid off.

### **III. Legal, policy and institutional frameworks for combating trafficking in persons**

#### **A. Legislative legal framework**

##### **1. International legal framework**

10. Montenegro has ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Montenegro has also ratified the Council of Europe Convention on Action against Trafficking in Human Beings.

11. Montenegro has ratified the Forced Labour Convention, 1930 (No. 29), and Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization (ILO). It has not yet ratified the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29). Montenegro is party to the core human rights instruments. It has signed but not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

## 2. Domestic legal framework

12. Trafficking in persons is criminalized under article 444 of the Criminal Code. Article 444 was amended in 2017 to include the “conclusion of unlawful marriage” and “slavery or acts similar to slavery” to the forms of exploitation in the definition of trafficking. The crime of unlawful marriage covers forced marriage and child marriage.

13. Key provisions in the article include the following:

(1) Anyone who by force or threat, deceit or keeping in delusion, by abuse of authority, trust, relationship of dependency or the vulnerability of another person, or by withholding identification documents, or by giving or receiving money or other benefit, for the purpose of obtaining the consent of a person having control over another person, recruits, transports, transfers, hands over, sells, buys, mediates in sale, hides or keeps another person for exploitation of work, submission to servitude, commission of crimes, slavery or acts similar to slavery, prostitution or other form of sexual exploitation, begging, pornographic use, entering into unlawful marriage, removal of a body part for transplantation, or use in armed conflicts, shall be punished by imprisonment for a term of 1 to 10 years.

...

(3) If the offence referred to in paragraph 1 is committed against a minor or by a public official in the performance of his/her official duties or with the intent of endangering the life of one or more persons, the perpetrator shall be punished by imprisonment of at least three years.

...

(9) The consent of the victim against whom the offence from paragraph 1 to 3 of this section has been committed does not vitiate that criminal offence.

14. The Special Rapporteur is concerned that the definition of the concept of consent in article 444 differs from the one contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and can be misleading. The Protocol explicitly states that consent is irrelevant, where any of the illicit means set forth in the definition are used. The difference in the definition of consent could potentially lead to the criminalization of a broad range of activities, including those related to prostitution and sex work that would not be criminalized under the definition contained in the Protocol.

15. Regarding the amendment to the Criminal Code concerning the inclusion of unlawful marriage, concerns were raised during the visit that the term was not consistently applied so as to cover cases of child marriage, which particularly affects Roma girls. Officials who were interviewed acknowledged that, in practice, it was difficult to uncover cases of unlawful marriage. Police do not always consider it as a criminal offence, but instead as part of traditional customs. In addition, national legislation allows children to enter into marriage from 16 years of age. That is not consistent with international standards, under which 18 years of age is the minimum marriage age.<sup>1</sup> Both the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child raised the issue and included specific recommendations in their concluding observations on the periodic reports of Montenegro, in 2018 and 2017 respectively, with a view to compelling Montenegro to raise the minimum marriage age to 18 years (CEDAW/C/MNE/CO/2, para. 21; and CRC/C/MNE/CO/2-3, para. 20).

16. Article 210 of the Criminal Code, concerning incitement to prostitution, is also applied in cases of trafficking for sexual exploitation. Experts have reported that authorities have investigated and prosecuted possible sex trafficking cases under that offense. In previous years, prosecutors in local courts stopped some investigations when they secured enough evidence to prosecute under article 210 and did not investigate for more subtle forms

<sup>1</sup> Article 16 (2) of the Convention on the Elimination of All Forms of Discrimination against Women and article 16 of Convention on the Rights of the Child, as well as joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices.

of coercion or seek additional evidence through specialized investigative techniques. However, the Government changed the case referral procedures by requiring the Office of the Head State Prosecutor to conduct an initial review of all trafficking-related cases and to only downgrade cases that are not deemed to be trafficking offenses owing to lack of sufficient evidence of trafficking being found.

17. In general, the application of the trafficking crime remains low, and a general lack of understanding of trafficking in persons throughout the criminal justice system has been raised as a cause. However, the Ministry of Justice reiterated that the legislative framework aligns with international standards and that practitioners were to inform the Ministry of any problems in the implementation or application of the definition. The Ministry indicated that no such concerns had been raised to its attention. According to the authorities, any challenges that may arise are due to differences in the interpretation and skillset of practitioners.

## **B. Policy and institutional framework**

18. Until March 2017, the national Office for the Fight against Trafficking in Persons was situated under the General Secretariat of the Government of Montenegro. The Office was headed by the National Anti-trafficking Coordinator and was responsible for coordinating the activities of public bodies and non-governmental organizations in the implementation of the national anti-trafficking strategy and action plans. In March 2017, the Office became part of the Ministry of the Interior. As of April 2019, changes in the organizational structure were completed, and the Office is now organized as the Department for the Fight against Trafficking in Persons under the purview of the Ministry of the Interior.

19. The Government has also recently changed its coordination structure for combating trafficking in persons. Since December 2018, an operational team, headed by the Head State Prosecutor in the Office of the Head State Prosecutor in Podgorica leads operational activities and initiates criminal proceedings. The operational team established in 2018 is composed of representatives of the Ministry of the Interior, the Police Directorate, the Office of the Head State Prosecutor and the Ministry of Justice and has started investigations and/or prosecutions in relation to several cases. The Special Rapporteur further encouraged the inclusion of doctors, psychologists and social services authorities at the national and local levels, as well as representatives of civil society organizations and the Labour Inspectorate, to ensure the taking of a multidisciplinary approach that is relevant for cases of labour exploitation, an area where identification has been particularly modest.

20. Under the former system, a national referral mechanism was organized under a memorandum of understanding. Identification and assistance to victims were provided following the structure and distribution of competencies and tasks set forth in the memorandum of understanding, whose signatories were the Supreme Court, the Office of the Head State Prosecutor, the Ministry of the Interior, the Ministry of Health, the Ministry of Labour and Social Welfare, the Ministry of Education, the Office for the Fight against Trafficking in Persons, the Centre for Children and Family Protection in Bljelo Polje, the Red Cross of Montenegro and six non-governmental organizations. The non-governmental organizations were the Montenegrin Women's Lobby, Women's Safe House, the Institute for Social Inclusion, the helpline for women and children who are victims of violence in Niksic and the House of Hope. The memorandum of understanding contained an annex for each signatory describing its role and tasks in the prevention of trafficking in persons, including in the areas of identification, assistance and prosecution. It was unclear, however, how that national referral system would continue, if at all, under the new operational structure. The Special Rapporteur strongly advocates for confirming and strengthening the mechanism, which is essential for victim assistance and support.

21. While authorities reassured the Special Rapporteur that the new structure had already brought promising results in the identification and investigation of new cases of trafficking, the Special Rapporteur raised her concerns that the transition of the National Anti-trafficking Coordinator under the Ministry of the Interior could be perceived as having lowered the priority of the fight against trafficking in persons in Montenegro. A public message must be

sent from the highest governmental level to provide reassurance of the commitment of Montenegro in that area.

22. The Government adopted a national strategy against trafficking in persons for the period 2019–2024 and a national action plan for 2019.

## **IV. Protection of trafficked persons**

### **A. Identification of victims or potential victims of trafficking**

23. During her visit, the Special Rapporteur expressed concern regarding the low number of victims identified and supported and the low number of criminal proceedings conducted.

24. At the time of the visit of the Special Rapporteur, Montenegro was to adopt a set of standard operating procedures to improve identification of victims. The main objective of the standard operating procedures, developed in collaboration with the International Organization for Migration (IOM), is to change the identification and support model. Under the prior system, following the national referral mechanism set forth in the memorandum of understanding, in practice, only the police were given identification competencies. As a result, the identification of victims of trafficking was linked to the initiation of criminal investigations. However, according to officials, assistance was also provided to potential victims. The Group of Experts on Action against Trafficking in Human Beings noted in its 2016 report that the Montenegrin authorities continue to use the term “identified victim of trafficking” only in cases in which there is a final conviction for trafficking in persons. However, all persons who are recognized as victims of trafficking in persons by the police are assigned the status of “potential victim”. The status of “potential victim” gives the person concerned the right to assistance and protection, including a recovery and reflection period, which is comparable with the status of a formally identified victim of trafficking in other jurisdictions.

25. During the period 2017–2018, the Government identified four potential victims of forced begging, compared with one officially recognized victim, and one potential victim, of sex trafficking in 2017. All victims were underage girls. Police also identified 22 children who were victims of trafficking for the purposes of begging in 2018, and 107 in 2017, and accommodated most of the children at local social welfare centres until releasing them to their parents or guardians.<sup>2</sup> Despite those identifications, officials highlighted the difficulties in identifying trafficking for organized begging among non-domiciled Roma populations. The strategy of Montenegro for countering the trafficking of children for begging and unlawful marriage has been mainly focused on prevention activities centred on increasing access to education and awareness-raising among families at risk.

26. Several hotlines have been an entry point for early identification of victims of trafficking. The hotline for victims of trafficking in Podgorica, operated by the non-governmental organization Montenegrin Women’s Lobby, reports possible trafficking situations to the police, but was usually not informed by the police about the follow-up actions taken, which underlines a lack of cooperation and coordination among referral organizations. Another hotline, based in Niksic, operating nationwide, targets victims of gender-based violence in general, but may also receive calls from victims of trafficking.

27. The Special Rapporteur welcomed the development of the new standard operating procedures, for its potential positive implications. In the new model, victim identification and early support would be the result of a collaborative process involving persons with different skills and backgrounds; assistance and support would be ensured to victims and potential victims of trafficking; and identification and early victim support would not necessarily be linked to the existence of an investigation, as it happens now in practice. Criminal proceedings can be terminated for many reasons, such as insufficient evidence, but the victim has rights that must be respected and needs that must be met. The Special Rapporteur reiterated the need to train actors that can find themselves as first responders to become more

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<sup>2</sup> Concerns were raised as to the adequacy of the accommodations provided to those victims.

professional in interviews with potential victims and identify them and provide support, especially at the local level, where police officials and social actors may be less aware of indicators of trafficking in persons for different purposes. Stakeholders in Montenegro indicated that, at the time of reporting, the standard operating procedures had not yet been adopted, despite the Government's promises during the visit that they would be adopted in a matter of weeks.

28. Between 2017 and the Special Rapporteur's visit, officials reported the identification of three victims of trafficking in persons; two were Pakistani men trafficked for the purpose of labour exploitation, and one was a girl trafficked for unlawful marriage in the Roma community, in addition to the four Roma children trafficked for the purpose of forced begging, as noted above.

## **B. Early identification in mixed migration flows**

29. The coordinated closure of the western Balkan route in March 2016 led to a significant increase in the use of an alternative route, the southern Balkan route, which transits through Montenegro. By 2013, the European Border and Coast Guard Agency had identified Montenegro as a transit country. The route emerges through Kosovo,<sup>3</sup> moves to Montenegro and goes on to Bosnia and Herzegovina and Croatia, with the final destination being the European Union, especially Germany and Italy. Despite the increase in migrants and asylum seekers using that route, the Government has not correspondingly reinforced the country's capacity to respond to protection needs. The growing number of asylum seekers and the extended length of their stays has had a negative impact on the political will to receive the constantly growing number of persons availing of that route.

30. The early identification of victims of trafficking among asylum seekers remains poor. While the low number of victims identified can be partially attributed to the lack of willingness of the migrant population to be identified while in transit and the risk of remaining stranded before arriving at their final destination, the identification of trafficking in persons has not been prioritized in the migrant and asylum reception system, and concerns have been raised about the capacity of the staff in reception centres to identify victims of trafficking.

31. Throughout the Balkan route, most cases identified through official channels are of women and girls trafficked for the purposes of sexual exploitation. However, experts agree that there are many other cases that relate to other forms of trafficking, including forced labour, domestic servitude and child begging.<sup>4</sup> On the Balkan route, at the regional level, limited identification remains the first gap in tackling trafficking in persons. Processes seem to cater to a particular profile of victim, one that was common during the recent history of and conflicts in the Balkans, namely, women and girls trafficked for the purposes of sexual exploitation through means of force or coercion. Indeed, even today, that profile of victim remains the one most identified, despite growing concerns among stakeholders about other types of exploitation and victims, especially men and women who are trafficked for labour exploitation and children for forced begging and unlawful marriage.

32. The Ministry of the Interior is in charge of the management of migratory flows into the country and international protection when applicable, and its Directorate for Migration divides those tasks into three departments, namely, for asylum and protection, for reception and for integration for those that are given protection. According to the Government, the necessary legislation concerning the international temporary protection of migrants is in place. When entering the country, asylum seekers and migrants encounter the border police, under the Police Directorate, who have received training on interviewing and identifying vulnerabilities, using related indicators and advising them on the asylum procedure. Migrants are brought to the registration centre in Spuz, where border police proceed to determine

<sup>3</sup> References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

<sup>4</sup> International Organization for Migration, "Needs assessment: human trafficking in the Western Balkans", 2014.

migrants identities and where and how they entered the country. That procedure includes the taking of fingerprints and photos and an assessment of their need for medical care. If an unaccompanied minor is identified, the centre for social welfare is contacted to appoint a carer. Although illegal entry in the country is punishable, according to the authorities, the border police conducting the interview first attempt to determine the reason for the irregular crossing.

33. According to the authorities, no cases of exploitation en route have been reported during interviews of migrants arriving at the registration centre, which include questions on when and how they entered the country and whether any smuggling was conducted. Officials agreed that the stay in the registration centre is not too long, sometimes only a matter of a few hours, and is insufficient for developing a relation of trust whereby migrants feel safe reporting human rights violations and indicators of trafficking in persons. Officials also reported the difficulties in establishing the narrative of migrants' journeys, the veracity of the facts and stories shared and migrants' true identities. At the registration centre, migrants can express their wish to claim asylum, in which case they are given a letter of intent and moved to the reception centre for asylum seekers, where they are given accommodations and have 15 days to apply for asylum.

34. Despite the low level of identifications among the migrant population, the Special Rapporteur noted that interviews of asylum seekers that wished to obtain refugee status in Montenegro by the officials responsible for asylum and protection could be a good opportunity to assess vulnerabilities to trafficking in persons. The collaboration of the asylum system and the system of protection envisaged for trafficked persons can add a layer of protection and ensure that appropriate measures are taken for those who in their journey are, or can become, victims of trafficking and exploitation.

### **C. Protection of trafficked persons**

35. Regarding assistance and support to victims, the Special Rapporteur noted that there are weaknesses to be addressed as a matter of priority. A licensing scheme for service providers of assistance for victims of violence and trafficking in persons was introduced in 2013 through national legislation. It is intended to ensure that those services providers comply with international standards, notably the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Such a policy, aimed at ensuring the professionalism of service providers, is welcomed, however, in practice, it resulted in the closure of specialized services, including shelters, for victims of trafficking. Ministry of Labour and Social Welfare officials assured the Special Rapporteur that the non-governmental organizations concerned had participated in the development of the legislation on licensing and the requirements were made known to them in advance to help them to meet the new licencing requirements. Training activities were also implemented. Minimum standards for service providers for a shelter for up to 10 users include a minimum of two employees, including, social workers, a psychologist and a lawyer. The Ministry is planning additional training to increase the capacity of service providers.

36. According to information received by the Special Rapporteur from the Ministry of Labour and Social Welfare, there are four licensed shelters in the country. There is one for children, in Pljevlja, which is located next to an existing institution for children without parental care. One is for men and victims at high security risk, in Bljelo Polje in the north of the country. Two are for women, in Podgorica and Niksic. However, the latter two shelters, run by licensed non-governmental organizations, are currently only supporting domestic violence survivors, also as a consequence of the low number of identified potential victims of trafficking. The Special Rapporteur visited the two shelters and recognized the quality of the installations. She does not recommend any particular approach to the housing of victims of trafficking in persons and victims of gender-based violence in the same or separate shelters, however, during her meetings, the need for an assessment of the capacity of the shelter and workers to accommodate the differing needs of victims was discussed. Both organizations running shelters, in Podgorica and Niksic, referred to issues concerning security and confidentiality, which can be challenging when catering to the two types of victims. Another challenge for the organizations has been the fact that they are not allowed

to accommodate children who are victims of trafficking. After her visit, the Special Rapporteur was informed of the establishment of a new shelter, in December. However, concerns have been raised about the lack of experience of the staff in assisting victims of trafficking.

37. As explained by officials, the operational team dedicated to the identification of victims of trafficking formally reports potential cases to the Ministry of Labour and Social Welfare, indicating the situation of a person as a victim of trafficking, which then contacts the centre for social welfare, which makes the assessment and makes arrangements for accommodations, as necessary. The service provider for accommodation then must develop and adopt a plan detailing the support that will be provided to the victim. A victim can be placed in a shelter for a maximum of nine months. During that period, the Ministry for Labour and Social Welfare monitors the implementation of the plan with the victim. If no other accommodations are found as an alternative to a shelter, the period is extended. In addition, to such shelters, victims can be accommodated for up to three days in crisis centres, which also cater to victims of domestic violence. The locations are kept secret and are aimed at providing emergency shelter before a decision is made as to the type of accommodation and assistance that is appropriate for a particular victim. They can also be used if there are security concerns in a particular case.

38. Under the current system, civil society organizations providing assistance to victims, including accommodations, are awarded a lump sum per victim per month, in addition to funds obtained through projects. Specific services and assistance provided to victims is paid on ad hoc basis by the Ministry of Labour and Social Welfare on the basis of a written request from a victim's case manager. That does not sufficiently cover victim assistance expenses, and it is a detriment to the sustainability of the system.

39. The only specialized shelter for trafficked persons operating for many years is currently closed as a consequence of the non-governmental organization concerned not fulfilling the licensing criteria. During the visit, the Special Rapporteur underlined that the experience gained in running the specialized shelter for victims of trafficking must not be lost, but, on the contrary, must be valued, eventually through transitional measures. Furthermore, she highlighted that the whole accommodation system should be prepared to operate on a regular basis for a higher number of potential victims of trafficking, a greater number of whom would hopefully be identified, as a result of recent changes in the operational structure.

40. Currently, non-governmental organizations running shelters could not survive without the support of external and/or private donors. The Special Rapporteur underscored that the whole funding system should be made more efficient, and combating trafficking should be prioritized, in order to improve the country's victim support record in the near future. Support to non-governmental organizations that are service providers should not be provided piecemeal, on a victim by victim basis.

41. During the visit, the Special Rapporteur stressed that an assistance system, including specialized shelters for trafficking victims, must be established on a permanent basis and its sustainability must be ensured by government funding. That is key to improving and increasing identification rates, because victims will more likely come forward if assistance measures, especially regarding adequate accommodations, are readily available as soon as they are identified. The new model of identification under the standard operating procedures, accompanied by a strong and permanent support system, can lead the country to achieving those results.

42. Regarding the possibility to stay in the country, the Law on Foreigners provides for a 90-day reflection period for victims of trafficking. Based on the appropriate evidence produced by an international organization, non-governmental organization or State administration authority that provides assistance and protection to the foreign national presumed to be a victim of trafficking, or based on evidence produced by a competent State authority confirming that the foreign national is collaborating in the investigation of criminal offences, a temporary residence permit for humanitarian reasons is issued with the validity period of up to one year, which may be extended. According to the law, those who have been

issued a temporary residence permit for humanitarian reasons have the right to accommodation, health care, education, work and financial assistance.

43. Regarding assistance to migrants in vulnerable situations, as stated above, once migrants express their intent to seek asylum in the registration centre, in Spuz, they are accommodated in a reception centre. There is a reception centre in Spuz, next to the registration centre, which lodges families, women and children, as well as men in vulnerable situations, and a reception centre in Konik, which can host up to 200 people. Although the centre in Konik is only intended for hosting men, during her visit in Montenegro, the Special Rapporteur became aware of the accommodation of families, due to lack of space in Spuz. Given the rising number of migrants arriving in the country, the options for accommodation are clearly not sufficient. According to officials, Montenegro is a small country with limited financial resources, and the financial budget dedicated to migrant reception and protection is already substantial. Officials assured the Special Rapporteur that, by the end of 2019, €1 million would be allocated for alternative accommodations. Rehabilitation of a former military base now under the Ministry of the Interior, near the border with Albania, is planned for 2020 and will include an additional 60 beds in a temporary container settlement. Once that is completed, the Government will have an additional 120 beds. For the moment, thanks to European Union funds, containers are being used as a temporary solution. Concerns were raised regarding the construction of a reception centre close to the border as a measure aimed at further limiting entry into the country, given the increasing number of migrants crossing through Montenegro.

44. Vulnerable migrants and asylum seekers arrive at the registration centre with the help of IOM mobile teams who collect them at the border. IOM also offers logistical support, translation and statistical services and the transporting of minors to a social welfare centre. At the asylum reception facilities, the Office of the United Nations High Commissioner for Refugees (UNHCR) provides legal and psychosocial assistance and Arabic interpreters to the persons in the reception centre, through its partners Civic Alliance and the Red Cross of Montenegro, which have a daily presence in the two facilities, in Spuz and Konik. UNHCR also deploys interpreters for Arabic, Berber, English and French languages to the Directorate for Migration. UNHCR and its legal partner provide free legal aid to interested asylum seekers throughout the refugee status determination procedure.

45. The Directorate for Migration within the Ministry of the Interior is the authority in charge of the procedures for international protection. The procedure can last up to 21 months, in line with European Union standards. When migrants submit an application for international protection, they are given a date for an interview with the Directorate, usually within two months. Given that applicants often arrive without identification, administrative procedures may take longer, due to the need to establish applicants' identities. After the initial interview, applicants may be invited for an additional interview to verify facts given in the first interview. However, it was noted that the majority of those who express intent to proceed with the procedure at the registration centre do not appear for the first interview, and the procedures are ultimately revoked. In the case of families and unaccompanied children, nine families were hosted in the centre in Spuz at the time of the visit. According to officials, in cooperation with the Ministry of Education, access to school for hosted children is ensured. The centre also organizes activities for children.

46. Nine months from the initiation of the process, asylum seekers, unless the application is resolved, have the right to seek employment. However, due to the lack of harmonization of the relevant legislation, asylum seekers cannot yet exercise that right. When an application for international protection is accepted, the applicant receives refugee status and has the same rights as Montenegrin citizens, except the right to work in government positions. After status is granted, for two years, they are given a wide range of assistance, including language courses, vocational training and free accommodations, in order to help them to integrate into Montenegrin society. From 2017 until the visit of the Special Rapporteur, 77 people were granted refugee status or subsidiary protection, and 46 people were in the country in 2019 waiting for a decision on their asylum claims. Those applicants whose applications are rejected or for whom the deadline has expired, by law, should return to their country of origin. Montenegro provides assistance for voluntary return.

47. In cases of unaccompanied and separated children, a social worker is immediately appointed to each child. The Ministry of Labour and Social Welfare has established a clearly defined protocol with the centre for social welfare for when an unaccompanied minor is identified. Children sometimes come with a sibling or alone. If the sibling is an adult, the sibling is appointed as the carer; if not, the centre for social welfare will appoint a carer. As with children who are victims of trafficking, assistance is channelled through the centre for social welfare and accommodation provided in the shelter in Pljevlja. However, concerns have been raised about the inadequacy of that solution in the long term. For children who are victims of trafficking and unaccompanied migrant children, Montenegro must step up its efforts and find more durable solutions that are designed on basis of the best interests of the child.

## V. Investigations, prosecutions and access to justice

48. Regarding law enforcement efforts, the low number of identified victims and the low number of prosecutions raised many concerns. In 2018, law enforcement investigated four such cases, and two in 2017, and the Government did not initiate any prosecutions, although two were initiated in 2017. According to the Government, the newly established operational team within the Police Directorate headed by the Head State Prosecutor should bring better results in the future.

49. Within the police department, since 2018, a unit was established for trafficking in persons and illegal migration, replacing the former unit within the organized crime department. In addition to the eight police officers dedicated to that unit, several city police departments have officers acting as focal points on the issue.

50. The police currently maintain two permanent operations: one dedicated to trafficking in persons and another focused specifically on begging.

51. Since the establishment of the operational team, in December 2018, and the department on trafficking in persons and illegal migration, over 50 persons have been arrested for trafficking in persons. In the period from January to October 2019, officers brought charges under article 444 of the Criminal Code, on trafficking in persons, against two persons. In addition to the cases in which victims were identified, the police began other investigative activities in 7 cases; in 3 of them, the police applied covert surveillance measures and, in the other 4, officers were collecting information and evidence in cooperation with the operational team.

52. Current cases under investigation include a case of trafficking for sexual exploitation, a case of the labour exploitation of two Pakistani nationals in the hospitality industry, a case of forced begging involving four Roma children and a case of forced marriage.

53. After the visit of the Special Rapporteur, a new case was identified, and eight alleged perpetrators were arrested for the trafficking of 38 Taiwanese victims, who were held in captivity in three separate locations in Montenegro. The victims were allegedly committing Internet fraud for the benefit of that criminal group. The international operation was carried out in collaboration with the national office of the International Criminal Police Organization (INTERPOL) in Podgorica.

54. As head of the team, the Head State Prosecutor has instructed all State prosecutors to submit to her all information and data they gather on begging and domestic violence or any other piece of evidence that points to a case or an indicator of trafficking in persons. The instructions to the prosecutors' offices of courts of lower instance, where people with less experience on identifying indicators of trafficking work, is aimed at improving detection rates. In that way, one case of trafficking was identified by a State prosecutor dealing with a case of domestic violence who forwarded the statement taken by the girl victim to the Head State Prosecutor. The statement provided indications of a case of trafficking and further investigation proved that it was a case of trafficking for begging. Five minors were trafficked by their father, who forced them to beg, taking all of their personal documents. The children were driven to a particular location in a touristic coastal town to beg and, at the end of day,

they were taken back home. The case was under review in the High Court in Podgorica at the time of the Special Rapporteur's visit.

55. The Office of the Head State Prosecutor also shared with the Special Rapporteur two more cases that were at the investigation stage. One of the cases concerned an unlawful marriage by a father of his 13-year-old daughter, in 2017, for €5,000. The other case was one of trafficking for the purpose of labour exploitation. Two nationals of Pakistan were lured by a trafficker on the promise of acquiring asylum status for €20,000. The two men were forced to clean several tourist apartments to pay for the asylum process. The police detained the alleged perpetrator, and the Office of the Head State Prosecutor has ensured support to victims. Other cases discussed included a case of sexual exploitation involving two persons, which led to the conviction of two perpetrators, with the most severe punishment being 15 and 17 years' imprisonment, respectively. The Head State Prosecutor noted a case in Bljelo Polje and seven additional cases in the investigation phase concerning four adults and seven children.

56. Regarding the application of the non-punishment principle, in its review, the Group of Experts on Action against Trafficking in Human Beings raised concerns about the penalization of one potential victim for crimes committed as a direct result of being subjected to trafficking due to inadequate identification. Recently, with assistance from the Organization for Security and Cooperation in Europe, and on the basis of recommendations of the Group of Experts, the national Office for the Fight against Trafficking in Persons elaborated guidelines on the non-punishment of victims of trafficking in persons for their involvement in illegal activities that they were forced into doing. The guidelines are intended for the police and the judiciary, which were invited to participate in the drafting of the guidelines. During her visit, the Special Rapporteur praised that initiative as an important step towards the protection of victims of trafficking, given that, an inherent component of situations of trafficking was that the victims were coerced to commit the illicit act. Ensuring that victims will not be criminalized for those actions and eliminating victims' fear of being prosecuted are key to encouraging victims to come forward. That guidance should be used and the subject be included in training for front-line officers at all levels.

## **VI. Redress for victims of trafficking in persons**

57. The Special Rapporteur welcomed legislative initiatives, such as the law establishing a fund for compensation to victims of violence, which should facilitate access for trafficked persons' to compensation. However, that legislation, passed in 2015, will only enter into force after the accession of Montenegro to the European Union. She strongly recommended that the Government and the Parliament bring forward the date of entry into force of that law, which was essential to the social inclusion of victims and survivors. The law sets out 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. Compensation is envisaged in cases in which the victim has suffered a serious bodily injury or serious impairment of his or her physical and mental health, or has died. Citizens of Montenegro, citizens of States parties to the European Convention on the Compensation of Victims of Violent Crimes, citizens of States members of the Council of Europe and the European Union with permanent residence in Montenegro, as well as nationals of States members of the European Union and persons lawfully residing in the European Union, 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 months' average net earnings would be paid. The procedure for compensation must be initiated by a written request to the Ministry of Justice no later than six months from the date of the offence. A commission will be set up by the Government to decide on compensation. 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.

58. Victims of trafficking in persons can seek compensation in two other ways. They can seek compensation from the accused person by filing a damage request in the context of a criminal procedure. The Code of Criminal Procedure prescribes the possibility of filing a

compensation claim arising out of the commission of a criminal offence if it does not significantly prolong the proceedings. The claim can be related to compensation for damages, the return of goods or the annulment of a particular legal transaction. The right to claim compensation applies to all victims of crime.

59. The law also allows for the possibility of restitution through a civil suit. According to the law on such obligations, victims have the right to file a suit for non-tangible damage compensation. The court makes the decision by oral and immediate deliberation on the basis of submitted evidence and decides whether the request for damage compensation is valid or not. However, it was noted that lack of awareness about the options for compensation were to blame for their low use by victims.

## VII. Prevention

60. The Government has implemented training and awareness-raising campaigns on trafficking in persons targeting various populations and officials. In particular, the Government assured the Special Rapporteur that the Office for the Fight against Trafficking in Persons and the Ministry of the Interior, at times in cooperation with international organizations, have implemented training for police officials, border police, representatives from prosecution offices, judges and court advisors.

61. Regarding particular forms of trafficking, such as prevention of child marriage, Montenegro has carried out various projects and awareness-raising campaigns. The Special Rapporteur welcomed the prevention strategy dedicated to Roma minorities and especially commended Montenegro on the education programmes aimed at discouraging child marriage, preventing school drop out and ensuring that Roma children attended early childhood education and primary and secondary school. Many other programmes were aimed at the social integration of Roma communities, including education, accommodation and employment opportunities.

62. The Special Rapporteur was informed of workshops targeting Roma communities on unlawful marriage and its harmful effects, as well as workshops on domestic violence and trafficking in persons, as part of the national strategy for the social inclusion of Roma communities in Montenegro, 2016–2020. The goal of the workshops is to inform families on the harmful impact that those practices have on their children. The Government has conducted the activities in 12 cities, especially targeting those with a presence of Roma communities or settlements. In addition, the Government has also conducted door to door awareness-raising campaigns involving various authorities, including the Police Directorate. Leaflets are printed in the languages that Roma in Montenegro speak.

63. Recognizing the multi-ethnic nature of Montenegrin society, the Government established a department on education of minorities. The inclusion strategy through education is aimed primarily at increasing completion rates in primary and secondary education among Roma populations, which, according to 2018 data, was 77 per cent attendance in primary school, but only 7 per cent attendance in secondary school. Part of the education curricula can be adapted to specific local needs. Through partnerships between the Ministry of Education and non-governmental organizations, that has included education for parents, especially mothers. Awareness-raising campaigns have also included providing information on indicators to identify victims of trafficking in persons among the students.

64. In the fourth quarter of 2019, the Ministry of Education organized training in the north, centre and south of Montenegro. That included two types of training, namely, a two-day training course on integration of prevention principles in combating trafficking in the education system, in Bijelo Polje, and in Bar, a one-day training course on child marriage and begging prevention in the education system. Schools are obliged to include parents, especially from Roma communities, in all workshops. Schools are also obliged to organize a workshop at least twice a semester dealing with parental skills, the benefits of education for women and the inclusion of Roma communities in the education system.

65. In addition, in order to establish better cooperation with Roma communities, associates are employed who work on the social inclusion of Roma boys and girls in the area

of education. In 2018, there were funds for 18 associates, and 22 in 2019. The standard is one associate per 70 Roma pupils. The system is aimed at reducing the risk of drop out during the last two years of compulsory education. That is done in cooperation with international organizations and civil society, which have helped to improve the programme by including new indicators for the early identification of children at risk of drop out, and through the establishment of teaching mentors for Roma children in secondary schools. Mentors, who are also teachers in the school, can take on up to three students. Their role is to support students not only in school but also towards better integration at all levels. The programme has been evaluated by the Government, which assured the Special Rapporteur that it had already shown good results. It has not only contributed to reducing drop out, but has also increased school success and the rates of Roma students continuing onwards in non-compulsory education. In addition, it has brought positive results in fighting social stigma from the general population towards Roma communities.

66. The Government's national action plan and strategy for social inclusion of members of Roma communities in Montenegro further foresees the collaboration of local authorities, teachers in primary and secondary schools, prosecutor's offices, the judiciary, the Roma national council and Roma civil society to identify and prevent unlawful marriage and, if they do occur, to determine how to better implement and apply article 444 of the Criminal Code on trafficking in persons.

67. Other measures taken include the drafting and implementation of a protocol, in collaboration with Save the Children International, outlining mechanisms to deal with child begging. The protocol, which was signed by the Ministries of the Interior, Labour and Welfare, Health and Education and the Police Directorate was widely promoted and, at the moment of the visit, officials were working on establishing a coordination body for the implementation of the protocol. According to members of civil society interviewed, lack of coordination and cooperation of authorities was one of the key challenges affecting the State response in that domain.

68. Reports regarding cases of child trafficking in the region indicate that government responses across the Balkan region to child begging have not been sufficient, given that the competent institutions are not providing adequate interventions or services.<sup>5</sup> Any other type of trafficking of children has been underreported, due to a lack of knowledge by the relevant authorities. In addition, given the differences between the domiciled and non-domiciled Roma populations, applying a single strategy proves ineffective. The current prevention strategy is designed for the domiciled Roma population, because enrolment in school among non-domiciled Roma children is difficult to ensure, despite the efforts of cooperation among the various authorities involved.

69. Training activities and awareness-raising on indicators of trafficking have also been developed and implemented by other institutions. During her visit, the Ministry of Health informed the Special Rapporteur of training activities on indicators of trafficking for health practitioners to improve the identification of victims. More activities are planned for 2020, which will include training of health-care professionals in various regions. Each year, two workshops per region will be organized for all levels of medical care assistance, including among the management of health care institutions. The Special Rapporteur welcomed that initiative and insisted that training of potential first responders on indicators of trafficking was crucial for identification.

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<sup>5</sup> Ibid., p. 44.

## VIII. Conclusions and recommendations

### A. Conclusions

70. Montenegro has recently developed innovative regulations and policies, which could offer the opportunity for the country to take the lead in the region, especially regarding the soon to be adopted standard operating procedures for victim identification and support, the guidance on the implementation of the non-punishment of victims and the compensation scheme for victims of violence. Such innovative measures must be implemented, however, and that will ultimately be the real challenge. The authorities must establish an effective support system for victims and potential victims, in cooperation with experienced non-governmental organizations, including by allocating adequate funding. Some changes in the structure of responsibilities and tasks, in particular the replacement of the mechanism for national coordination with an anti-trafficking unit within the Ministry of the Interior could give the impression of having lowered the priority of combating trafficking. Authorities at the highest level should show renewed political will to tackle trafficking as a matter of priority. The new governmental structures, in particular the operational team, which has already achieved promising results, and the anti-trafficking unit must now prove that preventing and countering trafficking must be a strong commitment of the whole Government structure, even more now than in the past.

### B. Recommendations

71. With regard to the international and national legal and institutional frameworks, the Special Rapporteur recommends that the Government:

(a) Ratify, without delay, the ILO Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29);

(b) Ensure that political commitment at highest level of government is maintained despite the changes in organizational structure and replacement of the national coordination on trafficking in persons, formerly under the direct purview of the Secretariat-General of the Government, with an anti-trafficking unit within the Ministry of the Interior;

(c) Ensure that the law on compensation for victims of trafficking in persons is enforced independent of the accession of Montenegro to the European Union and that the fund for victims is sufficiently resourced;

(d) Ensure that the guidance on non-punishment of victims of trafficking for illicit activities committed while they were trafficked is fully applied, including by implementing training activities for the relevant authorities, especially front-line officers, so that the guidance is applied early on in the process;

(e) Amend national legislation, following recommendations by the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, in their concluding observations on the periodic reports of Montenegro, to raise the minimum marriage age to 18 years of age;

(f) Perform an independent evaluation of the new identification and referral structure and its impact, based on an increase in identified cases, evaluate both the new standard operating procedures and the operational team structure and composition, reorienting as needed, paying particular attention to how the standard operating procedures and operational structure succeed in identifying and referring cases of trafficking of children for the purposes of unlawful marriage and begging, which particularly affect Montenegro.

72. With regard to victim identification and protection, the Special Rapporteur recommends that the Government:

(a) Adopt and implement the standard operating procedures and ensure that identification is the result of a multidisciplinary process, including especially organizations from civil society, avoid linking the identification procedure to the initiation of a criminal proceeding and shift from a law enforcement paradigm to a victim-centred and human rights-based approach to trafficking in persons;

(b) Guarantee that all relevant organizations are represented in the operational team that will implement the standard operating procedures, including officials from the Labour Inspectorate and civil society with experience in the identification and referral of victims of trafficking and members of civil society working with at-risk populations, such as Roma children, both domiciled and non-domiciled, and migrants in transit in the country;

(c) Develop and implement training on the standard operating procedures and indicators of trafficking for the relevant authorities, especially front-line officers, who may be the first ones in contact with a potential victim of trafficking, including, but not limited to, members of the Police Directorate, the border police, the Labour Inspectorate, health practitioners, teachers in primary and secondary education, social workers and interpreters.

73. With regard to the provision of services to trafficked persons and their long-term social inclusion, the Special Rapporteur recommends that the Government:

(a) Provide necessary assistance to victims and potential victims of trafficking based on the identification of vulnerabilities to trafficking in persons following the above-mentioned multidisciplinary approach, and that it not be conditional on their participation in criminal proceedings against the traffickers;

(b) Provide adequate funding to shelters and other organizations providing services to victims and potential victims that allow for the sustainability of the organizations and the services offered, bearing in mind that the protection of victims of trafficking in persons is the primary responsibility of the State, and ensure that services and facilities take into account gender-specific needs and that trafficked persons are not only provided with temporary shelter, but are also provided with the opportunity to acquire access to safe and affordable independent accommodation, with no discrimination of any kind;

(c) Establish a transition system for those organizations not fulfilling the licensing criteria set out in the licensing scheme but having experience in the field of the provision of assistance to trafficked persons, so that the expertise is not lost, evaluate the impact of the legislation requirements on how assistance has been delivered to victims and adopt measures to minimize any negative impact;

(d) Ensure that practitioners are trained and supported in working with distressed, traumatized children and other victims of trafficking and exploitation, that accommodation and other services is child-friendly, always takes into consideration the best interests of the child and gives consideration to the cultural, religious and social norms and values of the children and, in consultation with the child and in coordination with local child welfare systems, adopt an individual plan and make arrangements that favour family-based and community-based solutions;

(e) Ensure that, in line with a human rights-based approach, trafficked persons are granted non-conditional residence permits, taking into account humanitarian considerations, and are enabled with regard to access to the labour market, in cooperation with the private sector.

74. With regard to the early social protection of victims and potential victims of trafficking in mixed migration movements:

(a) Ensure that human rights are at the centre of efforts to address migration in all its phases, including responses to large and mixed movements, in relation to the protection of refugees, asylum seekers and migrants in vulnerable situations, including victims and potential victims of trafficking in persons, through the ratification and implementation of international and regional human rights instruments, as well as

following good practices such as the principles and guidelines on the human rights protection of migrants in vulnerable situations of OHCHR and the Global Migration Group;

(b) Revise the standard operating procedures and expand the indicators currently used in the identification procedures of trafficking in persons to include indicators of migrants' vulnerabilities that can lead to a risk of trafficking, based on the experience acquired by national agencies, international organizations and civil society, with such indicators taking into account the risks occurring during or as a result of the migratory journey and/or at the destination, such as those stemming from lack of financial resources, irregular status, use of migrant smuggling services, torture and extortion, sexual violence and sexual and labour exploitation;

(c) Integrate the identification of trafficking victims and potential victims into asylum procedures, including in the context of accelerated procedures, and enhance the identification capacity of all stakeholders, including border and law enforcement officials, front-line workers and volunteers, in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements, and in areas of arrival of large influxes of people;

(d) Following the UNHCR guidelines on international protection on the application of article 1 (a) (2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, consider trafficking in the country of origin, destination or transit and the risk of trafficking, re-trafficking or reprisals from traffickers as grounds for granting international protection in Montenegro;

(e) Establish coordination between the asylum procedures and the trafficking protection system in order to ensure that people identified as being at risk of trafficking during asylum procedures are referred to the trafficking protection system and, when both grounds are recognized, have access to both refugee status and protection as victims or potential victims of trafficking;

(f) Ensure that risks of trafficking and re-trafficking are adequately evaluated before a decision is made in the context of return procedures, including whether the person is returned to the first country of arrival or a third country, and ensure that no person, regardless of status, is returned to a place where there are substantial grounds to believe that she or he would be at risk of being subject to torture or other cruel, inhuman, or degrading treatment or punishment or other serious human rights violations, including a risk of being trafficked or subject to reprisals from the traffickers or their networks;

(g) Allocate sufficient resources to ensure that places of arrival, registration and reception centres and settings meet human rights standards for reception and assistance, in accordance with the principles and guidelines on the human rights protection of migrants in vulnerable situations of OHCHR and the Global Migration Group;

(h) Create safe, child-friendly spaces in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements that host children, offer children spaces for recreation, study and rest separated from other facilities and ensure that those areas are family-based and family-friendly, whenever possible; administrative detention of children must be banned at all times;

(i) Ensure that women, girls, men and boys who are vulnerable to sexual and/or labour exploitation are promptly identified and referred to gender-sensitive services on arrival and develop adequate, human rights-based and gender-sensitive information material available in a language that migrants understand, to ensure access to specialized services.

75. With regard to investigation, prosecution and access to justice, the Special Rapporteur recommends that the Government:

(a) Develop and implement training activities for law enforcement officials, including front-line police officers, prosecutors and judges, especially prosecutors and judges at local courts, to ensure the use of article 444 of the Criminal Code on trafficking in persons from the onset of investigations, when indicators of risk of trafficking are found;

(b) Develop guidance materials for law enforcement personnel, prosecutors and judges to clarify specific aspects of the definition of trafficking in persons and its application in practice, such as questions concerning unlawful marriage, in the determination of a case;

(c) Implement training and increase the capacity of law enforcement personnel, prosecutors and judges regarding financial investigation techniques to improve victims' access to compensation, in addition to the entry into force of the law on compensation for victims of trafficking, and ensure that prosecutors and judges at all levels are aware of the other avenues to seek compensation for victims;

(d) Guarantee child-sensitive due process in cases affecting children, including in all migration-related administrative and judicial proceedings affecting the rights of children or of their parents, that children's specific needs are considered and their views heard and that, in all decisions affecting children, the best interests of the child are taken into consideration;

(e) Ensure that children are able to bring complaints before mechanisms in addition to legal or court procedures, at lower levels that should be easily accessible to them, such as child protection mechanisms, school counsellors or an ombudsperson, and ensure that children receive advice from professionals in a child-sensitive manner when their rights have been violated.

76. With regard to the prevention of trafficking in persons, the Special Rapporteur recommends that the Government:

(a) Continue the prevention strategy focused on educational programmes and addressing unlawful marriage and carry out, in collaboration with international organizations and civil society organizations, an evaluation of such programmes as a strategy to reduce the risk of trafficking in persons;

(b) Develop and implement educational and awareness-raising activities targeting society at large to eradicate social acceptance of unlawful marriage and gender-based violence;

(c) Develop and implement awareness-raising campaigns among economic sectors, such as the hospitality industry, in areas where trafficking is at higher risk of occurring, such as the tourism sector in the coastal area, in order to improve identification.

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