

STUDY CASE



Equal treatment of Romani and Egyptian women in the implementation of public policies



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Cooperation

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Niksic, October 2020

PUBLISHER:

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Bad brain studio

PRINTING:

50

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Study case "Equal treatment of Romani and Egyptian women in the implementation of public policies" it's on level of regional project "For active inclusion and rights of Rom women in the Western Balkan FAIR III", which is implemented in cooperation with CARE International Balkans, and financially supported by the Austrian Development Cooperation. The authors of this publication are completely responsible for this context, which doesn't necessarily reflect the views of CARE international and the other organizations that are related. Every effort has been made to ensure the reliability, accuracy and timeliness of the informations presented in this document. CARE International Balkans does not accept any form of responsibility for any possible errors contained in the document or damage, financial or any other, originated from the use of this document or in connection with it.

ADVOCACY DOCUMENT WAS CREATED WITH SUPPORT AND COOPERATION:

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I.

CHAPTER

INTRODUCTORY REMARKS:

Study case "Equal treatment of Romani and Egyptian women in the implementation of public policies" was created within regional project "For active inclusion and rights of Roma women in the Western Balkan FAIR III", which is implemented in cooperation with CARE International Balkans, and financially supported by Austrian Development Cooperation. The study provides the offered solutions based on the analysis of a specific case of a victim of human trafficking due to a contracted marriage, which was recorded during the first wave of the COVID 19 pandemic, in March 2020. In this study are presented general problems of lack of application of legal regulations, relevant public policies, positive and negative practices of the competent institutions in the system of Montenegro. Document is directed to all representatives of relevant institutions, non-government organizations and other participants in the system of Montenegro and regional countries, who in their professional activities, directly or indirectly, are working on protection from domestic violence or violence against women, child marriages and other forms of trafficking in human beings, in crisis and regular situations during their focus on members of Roma and Egyptian communities. With this document we want to send a message to all relevant participants that says there are ways and possibilities of appropriate acting for protecting victim, through coordinated approach and sensibility of all subjects that participate in protecting victims in trafficking human and public health.

1.

METHODOLOGICAL APPROACH

In the epistemological methodological sense, this Study Case starts from an interpretive (idiographic) approach. However, if we take into account that this case study primarily derives from this principle, which means that it is based on the study of an individual or several of them and their uniqueness, then it is predominantly located within the qualitative research approach of a specific problem expressed during the Pandemic at new strain of Coronavirus and an institutional approach to victims of violence and their protectors (confidential persons) in a very difficult health situation in which certain institutions do not seem to have coped in expected way.

The first part of the study presents the Official Notes of a Confidential Person from the NGO Center for Roma Initiatives describing the manner of finding out and grounds for suspicion that the criminal offense of trafficking in human beings was committed to the detriment of the victim described in this case study. Also, the second official note describes from the point of view of the confidential person the manner of action of the competent public law authorities that participated in the procedure during the reporting of the criminal offense, and the later application of their powers is explained in detail. An interesting personal review of the entire event describes the feelings and observations of the confidential person, which are an

expression of her concern, feelings of threat and fear for the further fate of the victim.

In the second part of the study, we analyzed the actions of the institutions of the system, especially in the actions of the Police and the Directorate for Inspection Affairs - Department of Health and Sanitary Supervision, after that the legal-territorial framework was perceived from a human rights perspective.

2. OFFICIAL NOTE OF A CONFIDENTIAL PERSON

Day 24. 03. 2020 at 19:45 o'clock, I was contacted by N.Đ. and in that occasion he informed me that unknown woman was left in front of their family house. He asked me to take care of the victim, knowing that I deal with women's human rights, and that I'm working on repression of arranged marriages. As a long time defender for human rights, I reacted immediately no matter of current situation caused by COVID 19 pandemic in our country. In accordance with the recommendations of the National Coordination Authority, before going to the family where the victim was, I used protective equipment and took the necessary disinfectants with me. When I came in contact with the victim, I found the victim visibly upset and the housemates N. Đ, they told me that the woman was in fear and that "a little bit of everything" had happened. As the victim was visibly upset, she immediately started to cry, I let her to cry and asked housemates to leave us alone if it's possible. But then the victim said loudly: "Let them stay, to hear what happened to me!". Namely, on 24.03.2020. year N. Š ran away from the M. Z family and was intercepted by A. D. on the street and on that occasion repeatedly offered her to get into his car, because he allegedly intended to help her. After that N.Š. accepted his invitation and she got into the car because she didn't know where to go with a baby and thought that he will help her, cause she already met him at M. Z.'s home. But, after short ride A. D. starts with sexual harassment and touches her without her permission, while she was refusing him all the time and telling that she'll report him to the police if he rapes her.

A.D. didn't give up from his intention, so he threatened to her saying that she can't report him to the police because she doesn't have documents and he first wants to have sex with her and then he'll take her wherever she wants. A.D. parked near some house, and then some unknown man was getting out of that residential building to see who is in the car and she took that moment to open the door and escape, in unknown direction. She didn't recognize the place where that was happening, but she was running by the street with her baby and some car stopped, the man from the car offered her to take her to the police station. N.Š. speaks montenegrin language hardly so she only knew to explain to him to take her near estate where Roma and Egyptian people live, so he did that. During the conversation with N.Š. she also mentioned that in the December. 2019 she left her husband because of years of physical violence. She lived with him in Đakovica, and at the end of December 2019, she came in Montenegro illegally, brought by a man from Kosovo who's name she doesn't know, and she paid him for driving. That man left her and her eight month baby in Podgorica, at Konik where lives her uncle's daughter. So she was at cousin's home about two or three weeks. After that, her cousin asked her to leave because she can't take care of her anymore. She listened to her cousin and in the meantime she met M. The woman from Konik and her husband S. So she moved to their home for 10 days until S. didn't arrange her marriage in Bar where he took 500 euros and a car, after that he arranged her second marriage for D. from Herceg Novi, without her permission and in that case he received 1500 euros. Meantime, one cousin of her, from Kosovo, managed to obtain personal documents for her. But those documents were retained by D. from Herceg Novi with whom she lived in contracted marriage. She was there for some time, but she couldn't stand it anymore so she escaped and went back to Podgorica to S. Then S. was in hospital so his wife M. said to

N.Š.: "It doesn't matter that you escaped, we'll arrange you another marriage. N.Š. was against that plan so the same day she ran off to Nikšić to family M.Z. where later happened some troubles and she finally decided to report all previous events to the police.

3. OFFICIAL NOTE ON THE ACTIONS OF THE COMPETENT INSTITUTIONS

After conversation with the victim I called service of duty – Administrative police, to report what I found out from that conversation. Policeman who answered on phone call, told me that I'll soon have a call from some of the inspectors who are in charge of this area, which happened. When he called me he said: "Now it's late, so ask if she can stay with family N. or with you, because we can work on this case until morning". When I explained to him that these were personal, security reasons and the need for urgent protection of the victim, because the victim intends to report the family from which she escaped because she experienced verbal and psychological violence, and on the same day was a victim of attempted rape, and while staying in Montenegro was a victim of human trafficking, the official told me: "Then come now to finish it as soon as possible." And when we showed up in front of the station at his call, a policeman stopped us at the entrance of the police station and then another officer appeared with the explanation that we had to wait for the arrival of the sanitary-health inspection in accordance with the order of the National Coordination Authority (NCT). However, one of the mentioned officers, who most likely coordinated the call of the sanitary-health inspector, said, in our presence, several times by phone: "Do it to get them out of the door!". I didn't react to his statements, because my only goal was to place the woman and her eight month old baby in a safe place, so that they wouldn't wait in front of the police station. With the victim and her baby, I got into my private car and waited for the arrival of the sanitary-health inspector. Then the inspector who invited us to come, in order to report the case, came to my car several times and said that he couldn't receive the report until the sanitary-health inspector had done his part, which didn't appear until 11:53 p.m. Then the inspector on duty called me and told me that the sanitary-health inspector had come and asked me what language the victim speaks. After a while, he came to my car and told us to fill out the forms and leave them with the policeman at the gate, which we did. After that, without any contact with us, the sanitary-health inspector, based on the collected lump sum notifications from the police and contrary to the Law on Inspection Supervision and NCT orders, brought decisions to me on home self-isolation, while for the victim and her baby she ordered quarantine to the NGO shelter "Safe Women's House", which was not intended for that purpose. As the decisions were handed to us by the inspector on duty at 01:30, I must admit that he told me: "I'm sorry that they had to give you a decision on self-isolation, but it's for prevention", on which I replied that I understand situation and that it is so now, it is important to protect the victim and I immediately asked him who will accommodate her, knowing that the "Safe Women's House" is located in Podgorica? Then he stopped and immediately dialed a phone number, as the conversation lasted longer, I got in the car because it was snowing and it was very cold outside. After finishing his conversation, told me to wait and he'll inform me because outside it's cold, so he went inside of station. He called me at 01:45 after midnight and told me that shelter can't receive a victim, so I called him few times to ask what to do with victim and her baby that are staying in my car, I even warned him that I have a decision of self-isolation, he said: "Wait a little bit more, I'm working on it and trying to reach sanitary-health inspector, don't know what to do, I even sent colleagues to find her at home, she's probably sleeping and doesn't hear the phone". So I told them that I don't even feel safe, but they said I'm in front of doorkeeper and that it's safe there. Because no one knew to explain me what to do, I asked to leave victim in my car in circle that is used by police, so I could take a cab or call some member of my family to take me home. They didn't even allowed that, also I wasn't allowed to stay near entrance of police or to use pavement surfaces. In one moment inspector told me: "We did everything we could, now you can do whatever you want". He also refused my calls, so I called number of duty "122". Then they told me several times "wait a little bit more", until there was 04:00 after midnight. As I no longer knew what to do, having on my mind that the baby started crying

because she was thirsty, hungry and undressed, and at that moment I realized that the only solution was to go to the Health Center, at the Emergency Service. At around 04:10, I went to the Emergency Medical Service and explained to their employees what happened and that the victim and baby were in my private car from 20:30, with all three of us having a solution for self-isolation and quarantine. The staff from the Emergency Service received us, stunned by the actions of the police and the sanitary-health inspector, so the ambulance doctor first told me: "I don't know what to do in this case, we have a tent set up in front but I'm sorry to put them in there, it is unhuman, because the temperature outside is below zero and there is nothing in the tent". The doctor instructed me to place the victim and the baby in the infectious department of the General Hospital, until at least the authorities see where they will place them later, in which quarantine that will be. When I went to the Infectious Diseases Department, the nurse on duty asked me to write the word "urgent" on the instructions, because only then she could inform the doctor on duty. I returned to the Emergency Service again and asked them to put me on the instructions that it was urgent, which the doctor did. However, when the nurse called the doctor on duty over the phone and tried to explain to her why we were here, the doctor asked to speak to me on the phone and asked me the following: "Does the woman have any symptoms, cough, fever, does the baby have any symptoms", as I replied that neither the woman nor the baby have such symptoms, but that I do not know what else to do with them, because the woman and baby are in my car from 20:30, and they also have a quarantine solution, and no one wants to put them in a safe place, the doctor from the Infectious Diseases Department replied: "We're not quarantine and I am not interested in a baby, woman or you. Madam we're not quarantine, what do we look like to you", after those words she hang up the phone. When I arrived, after the unsuccessful self-initiated accommodation of the victim, again, in front of the police station around 05:30, a policeman appeared next to the car, he didn't want to introduce himself on my request, and rudely asked for my documents, ID card, when I gave him an ID card he immediately called someone on the phone and told him my personal data, ID number. Then he informed me that the state prosecutor had filed a criminal complaint against me because I had violated the self-isolation measure. As I was forced at their request and ordered by the police to go home, so I don't be placed in quarantine, I had to leave the victim and her baby in the presence of two police officers in front of the police station, thinking that they would then pick them up and place them on some safe place. But, later in conversation with the victim I found out that police officers told her to leave the station, she had to go back to the family she previous escaped from. Few hours after I came home the sanitary-health inspector called me on my private mobile phone and asked me: "Where did you leave the victim?", on which I replied: "You should ask the police officers, because on their orders I had to leave them in front of the police station and I had to go back to self-isolation, which they assigned me so they don't put me in one of the quarantines." After that, on March 25, 2020, at around 1:00 PM, the victim called me on the contact I had left to her while we were in front of the police station. On that occasion, she told me that she returned to the person from whom she had previously escaped and that she was feeling well at that moment. I immediately called the sanitary-health inspector and informed her of the fact where the victim was, for which she had previously called me, hoping that adequate accommodation would finally be found for victim and her child. However, the previous decision made by the sanitary-health inspection to place the victim in the "Safe Women's House", which was not intended as a place for quarantine, the inspector replaced the victim with a new solution and placed her child with the perpetrators from whom the victim escaped. Upon finding out that such a decision was made by the competent inspection, during the victim's stay with one of the perpetrators of psychological violence against her, I tried to make daily contact with the victim on behalf of the organization as a confidential person and with relevant institutions in order to point out that the victim is still in danger and that other measures must be taken to protect her from further exploitation. On that occasion, I informed the National Team for Domestic Violence (consisting of representatives of the Prosecutor's Office, Judiciary, Police, Ministry of Health, Ministry of Labor and Social Welfare, Anti-Trafficking Office and five representatives of non-governmental organizations) as their permanent member with the actions of police officers and the competent inspection, taking into account the competencies and capabilities of the team, as well as the current epidemiological situation in which any conclusion is difficult. As the team members didn't undertake anything significant, on 17.04. 2020, at 11:19 AM, AZ called me on my private mobile phone and then he asked me to call the police or SOS phone Nikšić so that N.Š. and her baby could be placed somewhere else because he can no longer "watch

on” her. He also told me that the victim, few days ago, asked S.R. to arrange her marriage somewhere, so she can leave Z.A. family. He found that out, 17.04.2020, personally from S. who previously called him and told him that he found place where he can arrange marriage for N.Š. at Podgorica at his friends. After this I contacted manager of Nacional Team for prevention and fight against violence in family. I gave her content of conversation between me and A.Z. and I demanded for urgent activities and measures so the victim could be placed in some safe place. That day about 14:16 o'clock, manager of the team replied with informations that the victim will be placed at shelter of NGO "SOS call center for woman and children as victims of violence in Nikšić", also said that they're waiting for sanitary-health inspector to organise so the previous solution/decision can be changed. At 15:25 o'clock, I had a phone call from M.Z. on my private phone number, who informed me that police took N.Š. and her baby. Ten minutes later I received message by manager of team, which was saying: "N. and her eight month old baby are at shelter".

4.

PERSONAL REVIEW WOMEN'S RIGHT DEFENDER

Before I say anything about this case, I would like to point out that the Council for Civilian Control of Police Work and then their president, Mr. Aleksandar Sasa Zekovic, played a major role in the daily communication that lasted about a month, in order of pointing out the shortcomings of the relevant institutions, for which I am especially grateful.

Given the efforts made so far and the work of the Center for Roma Initiatives on sensitizing relevant institutions, I had no doubt that the relevant institutions would take the most urgent approach to victim protection, despite the difficult circumstances in the country caused by the COVID 19 pandemic. However, as time was passing by from that critical night, I was sure that we were not their priority in the treatment, and such a feeling was present in the victim as well. I will remind you, that the waiting time in front of the Police was full eight hours, which speaks of the manipulation of the relevant institutions towards the victim and the confidential person, and unfortunately the victim was placed in a safe place only after 24 days. Just thinking that they left us, without thinking, to stay for more than eight hours in my private car, which further endangered our lives, and that they were not interested in whether they had finished their work that they had started by giving wrong solutions, it speaks of the insensitivity of individuals in the relevant institutions towards certain groups.

There is one big question: Why institutions behaved that way and does it mean that they took this case with stereotypes and prejudices knowing that we came from Roma and Egyptian community?

Without intention to make this Study sensational, in those moments I felt powerless and felt that all competent authorities were against us. How the situations followed each other from the police through the procedure of the sanitary-health inspector to the doctor at the Infectious Diseases Department. Still, it's a feeling I'll certainly never forget, and worst of all, not even the victim who was with me and followed the whole situation.

” I was really sad because of sentence given to the National Team for Domestic violence by the President of the Council for Civilian control of Police Work, which says: "I am already resented that in this situation, in which the country finds itself and where all institutions are fighting to save human lives, we are dealing with this case." I asked myself does it mean that our lives are not human, does it mean that victim and baby are not human beings and are the three of us "animals" for all institutions which behaved the way leaving us on the street till the morning, and after that took victim to someone who abused her previously

However, despite such objections, the Civil Control Council continued to fight for justice to come to light. I am sure that the actions of the relevant institutions are clear to everyone from the outline of the case. Even today, I cannot believe that the officers were not aware of how they treated the victim and her eight month old baby as first, and then me as a confidant. All that wasn't enough to them, so they tried to "transfer" their mistakes on me, by trying to show how I and the NGO I belong to, which deals with the protection of victims of violence, were not up to the task that evening. I am simply amazed by the silence of the Team and the lack of collegiality and solidarity with me as a member of the team, with all due respect to individual members, whose mission is to protect the victim. From that point, my world collapsed.

“ I was really furious, in that moment I called one person I cooperate with, I started to cry not knowing what's happening to me and why is everything like that, why nobody wants to help us. No matter for all of this, I was convinced that I'll handle all of this if there is justice, and I'll be a winner at the end. In the first place, because my conscience was clear and because that night I didn't commit any criminal acts, but humane acts I'm proud of.

Because of all of the above, I wonder where Romani and Egyptian women are today! I am writing this after several months, but even today I cannot believe what kind of torture I went through then. I want to believe that this is one ugly dream but I still can't wake up from his lap yet!

Perseverance always wins, especially when you point out mistakes and come together, because you are doing the most humane thing, which is, saving someone's life. Wanna say that, despite all impediments through described case, there're positive things:

- That the case was brought to justice and qualified as a trafficking person
- That the victim and her child are placed safely in the shelter
- That the case files, considered by the State Prosecutor after being submitted by the police, were assessed as unfounded and the criminal charge was rejected
- After the reaction, the Security Center set up a tent inside the police station to receive reports from other citizens without delay
- That the case served as an example of how not to act and it was the subject of several meetings by international and national NGOs involved in the protection of victims in order to create a safe environment for victims of domestic or other violence
- That a meeting was held with the Police Directorate at which we discussed this case, measures and powers of officers during the resulting COVID pandemic 19
- That more constructive cooperation has been established between the Police Directorate and the Roma and Egyptian community
- In general, there is greater support from the Security Centers and the Police Administration of Montenegro, especially in further work on combating domestic violence, child marriages and other various forms of crime of great importance for the further work of the Center for Rom Initiatives.

II. CHAPTER

1.

ANALYSIS OF INSTITUTIONAL PARTICIPANTS IN THE CASE OF WOMEN'S RIGHTS DEFENDER

The case in which were included: human rights activist Fana Delija and user N.Š. in addition to the legal aspect, it can be analyzed from the point of view of the behavior of institutional participants, who were directly or indirectly, to a greater or lesser extent, involved in the procedure.

This case is particularly interesting and important because, in addition to being a victim of domestic violence and trafficking, she became a victim and defender of human rights and a confidant, an activist of a non-governmental organization dealing with human trafficking and illegal (arranged-contracted) marriage in the Roma and Egyptian populations.

In the following text, several conclusions are given regarding the behavior of the Police Directorate, the Directorate for Inspection Affairs - Department for Health and Sanitary Inspection and the National Team for Domestic Violence.

” WE CAN SUCCESSFULLY FIGHT FOR HUMAN RIGHTS WHEN WE ALL BECOME EQUAL IN FRONT OF THOSE WHO HAVE A MANDATE TO DECIDE ABOUT RIGHTS OF OTHER PEOPLE.

Fana Delija (CRI)

1.1.

MANAGEMENT'S ACTIONS OF POLICE

To review the behavior of the Police Directorate, it is important to consider several segments. The first striking moment is the question of the inspector on duty after the reported case of violence and human trafficking, who asked the human rights defender and confidential person: "Can you keep that wife with you or that family until the morning?" From this question of the inspector, it can be concluded that he wasn't immediately able to understand the seriousness of the situation, and it is not clear why he had the opinion that the situation would change in the morning.

From the second comment of the on-duty inspector of the Security Center: "Then come now to finish it as soon as possible", it can be concluded that the inspector is not familiar with the measures of the National Coordination Authority and the prohibition of direct reception of parties to the Security Center. Human rights defender Fana Delija and victim N.Š. were not allowed to be invited to the Security Center. The next important moment in this case, which is related to the behavior of members of the Police Directorate, happened after the arrival of a confidential person (Fana Delija) and the victim N.Š. to the Security Center. Police officers didn't, in accordance with the NCT measures, allow the victim and the

confidential person to enter until the arrival of the sanitary-health inspector, but with the comment of one of the officers: "Do it so that we remove them from the door!" From this comment, several conclusions can be drawn with the common denominator that this is an unprofessional attitude towards the citizen of Montenegro and the victim of violence and human trafficking. Also, this comment points to the possibility of discrimination on ethnic grounds because the confidential person and the victim are members of the Roma population. Such behavior is in direct opposition to legal norms, but also to the Code of Police Ethics. This document "represents a set of principles on the conduct of authorized police officers, which are based on the norms of international and domestic law, and are necessary for the ethical conduct of police officers." The Code obliges all police officers and other persons who are, in accordance with the law, invited to participate in the execution of Police tasks.

The principles of the Code apply to all security situations.

Article 2 states: "In the performance of his official duties, a police officer shall respect the basic human rights and freedom of all citizens, regardless of differences in nationality, race, color, religion, sex, education, social status or any other personal capacity". In this case, there was a violation of the Code of Police Ethics, which is reflected in the comments of the officers of this Security Center.

All further correspondence between the human rights defender, the Council for Civil Control of Police Work and the acting Security Center indicates the unwillingness of the Police Administration to admit its shortcomings in its work. Failures are also possible on regular occasions, and of course in a pandemic emergency. Accepting mistakes and responsibilities would be a good sign that this structure is ready to change and strengthen its capacity to communicate with citizens.

1.2.

PROCEDURE OF THE DIRECTORATE FOR INSPECTION AFFAIRS

Department of Health and Sanitary Inspection

The behavior of the employees of this Directorate should be observed from several important points. The first important moment is that the human rights defender and the victim waited in very bad conditions for sanitary-health inspector to arrive at the Security Center for almost 4 hours. Upon arrival, the sanitary-health inspector brought decisions on home self-isolation for the confidential person without any direct communication with the confidential person and the victim (except for filling in the form through the Security Center officer), while quarantining the victim and her baby in the "Safe Women's House". Before making the decision, the sanitary-health inspector had only superficial information obtained indirectly from the officers of the acting Security Center. Instead of direct communication with the confidential person and the victim, from which she could understand that it was a victim of several crimes, the sanitary-health inspector chose an easier way that indicates unprofessionalism. Without all the relevant facts, the sanitary-health inspector gave a decision that contained material deficiencies. One of these shortcomings is reflected in the fact that the sanitary-health inspector ordered for the victim and her eight month old baby to be placed in quarantine in the "Safe Women's House". There is no such quarantine and no such organization in Nikšić. All this could have been prevented if the sanitay-health inspector had communicated directly with a trusted person who has experience in these situations and who would surely explain to the sanitary-health inspector that there is no "Safe Women's House" in Niksic but only an SOS call center for women and children - victims of violence which doesn't have quarantine for users suffering from COVID-19. The inspector left the confidential person and the victim with the baby without clear instructions, which resulted in wandering, fighting in bad conditions until the early morning hours. To make this case even more bizarre, the employees of the acting Security Center made sure that in

the early morning hours, after the return of the confidential person and the victim with the baby from the Health Center in front of the Security Center, they filed criminal charges against the confidential person for violating the self-isolation measure. Fortunately, the Basic Prosecutor's Office subsequently rejected this criminal report.

The professional omissions of the sanitary-health inspector continued the next day after the case was reported, in the way that she determined the quarantine measure, for the victim with the baby, in the family from which she had just escaped because of violence. If she had communicated directly with the confidential person on the night when the case was reported, such an omission wouldn't happen, probably.

In communication with the Council for Civil Control of Police Work, the sanitary-health inspector accepts her responsibility that she made a mistake in determining quarantine: "I know that the Safe House is not designated for quarantine, but it should be an institution that helps vulnerable mothers with small children regardless of their nationality."

Regardless of the justification of the sanitary-health inspector's views regarding the need for quarantine for endangered mothers with small children, the fact is that the inspector made a big mistake. The victim and the baby were forced to wait all night in unhuman conditions for an agreement between the institutions regarding her accommodation, only to be returned to the family from which she escaped because of violence.

The Code of Ethics for Civil Servants and State Employees ("Official Gazette of Montenegro", No. 050/18 of 20 July 2018) prescribes in Article 6: "An official is obliged to perform duties in a state authority in a way that ensures the exercise of rights, respect for the integrity and dignity of citizens." In this case, this was not provided by the Directorate for Inspection Affairs - Department for Health and Sanitary Inspection.

There's open question: Was the article 7, of the Code, violated? Which says: "An official is obliged to respect the principle of equality of citizens before the law at every opportunity, especially when deciding on the rights, obligations or legal interests of citizens".

In the performance of his duties, an official may not place a citizen in a privileged or unequal position in exercising his rights and obligations, on the basis of race, color, nationality, social or ethnic origin, connection with a minority people or minority national community, language, religion or beliefs, political or other opinions, gender, gender reassignment, gender identity, sexual orientation and / or intersex characteristics, health status, disability, age, property status, marital or family status, group affiliation or presumption of group affiliation, political party, trade union or other organization, as well as on the basis of other personal characteristics.

On the other hand, it should be noted that the sanitary-health inspector didn't have a clear protocol of action in this situation when NCT measures are applied. By that, it was more important to communicate directly with the confidential person and the victim. Also, it should be taken into account the fact that only two sanitary-health inspectors were deployed in the operating municipality at that time, one who was on sick leave. This indicates the fact that sanitary-health inspector had to work more than the legally prescribed 8 hours a day, which can result in professional omissions.

It should also be pointed out that the Directorate for Inspection Affairs as well as the Police Directorate refused to accept omissions in its work.

1.3.

**PROCEDURE OF THE NATIONAL TEAM
FOR DOMESTIC VIOLENCE**

In this study case, it is important to look at the activities of the National Team for Domestic Violence. The members of this team are representatives of various government authorities (The Ministry of Internal Affairs of the Republic of Montenegro, Police Department, State Prosecutor Office, Misdemeanor authorities, Ministry of Health, Ministry of Labor and Social Welfare, Trafficking offices, Non government organization. SOS line for women and children victims of violence in Nikšić and Podgorica, NGO Safe Women's House, NGO Center for Women's Rights, NGO Center for Rom Initiatives, Council for Civil Control of Police Work...). After the victim and the baby were quarantined in the house from which she escaped from violence, human rights defender and member of the National Team Fana Delija, informed the President of the Council for Civil Control of Police Work of this case. The President of the Council undertook further communication with the Police Directorate, but also informed the Team about all aspects of the case. The national team had some communications from individual members but didn't take a final position on the case even 20 days after reporting. Only after another appeal by member of the Team - Fane Delije, the head of this authority mediated that the victim with the baby will be placed in the Shelter for Women and Victims of Violence in Nikšić.

This case points to the question of the functionality of team in crisis situations, which the pandemic certainly is. The national team was also able to make its recommendations regarding how to act in an emergency situation in order to speed up finding an institutional solution that will protect the victim instead of staying for more than 20 days with family from which she fled due to violence.

2.

**THEORETICAL AND LEGAL ANALYSIS OF THE ACTION OF
STATE AUTHORITIES IN THE CASE OF TRAFFICKING IN
HUMAN BEINGS AT THE VICTIM OF N.Š.****2.1. ANALYSIS OF LAWS AND BYLAWS WITH REFERENCE
TO THE ACTIONS OF THE POLICE DEPARTMENT AND
THE DIRECTORATE FOR INSPECTION AFFAIRS**

This part of the study presents a brief overview of the constitutional and legal norms that are relevant to the presented case study and the event that is the subject of analysis. Also, by-law legal framework is presented, which we can say with certainty is important for more systematic monitoring of the actions of state authorities of Montenegro in charge of monitoring and implementing measures in the fight against a new strain of virus (COVID 19) whose consequences are not yet complete. Such a serious health situation in every sense requires the restriction of certain freedoms but also the rights of citizens to the extent possible and which can reduce the possibility of transmitting a contagious disease. Almost most of the measures that were continuously adopted by the National Coordination Authority were in any case necessary and implemented by the officers of the Police Department. However, from implementation to concrete solutions, the most important factors are the sensibility of civil servants who implement measures that are limited to the extent and in a way to prevent the Pandemic and the attitude of citizens towards these measures, which is retributive, under threat of criminal liability for non-compliance. In specific situations, the public of Montenegro has repeatedly emphasized the importance of the health system, police and inspection authorities, as well as citizens. In a specific study case, we will deal only with certain institutions from the point of view of their scope of work and the way they reacted in the situation that is the subject of this study.

2.2.

AUTHORIZED POLICE OFFICERS

Police officers have a very wide range of powers during a health crisis. They have very important role during the health crisis caused by the Pandemic, which is of special importance for the further health of citizens. They are most often the bearers of security of citizens, performers of regular powers, but also special powers that are characteristic in cases that are similar to the state of emergency and in this case are caused by infectious diseases. Police organizations then act according to special rules according to which they are obliged to ensure the highest degree of security of citizens, protection of their lives and property security. Citizens are obliged to act according to the instructions and orders of police officers, and on the other hand, police officers are obliged to abide by the Constitution of Montenegro and all legal regulations relating to respect for human rights that are not currently restricted or suspended.

2.3.

THE CONSTITUTION OF MONTENEGRO

The constitution of Montenegro¹ warrants and protects the rights and freedom (article 6). In the constitutional laws the rights and freedom of every citizen are inviolable. Every citizen is obliged to respect the laws and the freedom of others. The representatives of the state and local authorities have a special responsibility to respect the laws and freedom. In the most important legal act are also prescribed the limitations of the guaranteed human rights and freedom (article 24). Guaranteed human rights can only be limited by the law, to the extent permitted by the constitution and to the extent necessary to satisfy the purpose for which the restriction is permitted in an open democratic society. Restrictions may not be introduced for any other purposes other than those for which they are prescribed for. For the purpose of the temporarily restricted rights and freedom (article 25).The constitution prescribes that during a declaration of war or state of emergency the exercise of certain human rights and freedom may be restricted to the necessary extent. The interesting provisions on the restrictions of human rights that the constitution of certain human rights cannot make on the basis of gender, nationality, race, language, ethnical or social origin, political or other belief, property status or any other personal characteristic. The rights that cannot be limited are the right to live, the right for legal remedy and legal aid; dignity and respect for the person, fair and public trial and principle legality, the presumption of innocence, defense, the recompense for the damages or unlawful or unjustified deprivation of liberty and unfounded conviction, the right of freedom of thoughts, conscience and religion, the right of marriage. Also the prohibitions cannot be lifted either on provocations, incitement to hatred or intolerance, discrimination, retrial and conviction for the same offense, violent assimilations. The constitution predicts that the measures can be valid during the state of war and emergency state and that is drawn from the most important international regulations.

Especially during the first wave of the pandemic the government of Montenegro² did not enforce a state of emergency but it passed orders through the newly formed National Coordination Authority for infectious diseases which had a special and interesting legal significance. The orders issued by this expert body in some way restricted certain rights of the citizens. The order primarily referred to the citizens movement in certain periods of time during the day, the closing of the catering facilities or the limitation

¹The constitution of Montenegro (Official Gazette of Montenegro No.1: 1/2006)

²Pandemic represents mass disease from particular illness which spreads on more continents (almost the whole world) and it affected a large number of people.

of their working hours and certain conditions for performing catering activities, special working regime for educational, health and other services and even the work of civil society organizations. The vital society institutions have made special work plans including the Police directorate which has issued an instruction on how to perform certain jobs, tasks and other important issues for the police department on taking temporary measures to prevent the entry and to suppress and prevent transmission of the new coronavirus COVID 19 (hereinafter the instruction). The procedure according to the instruction will be explained in more detail part of the legislative procedure of the police officers but in any case it is not anticipated by the constitution or this instruction that the right to report criminal offenses and other socially dangerous acts by the citizens can be restricted, also it is not anticipated to stop the protection of victims of crime. The constitution anticipates the protection of mother and child (article 73) which is comprehensive and which is not mentioned in this particular case.

2.4. THE LAW FOR INTERNAL AFFAIRS OF MONTENEGRO

The police officers have police powers which are determined by the law on international affairs³ (article 23) but also with other laws. Police officers have one of the most important place in the system, while preventing and discovering criminal offences as well as bringing the perpetrators to the authorities they are also endowed with numerous powers with which they may affect or may temporarily restrict certain rights and freedoms of the citizens. However they are obliged to use retributive powers only to the extent necessary to achieve the purpose for which those powers are undertaken, without the right to exceed the necessity to use the coercive means or some other powers. The citizen is sovereign and obliged to report every criminal offence and the police officers to take measures and actions within their powers in order to identify the perpetrator. Therefore, in the concrete analyzed case the obligation of the citizens as well as the representatives of the civil society organizations even during the pandemic is that they must report the crime that they discovered indirectly or that came to them while performing their activity which was in the previous situation was the obligation of Fane Delije, human rights defender. Otherwise, a citizen who, except in privileged situations, doesn't report a crime may be prosecuted by state authorities for the crime of "Not reporting a crime and the perpetrator" (article 386 of the CLCG) and police officers are obliged to provide professional assistance to citizens and legal entities in exercising their rights and obligations, protection of life, personal safety of citizens and property (article 4).

Acting in accordance with legal regulations, the human rights defender reported her findings on the commission of crimes against life and body to police officers. The police officers instead of receiving the event as well as taking measures to discover the perpetrator and prevent his possibility to leave the country or take other measures to prevent his influence on the victim, which almost happened, they were guided primarily by the current health situation in the country, they firstly tried to avoid emergency procedures to take the report, postponing the procedure of establishing the facts from the initial report for the period provided by the health and sanitary regulations on the measure of self-isolation (lasting 14 +14 days), instead of taking measures to find out perpetrators of the crime and avoid possibility of perpetrators to leave the country or use some other measures of influence on the victim, which almost happened, we see that from previous description of the case.

Authorized police officers exercising their powers in an extremely complex situation caused by the COVID-19 pandemic, respecting the orders of the Ministry of Health and the instructions of the National Coordinating Authority, stating that they are doing that in order to ensure the safety of citizens in accordance with the instruction, they undertook the obligation of informing the competent state prosecutor and legal inspection authorities.

³Law on international affairs of Montenegro (Official Gazette of Montenegro, No. 44/2012, 36/2013, 1/2015 and 87/2018)

However, in the direct phone calls of the human rights defender with the officers in charge of receiving daily events and competent inspectors for suppression of blood and sexual crimes of the Police Directorate, the content of professional assistance to individuals and legal entities provided by the Law on Internal Affairs was somewhat different, it was not in accordance with the legal obligations submitted regarding the complaint about the work of police officers.

The human rights defender was using her right to complain (article 16) and was considering that police officers in the performance of police duties violated her right to report a crime and its perpetrators, but also were in some way misleading her to come immediately to the police station in order to simplify the application procedure, she found a list of systematic problems of many competent institutions one of which was the police, which first resulted in a long wait for the sanitary-health inspection in their own car with the victim and her baby only a few months old, and then ordering self-isolation measures, leaving her without the possibility to help the victims to be safely placed in a certain non-existent quarantine determined by the competent authorities of the Directorate for Inspection Affairs, until the later submission of the case file to the competent prosecutor's office due to the existence of a well-founded suspicion that the human rights defender allegedly committed a criminal offense "Failure to act in accordance with health regulations" (article 287 of the CLCG) until the victim who was with her in the car all the time committed the same criminal offense. Such a procedure of the competent authorities may constitute a selective approach or an acknowledgment of one's own fault that the police officers were unable to place the victim in the quarantine due to their failure to work but perhaps even that kind of pressure on the human rights defender to leave the victim, to take care of herself at a low atmospheric temperature and with an unprotected infant in her arms, without money, food and accommodation.

2.5. THE CRIMINAL CODE OF MONTENEGRO

By the criminal code of Montenegro⁴ are provided several criminal offenses against the general health of people but for the purpose of analyzing this event two prescribed criminal offences stand out, with which the human health is protected and the danger of reducing the social danger of infectious diseases is reduced, those are:

- **Failure to comply with health regulations for the control of dangerous infectious diseases (article 287)** A fine or imprisonment of up to one year is envisaged for the perpetrator of a criminal offense who does not act in accordance with regulations, decisions, orders or directives which determine measures for the suppression or prevention of a dangerous contagious disease.
- **A felony against human health (article 302)** which essentially provides a sanction when the consequences of a criminal offense occur and when a person is seriously injured or his health is seriously impaired, the perpetrator shall be punished by imprisonment for one to eight years, or in certain circumstances if the death of one or more persons occurs the perpetrator shall be punished by imprisonment of two to twelve years, or if due to the negligence of doctors and other medical staff the person is seriously injured or his health is severely impaired, the perpetrator shall be punished by imprisonment for up to four years. If the death has occurred, the perpetrator will be sentenced from one to eight years in prison.

However, in the previously described health situation in which the victim and the human rights defender found themselves, it is concluded that the police officers informed the state prosecutor in accordance with local and real jurisdiction and submitted him the case for assessment and opinion with a focus

⁴(Official Gazette RCG, No.70/2003, 13/2004 – 47/2006 and Official Gazette of Montenegro, No. 40/2008, 25/2010, 32/2011, 64/2011 – other law, 40/2013, 56/2013 – 14/2015, 58/2015 – other law, 44/2017, 49/2018 and 3/2020)

which was not on the victim and her trauma. Instead they have drawn the prosecutor's attention to the alleged failure to comply with health regulations to repress a dangerous contagious disease. By using the health regulations and the instructions on the manner of performing certain tasks and other specific issues of importance to the police directorate on the circumstances of taking temporary measures to prevent the intrusion and spreading of the new coronavirus (COVID 19) into the country the police officers informed the health and sanitary inspection whose acting inspector determined the measure of self-isolation lasting from 14 days to the victim and the human rights defender without establishing relevant facts and only on basis of information of a certain police officer, firmly trusting him. That self-isolation was later extended by the decisions of the National Coordination body for another 14 days, it was determined to the non-existing quarantine accommodation as it can be seen from the analyzed documents and which will be discussed in the part of the work on the actions of the inspection and to the defender in a way already listed. The procedure which was initiated by the Police's request for the opinion and the assessment of the existence of elements of the criminal offence after being reviewed with insights into the files was submitted by the police and the defender to the prosecutor. It was not qualified as a criminal offense which also shows the unjustified reaction of the acting services.

2.6. INSTRUCTION ON THE MANNER OF PERFORMING CERTAIN TASKS AND OTHER SPECIFIC ISSUES OF IMPORTANCE TO THE POLICE DIRECTORATES ON THE CIRCUMSTANCES OF TAKING TEMPORARY MEASURES TO PREVENT THE INTRODUCTION INTO THE COUNTRY, CONTROL AND PREVENTION OF THE TRANSMISSION OF NEW CORONAVIRUS (COVID 19)

The instruction represents one of the most important bylaws that it considered significant for the case in question at the time of the application of the police powers of the Police Directorate. Adopted on March 17, 2020 in order to prevent the introduction of infectious diseases or new coronavirus (COVID 19) into the country, control and prevention of transmission to other countries to protect the population from infectious diseases and represents a professional attitude of the Police Administration in response to new and dangerous Virus. The aim of this instruction is to regulate in more detail the manner of performing certain tasks and other issues of importance to the Police Directorate in the circumstances of taking temporary measures to prevent the introduction of new coronavirus into the country, suppression and prevention of transmission. Guidelines for police officers in performing tasks and duties, ie the application of police powers are contained in the fourth chapter, these instructions, while acting in accordance with the orders for ensuring and implementing protection of the population from infectious diseases is contained in Chapter Five. It is envisaged by the instruction, as a rule, the exclusion of providing assistance to services other than the bodies for providing and enforcing the protection of the population from infectious diseases and the actions of the police in combating criminal offenses under the article 287 of the CLCG (failure to comply with health regulations to combat dangerous infectious diseases) and the article 302 CLCG (a felony against human health). It is interesting that the Police Directorate, in its response to the letter of the human rights defender requesting clarification of their actions in this case, referred to this act even if from the Chapter Four entitled: "Guidelines for police officers in performing their duties and tasks, that is, the application of authorizations", do not envisage even the slightest similar situation. By reviewing the other adopted instructions, instructions or protocols, we were unable to find that some state authority has developed or adopted Guidelines for dealing with cases of gender-sensitive violence, ie domestic violence, which in practice has certainly created some ambiguities in the treatment

of police officers and complicates their actions, which certainly contributed to a specific event receiving such an epilogue. Also by analyzing the provisions of this Instruction, it is noticed that it is not in accordance with the written answer of the sanitary-health inspector submitted to the defender regarding the complaint of the Council for Civil Control of Police, that the police is obliged to transport the person to the Shelter for quarantine because by the written act the conditions of are provided for the transport of persons deprived of their liberty, which is not the case in this event. It remains unclear how the victim could have been transported to quarantine because the competent inspection authority determined the accommodation for quarantine in a place that was not intended for that purpose in the Safe Women's House, which was the main motive of the defender to stay with the victim until the morning, assuming that she would end up on the street which unfortunately happened later.

In addition to the above, police officers in the process of verification and in the coming days continue to direct their activities towards the victim and they made an introduction into the movement of the victim and human rights defender in their movement across border crossings, which in the case of the Defender is not the least justifiable reason, because she is a Montenegrin citizen and is listed in the police as a confidential person for the victim, which is regulated by state regulations and also the right to free movement of the victim, two months before this event, couldn't be taken as a basis for determining quarantine or an indication for that action, which is a dubious basis for undertaking public law authorities. Also, when it comes to the victim and her basis of stay in Montenegro, as well as determining the duration of her stay in our country, which was taken by the current measures as one of the parameters for determining health and sanitary measures, there were other possibilities that were missed at the very beginning of the police action, as the victim stated when reporting that she had previously had two short marriages, which provided a basis for other forms of checks.

Given that there was no legal regulation that would specifically regulate the treatment of victims of domestic violence and other forms of violence in the current health situation caused by this deadly virus which are especially endangered by staying at home due to long-term imperative measures, we think that it is necessary to respect the Protocol on treatment, prevention and protection from violence against women and domestic violence, which is defined for police officers because another act did not exist. This Protocol regulates clear steps for receiving events with elements of violence against women and children as well as all other victims of domestic violence and provides a risk assessment which if taken seriously in this situation, would not produce consequences that led to the victim's return after 20th day to her house from which she fled seeking salvation.

However, this event ended successfully, taking into account the circumstances that can be called mere luck and the primary commitment of the defender and the Council for Civilian Control of Police Work and the personal involvement of the President of the Council, Aleksandar Sasa Zekovic, so that the case was ultimately prosecuted as a trafficking offense. This case also confirmed the presence of arranged marriages which are exposing women and girls from the Roma and Egyptian communities outside our country and insufficiently strong referral mechanisms that provide support to women in specialized services and in a language that these victims understand without the possibility of reintegration.

3. PROCEDURE OF THE DIRECTORATE FOR INSPECTION AFFAIRS

The conduct of the Directorate for Inspection Affairs, viewed through the prism of the analysis of this described event, is interesting from three aspects:

- a. Public authorities which are entrusted in complex epidemiological situations to health sanitary inspectors of the Department of Sanitary-Health Inspection;
- b. Application of legal regulations that are "lex specialis" determined but have a direct bearing on the circumstances of dealing with this and other similar situations;
- c. The approach of the direct executors of these regulations, as holders of public authority in relation to citizens, victims of criminal offenses and human rights defenders in a specific case.

The Department for Health and Sanitary Inspection performs activities related to: inspection supervision over the application of laws, bylaws and other regulations in the field of health, undertaking and execution of administrative and other measures and actions in order to eliminate identified irregularities and harmonize operations with regulations issuing misdemeanor warrants, filing requests for initiating misdemeanor proceedings, filing criminal and other appropriate charges (initiating proceedings before the competent authorities) and a number of other matters that are not relevant to this event.

Taking into account the number of regulations within the competence of the Department of Health and Sanitary Inspection, the most necessary ones were selected, which we consider to be the most important: The Law on Protection of Population from Infectious Diseases (Official Gazette No. 12/18) Law on Inspection Supervision ("Official Gazette of the Republic of Montenegro", No. 039/03, 076/09 057/11, 018/14, 011/15 and 052/16), Law on Administrative Procedure ("Official Gazette of Montenegro", No. 056/14, 040/16 and 037/17), Law on Health Care (Official Gazette of Montenegro, No. 003/16, 039/16, 002/17, 044/18 and 024 / 19), Law on Health Inspection (Official Gazette of Montenegro, No. 030/17), Law on Sanitary Inspection (Official Gazette of the Republic of Montenegro, No. 014/10).

Health and sanitary supervision is performed in the Directorate for Inspection Affairs through an authorized sanitary-health inspector.

Taking into account the actions in the specific case described by authorized sanitary-health inspectors who undertake, inter alia, in accordance with the Law on Protection of the Population from Infectious Diseases, which indisputably states that the acting inspector is competent to, in addition to administrative measures and actions prescribed by law, which regulates inspection and determination of violations of laws and other regulations, have the obligation to implement numerous administrative measures and actions. This implies that the sanitary-health inspectorate is obliged to act by applying the following interrelated regulations and in a manner that determines its competencies and authorities, as follows:

3.1. LAW ON PROTECTION OF THE POPULATION FROM INFECTIOUS DISEASES

Analyzing the provisions of this Law⁵ as well as considering the totality of the facts that came from the presented case, primarily the response of the competent inspection, the authorized inspector is obliged to take the following administrative measures and actions (Article 68):

- a. Persons coming from countries where there are infectious diseases, including the infectious disease Corona (which did not exist at the time of the adoption of the Law), are ordered to be placed under health and sanitary supervision at the border crossing, at the point of

⁵Law on protection of the population from infectious diseases (Official Gazette, No. 12/18)

entry. Which was not the case in this particular case, but taking into account the fact that the Laws cannot predict all life situations, we believe that such a provision is important in every society for the suppression of infectious diseases.

- b. Prohibit the crossing of borders in both directions, when a certain contagious disease has occurred or spread in the border area of Montenegro or the area of a neighboring country, and
- c. Order forcible quarantine of healthy persons who were or are suspected of being in contact with persons suffering from pandemic influenza at the beginning of the transmission of infectious diseases which the health institution determines to pose a danger to the health of the population of Montenegro.

The above provisions cannot be fully applied in relation to the specific case, because the victim with whom the defender, as we have seen, was invited to report the event, was illegally in Montenegro for a long time, or even in two imposed/arranged marriages, such a legal possibility is not justified entirely because she had not been tested and it had not been established that either of the two was ill, which was confirmed by a serological test after a few days. Also, the situation is similar with the human rights defender who, according to police checks, is a citizen of Montenegro and has not left the country in the last two months. The authorities did not take into account the fact that despite these findings, N.Š. victim of several forms of crime she came to report. These facts were established arbitrarily and with a flat-rate approach with previously adopted measures in consultation with the order for taking temporary measures to prevent the introduction into the country, control and prevention of transmission of new coronavirus (Official Gazette of Montenegro, No. 15/20) ordering temporary measures to prevent the introduction of the disease into the country, to control and prevent the transmission to other countries, as a protection of the population against the new coronavirus. In the process of applying all regulations, the competent inspector, in addition to the above facts, assigned a quarantine to the victim, entitled "Safe women's house, and not some other that would be used by other citizens in a similar situation, which resulted in her staying cold on the street. she could not be contacted during the night and even there was a duty officer that evening, as can be seen from the letter from the Police Directorate, she did not state the country from which the victim was presumed to have come in the decision on self-isolation and violated numerous provisions of the Law on inspection (Article 40) to which the Human Rights Defender filed an Appeal.

3.2.

LAW OF INSPECTION CONTROL

Acting in accordance with the Law on Inspection Supervision⁶, the competent inspection is obliged to issue a legal act after the inspection, a decision on measures, actions and deadlines for elimination of irregularities (Article 39), which in this case was done by the competent inspector. The second instance authority in this case is the Ministry of Health, the appellate body (Article 40). In the procedural sense, based on the review of events, it can be noticed that in the first instance, the determination of actions that precede the decision is missed, and those are at least those related to conducting interviews and determining the circumstances due to which such a decision is made, mutual contacts of persons, stay of persons in foreign countries and other reasons that exist in the Order for taking temporary measures to prevent the introduction into the country, control and prevention of transmission of new coronavirus are determined. The sanitary-health inspector who undertook the actions in the specific case did not act in accordance with these regulations in a procedurally valid manner, but also, didn't use the legal possibility that the inspector may order administrative measures and actions by an oral decision on the minutes, when she assesses that in that way the immediate danger to life and health of people, property of greater value is eliminated or when it comes to the protection of another public interest (in this human health case) and to bring within the legal deadline of three days in the case a written decision in which the period would have sufficient time to verify the stated facts, that is to carry out other actions in order to determine the justification of the measure that was adopted (testing).

⁶(Official Gazette of Republic Montenegro, No. 039/03 from 30.06.2003, Official Gazette of Montenegro, No. 076/09 from 18.11.2009, 057/11 from 30.11.2011, 018/14 from 11.04.2014, 011/15 from 12.03.2015, 052/16 from 09.08.2016)

3.3. LAW ON ADMINISTRATIVE PROCEDURE⁷

It is justified by the fact that in the conditions of public interest (human health), the competent public authority decides by a decision in the so-called summary or abbreviated explanation (Article 23, paragraph 2) in the specific case of sanitary-health inspection. A dissatisfied subject of control may file an appeal against the decision of the first instance authority against such a poor decision. However, the summary solution must contain certain necessary data that satisfy the form of summary. In the specific case in which, in the opinion of the Defense Counsel, her and the rights of the victim with whom she came to report the crime were violated, we can observe through the first-instance and second-instance proceedings, as follows:

- In the first instance proceedings, the Directorate for Inspection Affairs, in addition to the facts later stated in the Appeal (urgent and imminent danger to the victim of several forms of crime, making a decision without any contact with the Defense Counsel and the victim, determining quarantine measures for the victim in a non-existent shelter, determination of self-isolation measures for the Defense Counsel in conditions in which there were all preventive measures to protect against infection such as gloves, protective mask, alcohol, etc.), determined the measures provided by law. We can only guess at the justification of such a procedure, we think that there are more, but the procedure carried out by the first-instance authority was carried out according to rules that were not refuted by the second-instance authority either. From the explanation of the justification of such a measure, we can all draw our own conclusion.
- In the second-instance procedure, which according to the timely, allowed and declared Complaint of the authorized person conducted by the Ministry of Health of Montenegro, the complaint is unfounded. The second-instance authority didn't take into account other reasons that were explicitly stated, but only justified its decision of the first-instance authority with the aim of protecting public health, concrete protection of the population from infectious diseases, the need to make a summary decision in such conditions and repeating legal provisions, the competent inspector acted with the emphasis that forced quarantine is carried out with healthy persons who were or are suspected of being in contact with persons suffering from a contagious disease which the health institution "determines" to pose a health hazard. It is here that the victim is given certain measures because she had contact with the Human Rights Defender or, conversely, she with her, but in this case it is not "determined" by the health institution, unless the law refers to the determination the presence of COVID 19 in a general sense at the national level. This also means that victims of violence who have resided abroad and who come into contact with any of the civil servants should be given the same measures as the victims and defense counsel who are the subject of this analysis, which is a real obstacle to reporting criminal offenses. Also, it means that all police officers who had previous contacts with them would have to be in self-isolation, which was not assigned to them. In the explanation, the second-instance authority states that an official note was made by the acting sanitary-health inspector on the same evening, but it remains unclear on which circumstances (Article 71) because she didn't use the possibilities prescribed by that article that short and urgent notifications could be sent by phone, which would certainly have had, if she had done, a second epilogue because she would find out the truth. The second-instance authority requests that the appellant "onus probandi" prove that the victim was in Montenegro with her burden of proof and does not accept the fact that she was not left with the opportunity to report and prove the stay of N.Š. in our country through two marriages and traumas as a now qualified victim of human

| ⁷(Official Gazette of Montenegro, No. 56/2014, 20/2015, 40/2016 and 37/2017

trafficking. This authority explains that the acting inspector stated in her official note that the victim did not have an ID card with him and did not give it to the police, which clearly shows that there is not the slightest sensibility of all acting officials that victims of trafficking often do not have documents, which are often forcibly taken away. A very interesting fact is that by the Decision of the National Coordination Authority and on the basis of the Order for taking temporary measures to prevent the introduction into the country, control and prevention of new coronavirus ("Official Gazette of Montenegro" No. 15/20) determined on the 14th day application of the same measures (28 days in total) to which the Defense Counsel filed a complaint again, supporting it with additional evidence and negative serological tests, but she was also treated in the same way as with the previous complaint, so the victim stayed with the family from which she escaped, just over 20 days in the alleged Quarantine, after which she was transferred to the National Shelter for Victims of Domestic Violence, following an urgent request by the Center for Roma Initiatives, as well as the National Team for Combating Domestic Violence and the Council for Civil Control police.za građansku kontrolu rada policije.

3.4. ORDER TO TAKE INTERIM MEASURES TO PREVENT THE INTRODUCTION INTO THE COUNTRY, TO CONTROL AND PREVENT THE TRANSMISSION OF THE NEW CORONAVIRUS

It is one of the basic "operational regulations" that have special significance for the work of the competent state authorities. They are published in the official gazette of Montenegro. (Official Gazette of Montenegro, No.14/2020, 15/2020, 17/2020, 28/2020, 34/2020, 36/2020, 39/2020, 41/2020, 42/2020 – other orders, 50/2020 – other orders, 51/2020, 54/2020, 60/2020 – other orders and 62/2020) and are often exposed to changes in orders. For example, the orders that were valid on March 24, 2020 have not been valid for a long time.

4.

NATIONAL DOMESTIC VIOLENCE TEAM

The significance of the Domestic Violence Team in practice is very important. This was shown during the intervention of this state authorities in the case of the Defender of Human Rights and the victim of the criminal offense of human trafficking, which are the subject of this analysis. The members of this team are representatives of various state authorities. It is especially important to emphasize the importance of this authority of state authorities, considering the fact that after all the complaints, grievances and dilemmas the Human Rights Defender addressed the competent multisectoral team, of which she is a member, and that this operative team nevertheless coordinated with the delay in placing the victim in a safe place so she can no longer be in the family from which she had previously escaped. Otherwise, the victim was in that family from March 24, 2020, when the quarantine was determined, to April 17, 2020, when she was placed in the Shelter. Of particular importance for this period are the following facts that were characteristic of the period from the imposition of quarantine measures for the victim to the final real intervention which ended the further danger for the exploitation of the victim, influence on her future testimony in court proceedings, taking into considering that she is alone and unprotected in our country, which was shown in Defender's reporting to the team, as follows:

- According to several requests of the Council for Civil Control of Police Work, the Team didn't comment on the submitted documentation regarding the Complaint of the Defender and the filed criminal charges against her due to alleged non-compliance with health regulations;

- The Council for Civilian Control of Police Work sent recommendations to the Security Center in this case, held verbal interviews with the leaders of the Security Center, after which a step forward was made; a tent was set up to receive parties and receive citizens' reports. At the moment of this subject analysis this was not the case, of which the team was informed;
- The recommendations of the Council that have been made oblige the Head of the Security Center to, among other things, get in touch with the human rights defender and to establish constructive and well-intentioned communication regarding the event;
- The Council for Civilian Control of Police Work provided the members of the Team response from the Police Department to the Human Rights Defender's complaint and expressed concern about the response acknowledging that the sanitary-health inspector had committed an omission by ordering a non-existent quarantine to the victim;
- The President of the Council, MA Aleksandar Saša Zeković, expressed his concern due to the lack of reaction of the team in several different e-mails;
- The human rights defender informed the team that the person where the victim N.Š. was placed, called her and suggested that N.Š. had not been raped by D.A. and that person was threatening him with the safety of his own family because the victim was still placed with hi;
- The Human Rights Defender informed the team that the Victim N.Š. informed that due to traumatic stress she forgot to give details about the way she was sold in Bar for 500e euros and a car and that she wants to return to her ex-husband in Kosovo from whom she escaped due to long-term domestic violence.
- The President of the Council, MA Aleksandar Saša Zeković, stated to the team that individuals already resent him for dealing with the mentioned case in a difficult epidemiological situation;
- In the process of communication of team members regarding the actions of the competent authorities, especially between the Center for Roma Initiatives and the SOS call line for women and children victims of violence, certain contradictions were noticed in the reports submitted on complaints by state authorities, comparing their contents. Primarily in the part from which it can be seen that the sanitary-health inspector called the NGO SOS call line for women and children victims of violence and after he was not fully convinced that the victim would be placed, left the contact phone of the police inspector stating that she was going home, so later when the shelter was not approved she could not get in touch with that service because the authorized inspector turned off the phone. On that occasion, she didn't tell the employees of the Shelter that the woman was a victim of violence or human trafficking. Later, the police officers, which can be seen from the report from the SOS call line, said that the victim had been in Montenegro for 3-4 months and they didn't agree to provide their officer to stay in the quarantine room with a victim, justifying that the Army should do that. In its further statement, the SOS call line states in its official note that they had no information that the victim came accompanied by a confidential person to report the crime, but they said that they were told that a woman with a child who came from abroad needs help.

5.

CONCLUSIONS AND RECOMMENDATIONS FOR FURTHER INSTITUTIONAL PROCEDURE

- No matter how legal were the actions taken in this case, the impression that the attitude towards the victim of violence and human trafficking as well as towards the confidential person was very bad and unprofessional of all key institutional actors. Full application of codes of ethics in the work of officials and employees is necessary to avoid discrimination against victims on any grounds;
- The National Team for Domestic Violence, through its proactive action in crisis situations, should create a practice that will be import into protocols and guidelines for dealing with a pandemic;
- It is necessary to adopt clear guidelines (protocols) for the actions of the competent state authorities in cases of violence and human trafficking in the newly created conditions caused by the pandemic;
- In addition to continuous training of officers of the Police Department, the Directorate for Inspection Affairs and other competent bodies regarding legal action in cases of violence and human trafficking, it is necessary to include the amended protocols in educational institutions (Police Academy);
- That in cases of Pandemic or other infectious diseases dangerous to human health, especially in conditions similar to a state of emergency which includes that exits from a residential building are restricted for a certain period of day or night, must be handled by public authorities with extreme sensitivity applying regulations which have not been suspended and which refer to the urgent and immediate stopping of violence and further exploitation of the victim of violence;
- To provide at least one Shelter for Victims of Violence that has quarantine accommodation in which victims of violence, arranged marriages or human trafficking could be accommodated;
- To conduct trainings of the acting competent services (police, health and sanitary inspections, centers for social work, health services, etc.) on dealing with crisis situations caused by emergency situations;
- To adopt the Protocol or amend the existing one, which will identify trustees and other employed professionals in crisis situations and give them priority in the actions of the police in such crisis situations in cases of violence against women, arranged marriages etc.;

CENTER FOR ROMA INITIATIVES

Since 2011, the Center for Roma initiatives has been intensively involved in the prevention of illegal and contracted child marriages in Montenegro. The organization makes significant efforts to verify any suspicion of a contracted child marriage by the competent authorities. On that occasion, the organization provides selfless assistance to state authorities, and so far has identified and processed 85 cases of child contracted marriage in Montenegro.

The Center for Roma Initiatives continuously achieves good cooperation with members of the Security Centers in Montenegro, especially with CB Nikšić, CB Podgorica and CB Berane. Carrying out numerous activities on sensitization of police officers, the representatives of these organizational units participated in almost all activities and gave their contribution to the quality realization. Concrete cooperation was achieved in cases that had elements of a child contracted marriage and security measures were considered in each specific case, for which we are especially grateful to the Police Directorate. However, as the problem of arranged marriage is specific, especially in the part of proving the commission of a criminal offense, the organization managed to animate state authorities after many years of work in this area, they processed even 9 cases qualified as trafficking in 2019/2020, which in the previous 12 cases wasn't possible due to insufficient sensibility of state authorities.

The Center for Roma Initiatives has received several international awards from the European Commission, the US Embassy, the Victimology Society of Serbia and other prestigious organizations such as the "Ana Lind" award from Sweden and CRNVO, which contributed to the results being recognized by relevant institutions on national and regional level.

ENG

**STUDY CASE**

Equal treatment of
Romani and Egyptian women
in the implementation of
public policies

