



Analizë e situatës së
fëmijëve në lëvizje në

KOSOVË

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Executive Summary

Children on the move (CoM) - as an umbrella term is not as well known in Kosovo including among professionals constituting the child protection system. However, the different categories of children particularly those begging or collecting scrap metal are especially visible in a number of Kosovan cities, whereas children who have been trafficked or at risk of trafficking, as well as returnee children are also present though perhaps with less visibility.

This report focuses on these groups of children by considering whether the legal and policy framework in Kosovo sufficiently protects their rights. It also focuses on the profile of children on the move in Kosovo, where the children are able to speak about the activities they undertake while on the move, as well as the reasons for their movement. Additionally, it considers the response of the child protection system towards children on the move regarding awareness, accessibility and outreach, inclusiveness and adequacy.

The analysis of the legal and policy framework on the whole shows that it is inclusive of the different groups of children considered to be on the move. However, there are specific areas where improvements could be made including; having specific obligations for providing services, ensuring all children in need are included within the Center's for Social Work (CSW) register and ensuring effective cooperation between CSW's when dealing with those cases of children who are continuously moving between municipalities or countries. Similarly, the social assistance scheme does not necessarily alleviate poverty and in cases extreme poverty, which is especially evident among children who are on the move. For child victims of trafficking, it is necessary to harmonise the definition of trafficking between the new anti-trafficking law and the Criminal Code, as well as boost efforts to investigate and prosecute persons or groups involved in trafficking children as well as those committing other offences against child victims. Whereas for returnee children, the returning procedures should be reconsidered in order for authorities and professionals to focus on children including during the reintegration process where the child's best interests is a primary consideration.

Children on the move in Kosovo are of different ethnicities (including from Albania), engage in different activities and their reasons for movement vary. The majority of children interviewed talked about collecting cans and scrap metal, some begging and others selling small items in the street or in cafes. In the majority of cases children cite poverty as the main reason pushing them to engage in either begging or collecting cans and scrap metal. Although there are also children who were able to explain that they were forced to engage in a particular activity by a parent or adult. Interestingly, quite a number of children interviewed perceived begging as almost a shameful activity, whereas collecting cans and scrap metal they said they did with pride. At the same time other reasons for being on the move included; being compelled to contribute, creating opportunities to play and wanting a better future.

Certain children did not necessarily associate themselves as being on the move; this was especially the case with returnee children. Whereas children from Albania faced a similar predicament of poverty and exclusion at times with additional risks of crossing borders, with some children being on the move with their family. In the majority of cases the children being interviewed were not attending school, including some children not having ever attended and the majority was not receiving any continuous support from authorities with the aim of improving their situation. The profile of children on the move is also depicted through observation where a child researcher 'S' was involved, which provides additional insight into the situation of children on the street whether they are used by adults whilst begging, they are forced to beg or where there are elements of control used by third parties.

The child protection system and professionals who are an integral part of it such as social workers and police officers had some awareness of CoM, identifying CoM as children coming from Albania or children from poor socio economic backgrounds, who beg or collect cans and scrap metal. Additionally, some professionals also identified children who have been trafficking internally between municipalities in Kosovo. The majority of professionals interviewed were of the view that the child protection system is not particularly accessible and does not offer sufficient outreach. Similarly, there were concerns identified in relation to inclusiveness as long term assistance is not usually offered to children who are not lawfully resident, with the exception of victims of trafficking. Whereas in relation to adequacy, there are challenges in working in this environment but the case management roundtable was cited as a positive way of working to identify and assist children who were particularly at risk such as trafficked children.

Overall, this report purposefully aims to increase the visibility of children on the move in Kosovo, who operate in public areas and whose predicament is not always noted by institutions. Through the voices of children it is clear that they are living a difficult life and they need assistance from adults to deal with some of the problems they encounter on a daily basis. On the other hand importantly, professionals accept that there are issues within the system itself, as it is not as accessible and adequate as it should be, although the challenge will be to utilize such findings in planning future actions that will benefit children on the move.

List of Abbreviations

CCR	Central Commission for Reintegration
CMR	Case Management Roundtable
CoM	Children on the move
CPS	Child protection system
CRC	Convention on the Rights of the Child
CSW	Centre for Social Work
DCAM	Department of Citizenship, Asylum and Migration
DRRP	Department for Reintegration of Repatriated Persons
ECMI	European Centre for Minority Issues Kosovo
GoK	Government of Kosovo
IOM	International Organisation for Migration
MCR	Municipal Reintegration Commission
MIA	Ministry of Internal Affairs
MOCR	Municipal Office for Communities and Returns
OGG/OPM	Office for Good Governance, Human Rights, Equal Opportunities and Non-Discrimination in the Office of the Prime Minister
OSCE	Organisation for Security and Cooperation in Europe
RAE	Roma, Ashkali and Egyptian
Tdh	Terre des hommes
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees

Glossary

The Child: is defined by the United Nations Convention on the Rights of the Child (CRC) as every human being under the age of 18, unless the applicable law provides that majority is attained earlier.¹ Similarly, legislation in Kosovo defines a child as a person under the age of 18,² except in specific circumstances such as when entering wedlock.³ Additionally, some legislation refers to children between the ages of 14 – 18 as ‘minors’, although a minor continues to be treated as a child.⁴

Best interests of the child: as provided in the CRC means that ‘all actions concerning children, whether undertaken by public or private welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration’.⁵ The Committee on the Rights of the Child (the Committee) has said that this means taking a right based approach to secure ‘the physical, psychological, moral and spiritual integrity of the child’, while taking into account the specific characteristics of the child.⁶ Whereas with regard to displaced children, the Committee has said that ‘the principle [that the child’s best interests should be determined] must be respected during all stages of the displacement cycle. At any of these stages, a best interests determination must be documented in preparation of any decision fundamentally impacting on the unaccompanied or separated child’s life’.⁷ This principle is also well incorporated into Kosovo’s legal system through the Constitution of Kosovo, which provides that ‘all actions undertaken by public or private authorities concerning children shall be in the best interests of the children’.⁸ Additionally, relevant legislation also provides that the best interests of the child shall be the paramount consideration.⁹

¹ Article 1, United Nations General Assembly, Convention on the Rights of the Child (CRC), 20 November 1989

² This can be found in a number of laws including: The Law on Citizenship – Law No. 04/L-215 (Article 3.1.2), Law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking – Law No. 04/L-218 (Article 2.1.6), Law on Social and Family Services – Law No. 02/L-17 (Article 1.3.g), Law on Pre-University Education – Law No. 04/L-032 (Article 2.1.7) and the Family Law – Law No. 2004/32 (Article 3.2)

³ Family Law, Article 15, para. 2-3

⁴ Criminal Code – Law No. 04/L-082 (Article 120.20 and 120.21), Criminal Procedure Code – Law No. 04/L-123 (Article 19.1.16 and Article 19.1.17), Juvenile Justice Code – Law No. 03/L-193 (Article 2.1.1 and Article 2.1.2)

⁵ Article 3 (1), UNCRC

⁶ Committee on the Rights of the Child, General Comment No. 14 [2013] On the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 2013, para. 5 and 48

⁷ Committee on the Rights of the Child, General Comment No. 6 [2005] Treatment of unaccompanied and separated children outside their country of origin, 2005, para. 19

⁸ Article 50.4 of the Constitution of the Republic of Kosovo

⁹ Law on Social and Family Services (Article 9.1) – please note this takes into account the amendments made in 2012 and this is reflected throughout the report, Law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking (Article 28.4, Article 29.2, Article 34.1, Article 37 and Article 38.5)

Children on the move [CoM]: One of the first definitions used provides that children on the move are ‘those children that are moving for a variety of reasons, voluntarily or involuntary, within or between countries, with or without their parents or primary caregivers, and whose movement might place them at risk (or an increased risk) of economic or sexual exploitation, abuse, neglect and violence’.¹⁰ However, this does not create a new category of children, rather it is an umbrella term to bring together children who are at risk, those exposed to abuse or worst forms of exploitation. This aims to understand the similarities and differences, as well as to re-focus interventions with protection of the child being paramount as well as supporting the positive impact that mobility can have in improving the life chances of the child. This definition therefore includes: children who have been trafficked, children who migrate, children who have been displaced due to conflict or natural disasters and children who work and live on the streets.

Meanwhile, Terre des Hommes [Tdh] in 2011 adopted its own definition, which refers to ‘those children who have left their habitual residence and are either on the way towards a new destination, or already have reached such a destination’. Additionally, ‘a child [on the move] can move across State borders or within the country. S/he can be on the move alone, or in a group with family members, other adults and/or children, known or unknown previously to the child. Moreover, a distinction can be made among the various children on the move, based on the reasons behind such movement.’ The four categories include: internally displaced children, asylum seekers or refugees, migrants (economic reasons or climate change and includes internal/external) and trafficked children.¹¹ For the purposes of this report, a child on the move includes: ‘migrant children (internal or across borders; legal or illegal; accompanied or not), asylum seeking and refugee children, trafficked children, internally displaced children or children outside of a protective environment. Therefore, the child should already have moved, may also be a returned migrant, is moving or/and is susceptible to impending migration’.¹²

Trafficked children: are children that *are* recruited, transported, transferred, harbored or received *by means of* threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability or of the giving and receiving of payments or benefits to achieve the consent of a person having control over another person, *for the purpose of exploitation*. Exploitation, at a minimum includes prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, the removal of organs.¹³ According to Kosovo’s legislation exploitation is specified to also include pornography, begging and removal of tissue.¹⁴

¹⁰ Definition used by Save the Children during an international conference about Children on the Move in Spain, 2010

¹¹ Dottridge M, ‘What can YOU do to protect children on the move – a handbook’, November 2012, Terre des Hommes International Federation, at p. 21-22

¹² Milne B, Mario ‘Methodological Guidelines for Research and Child Consultation’, Project Mario 2013

¹³ Article 3.a, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000

¹⁴ Article 171.6.2, Criminal Code of Kosovo and Article 3.1.8, Law on Preventing and Combating Trafficking

Returned children: are children who have been returned to Kosovo from a host country due to Kosovo being either their country of origin, their parent's country of origin, they or their parents possessed a visa or valid residence permit from Kosovo or had stayed in Kosovo prior to entering illegally in the territory of the returning state. Within this category children and/or their families may have entered the host country legally or illegally, been given refugee status, subsidiary protection or other forms of protection. In cases where a particular status was provided, usually this was withdrawn due to a change of circumstances in their particular case. Additionally, the return process may have been voluntary, spontaneous or forceful. It should also be noted that national legislation only refers to readmission and return,¹⁵ whereas other national documents such as the national strategy mentions repatriated persons.¹⁶ While the terms returnees and repatriated seem to be used interchangeably, legally this is not tenable¹⁷ and for the purposes of this report all children that fall within this category, will be referred to as returned children.

Children outside of a protective environment: are those children who are not provided with care and supervision from their parents/guardian. For the purposes of this report, children in this category include; runaway children, missing children and children in a street situation. Additionally, children whose parents have died or have left them in the care of their grandparents, whom are not able to provide sufficient care fall into this category, as well as children whose parents are not able to provide sufficient care and nourishment, and in instances force their children to beg or to engage in hazardous labour.

Child Protection System: is 'a coherent set of actions and actors, in which the child is the starting point and which aims to guarantee the rights and well being of the child by constructing synergies within and between protective environments'.¹⁸ These various institutions/actors and components have the responsibility to take coordinated measures to safeguard the wellbeing of the child and to protect children from all forms of 'physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the

¹⁵ Law on Readmission – Law No. 03/L-208 does not use the word repatriated but only return or returnee [see Article 8, Article 9 and Article 12]

¹⁶ The National Strategy for Reintegration of Repatriated Persons – although within the main text it seems to refer to returnees rather than repatriated persons see pages 7 and 11 among others

¹⁷ Repatriation refers to the personal right of a refugee or prisoner of war to return to his country of origin under specific conditions as specified in international instruments (such as the Geneva Conventions 1949 and Protocol among others). The process of return is broader as it refers to going back from the host country to the country of origin, although of persons with different status including refugees, asylum seekers and qualified nationals. Additionally, readmission refers to the process of accepting/ re-entry of nationals, third country nationals or stateless persons who have illegally entered or are present in another state. For further information on these definitions please see: International Organisation for Migration, 'Glossary on Migration', 2004, at pages: 55 (repatriation), p.56 (return) and p. 55 (readmission), available at http://publications.iom.int/bookstore/free/IML_1_EN.pdf accessed on 25/03/2014

¹⁸ Feneyrol O, 'Enhancing child protection systems', Thematic Policy, Terre des hommes – child relief, October 2011, p. 6

care of parent(s), legal guardian(s) or any other person who has the care of the child'.¹⁹ The actors involved include the family, the community and statutory agencies such as social services, the education system and law enforcement.

I. Introduction

Every year millions of people including children migrate for a variety of reasons. During 2013, 232 million or 3.2% of the world's population were international migrants, of which 15.1% were aged 0-19 years old.²⁰ Children may migrate for a number of different reasons including escaping abuse, poverty or discrimination, as well as wanting better opportunities in life.

Discussion on children's movement globally has predominately focused on the negative or criminal aspects of children's movement, such as those children that are trafficked, as well as adopting a "one size fits all" approach regarding exploitation, without taking into account the specific characteristics.²¹ This has meant that the response of child protection systems has not always been sufficient; as it has failed to take into account the specific characteristics and needs of each child who is on the move. Therefore, despite such large-scale movements of children, they remain invisible. At the same time the framework of the Convention on the Rights of the Child (CRC) requests that the agency of children should be recognized and celebrated, meaning that 'children are never and should never be treated only as victims of circumstances, but always also as agents of their own future.'²²

With such circumstances in mind, the Mario project was dedicated to analyzing the situation of children on the move (CoM) in Kosovo by focusing on the agency of children and incorporating a child participatory approach throughout, as foreseen in the Mario Project Methodological Guidelines for Research and Child Consultation (Methodological Guidelines). The research and this report particularly focuses on identifying children on the move or those at risk in Kosovo, including routes of movement whether national or international, the vulnerabilities that children recognize and face when on the move, as well as the assistance those children are being provided with. Additionally, the research outlines the existing child protection system in Kosovo and considers its efficacy in providing protection to CoM by focusing on whether it is effective, inclusive, accessible and adequate.

¹⁹ Article 19.1, CRC

²⁰ United Nations, Department of Economic and Social Affairs, Population Division, 'International Migration 2013', available at <http://esa.un.org/unmigration/documents/WallChart2013.pdf> accessed on 25/03/2014

²¹ Reale D, The Save the Children Fund, 'Away from Home – Protecting and supporting children on the move, 2008, p. 1-2

²² Introductory statement by the United Nations Special Rapporteur on the Human Rights of Migrants, Professor François Crépeau, published in 'Children on the Move', International Organisation for Migration, 2013, p.2 available at http://publications.iom.int/bookstore/free/Children_on_the_Move_15May.pdf accessed on 25/04/2014

The first part of the report following introduction, outlines the methodology that was used to carry out the research, as well as provides relevant information about the context in Kosovo, the legislative framework and the existing child protection system. Whereas, the second part of the report considers who are CoM in Kosovo and the response of the child protection system to their needs and vulnerabilities, prior to conclusion and recommendations.

II. Methodology

In accordance with the Methodological Guidelines the following research methods were used:

- a. Desk research;
- b. Semi structured interviews with CoM and stakeholders;
- c. Observation and
- d. Open group discussion.

The research sample included 47 children that are at risk, on the move or have in the recent past been involved in activities which fulfill the CoM definition. While the sample is relatively small, it corresponds to that specified in the Methodological Guidelines of a minimum of 20 children.²³ Additionally, the children participated in different ways including in the semi-structured interviews, the open group discussion and the child researcher 'S' was involved in the observation. The research sample for adult duty bearers/stakeholders includes a total of 20 professionals from central and local level institutions, as well as non-governmental organizations. While this sample goes beyond that which was specified in the Methodological Guidelines, it was felt necessary to include a range of duty bearers/stakeholders due to the decentralization of competencies in this field and the valuable input they could offer when assessing the situation of CoM. To ensure that children participating in this research are not harmed in any way, as a protective measure certain details such as initials of children and locations have been changed to minimize the risk of identification, which could result in potential harm.

a. Desk research

As the first step extensive desk research was conducted in order to identify the relevant legislation, strategies and action plans in place that directly or indirectly target CoM. In line with the overarching goal of this report to assess the situation of CoM in Kosovo, there was a focus on the national context with limited references to the international framework, except with regard to relevant applicable international standards.

²³ Milne B, Mario 'Methodological Guidelines for Research and Child Consultation', Project Mario 2013, p. 12

During this phase, a number of documents were reviewed from a variety of sources including the United Nations Children's Fund (UNICEF), Save the Children, the International Organization for Migration (IOM), the Organization for Security and Cooperation in Europe (OSCE), the Office for Good Governance in the Office of the Prime Minister (OGG/OPM), local NGO reports (European Centre for Minority Issues Kosovo – ECMI) among others. The secondary research revealed that within the national context, the situation of CoM has not been comprehensively addressed in research. At the same time due to the increase of returnees, including children who fall within the definition of CoM, this issue has been addressed in different reports.²⁴

b. Semi structured interviews with CoM and duty bearers

In accordance with the CoM definition, children from the following categories were involved in the semi-structured interviews:

- *Children living outside of a protective environment* (who lived with their parents in poor conditions and often due to such conditions were compelled to work or beg in the street);
- *Returnee children (migrant)*²⁵

All the interviews were conducted in person at different locations throughout Kosovo, including those regions/cities where there were children falling into one of the specific categories of CoM. Parents were provided with details of the research and consent was given for their child to participate orally. Usually, the interviews took place in a quiet place where the child could communicate freely with the researcher. At the beginning of the semi-structured interview, the researcher explained the focus of the research to each child and provided the child the opportunity to refuse to take part or the opportunity to discontinue their participation at any time during the semi-structured interview. Additionally, the researcher explained that all information provided for the purposes of this research would remain anonymous and ensured that necessary measures were taken in order to prevent this research causing any harm to the child.

²⁴ Please see the following reports: Knaus V, UNICEF Kosovo, 'No place to call home – repatriation from Germany to Kosovo as seen and experienced by Roma, Ashkali and Egyptian children', 2011;

The European Council on Refugees and exiles in strategic partnership with Save the Children (EU Office), 'Comparative Study on Practices in the Field of Return of Minors', HOME/2009/RFXXP/1002, December 2011; Romani LP, The European Centre for Minority Issues Kosovo (ECMI Kosovo), 'The Repatriation Process in Kosovo – institutional organisation, legal framework, lessons learnt and remaining challenges', December 2013

²⁵ During the research, it was decided to focus on the above mentioned categories due to the volume of cases. Within those interviewed, they may have been trafficked but were not identified as such especially those that were observed

Conducting these semi-structured interviews at times was a challenging aspect of the research due to language barriers, particularly for those children that belonged to national minorities such as children from Roma, Ashkali and Egyptian communities. Similarly, with returnee children from all the communities, this was also a challenge since many of them had limited or no knowledge of the official languages of Kosovo. As a result the researcher showed greater care when working with these children in order to explain the questions and using other languages where possible.

On the whole by conducting the semi-structured interviews with due regard to ethical issues and Methodological Guidelines, the information retrieved provides important insight regarding how these children view the phenomenon of CoM at the national level, whether they identify themselves as belonging to this group and their views on the services offered or in cases the assistance they would have liked to have received.

Another important component of the research was the semi-structured interviews with the stakeholders. In conformity with the Methodological Guidelines, the stakeholders were carefully selected in order to include all those professionals who have the primary responsibility to offer services to CoM, as well as non-state actors such as international organizations and non-governmental organizations (NGOs). The professionals that were interviewed for this research included:

- Social workers from different centre's for social work throughout Kosovo;
- Police Officers (including Community Police and the Anti-Trafficking Unit);
- The Director of the Asylum Reception Centre;
- Communities and Returns Officer (at municipality level);
- Representatives of shelters for victims of trafficking and
- Representatives of international organizations and local NGOs including (UNICEF, the Ideas Partnership and Terre des Hommes Kosovo).

All the interviews were conducted face to face, usually in their offices and on the whole the interviewees were enthusiastic and co-operative, willing to provide as much details about their work and how that relates to CoM. While their input provides important insight about CoM in Kosovo and how the protection system responds to their vulnerabilities and needs, many also recognized that there are numerous challenges within the system, which prevent it from being effective, inclusive, accessible and proactive in respect of CoM.

c. Observation

Due to noticeable problem faced in Kosovo with children engaging in street begging, either because of the dire economical circumstances faced at home or simply being forced to beg by a parent/guardian or other adult, observation was used as another method of research. This aspect

of the research was conducted by an adult researcher, an assistant researcher and a child researcher. The child researcher was 'S', a 13 year old Roma boy, who previously collected cans and metals, as well as begging.

Prior to the observations being carried out, the adult researcher and the child researcher mapped the areas that would be most relevant for the observation, as well as discussed the methods to be used in compliance with the Methodological Guidelines, ensuring that observation would be carried out in a non-intrusive and non-interventionist manner. During the observation, the adult researcher worked closely with the child researcher by discussing what was being observed and the adult researcher recording all the data, thus ensuring child participation.

The observation took place in Pristina, at a number of sites, which were carefully selected where there are adults with children begging, children begging alone or children working on the street such as cleaning windscreens of stationary vehicles at traffic lights. The research team worked very well together and this component also yielded important results, in order to document what is happening with children outside of a protective environment and potentially trafficked children. While the children observed could not be approached, the data recorded is important since it is from a child's perspective. Additionally as a former street beggar, 'S' was able to provide extremely important insight in respect of the sites, the children and their vulnerabilities, as well as the response of the adults in the vicinity. Therefore, the involvement of S added great value as it not only allowed for child participation in the research but 'S' was able to discuss with the adults various vulnerabilities that they did not notice.

d. Open group discussion

The open group discussion involved 8 children outside of a protective environment between the ages of 9 – 13 (7 boys and 1 girl) engaged in a discussion for 20 minutes, held in a private setting. This activity was lead by an adult researcher and the main topic of discussion was the children's general awareness of child protection services available to them. Despite the researcher's efforts to make the environment welcoming, 4 of the children seemed to be very shy, withdrawn and reluctant to engage, at times speaking very little about the issue being discussed or saying nothing at all. Through the open group discussion, the children were consulted and some of the answers provided further insight into children's awareness and views about child protection services. Since the adequacy of such services is an important aspect of this research, their views are especially important because the majority of the children consulted were outside of a protective environment and the effectiveness of the child protection system is of critical importance.

III. Context

Kosovo is a relatively new state having declared unilateral independence in 2008, and as such it is still going through a state building process, where various institutions are being consolidated and capacities being raised, with the assistance of the international community and international

organizations present. According to the latest census in 2011, Kosovo has a population of 1,739,825 living in 297,090 households, of which 592,046 are children under the age of 18.²⁶ In respect of CoM, there is a need to consider a variety of issues in order to not only understand the reasons for their movement but also to be able to provide direct assistance based on their needs.

The economic circumstances in Kosovo have a direct impact on the wellbeing of all its citizens and particularly on children. According to national statistics unemployment in Kosovo remains high at 30% of the population that is active, although young people including children are particularly affected, with 55.3% of 15-24 year olds being unemployed.²⁷ Additionally, Kosovans living in poverty remains high, with 29.7% of citizens living in poverty and 10.2% in extreme poverty. A number of families depend on the social assistance scheme and during 2012/2013 the statistics of families benefiting varied between 29,425, being the lowest number and 31,740 the highest, with the majority of families being in Pristina.²⁸

Meanwhile, education is one of the most important rights for the development of the child. However, irregular attendance or dropping out not only affects the development of the child but can also place the child in different situations jeopardizing his/her wellbeing such as being forced to work or beg, carrying out hazardous work or even being trafficked. Even though it is reported that there has been an improvement in school attendance by all communities, such statistics have been found to be unreliable due to an inadequate monitoring system.²⁹ With regard to protection, services are available at the local level within each municipality through the Centre's for Social Work (CSW), although as this report details there is not enough outreach about this service meaning that CoM and their families may not even know about such services, how to access them and application procedures may be burdensome.

Therefore, in light of such a context it is important to consider the situation in relation to CoM. Firstly, children living outside of a protective environment is a very broad category, although there is no comprehensive research or data for children within this category focusing on what actions are undertaken by duty bearers and what are the trends in order to plan interventions in the future and adequately respond to their needs.

With trafficking the situation is different due to international reports, which document the trends and who are the victims of trafficking. In this regard, Kosovo has been found to be a source and destination country for women and children being subjected to sex trafficking and forced labour.

²⁶ Kosovo Statistics Agency, Results of the Census 2011, available at [http://census.rks-gov.net/istarMDEE/MD/dawinciMD.jsp?a1=yC&a2=uF0&n=1UR906\\$\\$\\$\\$\\$04&o=&v=1UR060DS00V70000000&p=0&sp=null&l=0&exp=0](http://census.rks-gov.net/istarMDEE/MD/dawinciMD.jsp?a1=yC&a2=uF0&n=1UR906$$$$$04&o=&v=1UR060DS00V70000000&p=0&sp=null&l=0&exp=0) accessed on 10/05/2014

²⁷ Kosovo Statistics Agency, 'Survey of Kosovo's Workforce – 2013 Results', available at http://ask.rks-gov.net/publikimet/doc_view/1131-rezultatet-e-anketaeumls-saeuml-fuqisaeuml-punaeuuml-tore-2013-naeuuml-kosovaeuml?tmpl=component&format=raw accessed on 10/05/2014

²⁸ Kosovo Statistics Agency, 'Social Welfare Statistics' 2013, p. 31 available at http://ask.rks-gov.net/statistikat-e-miregenies-/publikimet/doc_view/1092-statistikat-e-miraeuqmlqenjes-sociale-2013?tmpl=component&format=raw accessed on 10/05/2014

²⁹ Organisation for Security and Cooperation in Europe, 'Tracking School Dropouts and Non-attendance in Kosovo', September 2012, available at <http://www.osce.org/kosovo/95112?download=true> accessed on 10/05/2014

In relation to children, it has been found that children from Kosovo and the neighboring countries were subjected to forced begging, whereas traffickers subject Kosovo citizens to forced labour and prostitution throughout Europe³⁰. Efforts have been undertaken to combat trafficking, for example the introduction of the new Criminal Code, which increases penalties for traffickers. During 2012, there were 104 new trafficking investigations and the Courts started dealing with 31 cases, compared with 22 in 2011.³¹ Additionally, the Government of Kosovo in 2013 approved a new law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking³² and a new strategy is being finalized by the National Anti-Trafficking Coordinator. However, problems continued particularly with complicity within the police, as well as the Ministry of Labour and Social Welfare³³ and identification of child victims remains low.

Another important consideration is the situation of returnees, as a large number of people (Kosovan citizens or otherwise) during the last 4 years have been returned either forcibly or voluntarily from different European Union countries including children. Between 2010 and 2013³⁴ a total of 15,934 people have been returned, with the highest number being in 2010, a total of 5,198. Out of the overall total of returnees during this period, 3,048 are children between the ages of 0-17, although this is not representative of all returnee children, as those aged 17-18 are not included in this statistic. Additionally, it is also important to note that during this period the majority of returns were forced, accounting for a total of 10,194 as opposed to only 5,740 voluntary returns.³⁵ This process undoubtedly negatively affects children from the initial steps when undertaken by the host state, which can be even more harmful when the removal is forced. Although this continues all the way to the situation these children find themselves in when returned, as has been documented previously³⁶ and as the children illustrate in this research.

IV. Legal and Policy Framework in Kosovo

While children have been part of migration flows for many years, the international and national legal systems have not paid particular attention to their situation or vulnerabilities. It was only in

³⁰ United States Department of State, 'Trafficking in Persons Report', 2013, at p.244, available at <http://www.state.gov/documents/organization/210740.pdf> accessed on 10/05/2014

³¹ Ibid

³² Law No. 04/L-218

³³ United States Department of State, 'Trafficking in Persons Report', 2013, at p.244, available at <http://www.state.gov/documents/organization/210740.pdf> accessed on 10/05/2014

³⁴ The first 6 months of 2013

³⁵ National Strategy for Reintegration of Repatriated Persons in Kosovo (National Strategy for Reintegration), October 2013, at p. 11

³⁶ Knaus V, UNICEF Kosovo, 'Silent Harm – A report assessing the situation of repatriated children's psycho-social health', March 2012, available at http://www.unicef.org/kosovoprogramme/SILENT_HARM_Eng_Web.pdf accessed on 10/05/2014

2010 that the first international conference was convened to discuss the phenomenon of children on the move, where the concept was discussed.³⁷ As a result the last decade has been used by particular NGOs to draw attention to this issue through advocacy and awareness raising both at the international and national level. However, as is evident from the definition this groups children who are on the move for different reasons, including those that are voluntarily moving or involuntary, whether internally or internationally. Therefore, CoM remains an umbrella term which is not reflected in domestic legislation nor in international standards and as such it is necessary to consider specific provisions targeting specific categories of children falling within the definition, so as to assess whether national systems afford sufficient protection to CoM.

a. The Constitution of the Republic of Kosovo

Kosovo's Constitution as the instrument, which shapes the legal system provides for direct applicability of a range of international human rights conventions including the CRC.³⁸ Additionally, in cases where there is collision between the national legal norms with those enunciated at the international level, it is the international norms that have supremacy and prevail. This is especially important for CoM since the CRC specifies a number of very important principles, which are directly applicable in Kosovo. Thus, if national legislation or national practice is contrary to that which is provided in the CRC, it is the latter, which prevails. Therefore, despite not being a state party to the CRC, the Constitution provides the legal basis for its implementation, which goes beyond a political commitment. Additionally, as Kosovo is not a party to the Convention, currently there isn't a continuous process of reporting or monitoring the implementation of the CRC, as well as the inability for individuals to lodge complaints before the Committee on the Rights of the Child. However, proceedings can be initiated within the national legal system including before the Ombudsperson Institution³⁹ and national courts claiming that provisions of the CRC have been violated, as well as alleged constitutional right violations before the Constitutional Court.⁴⁰

One of the key principles articulated in the CRC is that state parties shall respect and ensure protection for children under their jurisdiction without discrimination. The Committee has explained that this is to be interpreted that the rights provided in the CRC are to be enjoyed by all children within a State's jurisdiction meaning not just citizens. As such this would include CoM i.e. 'asylum-seeking children, refugee children and migrant children irrespective of their

³⁷ Global Movement of Children 2010, 'International Conference on Protecting and Supporting Children on the Move' 5-7 October 2010, Barcelona, Executive Summary available at http://www.gmfc.org/images/pdf/com_executive%20summary.pdf and <http://www.gmfc.org/images/pdf/leavinghome.pdf> accessed on 25/03/2014

³⁸ Article 22, Constitution of the Republic of Kosovo

³⁹ Article 15.1 and Article 15.4, Law on Ombudsperson, Law No. 03/L-195

⁴⁰ Article 113.7, Constitution of the Republic of Kosovo

nationality, immigration status or statelessness'.⁴¹ Another cardinal principle of respecting the child and ensuring protection as recognized by the CRC is that state parties in all actions shall ensure a child centered approach where the 'best interests of the child is the primary consideration'.⁴² Furthermore, the CRC also provides for specific protections that the state is under an obligation to provide for children who are living outside of a family environment, as well as unaccompanied children who are refugees or are seeking asylum.⁴³

Chapter II of the Constitution of the Republic of Kosovo provides for a number of human rights such as the right to education⁴⁴ and the prohibition of slavery and forced labour including trafficking.⁴⁵ However, another important aspect is that it specifically recognizes rights of the child as constitutional rights.⁴⁶ This includes the right to protection and care necessary for their wellbeing.⁴⁷ It also provides the right of every child to be protected from violence, maltreatment and exploitation and recognizes that all actions undertaken shall be in the best interests of the child.⁴⁸ While many of these rights are framed in general terms, it is arguable that they apply to all children including CoM, especially since the constitutional order of the Republic of Kosovo is based on the principle of non-discrimination⁴⁹ and that no one shall be discriminated against on a range of grounds including race, colour and national or social origin, among others.⁵⁰

In addition, Kosovo's inability to join inter-governmental organizations such as the United Nations, the Council of Europe, as well as the International Labour Organisation prevents it from formally incorporating additional international standards into its legal system, which may provide specific protection for CoM. However, it is important to recognize that many national laws are developed in full consideration of such standards including those laws explored below. This includes instruments such as the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography,⁵¹ the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse,⁵² as well as the ILO Convention No. 138⁵³ and No. 182.⁵⁴

⁴¹ Committee on the Rights of the Child, General Comment No. 6 [2005] Treatment of unaccompanied and separated children outside their country of origin, 2005 at p.12

⁴² Article 3, UNCRC

⁴³ Article 20 and 22, UNCRC

⁴⁴ Article 47, Constitution of the Republic of Kosovo

⁴⁵ Article 28, Ibid

⁴⁶ Article 50, Ibid

⁴⁷ Article 50.1, ibid

⁴⁸ Article 50.3 and Article 50.4

⁴⁹ Article 7, Ibid

⁵⁰ Article 24.2 Ibid

⁵¹ General Assembly of the United Nations, 20 May 2000

⁵² CETS No. 201, 25 October 2007

⁵³ C138, Minimum Age Convention (No. 138), Convention concerning Minimum Age for Admission to Employment, 19 June 1976

⁵⁴ C182, Worst Forms of Child Labour (No. 182), Convention concerning the Prohibition and Immediate Action for Elimination of the Worst Forms of Child Labour, 19 November 2000

b. Legislation regarding social services and assistance

i. Social and Family Services

The Law on Social and Family Services⁵⁵ regulates the social care that authorities in Kosovo are under an obligation to provide to persons and families in need. This includes direct social care including counseling and in exceptional circumstances material assistance⁵⁶ to any person found in the territory of Kosovo, regardless of status or place of origin.⁵⁷ While a person in need is specified in the law to include a range of categories of persons (adults and children), for the purposes of this report those most relevant are children without parental care, persons who are vulnerable to exploitation or abuse, trafficked children or children who due to other causes are rendered as in need.⁵⁸ Additionally, services are to be provided to children in circumstances when their parent/s or care giver due to different reasons⁵⁹ has difficulty in providing adequate care and supervision.⁶⁰

Such services are to be provided in cooperation with other stakeholders based on an assessment of the child's needs and the Municipality's ability to reasonably provide them,⁶¹ although in all matters, it is the interests of the child that shall be the first and paramount consideration.⁶² In addition, the Centre for Social Work (CSW) is under an obligation to maintain a register of all children within its territory who are not provided with the necessary care and protection or are deemed at risk of neglect, exploitation or abuse; in order to conduct regular visits to ensure the wellbeing of the child and provide the services that may be necessary.⁶³

Since the definition of a child in need is broad, it is evident that all categories of CoM are included, even if not specifically specified such as asylum children or returned children. This is because the list is not exhaustive and as such a child who is an unaccompanied minor claiming asylum or a returnee child for example, would still fall within the definition of a child in need due to other reasons as foreseen by Article 9.1.3.e.14 of the Law on Child and Family Services. Additionally, the inclusion of the principle of what is in the best interests of the child is important when determining whether a child requires services and what services should be provided.

⁵⁵ Law No. 02/L-17

⁵⁶ Article 1.1.3.b, Law on Social and Family Services

⁵⁷ Article 1.1.3.e, Ibid

⁵⁸ Ibid

⁵⁹ This includes: lifestyle, physical or mental disability or illness, psycho-social problems, addiction or other reason

⁶⁰ Article 9.3.b, Law on Social and Family Services

⁶¹ Article 9.2, Ibid

⁶² Article 9.1, ibid

⁶³ Article 9.4, Ibid

However, the obligation of the Municipality to render such services to children in need is somewhat unclear. This is because Article 9.2 of the Law on Social and Family Services specifies this as a joint obligation with a range of stakeholders, which in practice can cause problems as to who is in fact obliged to provide such services. In order to ensure specific obligations, responsibilities of the respective institutions should be clearly outlined and the option to seek assistance from other stakeholders to be recognized as an option. Additionally, while the obligation begins with the assessment of the child's needs, the Municipality's ability to provide such services seems to be an important consideration, which can make what is in the best interests of the child seem irrelevant.

Another important consideration, which may not serve well CoM is the register maintained by Centre's for Social Work, for children who are in need due to the lack of care or supervision causing them to be at risk of neglect, exploitation or abuse. According to the Article 9.4 of the Law on Social and Family Services, this is a register of children who are resident within that particular Municipality. Even though Article 1.1.3.e of the same law says status of the person or origin is irrelevant, if the criterion for inclusion in the register is residency, then this could exclude certain CoM and leave them without sufficient protection, such as trafficked children or irregular migrant children. In this regard, it is evident that residency in English is to be understood as physical presence, as opposed to habitual residence and it is this interpretation, which should prevail. However, in Albanian this provision says those children that live within a municipality's territory and it seems in practice this is applied, meaning that CoM could be excluded including those children that are begging.

Another important provision is that if such children come to the attention of the Centre for Social Work and they have grounds to believe that a resident child or one that is found in their territory, is at risk or suffering from any form of physical or mental violence, injury, abuse, neglect or exploitation, the Centre for Social Work must take whatever steps necessary to safeguard the child.⁶⁴ In addition, the Centre for Social Work shall report the case to the relevant department and within 24 hours conduct a comprehensive professional assessment of the child's needs for protection.⁶⁵ While such a provision covers a specific situation, it is arguable that it does not provide adequate protection to CoM, as it is framed for those cases where action needs to be taken as a matter of urgency, rather than considering these issues on a permanent basis and including them in the register. A further concern, which the Law on Social and Family Services does not deal with, is the scenario where the children may move from one municipality to another during the day or week. In such a case, if the residency requirement is being applied then once again this would affect identification of these children as being at risk, as well as access to services necessary for their protection. This is because a child might be resident in Fushe Kosova but is forced to beg in Pristina, in which case the Centre for Social Work in Fushe Kosova may not have the child in their register, while s/he does not fulfill residency criteria to be included in the register in Pristina.

⁶⁴ Article 10.7, Law on Social and Family Services

⁶⁵ Article 9.5, Law No. 04/L-081 On Amending and Supplementing the Law on Law No. 02/L-17 On Social and Family Services

ii. Social Assistance

Despite the fact that children may be on the move for different reasons, economic circumstances at home can also have an impact and as such it is necessary to consider the Law on the Social Assistance Scheme, which aims to provide a social safety net within the social protection system in Kosovo and alleviate poverty through the provision of assistance to poor and vulnerable families.⁶⁶ The scheme is operated through two categories: category one is for dependent family members, who are not able to work; whereas category two is for families where at least one member is able to work and where there is either a child under the age of 5 and/or an orphan under 15 in the family's full time care.⁶⁷ Families in either category will also have to satisfy an asset and income test in order to receive the support as specified in the law.⁶⁸ Further, the Law specifies that persons eligible to apply are citizens of Kosovo,⁶⁹ as well as certain non-nationals including foreign citizens with a permit, asylum seekers, refugees or persons who enjoy provisional or complementary protection.⁷⁰ However, their access to the scheme is to be regulated by a separate sub-legal act, which has not been enacted.⁷¹ Furthermore, those families that satisfy the criteria under category one, their claim will be approved for 12 months, whereas those in category two will receive it for 6 months, after which they need to prove that they have been looking for work. For both categories after the respective periods (12 months and 6 months), they need to reapply.⁷²

Even though previous assessment of the scheme has indicated that it is an efficient method for transferring resources to the poor, it was also found that only 23% of the poor and 34% of the extremely poor are being reached by the scheme and the units are inadequate to bring them out of poverty.⁷³ Moreover, it has also been found that the age criterion seems illogical and unfair, that the scheme seems to reach the "privileged poor," rather than those in dire need; the amount provided does not cover the necessities and the short periods of payments does not allow household planning to take place.⁷⁴ Despite well placed recommendations being made to amend the current scheme in order to include a benefit for school children (6-18 years old), which would progressively reduce poverty with modest increases in costs; this was not taken into consideration when the law was amended in 2012.⁷⁵

⁶⁶ Law No. 2003/15, Preamble

⁶⁷ Article 4.1, Ibid and as amended by Law No. 04/L-096 On amending and supplementing the Law No. 2003/15 on Social Assistance Scheme in Kosovo

⁶⁸ Article 5, Law No. 2003/15 and Law No. 04/L-096

⁶⁹ Article 4.1, Law No. 04/L-096

⁷⁰ Article 4.2, Ibid

⁷¹ Article 4.3, Ibid

⁷² Article 7, Ibid

⁷³ World Bank, 'Technical Background Paper Social Sectors – Policy Issues in the Social Sectors', July 2008, Donors Conference, Brussels

⁷⁴ Roelen K, Gassman F, 'How effective can efficient be? Social Assistance in Kosovo and What it means for Children', December 2010, paper prepared for presentation at the World Bank International Conference on Poverty and Social Inclusion in the Western Balkans, at p. 12

⁷⁵ Ibid, p. 15

It is arguable that the current scheme does not provide the necessary protection for CoM due to a number of reasons. Firstly, the current age criterion remains to be unfair and in fact may be a push factor for children begging on the street or being forced to do other work such as selling different products including cigarettes. Secondly, the current scheme does not adequately deal with all CoM since if they are not citizens then currently they will be unable to access the scheme. Thirdly, the application procedure is rather burdensome and certain marginalized groups such as members of the Roma, Ashkali and Egyptian communities, persons with disabilities or persons who are illiterate may experience difficulties in gaining access due to lack of registration or having the necessary documents.

c. Legislation on human trafficking and child labour

The Constitution of the Republic of Kosovo forbids trafficking in persons, as well as slavery and forced labour.⁷⁶ Additionally, trafficking in persons is a criminal offence according to the Criminal Code of Kosovo punishable by fine and imprisonment of 12 to 15 years.⁷⁷ The definition used is almost identical to that in the Palermo Protocol⁷⁸ as it includes defining trafficking of children even if the means⁷⁹ are not present,⁸⁰ as well as adding begging as a form of exploitation. In addition, the Criminal Code provides a harsher maximum punishment when the victim of trafficking is a child (15 years imprisonment),⁸¹ penalizes the conduct of those who obtain sexual services from a victim of trafficking, with a harsher maximum sentence when the victim is a child (10 years imprisonment)⁸² and recognizes other offences associated with trafficking, such as withholding identity papers of a victim of trafficking.⁸³

In 2013 the Law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking was enacted (Anti-Trafficking Law).⁸⁴ The purpose of the law is to establish responsibilities of respective authorities to work on preventing and combating trafficking in human beings whether national or transnational, as well as providing services for

⁷⁶ Article 28, Constitution of the Republic of Kosovo

⁷⁷ Article 171.1, Kosovo Criminal Code

⁷⁸ UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000

⁷⁹ According to Article 171.6.1 of the Kosovo Criminal Code this includes: 'threat or the use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or the abuse of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person'

⁸⁰ Article 171.6.4, Kosovo Criminal Code

⁸¹ Article 171.2, Kosovo Criminal Code

⁸² Article 231, Kosovo Criminal Code

⁸³ Article 172, Kosovo Criminal Code

⁸⁴ Law No. 04/L-218

victims of trafficking.⁸⁵ While a range of competent authorities⁸⁶ are specified in the law to prevent and combat trafficking and provide assistance to victims, the Anti-Trafficking Law also establishes the National Authority against trafficking in human beings, which is led by the National Anti-Trafficking Coordinator (hereafter the Coordinator).⁸⁷ The competencies of the Coordinator include chairing the National Authority, cooperating with other competent authorities, as well as developing, coordinating and monitoring the implementation of the National Referral Mechanisms to ensure ‘proper identification, referral, assistance and protection of victims of trafficking, including child victims’.⁸⁸

In addition, the Anti-Trafficking Law has a number of important provisions relating to child victims as well as a chapter prescribing measures to prevent and combat trafficking in children. In the general framework of the Anti-Trafficking Law, Article 13 prescribes that a child victim of trafficking is ‘not subject to procedures or legal sanctions for offenses related to their situation as victims of trafficking’.⁸⁹ Similarly, Article 16 details ways in which a child should be treated in criminal investigations and proceedings in order to prevent re-victimization.⁹⁰ Whereas Chapter V includes a number of important provisions where firstly, child victims of trafficking specifically are to obtain assistance and protection in accordance with what is in the best interests of the child and that responsible authorities are under an obligation to report cases when they suspect a child is exposed to the risk of exploitation or trafficking.⁹¹ Secondly, the Anti-Trafficking Law establishes specific principles when combating trafficking in children in particular that when a child is capable of forming his/her view, giving due weight to the view of the child in accordance with his/her age, maturity and what is in the best interests of the child, informing the child about his/her rights in a child appropriate manner and protecting the identity of the child, who is a victim of trafficking.⁹² Thirdly, if the age of the trafficking victim is unknown but there are reasons to believe that the victim has not reached 18 years old, it is to be presumed that the victim is a child.⁹³

While all of the above mentioned provisions are framed in neutral terms and thus would be applicable to national or foreign victims of trafficking providing assistance to any CoM, irrespective of origin or status, the Anti-Trafficking Law also details procedures regarding foreign child victims of trafficking. A foreign child victim of trafficking can be returned/repatriated to his/her country of origin, although prior to the return there needs to be consent that the child will be received by his/her parent/guardian or that the competent authorities consent to providing the adequate assistance and protection.⁹⁴ In circumstances where the return/reintegration is not permissible, the Kosovo authorities together with the country of

⁸⁵ Article 1 and Article 2, Anti-Trafficking Law

⁸⁶ Article 6, Anti-Trafficking Law

⁸⁷ Article 7 and Article 8, Ibid

⁸⁸ Article 8.3, Ibid

⁸⁹ Article 13.2, Anti-Trafficking Law

⁹⁰ Article 16, Ibid

⁹¹ Chapter V, Article 34, Ibid

⁹² Article 35, Ibid

⁹³ Article 36, Ibid

⁹⁴ Article 37.1, Ibid

origin shall provide relocation to a third country and until a sustainable solution is reached foreign child victims of trafficking or stateless children are entitled to a temporary residence permit.⁹⁵ In this process the view of the child is to be taken into account in accordance with his/her age, maturity and his/her best interests.⁹⁶ Whereas Article 38 of the Anti-Trafficking Law prescribes means through which a child victim of trafficking can receive assistance and protection including an individual assessment to determine the support they require in accordance with the child's best interests, accommodation in a shelter separately from adults up to 6 months, the right to be educated, assistance with locating their family, as well as long-term care until full recovery.⁹⁷ Furthermore, child victims of trafficking are given a 30 to 90 days period of reflection in order to decide if they will testify against their trafficker.⁹⁸

Prior to the Anti-Trafficking Law, the Government of Kosovo (GoK) also approved the National Strategy and Action Plan against Trafficking in Human Beings 2011 – 2014, which had a specific strategic goal of protecting children, as well as specific actions to be implemented as detailed in the action plan.⁹⁹ Following evaluation, the GoK through the office of the Coordinator is currently finalizing the new Strategy and Action Plan against Trafficking in Human Beings 2014-2019. In order to intensify efforts to prevent and combat trafficking from Albania and vice versa, the Kosovan and Albanian authorities signed an Additional Protocol¹⁰⁰ with a particular focus on children in June 2012. The protocol aims to enhance identification, notification, referral and voluntary assisted return of victims and potential victims of trafficking especially children. However, obstacles in implementation have been encountered especially in relation to Albanian children who seem to be stuck in a vicious cycle of either being trafficked to Kosovo for the purpose of begging or being forced to beg by their parents; being returned to Albania and then re-entering Kosovo once again. In order to discuss the challenges faced a conference was organized by the National Coordinators on Transnational and Interstate Cooperation in Combating Trafficking in Persons between the authorities of Kosovo, Albania and Montenegro in March 2014,¹⁰¹ with additional meetings to be held throughout the year to improve the implementation of the Additional Protocol and thus ensure better protection for CoM.

With regard to trafficking, the legal provisions outlined on the whole are framed in general terms and as such are applicable to all children irrespective of origin or status, thus sufficient protection is provided for CoM. However, within the legal framework improvements could be made. For example, the Anti-Trafficking Law despite referring to the Criminal Law, does not define

⁹⁵ Article 37.3 and Article 37.6, Ibid

⁹⁶ Article 37.4, Ibid

⁹⁷ Article 38, Anti-Trafficking Law

⁹⁸ Article 38.6, Ibid

⁹⁹ The Strategy and Action Plan can be found at: <http://www.mpb-ks.org/repository/docs/TQNJAnglisht.pdf> accessed on 05/04/2014

¹⁰⁰ Agreement of Cooperation On Intensifying Cooperation in the Fight against Trafficking in Persons and on the Enhanced Identification, Notification, Referral and Voluntary Assisted Return of Victims and Potential Victims of Trafficking, especially Children, Supplementing the Agreement between the Council of Ministers of the Republic of Kosovo and the Government of the Republic of Albania "On Police Cross-border Cooperation" signed between Kosovo and Albania, June 2012

¹⁰¹ Supported by the Mario Project and GIZ – Deutsche Gesellschaft für Internationale Zusammenarbeit

trafficking in the same way, as in effect it confuses the different elements of the crime such as the act or conduct¹⁰², the means¹⁰³ and the purpose¹⁰⁴ by not considering them as separate elements. Whilst the Criminal Code is the *lex specialis* in this case, which would be relied upon to prosecute traffickers, it is important to have consistent definitions when defining crimes especially since practice reveals in Kosovo that there are problems in prosecuting traffickers, including cases that involve child victims. A report by the OSCE in 2011 illustrates the problems in implementation as in a trafficking case involving two children (one being 13 or 14 years old), only one defendant was convicted of trafficking and another indicted for sexually abusing a child. However, the prosecution failed to effectively investigate the case as the latter defendant appeared to have harbored the child, prior to the sexual abuse and could also have been indicted for trafficking. Furthermore, the prosecution should have investigated additional offences committed, such as receiving sexual services of a victim of trafficking, threats and rape among others.¹⁰⁵ Moreover, since the definition of trafficking in Kosovo includes begging additional efforts need to be made so that perpetrators who traffic children for the purpose of begging are brought to justice.

Another aspect that needs to be considered is the provisions within the legal framework relating to child labour, as this also affects the rights of CoM. The Constitution of the Republic of Kosovo prohibits slavery and forced labour,¹⁰⁶ whereas the Criminal Code prescribes that slavery, slavery like conditions or forced labour are criminal offences punishable by fine and imprisonment of 2 to 10 years. If the offence is committed against a child, the perpetrator can be punished between 3 to 15 years.¹⁰⁷ In addition, if a parent/guardian or another person exercising parental authority compels a child to beg for money or other benefit, work excessively or perform work not suitable for the age of the child, or engage in any other activity that endangers or damages the child's development, can be punished by fine and imprisonment of 1 to 5 years.¹⁰⁸

According to the Labour Law children under the age of 15 years cannot be contracted to work, whereas those between 15 and 18 may be employed for easy tasks that do not represent a risk to their health or development.¹⁰⁹ Also children are prohibited from engaging in night shifts.¹¹⁰ In addition, the Administrative Instruction to Prevent and Prohibit Hazardous Child Labour in Kosovo¹¹¹ (AI on Hazardous Child Labour), establishes a comprehensive list of hazardous labour, which children are prohibited from undertaking. This includes working at heights above

¹⁰² This refers to: recruitment, transportation, transfer, harbouring or reception of persons

¹⁰³ This refers to: threat and use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability and giving or receiving of payments or benefits

¹⁰⁴ This refers to: exploitation

¹⁰⁵ Organisation for Security and Cooperation in Europe (OSCE), Mission in Kosovo, 'Defining and Prosecuting the Crime of Human Trafficking', October 2011

¹⁰⁶ Article 28, Constitution of the Republic of Kosovo

¹⁰⁷ Article 169, Kosovo Criminal Code

¹⁰⁸ Article 250, Ibid

¹⁰⁹ Article 7, Law on Labour, Law No. 03/L-212

¹¹⁰ Article 27, Ibid

¹¹¹ Administrative Instruction 5/2013

2 meters, in environments where there are toxic substances, working in specific industries such as agriculture, street work, construction, among others.¹¹² The Committee for the Prevention and Elimination of the Worst Forms of Child Labour has also drafted a Strategy on the Prevention and Elimination of Child Labour 2011 – 2016, which was approved in 2011 and the Action Plan 2011 – 2013. While the legal framework with respect to child labour is in place and is inclusive of CoM since it does not differentiate according to origin or status, there is still a need for considerable efforts to be undertaken to ensure that CoM are protected. For example, during 2012 an Operational Order “Withdrawal of Beggars” was drafted by the Directorate of Community Police, which is implemented in cooperation with the Centre’s for Social Work and NGO’s; and on this basis all police stations draft operational plans regarding actions to be undertaken in respect of persons begging. However during 2012, only 107 begging children were identified and it seems that activities to identify such children are conducted on an ad hoc basis.¹¹³

e. Legislation on asylum

In Kosovo, the Law on Asylum¹¹⁴ provides the types of protection that are available for persons seeking asylum and refugee status in accordance with the international human rights standards. This includes refugee status¹¹⁵, defined in identical terms as in the 1951 Convention Relating to the Status of Refugees (the Geneva Convention),¹¹⁶ subsidiary protection¹¹⁷ in cases where substantial grounds have been shown for real risk of serious harm,¹¹⁸ and temporary protection in order to deal with situations of mass influx.¹¹⁹ In addition, the Law on Asylum provides for protection to be afforded to asylum seekers even if the need arises *sur place* and prohibits Kosovo authorities from expelling asylum seekers (principle of non-refoulement). Anyone who declares their intention to claim asylum in Kosovo, will be treated as an asylum seeker and thus be admitted into Kosovo’s territory.¹²⁰ Within 15 days from the submission of the asylum application, the law provides that the applicant will be informed in a language s/he understands

¹¹² See Annex I, Administrative Instruction 5/2013

¹¹³ Ministry of Labour and Social Welfare, ‘Annual Report on the Implementation of the Action Plan on Prevention and Elimination of Child Labour 2012’, p. 34 available at <https://mpms.rks-gov.net/Portals/0/Librat/Report%202012%20on%20Implementation%20of%20the%20KAP%20for%20Prevention%20and%20Elimination%20of%20CL%20in%20Kosovo.pdf> accessed on 05/04/2014

¹¹⁴ Law No 4/L-217

¹¹⁵ Article 2.1.1.11, Law on Asylum

¹¹⁶ United Nations General Assembly, Convention Relating to the Status of Refugees, 28 July 1951

¹¹⁷ Article 2.1.1.12, Law on Asylum

¹¹⁸ This includes the death penalty or execution, torture or inhuman or degrading treatment or imprisonment of the asylum seeker in their country of origin, or serious and individual threat to life of a civilian or person because of indiscriminate violence in armed international or internal conflicts

¹¹⁹ Article 2.1.1.13, Law on Asylum

¹²⁰ Article 10, Ibid

about the asylum procedures, their rights and obligations, as well as the possibility to contact with the United Nations High Commissioner for Refugees (UNHCR), as well as other NGOs.¹²¹

During an asylum application the authorities are under an obligation to undertake all measures aimed at protecting the unity of the family and in cases when all family members do not qualify individually for protection, they may benefit from derivative refugee status on the basis of family unity.¹²² The Law on Asylum defines family members consisting of married or unmarried partners, as well as children born in or outside of wedlock, including adopted children.¹²³ The law also provides a specific definition for unaccompanied minors by prescribing that all foreign children or stateless children under the age of 18 are to be treated as unaccompanied minors, whether they are alone when they enter the territory of Kosovo or are left alone once within Kosovo.¹²⁴ In addition, during the asylum procedure, asylum seekers enjoy a range of rights including; basic living conditions such as housing, food and clothing,¹²⁵ as well as healthcare, social assistance, education for children and free legal assistance.¹²⁶

If an unaccompanied minor seeks asylum, the Law on Asylum prescribes that s/he shall be assigned a social worker from the Centre for Social Work, as soon as it possible, as a representative of the unaccompanied minor. The social workers role is to represent and/or assist the unaccompanied child during the application procedure and the unaccompanied child cannot be interviewed without the presence of the social worker.¹²⁷ Prior to interview, the social worker shall have the opportunity to inform the unaccompanied minor about the interview including its possible consequences and how to prepare for such an interview. Whereas, during the interview the social worker should be permitted to ask questions or make comments.¹²⁸

Furthermore, the Ministry of Internal Affairs is under an obligation to take steps to trace the family of the unaccompanied minor and place the child either with adult relatives, a foster family or accommodation that is either specialized or suitable for children.¹²⁹ The competent authorities when dealing with an application from an unaccompanied minor should ensure that the best interests of the child are a primary consideration.¹³⁰ Importantly, the Law on Asylum also provides that the views of the child should be taken into account in accordance with his or her age and degree of maturity. Additionally, the unaccompanied minor seeking asylum is entitled to elementary and secondary education according to the same conditions as citizens of

¹²¹ Article 11.2, Ibid

¹²² Article 3.2, Ibid and Law on Foreigners, Law No. 04/L-219

¹²³ Article 2.1.1.19, Law on Asylum

¹²⁴ Article 2.1.1.21, Ibid

¹²⁵ Article 21, Law on Asylum

¹²⁶ Article 19, Ibid

¹²⁷ Article 14.1, Ibid

¹²⁸ Article 14.3, Ibid

¹²⁹ Article 14.6 and Article 14.7, Ibid

¹³⁰ Article 14.2, Ibid

Kosovo.¹³¹ Once an unaccompanied minor is recognized as a refugee or is given other forms of protection, s/he will be appointed a Custodian by the Centre for Social Work.¹³²

Overall, the legislation on asylum in Kosovo provides sufficient protection for CoM especially since the principle of what is in the best interests of the child is included, the wishes of the child are to be taken into account according to age and maturity and specific protections for unaccompanied minors are in place. However, the current legal framework could be improved by providing guidance regarding situations where the age of the minor is disputed and how relevant authorities should deal with that as an asylum application is being processed. This is important because if an unaccompanied minor is wrongly presumed to be an adult, this would mean they would lose additional protections that are in force for unaccompanied children. Additionally, it is crucial that the expertise of social workers is utilized during age assessments, as well as being provided with unhindered access to the unaccompanied minor in order to explain the process and minimize the risk of harm.

f. Legislation on readmission/returnees

During the conflict in Kosovo, large numbers of citizens were deported, with many seeking protection in countries in Europe and beyond. The trend of Kosovan citizens seeking asylum after the conflict continued, during 2013 it was reported that 20 175 Kosovans claimed asylum in European Union countries, of whom 27.3% were between the ages of 0-17.¹³³ While there are a number of reasons, the poor economic conditions and extreme poverty present is a recognizable push factor, especially since about 30% or one of three Kosovan's live in extreme poverty.¹³⁴

Nevertheless, in response to this situation a number of European Union countries have concluded readmission agreements with Kosovo in order to return irregular migrants including asylum seekers, whose application for protection has been refused. In this regard, it should be recognized that Kosovo was under political pressure to accept this offering, even though it did not have 'the capacities or budget in place to receive these families in dignity and security'.¹³⁵ In order to regulate this process the Law on Readmission¹³⁶ was adopted, as well as Administrative Instruction 09/2011 on Implementation of the Law on Readmission (AI 09/2011) and a National Strategy for Reintegration of Repatriated Persons in Kosovo (National Strategy for Reintegration).

¹³¹ Article 24, Ibid

¹³² Article 14.5, Ibid

¹³³ Bitoulas A, Eurostat Data in focus 3/2014, 'Population and Social conditions', available at http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-QA-14-003/EN/KS-QA-14-003-EN.PDF accessed on 10/04/2014, at p. 7

¹³⁴ United Nations Development Programme in Kosovo, Eradicating extreme hunger and poverty, available at <http://www.ks.undp.org/content/kosovo/en/home/mdgoverview/overview/mdg1/> accessed on 10/04/2014

¹³⁵ Report of the Commissioner of Human Rights' of the Council of Europe Special Mission to Kosovo, 23-27 March 2009, para.156 available at <https://wcd.coe.int/ViewDoc.jsp?id=1466279> accessed on 10/04/2014

¹³⁶ Law No. 03/L-208

The Law on Readmission seeks to establish the general framework for the process of return by providing who may be readmitted¹³⁷ and the conditions that need to be satisfied in terms of citizenship.¹³⁸ Nevertheless, it is very brief, it does not mention anything in relation to children, and *de facto* it is the AI 09/2011, which outlines the conditions and formalities for return. According to AI 09/2011, Kosovo shall readmit all persons who are not legally residing in a requesting state, provided that it is proved or can be reasonably assumed on the basis of *prima facie* evidence that they are citizens of Kosovo in compliance with the Law on Citizenship.¹³⁹ On this basis, the spouses and unmarried minor children of such persons who possess Kosovan citizenship shall be simultaneously readmitted, unless they are entitled to residency in the territory of the requesting state.¹⁴⁰ In addition, Kosovo shall readmit even persons who since entering the territory of the requesting state have been deprived of or have relinquished their Kosovan citizenship, unless they are promised naturalization by the competent authorities of the requesting state.¹⁴¹ Another category of persons that may be readmitted are third country citizens or stateless persons provided that such persons have a link with Kosovo including possessing a valid visa or resident permit or having resided in Kosovo prior to illegally entering the territory of the requesting state. These criteria for readmission are also applicable to spouses and unmarried minor children.¹⁴² However, under this category there are exclusions meaning such persons will not be readmitted, if these third country nationals or stateless persons have only entered Kosovan territory through the airport and for transit purposes, or the requesting state has issued the third country citizen or stateless person with a visa or residence permit prior to or after entering its territory.¹⁴³ While the whole procedure enacted for returns is not important to be outlined for the purposes of this report, recalling the relevant competent authorities provides important insight. According to Article 6 of AI 09/2011, the competent authorities are the Ministry of Internal Affairs, the Department for Citizenship, Asylum and Migration and the Kosovo Police.

In addition, Regulation No. 20/2013 on Reintegration of Repatriated Persons and Management of the Reintegration Program (Regulation 20/2013) outlines the measures that can be taken in the field of reintegration, as well as authorities that are responsible for providing such services. According to Regulation 20/2013, persons who have left Kosovo before 28 July 2010 and within 6 months of being returned for the first time¹⁴⁴ are able to claim certain benefits to assist with reintegration.¹⁴⁵ These benefits include immediate assistance upon arrival, emergency benefits and measures supporting sustainable reintegration. When assessing requests for such benefits, the Regulation recognizes that special needs of vulnerable persons and the best interest of the

¹³⁷ Article 3 and Article 7, Law on Readmission

¹³⁸ Article 5 and Article 6, Ibid

¹³⁹ Article 3.1, Administrative Instruction on 09/2011 on Implementation of the Law on Readmission (AI 09/2011)

¹⁴⁰ Article 3.2, AI 09/2011

¹⁴¹ Article 3.3, Ibid

¹⁴² Article 4.1, Ibid

¹⁴³ Article 4.2, Ibid

¹⁴⁴ This can be extended by a another 6 months

¹⁴⁵ Article 2, Regulation No. 20/2013 on Reintegration of Repatriated Persons and Management of the Reintegration Program (Regulation 20/2013)

child should be considered.¹⁴⁶ With regard to children, the Regulation provides that all returned children are entitled to attend school and the municipality is under an obligation to provide language courses where necessary. In addition, children are entitled to ‘occasional assistance’ based on their vulnerable situation. The Regulation 20/2013 provides that such assistance should be granted according to preliminary assessment of needs by municipal authorities and the needs assessment should be lead by the principle of what is in the best interests of the child. Therefore, this is to be determined on an individual basis including the type of assistance that may be necessary, although further guidance as to what this could be is not provided.¹⁴⁷ Whereas the National Strategy for Reintegration aims to achieve successful and sustainable reintegration for repatriated persons, notwithstanding the form of return though the provision of assistance and support throughout the integration process.¹⁴⁸ When providing such assistance and support institutions should pay attention to particular vulnerable categories including children without appropriate care, unaccompanied minors and victims of trafficking, among others.¹⁴⁹

The current legal framework raises a number of issues regarding returnee children who are part of CoM. Firstly, the returning process begins through the consideration of the situation of adults, usually the head of the family and on that basis children are returned as prescribed by Article 3.2 of AI 11/2011 for children with Kosovo citizenship or Article 4.1.4 of AI 11/2011 for children of third countries or stateless children. This is problematic because when the decision by the Kosovo authorities is made to accept a request for return from a requesting state, this decision is taken without paying due regard to the situation of children and what is in the best interests of the child. Therefore, it is arguable that such a practice is not in line with the CRC or the Constitution of Kosovo, which provides that ‘all actions undertaken by public...authorities concerning children shall be in the best interest of the children’.¹⁵⁰ Additionally, neither the Law on Readmission nor the AI 09/2011 prescribes that when deciding about the return of children, what is in the best interests of the child should be a primary consideration.

Secondly, the situation is perhaps even more troublesome in relation to third country children or stateless children. This is because Kosovo through AI 09/2011 has taken on the obligation to accept such returnee children from requesting states, although the criteria being applied is rather obscure since their presence in Kosovan territory for a limited period of time could result in their return. Once again regarding this category the initial decision to accept the returnees is based on the adults as opposed to children. Therefore, the obligation in such decision making to ensure what is in the best interests of the child does not even seem to be a consideration and facilitating their return could be especially harmful since these returnee children (third country or stateless) may have no links with Kosovo.¹⁵¹ As a result this will greatly affect their integration, as well as the realization of a range of civil, political and cultural rights. Thirdly, the competent authorities

¹⁴⁶ Article 4, Regulation 20/2013

¹⁴⁷ Article 11, Regulation 20/2013

¹⁴⁸ National Strategy for Reintegration of Repatriated Persons in Kosovo (National Strategy for Reintegration), October 2013, p. 12

¹⁴⁹ National Strategy for Reintegration of Repatriated Persons in Kosovo (National Strategy for Reintegration), October 2013, at p. 7

¹⁵⁰ Article 50.4, Constitution of the Republic of Kosovo

¹⁵¹ This could include language, culture, religion

outlined in AI/09/2011 make it apparent that the process of readmission is only viewed from a migration perspective. This is problematic since readmission can be a complex process, which requires a multi-disciplinary approach to minimize the risk of harm that could be done to children and in the long term to facilitate integration.

With regard to reintegration, Regulation 20/2013 pays attention to children by providing that the best interests of the child should be considered, although it is important to note that is not the primary consideration. Additionally, while the Regulation provides for specific measures such as those in education and additional support that may be required in individual cases, it is arguable that this does not go far enough. This is because the whole experience of return may be a traumatic one for the adults and children concerned and this may have a negative impact in different spheres of a child's life. Therefore, in this regard there is a need for the regulations in place to prescribe comprehensive and inclusive measures, which would consider the well being of the child through visits and monitoring for example as they could be at a higher risk of abuse, trafficking or other attempts of unsafe migration.

V. Child Protection System in Kosovo

A child protection system refers to various institutions/actors and components with the responsibility to take coordinated measures to safeguard the wellbeing of the child and to protect children from all forms of 'physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child'.¹⁵² The actors involved include the family, the community and statutory agencies such as social services, the education system and law enforcement.

In Kosovo the child protection system is composed of different actors at central and local level, who contribute to the protection of children. Currently, their responsibilities to protect are not enunciated in one legislative act and as such it is necessary to recall the various provisions in place, which in effect make up the child protection system. Municipalities have full and exclusive powers regarding local interests covering a range of areas, while respecting the standards set forth in applicable legislation. With regard to protection of children each municipality's competencies include promotion and protection of human rights and provision of family and other social welfare services.¹⁵³ The Law on Social and Family Services provides that each municipality is responsible for providing social and family services within its territory to a standard specified by the Ministry.¹⁵⁴ Additionally, each municipality is under an obligation to establish the Centre for Social Work (CSW), which conducts professional assessments for those

¹⁵² Article 19.1, CRC

¹⁵³ Article 17.1.i and Article 17.1.k, Law on Local Self Government, Law No. 03/L-040

¹⁵⁴ Article 6.1, Law on Social and Family Services

who have referred themselves or those persons who come to CSW's attention as being in need of social and family services, as well as constituting the Custodian Body.¹⁵⁵

Currently there are 37 CSW's and they can be considered to be the lead public body responsible for dealing with cases of children who are suspected of being abused, exploited, neglected or maltreated.¹⁵⁶ Their mandate prescribes that if it comes to the attention of the CSW that 'there are grounds to suspect that a child *resident in, or found in*, their territory is abandoned, orphaned, suffering or is at risk of, any form of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of their parent(s) or anyone else who cares for the child, the CSW must take whatever steps necessary to secure the welfare of the child, report the matter to the relevant department and within 24 hours conduct a professional assessment of the child's protection needs.¹⁵⁷ In addition, if a social service official has reason to believe that there is immediate danger to the child, s/he may enter a residential facility and take the child to a safe place for a certain period, although no longer than 72 hours.¹⁵⁸

An integral aspect of the child protection system is mandatory reporting and the obligation on professionals to cooperate with the CSW. Accordingly, any member of the teaching, nursing, medical, dentistry or psychology professions or any police officer or other professional with a duty of care towards children, who suspects or has evidence that a child is suffering from physical, sexual or psychological abuse from a parent or caregiver, is under an obligation to report the matter to the relevant Director of the CSW. Failure to report child abuse¹⁵⁹ by the above mentioned professionals¹⁶⁰ or anyone else when they suspect such abuse can result in prosecution.¹⁶¹ Additionally, while the CSW is conducting a comprehensive professional assessment of the child's protection need, any professional who has had contact with the child is under an obligation to cooperate and assist where possible.¹⁶² There is also a specific obligation on law enforcement agencies to assist the CSW in cases where there is suspicion of child abuse, as well as carrying out their own criminal investigations where it is necessary.¹⁶³

At the same time, the CSW alone cannot and does not constitute the entire child protection system in Kosovo. For other categories CoM, other institutions are required to take a lead role, although there are instances where they are obliged to involve the CSW. With regard to proceedings involving a criminal offence that has been committed against a child such as sexual

¹⁵⁵ Article 7.1 and Article 7.2, Ibid (please note that the Custodian Body is sometimes referred to as the Guardianship Authority, although since the Law on Family refers to it as Custodian Body, that is the terminology that will be used in this report)

¹⁵⁶ Article 10.7, Law on Social and Family Services

¹⁵⁷ Article 10.7, Ibid

¹⁵⁸ Article 10.4, Ibid

¹⁵⁹ According to Article 254 of the Criminal Code this includes: mistreatment, abandonment or neglect

¹⁶⁰ Article 10.6, Law on Social and Family Services

¹⁶¹ Article 254, Criminal Code of Kosovo

¹⁶² Article 10.9, Law on Social and Family Services

¹⁶³ Article 10.10, Ibid

abuse or trafficking, the law enforcement authorities are under an obligation to act with particular care towards the child victim, bearing in mind his/her age, personal characteristics, education, environment in which s/he lives, to avoid any possible harm. Additionally, the examination of such a child shall be conducted with the assistance of a pedagogue, psychologist or other expert.¹⁶⁴ In trafficking cases, early identification can be done by consular services, border police and/or labour inspectorates,¹⁶⁵ whereas official identification is to be done by applying the indicators list by the following institutions: Police Units, Prosecution, Victims Advocates and CSW.¹⁶⁶ Additionally, victims of trafficking are to be provided with assistance and protection including sheltering, as well as rehabilitation and reintegration. In this regard, a range of professionals are involved in providing services including; shelters, medical professionals (psychologists), social workers, lawyers and other state officials.¹⁶⁷

In asylum cases, it is the Department of Citizenship, Asylum, and Migration (DCAM) in the Ministry of Internal Affairs (MIA), which takes the lead role in processing the asylum application, with the National Committee for Refugees dealing with appeals.¹⁶⁸ Upon entering the territory of Kosovo and claiming asylum, the asylum seeker is housed in the Centre for Asylum Seekers or in alternative accommodation.¹⁶⁹ Other professionals that may be involved include lawyers, refugee organizations, and the office of the UNHCR, as well as professionals of other institutions with regard to education or health, among others.¹⁷⁰ In cases of unaccompanied minors, once informed the CSW is under an obligation to appoint an official of social services as a representative of the unaccompanied minor to assist and/or represent him/her during the asylum application.¹⁷¹

Another important segment of the system is that dealing with returnees. The AI 09/2011 provides competencies only for those institutions that are necessary to facilitate return, which includes DCAM, the Kosovo Police and the MIA.¹⁷² However, the National Strategy for Reintegration a range of additional institutions that has a role to facilitate reintegration and repatriation, which touches upon protection issues for children. At the central level, the Department for Reintegration of Repatriated Persons (DRRP) within the MIA is responsible for managing the process of reintegration and repatriation by providing guidelines and disseminating information among others. In terms of direct assistance, the Central Commission for Reintegration (CCR) composed of different ministries¹⁷³ decides on the requests of repatriated persons, who can

¹⁶⁴ Article 147, Juvenile Justice Code, Law No. 03/L-193

¹⁶⁵ Article 12.3, Anti-trafficking Law (please note the Administrative Instruction is in the process of being developed)

¹⁶⁶ Article 12.4, Ibid (please note that the Indicator's List, is also to be developed)

¹⁶⁷ See Chapter IV, Assistance and Protection of Victims of Trafficking in Human Beings, Anti-Trafficking Law

¹⁶⁸ Article 42, Law on Asylum

¹⁶⁹ Article 47 and 48, Law on Asylum

¹⁷⁰ Chapter II, Ibid

¹⁷¹ Article 14, Ibid

¹⁷² Article 6, AI 11/2009

¹⁷³ Ministry of Internal Affairs, Ministry of Labour and Social Welfare, Ministry of Environment and Spatial Planning and Ministry of Agriculture, Forestry and Rural Development

appeal decisions to the Commission for Appeals.¹⁷⁴ From the ministries involved, the Ministry of Labour and Social Welfare is the most relevant, as the strategy provides that their role is to ensure protection of children and in cases of trafficking or domestic violence provide shelter.¹⁷⁵ Whereas at the local level, the institutions include the Municipal Office for Communities and Return (MOCR), which informs, assists and advises returnees, monitors their situation and coordinates with central level institutions. Additionally, the Municipal Reintegration Commission (MCR) deals with requests for emergency assistance that returnees may apply for. Overall, as has been noted the legal framework creating the system has focused only on facilitating return, whereas the role of institutions in charge of reintegration has been foreseen in the National Strategy for Reintegration. Further, while different directorates at municipal level are foreseen in the National Strategy for Reintegration, in terms of child protection the CSW is not directly involved. In light of the fact that the process of return can be traumatic for children and adults alike, not effectively taking this into account is especially problematic as it makes such children even more vulnerable.

VI. The Profile of Children on the Move in Kosovo

CoM in Kosovo as outlined by definitions adopted internationally is used to cover many groups of children, sharing a common, central feature - having moved, or living on the move. Research especially at the international level offers a comprehensive account of the main characteristics, vulnerability and life opportunities of CoM, which are relevant to CoM in Kosovo. Children identified in this study came from three groups of CoM:

- *Children living outside of a protective environment* (who lived with their parents in poor conditions and often due to such conditions were compelled to work or beg in the street);
- *Children on the move during the day* (these children tended to travel from one municipality to another to either collect metal, cans or beg)
- *Trafficked children or those at risk of trafficking*
- *Returnee children (migrant) and*
- *Asylum seeking children.*

The analysis of interviews, observations and open group discussions reveal that these groups of children share many characteristics. However, because their backgrounds, reasons for movement and life experiences are very different, it is difficult to describe them in a “one-size fits-all” fashion. Children living outside of a protective environment and those on the move during the day tended to share more characteristics; therefore they will be described together. Even though there are some similarities with returnee children, they are also different especially with regard to their perception of how the movement has affected their lives and as such it is important to portray their views separately. Additionally, this research has also found cases of whole families that could be classified as being on the move and as such it is important to describe and analyse

¹⁷⁴ National Strategy for Reintegration, pp.15-16

¹⁷⁵ National Strategy for Reintegration, p. 16

their situation especially in relation to their children, who are involved in various activities. Finally two additional subsections detail the observations and focus group discussions that were undertaken, which provide further insight.

1. The profile of CoM: the children speak

In recognising the child's right to participation, this research adopted a child participatory approach where the views of children are particularly important, as they are best placed to explain their situation while on the move, their motivation, the problems encountered and how they see themselves. As such interviews were conducted with 39 children in major cities in Kosovo including Pristina, Fushe Kosove, Peja, Gjakova, Ferizaj and Mitrovica. While the sample is small, the interviews were detailed and as outlined below they provide important insight in relation to their vulnerabilities, as well as hopes and dreams.

a. Children living outside of a protective environment and/or being on the move during the day

The children falling into these categories all share one particular feature, which is that they come from families who are extremely impoverished, as each day together with their parents they are struggling for survival. As a result of the situation that they have found themselves in, they have to abandon their childhood and find ways to either raise money for themselves or contribute to the family budget to make ends meet. They do this through different means including begging on the street, cleaning windcreens of vehicles at traffic lights, collecting scrap metal, which they later sell, rummaging through rubbish cans to find items which they can use or sell, or selling goods in cafes and restaurants including peanuts, chewing gum or cigarettes.

i. Being forced to beg

RI is 12 years old girl, who lives at home with her parents and 7 siblings. From the outset, she is very reserved and shy, her clothes are dirty and ripped and she also seems to be afraid of answering questions. When asked about CoM, she says "I don't know what that means", although she adds that "it is good sometimes to go to the city because I can get more money from begging, people give me more money". On a day to day basis she says "I attend school but I often miss it and I am behind". She also adds that "I do chores and I beg; and with the money I make we buy food and clothes". From her demeanor it is clear that she is not willingly doing this and she goes on to reveal that "my mother forces me to beg, she switches me with my little brother and if I don't listen to her to go and beg; she beats me up". In RI's case, it is not only the economic situation that is the issue but also her mother's conduct, which shows that she is being

abused by her mother. While this case reveals that in begging coercion is an element, it is important to treat each case on an individual basis as this is not reflected in all cases. However, this is an important element for this case, which authorities should use to coordinate actions.

ii. Being poor

AH, is a 10 year old girl of Roma origin from Peja. She lives with her parents and 6 siblings. Her eldest sister, who is 17 is married, whereas the other siblings are between the ages of 10-17. Due to their poor living conditions and lack of financial assistance, AH says “all of us children collect money”. AH also says that she had problems with her eyes and went to the doctor. While, it was the interviewers impression that the family’s financial circumstances were very poor and by allowing the children to beg, the parents were negligent; this case is different as coercion is not being used. Similar to this is the case of *LH, who is a 15 year old boy of Roma origin from Peja.* He says “I live with my family and 8 siblings between 7-22 years old”. He says all the children in his family beg as his father had heart surgery and has asthma and his mother also complains of pains in her stomach. In terms of support, LH says that his family receives social assistance but “we don’t have enough of things for everyone and so we beg”. His mother is also expected to have surgery. It is also important to note that these latter cases also show that the situation is further exacerbated when the parents have health problems and may not be in a position to provide the necessary care for their children.

The difficult circumstances and the poverty present is common in many municipalities throughout Kosovo. *AN, is a 16 year old boy from Gjakova.* Following his father’s death, despite only being a child he says “I have to provide for my family and I do this by selling cigarettes in cafes and restaurants”. He continues by explaining that “it’s hard work, as I have to travel from Gjakova to Peja everyday but there is nothing else I can do”. Similarly, *VJ is a 14 year old boy of Albanian ethnicity from Podujeva.* He says “I am the only one that works in my family” a family of 7 members, although he does not go into further details. From his demeanour and explanations provided by VJ, the researcher is of the opinion that the family’s socio-economic conditions are extremely poor. As a result, VJ travels to Pristina from Podujeva every day and stays until late into the night selling cigarette, usually until 22:00.

iii. Maintaining dignity and being proud

This is the case of *BB, an 8 year old boy who lives at home with his parents and 3 siblings.* According to him, CoM are “children that on the street”, although he does not know where they come from. As BB does not beg, he explains that “I don’t beg and I live with my parents” so I

am not a CoM. At the same time he recognizes that “sometimes” it is good to go somewhere else but did not know why. However, BB’s daily activities for the purposes of this report are important to note. When asked what he does every day, he says that he doesn’t go to school but “on some days I collect bottles in garbage bins”. “I sometimes do this alone and sometimes with my father and I sell the bottles. He goes on to say that “I get tired from doing this and I don’t like going but I want to do it because I earn money for bread”.

Due the difficult financial situation his family is in, at only 8 years old, BB has to think about ways to make money in order to buy food presumably to feed himself and his other siblings and parents. At such a tender age, his physical health is most definitely affected by such work, as well as his mental health and self-esteem. At the same time, he does not attend school and this will drastically affect his opportunities in life. It is evident that he is not happy doing this, he was very reserved and did not want to go into too many details, but it seems that he sees more pride in doing this than begging and this is an important aspect to point out for such a young boy. Additionally, it must be noted that despite the difficult circumstances that he and his family is facing, he says that “it is only the Ideas Partnership that helps us with clothes, education and hygiene”.

iv. Am I a CoM?

At the same time, despite the similarity of poverty being present in the majority of cases, there are also distinctions especially in terms of how these children view themselves based on the activity that they carry out. The majority of children do not necessarily see themselves as falling into the category of CoM. This is most evident among those children who have a home and view this as providing some sort of sanctuary, as well as those who do not beg and in a way see their contribution as necessary but are also proud of how they are able to contribute.

For example, *AA is a 10 year old boy, who lives with his parents and 9 siblings in a small house.* AA says that CoM are “those children that go places”, although he says he doesn’t know why, he goes on to explain that “I am not one of them, I have a home and I don’t beg”. Nevertheless, he also says that it is “sometimes” good for children to go somewhere else but he does not know why. When asked what he does on a day to day basis, he says “I go to school but I also go to collect metal alone”. When asked what he does with the metal, he says “I sell it and I give the money to my father”. He adds that “I have to do this and many children I know do this”. He says that he knows 50 children like him, who are boys and girls and sometimes women. Despite the poor conditions that AA and his family are facing, the only assistance he knows they receive he says is from the local NGO the Ideas Partnership and they help them with clothes and other items.

In addition to considering the home as a distinguishing factor, some children are also on the move only from time to time, depending on their family's circumstances and due to the temporary nature of their movement, they may feel they are not on the move. For example *GB is a 9 years old boy living at home with parents and 8 siblings*. He says that CoM are "those children that don't have a home or parents and they live on the streets and go from place to place". He adds that "they tend to come from other places" but he does not know from where and that "I don't consider myself like that because I have a home. At the same time, he thinks "sometimes it's good to go, to see other places". On a day to day basis, he attends school but also he says "rarely I collect metals, cans and bottles and sell them with my friends". He leaves it to be understood that he is not forced to do this, yet he seems to also know at least another 50 children who engage in the same activity as him, both boys and girls. Once again in relation to assistance being received he cites only the IDEAS Partnership helping with food and clothes.

v. Wanting a better future

A further distinction is that CoM may engage in such activities in order to better their life or their family's situation, even if they are not in extreme poverty. For example *AG, is a 15 year old boy from a village near Podujeva*, who during the summer comes with his brother to live in Prishtina. While he says that he attends school regularly (9th Grade), he also sells cigarettes, because his family is building a house and so he needs to make a contribution. He goes on to explain that his father is a farmer, that they do not receive any social assistance and so he needs to find ways to contribute and together with his brother HG, who is 17 years old, they sell cigarettes mostly in Prishtina, in cafes and restaurants. Similarly, *EB is a 12 year old girl of Albanian ethnicity from Prishtina*. She lives with her mother, who works as a cleaner and two brothers who also work. EB says "they are building a house with the help of their uncles" and that she is selling chewing gum in cafes and restaurant to contribute. She also says that "I go to school, which I really like as I am an excellent pupil and I want to go to an English course". Other than the earnings they receive and family support, they do not receive any other assistance.

vi. Being a child and playing

Linked to the poverty that affects families in Kosovo, many children also do not have any opportunities to enjoy their childhood; being able to play, meet with friends and enjoy various extracurricular activities children their age have access to. As a result, there are also children who can be viewed as being outside of a protective environment due to the activities they engage

in and the risks they face, although their motivation is to ensure that they create opportunities for themselves for their development and simply have fun being children. It is important to note that these children also do not necessarily associate themselves as being on the move. For example *SA, is a 13 years old Ashkali boy, who lives at home with his parents and 8 siblings*. According to SA, CoM are “those children that go places” and that he has heard that “CoM come from Albania”. While he does not consider himself to be CoM as he says “I am from here and I live in this city”, and that “it would be good to go somewhere else, if you have money”. As the semi-structured interview continues with SA, he reveals that although he attends school, he collects metal and sells it, in order to play pool and when asked how many children he knows like himself, he says “50”.

vii. Health and safety hazards

As these children are carrying out such activities, another common feature among them is the dangers that they face. While with each activity, the dangers that a particular child is exposed to may vary, on the whole as they are conducting such activities, their physical, mental and emotional health is at risk due to a range of factors. Additionally, despite their wide visibility, as they carry out their activities in main cities and being in areas which are highly frequented by members of the public, as well as those working for institutions including law enforcement, on the whole their plight seems to be ignored.

FB is an 11 year old boy, who lives at home with his parents and 3 siblings. He says CoM “are children that we see on the street”, that they come “from different places”, although he does not consider himself to be one of them because he says “I have a home and live with family”. At the same time he thinks going somewhere else “it is good but not too far and not alone”. When asked about his every day activities he says that “I collect cans and bottles with my brother and sometimes we go to other parts of town, I also go to school but often I don’t go because I have migraines”. He goes on to explain, “I just came from the hospital....I stayed for a month. When I am in pain like that, I can’t stand up....it feels like the whole room is spinning around me”. Also, when asked does he know other CoM, he says “too many”, though mostly boys and only sometimes there are girls. FB’s description of his health problems for a boy of only 11 years old are indeed very serious and being involved in collection of cans, he is exposed to all sorts of dangers including fumes, toxins and bacteria that may be present in bins and can have a direct effect on his health. Further, the migraines that he is experiencing may be a sign of a more serious health condition and continuing with such activities, it is likely that his health will deteriorate further, as well as affect his ability to continue with his education.

viii. Education

Helping to support the family at a tender age, many of CoM miss out on being children and being educated, which will drastically affect their chances in life. Even in cases where these children have a desire to attend school, being stuck in poverty means that it is impossible for them alone to realise this dream without the help of adults. For example *AF, is a 7 year old girl of Albanian ethnicity from Peja*. She lives with her parents and her brother, who is 6 years old. AF says that “everyday, I am in the street begging to support my family”. She goes on to say that when she had some health problems, she received medical treatment in the health centre but other than this, they do not receive any other support. Her father she says goes through garbage bins to collect aluminium, which he sells. However, despite their efforts, they still struggle to have a dignified life. AF goes on to say that “I have never been to school but I would really like to go”. Although under the circumstances, without any specific support it is unlikely that she would be able to realise her dream all by herself.

AB, a 9 year old girl of Roma origin from Fushe Kosova is in a similar position. She lives with her parents and two siblings, her brother who is 3 years old and her sister, who is 7 years old. She goes on to explain her family life as follows “my father does not work, my mother collects cans and I beg”. To contribute to her family’s income through begging, she comes to Pristina to do this. She also says that “I don’t attend school but I want to”, although under the circumstances without some sort of assistance, it would be difficult for her to do so. Another child with the same initials *AB, is a 10 year old Albanian boy from Lezh, Albania*. He says “my family and I moved to Kosovo since 2012 and we have documents for here”. His father cleans shoes for people in the main square, while AB stays close by. The family does not receive any social assistance, they pay their own rent, however he has never attended school.

The importance and yet unstable access to education of CoM is further portrayed by the case of *FB an 11 year old girl, who lives at home with her parents and 3 siblings, one of them being her twin*. While FB is very friendly, she is also shy and when asked questions she either provides very brief answers or when she does not want to answer, she smiles. FB does not seem to be aware of CoM and what they do; she says that “it is good to go somewhere else to visit relatives and places”. When asked about her daily activities she explains that “I go to collect bottles in the garbage with my twin brother and at other times, I stay at home with parents and brothers”. She goes on to say that “I don’t attend school, I stopped at grade 3 and I can’t go back”. However, it’s clear that she enjoyed and misses school as she says “I would love to back to school but I am very behind”. As for other children, she says she knows 5 boys who collect cans like she and her brother do. Whereas in terms of assistance, similar to other children, she says the Ideas Partnership helps with clothes, education and hygiene.

b. Children from Albania

From the research conducted it is evident that children from Albania are also outside of a protected environment or in cases potentially trafficked and they share characteristics with CoM from Kosovo, particularly the fact that they are also facing poverty and are struggling for survival. In many instances it is this situation of poverty that has forced them to move, as well as in cases to beg.

i. Health and safety

BZ, is an 8 year old boy from Tirana, Albania. While it is not clear how long he has been in Pristina, he says that usually he cleans windcreens of cars at the traffic lights near the student dorms in Pristina, which is a busy intersection. During the interview, when he is asked about his parents, BZ is not comfortable about what he is being asked and indicates that he does not want to continue with the interview, at which point the interview is discontinued. Despite a brief discussion being conducted it is evident that BZ places himself in grave danger as he attempts to clean the windcreens and at the same time has to find ways to dodge cars that pass the intersection at high speed. This sort of activity, not only places him in grave danger but also does not provide him with an income, as at times he is seen cleaning the windcreens but is not given anything in return.

ii. Poverty

SP is an 11 year old girl, from Durres, Albania. She has two sisters, EP is 12 years old and KP is 2 years old and one brother, MP, who is 11 years old. At the time of the research, they are found in Peja. SP together with her sibling explain that for the last 2 years they have been coming back and forth between Albania and Kosovo. Once they were deported back to Albania but they came back to Kosovo. She says “there is nothing in Albania, we get nothing, and here we get money from begging”. While they have been staying in Kosovo, they explain that as a family, they live in an area of the city with other families who engage in similar activities and where the conditions are extremely poor.

The lack of state support and the generosity among Kosovans is also cited as motivation by *RD, a 12 years old boy from Tirana, Albania.* He arrived in Pristina in June 2013, together with his sister (5 years old) and brother (6 years old), although without their parents. In Pristina, RD says

“we live with another family and our parents live in Albania”. He goes on to explain that even in Albania they were doing the same thing, begging without any state support. About Kosovo, RD says “people here are nicer and more generous”. As the eldest child, he seems to take on a carer’s role in respect of his two siblings, yet none of the children have been registered in school or ever attended a school.

iii. Finding ways to return

Another important characteristic among Albanian CoM in Kosovo is that through different means they seem to be able to stay for relatively long periods of time without being detected by the relevant authorities or in cases of assisted returns, they find ways to come back to Kosovo. For example, *AM, is a 9 year old boy from Fier, Albania*. He says that he has been in Pristina for the last 4 years with his parents but “about a week ago my dad went back to Albania”. While in Albania, AM says “I started going to school but then I stopped”, although he does not say why. In Kosovo, he begs or collects money by busking. From time to time AM says “my parents and I go back to Albania but then we come back to Kosovo again and we don’t get any help from anyone”.

MF, an 11 year old boy from Pogradec, Albania has a similar story. He has been in Kosovo with his family for a while, although he does not give specific details to the researcher. He goes on to explain, however, that “two days ago, my family were sent to Albania by the police, but yesterday we came back”. He says they came back because there is nothing there in Albania for them, whereas here he can beg and they can survive.

Similarly, *TR is a 2 and a half year old girl, also found in Peja with her mother and three sisters* (MR, 13 years old, NR, 4 and a half year old and RR, 7 years old) and one brother (FR, 12 years old). They are from Tirana, Albania and of Roma origin; although at the time of the research they were found in the centre of Peja. The mother was part of the discussion and together with the children they explain that they beg in different parts of Peja. They have been doing this for 3 years, although they tend to move between Kosovo and Albania, “we stay three months in Peja and then 3 months in Tirana” explains the mother, which the older children confirm.

c. Being on the move as a family

Another common feature among certain CoM in Kosovo (whether they are from Kosovo or Albania) is that due to their economic circumstances they are forced as a family unit to beg or engage in other activities. Despite the fact that these children are with their parents, this also

exposes them to a range of risks including affecting their physical, mental and emotional wellbeing.

EJ is a 9 years old boy, of the Ashkali community living in Peja. Together with his brother MJ, who is 10 years old and their father, they collect cans in garbage bins, which they later on sell. The father explains that they do not receive any social assistance and they are struggling to make ends meet. Therefore, they are forced to do this and he explains that his wife and their daughter LJ, who is 14 years old, beg to contribute to the family's efforts to be fed on a daily basis. This family's situation exemplifies well the inconsistency of the social assistance scheme with the aim of alleviating poverty and reaching the most poor. This is because even if this family were to apply for the scheme, since the mother and father are able to work but cannot find jobs, and they don't have a child under the age of 5, they are not eligible for assistance. As a result the children have no time to be children, as they must contribute in order to be fed at the end of the day.

Similarly, *SB is an 8 year old boy from Tirana, Albania, begging in Pristina, Kosovo.* He has come together with his mother, his sisters BB (6 years old) and AB (14 years old); and his brother FB (15 years old). Usually SB says "we stay together but sometimes, we split up". They have been living in Pristina for 2 years and that they came here because of the "bad conditions in Albania and people here are nicer" says SB. When asked about day to day activities SB says that none of the children are registered in school in neither Albania or Kosovo and they do not get help from anyone in either country. The mother, who joined the interview later, says that she suffers from ill health, she has pains in her stomach but she does not have money to seek medical assistance or medication.

However, even with social assistance some families are unable to lead a dignified life as shown by this Kosovan family from Gjakova who are interviewed while begging in Peja. The mother is found on the street with *MM, who is only 7 months old*; she also has three other children; DM, 11 years old boy, LM, 5 years old boy and MM, 13 years old boy. The family is receiving social assistance and lives in Gjakova but they come to Peja to beg and sometimes they go to Prizren. The mother explains that despite receiving several warnings from the prosecutor for begging, they continue this with the children predominately in Peja and Gjakova, whereas the husband goes through rubbish bins to collect materials he can sell in Gjakova. It is evident that, despite the social assistance that they are receiving, they are struggling for survival and are in immediate need for food and clothing. In addition, despite all the risks to all the children, they are forced to continue in order to alleviate the extreme circumstances that they are facing in securing their own survival.

In a similar position is another *Albanian family interviewed in Peja, who were begging.* They included MP, an 11 year old girl, GP, a 7 year old boy, PP, a 12 year old boy. The children explain that they are here with their mother, while their father and another sibling are still in

Albania. MP says that “we beg here but we have problems with the police”. The children and mother say they live with other families in Peja and the mother also confirms that they entered Kosovo illegally. With regard to her husband, she says “he can’t find work” and so they beg for survival. In terms of education, when asked they say that none of the children were ever registered at school and so they have never attended school. It is evident that they are also facing exceptional circumstances and are in immediate need of food and clothing, as well as additional support in terms of hygiene, proper shelter and education for the children.

Furthermore, *EM is a 12 year old girl of Roma origin from Gjakova*. She suffers from ill health, although it is not entirely clear what is the cause/diagnosis. She is accompanied by her grandmother, who explains that she cannot hear or speak. The grandmother explains that EM has had surgery previously and is waiting to undergo further treatment. In the family, there are 8 children between the ages of 3 – 13 years old and both parents are unemployed. While the family receives social assistance, as well as specific support for EM due to her condition, they are still struggling to meet all the living costs. As a result, the grandmother and EM regularly go on the street to beg.

d. Returnee Children

In comparison to children who are outside of a protective environment, while returnee children share some similar characteristics, there are also quite a few differences. One of the main similarities is the fact that these children are facing difficult circumstances in relation to integration because of decision-making that was conducted by adults in respect of adults (their parents) in the host country. In many ways, this is similar to children outside of a protective environment who lose their childhood because the adults either the parents or the institutions are either unable or at times unwilling to meet their obligations to provide sufficient care for these children and allow them to simply be children, who can enjoy their childhood. Another similarity is the fact that upon their return, some of these children are left outside of the system, in particular they are not in full time education, which like for children outside of a protective environment drastically affects opportunities in later life.

i. Difficulties in integration

The case of *EM a 10 year old girl of Albanian ethnicity, living in a rented home with her family, her parents and 6 siblings* best depicts this situation. She says CoM are “children that move from place to place and they come from Germany and other countries”. When asked if she fell into the category of CoM she answered “yes I do, I was returned from Germany and I don’t like it here, I would like to go back” and that she knows at least 10 other children in a similar situation. When

asked if it's good or bad to go somewhere else, she answered "yes to Germany". In terms of day to day activities, EM says that "I don't attend school because I have problems with the Albanian language and I decided not to go because I don't like it". Instead she helps her mother at home and sometimes goes out. In terms of assistance, the Municipality has helped her family with accommodation. Throughout the interview, she was very shy and reserved, also as her Albanian was not that good and she felt somewhat uncomfortable.

Similarly, *BB and CB are 15 and 17 year old Roma girls, who have been returned from Italy*, having been born in Italy and face a similar predicament. They live with their parents and siblings and do not go out much due to a language barrier; they do not speak either of the national languages well. BB says "we are staying most of the time at home, watching TV and using Facebook. My sister and I sometimes go out to buy things for the house and through Facebook I keep in touch with my friends in Italy". They are assisted by the municipality in terms of food and rent, and Tdh has provided them with clothes and other material support. Due to the language barriers, the issue of CoM is not discussed at length. Also they are recently returned and still have not adjusted to surroundings they have never encountered before. The traumatic experience they have been through is depicted by BB when she says "all I want is to go back to Italy". None of the children go to school and it would be in fact difficult to do so without substantial support in light of the language barrier, as well as the cultural shock they are experiencing, since there is not a lot in Kosovan society that they can relate to. Both BB and DB were quite withdrawn and did not want to go into details about their experiences as CoM. In fact BB was at times a little more forthcoming, whereas DB, despite being older seemed to just agree with BB.

ii. Am I a CoM?

Another similarity is the fact that some returnee children do not view themselves as CoM on the basis that either they live in a home, the fact that they do not beg on the street or the fact that they have a confined view of CoM referring only to movements across frontiers. For example *IH is a 12 year old boy of Albanian ethnicity*, born in Germany and having lived in Germany, Norway and Sweden, he was returned to Kosovo about 5 – 6 years ago. He lives in a rented house with parents and five siblings, with two other siblings being born elsewhere in Europe and only 2 in Kosovo. IH seemed to understand the concept of CoM but does not consider himself to fall into this category, as he says "I don't work or beg on the street and I don't know where they come from but they say that some come from Albania". On the other hand, he thinks it is good to go somewhere else "to visit nice places". He says some organisations help them with clothes and that "at the beginning it was hard because of the language especially to make friends but now I am doing fine". The researcher observed that IH is a lively and intelligent boy, who seemed to

have settled in well but tends to be a little reserved when talking about this particular subject as he tended to give very short answers.

Similarly, *NI an 11 year old boy of Albanian ethnicity*, who has been returned from Germany, although does not view himself as having been or being a CoM. He lives with his parents, siblings and extended family, in an 11 person household. NI understands the concept of CoM, although says “they beg or work and they come and go to different parts of the city or other cities; as I don’t do that, I am not one of them”. He goes on to say that it would be good to go somewhere else, though “only for fun, to visit”.

iii. Learning to adjust

Additionally, returnee children also portray difficulties they and their families have encountered, which include finding it difficult to adjust, poverty, lack of opportunities and lack of adequate housing. As returnee children explained these in more details, they can be viewed as being different to the difficult circumstances that children outside of a protective environment are facing, since their circumstances tend to be much more extreme. Nevertheless, it is evident that these difficulties have had an impact on these children, particularly on their self-esteem, their ability to trust officials and their mental health.

For example *BM is a 10 year old girl of Albanian ethnicity*, who has lived in Sweden and France, although with her family she was returned to Kosovo and continues to find it difficult to adjust. Upon her return, her family lived with their extended family but now they live in a rented flat, which she thinks the municipality pays the rent. BM says that “I have heard about families moving to other countries from Kosovo, being returned to Kosovo. But they return to Sweden again, they didn’t want to stay in Kosovo”. As for children moving, BM says “when they are young, I don’t think it’s good as they might get sick, but when older it’s ok to go somewhere else”. This opinion could well have been influenced by what BM witnessed, while she was moving with her family. “In Sweden we were in a reception centre and in France, in a hotel with other families like us. They would give us food three times a day, a lot of potatoes and one day they gave us food only once. That day, my mum and other women went to the kitchen and argued with them, I heard them. Another time, a man came to the hotel drunk, he fell and he was all bloody; I was scared. Also while we were moving, my dad said we need to be careful of the police and not trust them”. In Kosovo, BM attends school but she doesn’t like it so much; “when we have physical education we never do anything, some of the pupils always make trouble, I don’t like them”. “The teacher is mean and she has a stick, she hits some of the pupils with it, I have seen her hit them so I want to change the school”. It is evident that BM is very talkative, is open and describes what she has seen or felt in great detail. However, she finds it difficult to

concentrate on giving details on a specific question or topic and has a tendency to jump from one event to another. She also has had problems to adjust with the circumstances of her families return and compares these with her life in Sweden.

iv. Housing

Whereas for RR, the lack of adequate housing is an issue, even if this does not prevent her from being happy. *RR is an 8 year old girl of Albanian ethnicity*, born in Belgium to Kosovan parents and together with her family has been returned to Kosovo. She now lives with her parents and siblings, in a two storey house, which they share with extended family, a total of 13 persons (her uncle, his wife and kids and grandparents). RR says “I like being here and I want to stay here” meaning in Kosovo. She also seems to be happy with her current situation, although she reveals that she has to sleep in the same room as her parents and sisters; “I sleep on a mattress on the floor”. Due to the overcrowding, she says “we have some toys but we can only play in the dining room, which used to be a bedroom”. Her parents she says plan to move out of the family home to a flat. While she has not heard about CoM specifically, she says “I have heard about families moving, but I don’t think it’s good or nice”, which could be an indication of her own moving experience, although she does not go into further details.. RR goes to school; she enjoys physical education and has made friends. Overall RR seemed a little reserved and provided short answers, although she seemed happy

v. Responsibility to contribute and lack of opportunities

In addition, children like AP feel they have a responsibility to contribute but are unaware of how and also upon his return he became aware just how few opportunities for young people like himself there are in Kosovo. *AP is a 15 year old boy of Albanian ethnicity*, who was born in Switzerland, at the age of 11 with his family he moved to Finland and in 2010 they were returned to Kosovo. He lives with his parents and brother and sisters in their own house, where he says “the conditions are good”. He says his father is the sole breadwinner; he works from time to time. “As I don’t work, I have to ask dad for money and I feel bad asking since he isn’t working all the time, but he works whenever he finds work and he does that for us”. AP says that he has heard about CoM, “I have heard about Somalis coming to Finland to claim asylum and I have a friend who has been returned from Germany”. So in his experience CoM come from Somalia and Germany, though he also knows about a neighbour in Kosovo, who was returned from Finland and managed to go back again. Additionally, AP says “if you have good living conditions then it’s ok not to move. People in Finland are colder but living conditions are good, so there is good and bad”. AP goes to school, attends an English course, which Tdh supports and helps his father

around the house. He also says “I would also really like to go to the gym or play football in a team but that’s not possible at the moment”. AP was generally forthcoming in answering the questions, although he displayed great sadness when talking about money and the lack of opportunities he has encountered upon his return to Kosovo.

2. The profile of CoM through observation

Another important aspect of the research conducted focused on learning about CoM through observation in line with the Methodological Guidelines. This took place in different locations in Pristina and was led by the lead researcher, together with an assistant researcher and child researcher, S, a boy of Roma ethnicity who provided important insight about the children and families observed on the street mostly found to be begging. In line with the Methodological Guidelines, the observations were carried out in a non-intrusive and non-interventionist manner. Additionally, this aspect of the research allowed for child participation, with the child researcher enriching the findings as he noticed a range of details, which were recorded and provide important insight.

During the morning the research team noticed that there were not as many children found to be begging, although during the day there was a noticeable increase. At the same time, on a number of occasions children were not observed to be begging alone, rather they were either being used by their parents to gain the public’s sympathy as they were begging or they were begging alone in different parts of the city but meeting as a family at different intervals during the day.

One of the first “families” observed begging was a *woman with two young boys*. The woman was of Albanian ethnicity and based on the physical resemblance and the protectiveness that the woman displayed towards the little boys, it seemed that they were her children. The two children were young, with one boy approximately 7-8 years old, whereas the younger seemed to be between 3-4 years old. Holding the boys hands she went into cafes and approached the people sitting outside, asking them for money. While the woman seemed uncomfortable doing this, the boys did not show the same uneasiness with accompanying the woman. At the same time, it was observed that the woman wasn’t making the children beg or mistreating them in anyway, rather she was constantly holding their hand and keeping them close to her. Although they were present and watched as the people responded to her request for money, which in most cases the response was positive, with people giving her money. She was observed doing this in a number of cafes and once she went through all of them in the public square, she continued elsewhere in the city and did not return.

Similarly, in a different part of the city, *a Roma man carrying a very young child; around 1 year old* was observed begging in cafes. The man was first spotted by S, the child researcher, who said he knew the man as he was his neighbour. The team saw that the man had some deformities on his face, whereas the child's cheeks seemed to be especially red, although the child was not crying. As the team observed the man asking people for money in cafes, S explained that the man was married and the child he was carrying was his only child. The family's conditions were very poor and since the man could not find a job, he had to beg in this way. S went on to explain that he felt sorry for the child since being used in this way, the child was exposed to cold weather, which often led to sickness. At the same time, S said that "people tended to be more sympathetic when they saw someone begging with a child and so the family had no choice as they were struggling to survive".

Whereas in a different part of a city, near a mosque where a lot of children are found to be begging, the team observed *three Roma people sitting on a bench: a woman with a boy, and another younger woman*. As the team sat across from them remaining undetected, they observed that based on her appearance one of the women was in her late twenties/early thirties, she was wearing tattered clothing, a scarf over her head and generally looked troubled and sad. In a similar situation was the younger woman, who was in her late teens/early twenties, also wearing shabby clothing and constantly talking to the older woman, who seemed to be trying to comfort her. Whereas the boy seemed to be around 6 or 7 years old, who looked tired and sat next to the older woman. While it was not clear whether they were related, it seemed that the older woman could be his mother. As they continued to stay sitting on the bench, another Roma boy, around 14 years old approached them, looking very tired, worried and sad.

While the team was not able to see whether he gave the adults any money, S said that he had seen the 14 year old boy earlier in the day at traffic lights in the city, approaching the cars that stopped and asking the people inside for money. Soon thereafter, a little girl, around 5 or 6 years old joined them, approaching the older woman, throwing some of her things at her and giving her some money. Upon witnessing this, S said that he believed the young girl was left to beg by herself in another part of the city and the young girl then yelled at the older woman "why were you late and why didn't you come to pick me up". The older woman tried to comfort the girl but the girl refused, she then handed her a bag with food from a bakery, which she took and started eating rapidly. Based on these interactions, the team observing believed that this young girl was the older woman's daughter, although S said that it is most likely that the older woman was the mother of all three children and that the family came illegally from Albania. As the team continued to observe, they could hear from time to time their conversation and it became apparent that due to their accent and the usage of certain words, it was most likely that they were from Albania.

The group being observed was also approached by a man who had a cart full of cans that he most likely had collected from rubbish bins. Although he did not come too close to the group, S noticed the older woman winking at him and the little girl showing him some coins. S believed that the man was the older woman's husband and the children's father, although this could not be determined as he did not continue his approach and rather turned back and went away with his cart. However, the team then observed another man who was watching the women from a distance and it was noticeable that he was directing very angry glances at the women, at which point the older woman became quite intimidated having witnessed this. The two women at this point continued to talk and it seemed like the older woman was trying to console the younger, although the team could not hear what they were talking about. Following the man's departure, the group split up, with the boys going to a nearby street close to the traffic lights where they were observed approaching vehicles there for money. In doing this, it was observed by the team that the two young boys were in danger of being run over and injured, especially the younger one since he was quite short and the moving cars were struggling to see him. Whereas the women and the younger girl, were later spotted begging on another street.

In relation to this group of adults and children, S later explained that they operate as if they are running a family business. During the day, the whole "family" spread out to different parts of the city where they either beg, search for scrap metal or cans and then in the evenings they go back home where they share their "winnings". S went on to explain that they are able to rent since they each were able to raise around 15-20 Euros per day including small children. However, the team was left puzzled by the second man that approached the group, as it seemed that he was the one who controlled the whole operation, although this could not be confirmed.

At the same time the team also observed children either working or begging on their own, without adults being present. One of such cases was a group of young boys found at a busy intersection of the capital, cleaning car windscreens in exchange for money from the drivers of the vehicles that were passing through. The team had seen these boys earlier in the day but had not been able to stop and observe them, also this particular intersection is well known for children doing this. As the team was approaching the intersection, they observed two police officers near the intersection, at which point they expected that no children would be found. However, to the teams surprise they found one boy around 7 or 8 years old on one side of the crossing, trying to clean the windscreens of cars when they stopped waiting for the traffic lights to change. Whereas on the other side, the team observed another group of boys around the ages of 16 to 19 years old, who were engaged in the same activity. It seems that the older children recognized S, the child researcher and started teasing him, at which point the team had to move away from there. However, on their way back towards the centre of the capital, S noticed two women sitting on a bench near the University campus and he explained that some of their children were at the intersection. S had seen them previously and usually he says the mothers

either beg or take the money that the children make while cleaning windscreens at busy intersections.

While observing in one of the main squares in the capital, the research team was also approached by children begging. One girl of Roma ethnicity, who seemed to be younger than 6 years old, was all alone in the public square and trying to ask people for money. She approached the team and initially only looked at them for a while, before asking for money. When the team did not offer her any money, she moved away and started asking other passersby. As 'S' was able to recognize her, he said that she is from Albania and is usually seen begging on the streets of the capital. According to 'S', the family usually leaves her alone to beg and watches her from a distance, although on this occasion the team did not notice any adults that were monitoring her activities. 'S' continued to say that it was wrong for parents to leave their children alone on the street to beg and that this is dangerous as they face a number of risks. He went on to explain a case he knew about involving his neighbor's daughter, who while begging was hit by a car. Her family he said took care of her but once she recovered they put her back on the street to beg, which is completely wrong. In such cases 'S' says that he dislikes the practice when parents force their children to beg and if it happened to him, he would go to the police.

During a break in one of the cafes in the capital, the team was also approached by another girl of Roma ethnicity with a toddler, who was going to each table in the cafe asking people for money. It soon became clear that the toddler was not happy doing this, as he started crying. However, the older child continued by dragging the toddler along and in fact it seemed that she was using this scenario to gain people's sympathy to provide them with loose change and to do this quickly in order for them to move on. 'S' later explained that he also recognized these children, as the girl lived in the same neighborhood as his family. Initially, the adult researchers were under the impression that the two children were siblings; however, 'S' explained that in fact the toddler was the girl's son. 'S' went on to say that sometimes he sees the girl quarreling with her husband, which follows with the mother beating the son.

While at the same location, the team also noticed in the public square a disabled girl in a wheelchair who was left alone to beg in the middle of the main square of the capital. Once again, 'S' recognized the child and said that usually the girl's mother and the other children would be close by. Soon thereafter, the team noticed an older woman of Roma ethnicity sitting on a bench surrounded by children not far from where the disabled girl was positioned. It seemed in this group at the bench, the older woman was watching over the disabled girl from a distance; however, there was also the teenage mother with her son¹⁷⁶. The team was able to particularly focus on observing them and saw that the teenage mother did not show any care or attention to her son. As the toddler was running around the square without any supervision, the teenage

¹⁷⁶ She previously approached the team while in the cafe, described in the preceding paragraph

mother continued sitting on the bench. Additionally, when her son asked her for some of the drink she was having, she just threw the bottle at him. Used to such harsh treatment, he just picked up the bottle and drank what was left of it.

As can be expected observations cannot provide in depth information about particular features of CoM. Nevertheless, it is evident that CoM in Kosovo consists of those that are engaged in begging or hazardous labour as a family unit either conducting such activities together or splitting up to different parts of the city but at various points of the city regrouping. CoM engaged in such activities face harsh conditions, which undoubtedly affect their physical and mental health, as well as emotional well being. On the other hand, perhaps it is the group of children that are begging or washing windscreens all alone, who are much more vulnerable and face additional risks, since the circumstances they face could be more dangerous where they may be involved in an accident or they may be abused by passersby.

While some of the children being involved in begging in the cases outlined, could have been forced this can neither be confirmed nor denied on the basis of this limited observation. A further observation to be noted is that there seemed to be a minority of cases where there were third parties involved in monitoring the activities of those begging. Both of these observations are important because the assumption may be that the majority of these children are either forced by their parents or are involved in such activities due to some sort of criminal enterprise and that force is used to secure their obedience.

However, what is evident is that the majority of these children are facing a difficult life and their families, who have a duty to secure their wellbeing, are either unable or unwilling to do so. At the same time, despite their extreme situation and being widely visible in public areas, their predicament seems to be almost invisible for institutional duty bearers who have a responsibility to act in terms of investigating negligence if it is from the parents or if they controlled by criminals. In this regard, it is absolutely necessary that all duty bearers do not go on to ignore CoM; but rather take action through coordinated efforts in order to fulfill their obligations through reaching out to these children and providing the support that is necessary to ensure their wellbeing.

3. Focus group discussion

Children living outside of a protective environment, whom are part of CoM were also involved in a focus group discussion where they were able to discuss their awareness of child protection services. This was another opportunity where a child participatory approach was utilized, with 9 children taking part (8 boys and 1 girl) between the ages of 9 and 13 years old.

Initially, when asked what they knew about child protection services, all the children said that they knew about the police and the social services. In cases when they needed help, the children said that they went to the police. *F, an 11 year old boy who collected scrap metal and cans* said “if somebody wanted to hurt me, I would go to the police. One time an adult hurt me because he wanted to grab a piece of metal I collected from me, so I told my uncle. Then, my uncle reported this to the police.” Other children, such as *V, a 10 year old boy also collecting scrap metal* said “I would ask for help from the security.” However, it was unclear as to what type of security he meant. Other children, including *G, a 9 year old boy* and *S, a 13 year old boy* mentioned lawyers and judges as professionals they would approach in cases they would need help. Although they were asked to elaborate on their responses, *S* didn’t offer any further details, while *V* added that “a lawyer can defend you in court.” Based on these responses, it was evident that these children had a limited awareness about the services working for their protection.

In order to reach a comprehensive understanding of these children’s perception of potential threatening persons or situations, they were specifically asked “who can hurt you.” Only two children responded to this question. *V, a 10 year old boy* said “the thieves can hurt you” and *F, an 11 year old boy* once again mentioned the case when he was threatened and hurt by an adult in an attempt to steal the scrap metal he had collected. In addition, the majority of these children said that they didn’t feel threatened or forced by their own parents to beg or engage in hard labour. Only *R, a 10 year old girl* said “my mother makes me beg.” In fact, many other children, including *M, a 10 year old boy* and *B, an 11 year old boy*, which seemed to know *R* and her family supported her comment, by saying that *R* was forced to beg by her mother.

A preliminary analysis of these short answers and comments may offer further support to the general impression that children living outside a protective environment are trained to obey their parents and view their family as the main or the only support system. Furthermore, their poor living conditions, their surroundings and unaddressed needs seem to have fed into their reluctance to report any type of abuse caused by their parents. In fact, although most of these children said that they weren’t forced into begging or hard labour by their parents, they were left alone and unsupervised, spending hours away from home, in dangerous and remote areas, where they collected scrap metal and other materials which later they sold.

Another important question related to children’s understanding of child protection services, which aimed to determine whether they received any assistance, material or otherwise from social services or any other organisation. Most of the children said that they received help from social services. For instance, *G, a 9 year old boy* said: “social services helped us with financial welfare. They even said they will help my family by giving us 500 Euros to buy a tractor, so we can work, you know, to collect cans.” Other children, including *S, a 13 year old boy* and *B, an 11 year old boy* said “the municipality mayor and the Roma and Ashkali community leaders help us sometimes by giving us food and clothes.” When asked if they ever visited the CSW to ask for

help, many children didn't provide an answer. However, *V, a 10 year old boy* said: "Yes, I went with my family to CSW and asked for financial assistance, and we received some help." However, he was unaware if they continued receiving any assistance. The children were also asked if their family was ever visited by a social worker. In response, all the children said that they were, and as a result they were assisted with food and other goods.

In addition to the CSW and municipality officials, the children mentioned assistance they had received from NGO-s in improving their quality of life. For instance, *F, an 11 year old boy* said "the Ideas Partnership helps us with food, clothes and school attendance." Most children also said that Terre des hommes paid for their English courses. Although the children were not fully aware of a program which worked in collaboration between the Centre for Social Work and SOS Kinderdorf¹⁷⁷, some of them were partially aware of its existence. This is illustrated by the following comment by *G, a 9 year old boy* who said "SOS gave us money for English courses."

Finally, the children were engaged in discussing whether they were ever approached by any professional, such as a police officer or a social worker while they were begging or working on the streets. In response, *B an 11 year old boy* briefly stated "I was once approached by a police officer, and he told me to go home." Although he was asked to elaborate further, B didn't offer any more details about his whereabouts or course of action when he was approached by the police officer. In contrast, *F an 11 year old boy* seemed to be always willing to contribute to the discussion, and thus offered a more detailed reply; "a while back, I was begging on the street, and a police officer asked me questions such as why I was begging and who made me beg." Whereas, *G a 9 year old boy* interfered by saying "I was with F that day and I was asked the same questions." F continued: "that day the police officers also asked many questions to our mothers, who were also begging nearby, and told them to stop begging and to not let us beg on the street. Since then, we don't beg any more. Now my mother and G's mother work together in the market selling fruits and vegetables, instead of begging."

¹⁷⁷ In order to gather a comprehensive understanding of this service, the researcher asked a social worker (B) that worked in these children's community, and that was present and assisting Tdh staff with their activities. B explained that SOS Kinderdorf in Kosovo in collaboration with Centre for Social Work in the municipality of Fushe Kosova has implemented a program for family empowerment. According to B, this program was designed in an attempt to help poor families from minority communities and their children in the fields of social services, education and health. B said: "in providing social services, social workers visited many families, collected data to identify the needs of these families, provided food and hygienic packs, and helped them participate in social programs. In regards to health, this program offered education on healthy food and practices, and offered free medication for sick children. Whereas regarding education, this program helped children with school integration or reintegration. In many cases professionals talked to the parents about the importance of school and the dangers that their children were exposed to if left or forced to beg and working on the streets."

After listening to her peers, *R a 10 year old girl* quietly said “the police also told my mother to stop begging and to not make me beg, but she still does it.” At the end of the discussion, *G a 9 year old*, said “social workers visited many families, and my family, and told the parents not to let the children work and beg on the street because it is very dangerous for them. My parents don’t make me beg, but sometimes I collect cans and metals. Many parents didn’t listen to the social workers.”

Overall, the limited discussion show that the children have some knowledge of the child protection system and have also had some interactions with these professionals. In some cases it has lead to a positive outcome, although this is not always the case. Additionally, the intervention does not seem to always be systematic, rather it is project based and it is not always coordinated between the various institutions. Among the children, another important finding is that they foster more negative feelings towards begging, thinking that collecting cans and metals was more acceptable. However, they seemed oblivious that, in fact, this form of hard child labour was almost equally, if not more harmful and dangerous for their wellbeing.

VII. The Response of the Child Protection System to CoM

As has been outlined a child protection system (CPS) consists of a range of actors, starting with the family and stretching out to a range of professionals such as social workers, police, professionals in education, healthcare and anyone else with a duty of care towards the child. Due to the various risks that CoM may face throughout their movement, it is critical that these children are not invisible to the CPS and that such a system is able to respond in a coordinated manner preventing abuse, as well as intervening whenever the best interests of the child is at risk.

A general mapping and assessment of the child protection system in the Republic of Kosovo conducted in 2012 outlines the many inadequacies of the current CPS in relation to all children. This includes the lack of comprehensive data that is gathered, which is not disseminated on a multi-sectorial basis. With regard to protection of children, it is said that a comprehensive database of all children that are abused, exploited or maltreated does not exist. Similarly, in terms of reporting different kinds of violence, it is also stated there is no mechanism in place, no standardized forms of reporting or tracing a case, whereas among children it is said that there is little to no awareness on how they can report violence.¹⁷⁸ Another crucial weakness identified is the lack of inter-institutional coordination among child protection actors, although it is

¹⁷⁸ Office of the Prime Minister, Office for Good Governance, ‘Mapping and Assessment of the Child Protection System in the Republic of Kosovo’, 2012, at p. 20

recognized that some positive aspects exist such as a Manual on Child Protection and a multi-disciplinary approach to child protection at the local level, mainly provided by the CSW.¹⁷⁹

Nevertheless, an institutional coordination mechanism for protection is stated to be missing. One of the existing examples given is the Task Force Model or the Case Management Roundtables (CMR), implemented by Terre des hommes in collaboration with CSW's and other duty bearers and which has been recognized as a mechanism that provides a comprehensive multi-sectoral approach to child protection. Although, its sustainability cannot be ensured through civil society, rather it needs to be replicated in all municipalities and institutionalized, to ensure effective functioning.

At the same time, it should be emphasized as Annex 1 shows, that the backbone of the CPS is the CSW operating closely to inhabitants at the local level. They have the responsibility to initiate investigations in all cases of abuse, neglect, maltreatment and exploitation with the assistance of a range of duty bearers, as well as being obliged to assist various duty bearers in fulfilling their duties, such as law enforcement authorities in relation to children in conflict with the law or DCAM in cases of children seeking asylum. In this regard, the current situation of the CSW and social services in general is an important consideration, however, up to date comprehensive research regarding this field does not exist.

Earlier research from 2004 shows that the number of social workers working within a municipality is relatively small when compared to the whole population of that municipality. For example it is said that the average ratio for Kosovo as a whole is one social service employee for every 7,859 inhabitants,¹⁸⁰ which is significantly lower than Western European Standards. In this regard, Finland is used in the study as a comparator, where the ratio is one social service employee for 2,000 inhabitants. If this is broken down to consider according to ethnic groups, for Albanian majority areas, the ratio is one social services employee for 9,146 inhabitants, whereas for Serb-majority areas it is one social services employee for 3,816 inhabitants.¹⁸¹ In addition, the CSW is not viewed as a priority and suffers from a low budget, which hampers its ability to provide the services needed.

In Kosovo, the CPS certainly involves a range of actors and the list of duty bearers is further expanded in relation to CoM since it refers to those children living outside of a protective environment, trafficked or at risk of trafficking, asylum seeking children and returnee children. However, in relation to all these categories the CPS must be able and willing to provide services in an inclusive manner, be accessible, adequate and provide sufficient outreach. In turn all of

¹⁷⁹ Ibid, p. 21-22

¹⁸⁰ Briscoe, S. 'The Number of Social Services Officers at CSW in Kosovo', Helsinki Group, 2004

¹⁸¹ Ibid

these issues will be considered in detail and in light of field research that has been conducted with the various duty bearers.

a. Awareness of CPS among duty bearers

In order to assess the response of the different actors within the CPS, duty bearers were specifically asked what they knew about the CPS and where could this be found. In this regard, the majority of duty bearers answered these questions, although there is variations in terms of what is understood to be the CPS, meaning who are the duty bearers that compose the CPS and where it could be found within a particular municipality.

The majority of the social workers that were interviewed for this research indicated that the CSW is the integral part of the CPS and as such explained the system from their perspective. A social worker from the CSW in Obiliq explained that as the CSW they deal with all cases of children that are referred to them. The assistance that the CSW provides includes social assistance through the social assistance scheme and social services for families and children in need. In this regard, the social worker recognizes that they cannot meet all demands and sometimes receive material assistance from NGOs. He also says that the CSW has the Task Force/CMR, although this is not yet fully operational. Meanwhile a social worker in the CSW in Pristina explains that the CSW manages the Guardianship Authority, as well as monitoring the situation of children to determine whether they need additional assistance. In cases when they do, these are referred to different providers such as NGOs or shelter and the CSW assists with integration within the family, society and school. For this social worker, the CPS apart from the CSW it can be found among a range of other professionals including NGO's, shelter homes and psychologists.

Police officer's also tended to view the CPS from their perspective and as such explained their mandate according to the specific area of policing they were specialized in. For example, a police officer from the Anti-Trafficking Unit in Peja (Women's Safety and Security Section) said "I have meetings with other organizations working on child protection to handle possible problems in the Peja region and at the national level." He also pointed out that there is an interstate agreement with Albania and Montenegro since children are exploited and that NGOs are particularly active in this field and has supported the professionals through trainings. However, with regard to where the CPS can be found, he referred to NGOs and the Task Force/CMR, which he has attended and says that this mechanism is used to coordinate actions in a particular case by different duty bearers. According to a police officer from the Community Police Unit, the role of the police within the CPS is to identify children at risk and ensure they are brought to safety. In such cases he said they closely cooperate with the CSW, especially

when they need to interview such children, as well as cooperating with the CSW in cases when a child is in conflict with the law. Similarly, a police officer from the Community Police Unit in Pristina says that the CPS can be seen as a system to prevent negative phenomena such as children on the street and that it is composed of different institutions such as the CSW and NGOs.

Whereas, the Director of a Shelter for Victims of Human Trafficking in Pristina, who provides services on behalf of duty bearers said that “child protection services are good as there is close cooperation”. She cited a Memorandum of Understanding between the Ministry of Education, the Ministry of Labour and the Police Units, all of whom are members of the Task Force/CMR and work in multi-disciplinary teams, which she says is much more efficient.

While the sample of duty bearers was relatively small and may not be representative, based on these comments it is evident that different actors see themselves as involved in the CPS and many of them refer to the Task Force/CMR as a mechanism that brings them together. However, since the Task Force or the Case Management Roundtable is not yet institutionalized, this partly explains the fact not all duty bearers interviewed spoke with ease about the CPS. In addition, these views also show that there needs to be additional focus on child protection in Kosovo and especially on raising awareness about the CPS among duty bearers and the wider public. This is important because as can be seen from the different views expressed, mandatory reporting is not mentioned as being an obligation or a way through which a duty bearer who is not a social worker, who would be under an obligation to contact the CSW. At the same time, while NGOs have an important role to play and at times fill the gap in providing different services either by being subcontracted or providing material assistance, it is not the role of NGOs nor is it sustainable to substitute statutory duties of public authorities.

b. Awareness of CoM among duty bearers

As this report has detailed CoM covers children in different situations and as a definition it is purposefully flexible, as it recognizes some of the common vulnerabilities that children face while on the move. At the same time, despite these children in Kosovo being present in urban areas and parts of cities that are widely frequented, they are not always visible to the institutions. As such for the purposes of this report, duty bearers were asked who these children were and/or where they came from in order to assess their general awareness, as well as provide an opportunity for them to provide specific details of instances where they have provided assistance to CoM in Kosovo.

One of the common views among duty bearers about CoM is that they come from Albania. The Chief of the Human Trafficking Unit in Peja stated “they are trafficked from Albania and within Kosovo. They are currently much more victims inside of the country, both begging and prostitution”. Additionally, he said that “there are cases of children trafficked from Kosovo to Montenegro”. However, children in those instances “we repatriated and we had good cooperation with the authorities there” said the Police Officer.

Additionally duty bearers have also noticed that in the majority of cases the children are from very poor socio-economic backgrounds, with many in extreme poverty, as well as being from minority communities, particularly the Roma, Ashkali and Egyptian communities (RAE). For example the Chief of the Human Trafficking Unit in Peja stated that “most of the children on the move are from RAE communities from Albania and they earn money while being on the street.” Therefore, he was referring mostly to begging. Similarly, in Mitrovica the Officer for Communities and Returns explains that CoM are those children who usually are facing a difficult life due to the economic situation of their family and are without appropriate care. In Mitrovica these tend to be “children from the Roma Mahala who walk every day from their neighborhood in Mitrovica to Zvecan to beg or collect cans”, said the Officer. Some of them do it before or after school, while others do not attend school at all and spend the day doing these sorts of activities. They go there by walking because there is more to collect there.

In addition to having an increased awareness of some of the CoM especially in relation to trafficking, one of the duty bearers was able to explain trends that have developed in this field over the years. The Director of a Shelter for Victims of Human Trafficking in Pristina said that having worked with trafficked children since 2002; they see that the origin of their victims has started to change. Up to 2009, the majority of the victims tended to be from abroad, however, “since 2008/2009 we have become a source country and more victims are from Kosovo”. In terms of cases within Kosovo, the Director says that “there is an increase in cases of trafficked children from villages”.

However, there are also duty bearers who from practice are not aware of CoM. For example a social worker from Mitrovica explained that “the CSW collaborates with the police in these cases and we have an action plan, but we don’t have a lot of these cases”. While the majority of the duty bearers were able to refer to some of the children that could be defined as being CoM, they were not able to systematically identify all of them. This shows that duty bearers in Kosovo are not fully aware of whom the CoM are; as well as what their reasons or push factors are for movement. In order for these duty bearers to be able to respond to their needs, it is important that they have better awareness about this group of children and know the vulnerabilities that they are facing. Additionally, this awareness raising needs to be conducting using reliable data so that there are no misconceptions or myths, for example that all children on the street are trafficked or forced by their parents, which is not always the case. However, if there are such cases then the

system needs to be able to respond adequately, which would involve duty bearers working together in identifying children that are trafficked, offering the assistance necessary, as well as conducting investigations for crimes that may have been committed against these children. At the same time, the CSW also needs to be able to recognize and assist other cases such as those who are outside of a protective environment if they are found to be begging or collecting scrap metal/cans, which exposes them to a range of risks and stops them from attending school.

c. Accessibility and outreach

Nearly all of the duty bearers contacted for the purposes of this research, when asked whether the CPS is accessible and whether it offers outreach, answered that the CPS is not accessible enough and it does not offer enough outreach, which can have a detrimental impact on the protection that should be provided to CoM. For example a social worker from Ferizaj said that “it is not very accessible; it is very challenging to make the connection between the social worker and the children”. She goes on to explain that while leaflets are distributed about what services are available, some families ask for these and this information is also shared in the media, though she identifies the education sector as problematic. This is because she says “teachers think that they can manage the protection of the child themselves, when in fact the CSW has that obligation”.

At the same time certain duty bearers outlined the difficulties they face when fulfilling their obligations. For example, a social worker in Peja explained that “we ask them their name and any other relevant information about their situation”. However, sometimes she says “the children suspect that she is from the police and they do not want to speak” to her. Whereas the Chief of the Human Trafficking Unit in Peja stated “to identify cases, we receive information from the Task Force/CMR. Two cases were initiated because of the information received there”. At the same time he said there is still a need to educate institutions and especially focus on Albania, as that is the source of many children coming to Kosovo. In his opinion, if there is greater awareness and better cooperation, it would be much easier to handle cases.

To enhance outreach, a local NGO suggested that there should be a local phone number where social services can be contacted regarding any child protection issue that anyone has. At the same time, the CSW should conduct more outreach and there should be more investment in the CSW to enable it to do that. Overall, it is important to note that all duty bearers shared the opinion that there is not enough outreach, which is critical for CoM in order for them to have access to much needed services. Even though suggestions were not provided by the duty bearers

as to how this could be done, it is critical that future interventions by the CSW or NGOs focus on this issue in order for effective outreach to be conducted, enabling those most in need to have access to social services.

Meanwhile the Coordinator for Repatriated and Returnees in the Municipality of Obiliq, raises additional concerns. These include the fact that the system is not always able to respond, as it is difficult to identify cases, for example when children are disabled, as this is not reported due to the stigma and shame attached to disability in Kosovan society. In addition, for children from minority communities, he says they may face obstacles in accessing services due to lack of documents since parents may have not registered the birth of their children.

d. Inclusiveness

For a CPS to be effective, it needs to ensure that it is inclusive, meaning it has the ability to respond to the child protection needs of all children including CoM. In this regard, duty bearers were also asked whether they viewed the system inclusive in its response towards CoM. Once again the majority of the duty bearers agreed that the current system is not sufficiently inclusive and this is certainly an area where improvements could be made at different levels.

For example, the Chief of the Human Trafficking Unit in Peja said “the system is not inclusive as it should be because the problems keep repeating themselves”. However, he continued to explain that this is not problem only in Kosovo but also in Albania. In particular he cited the Additional Protocol, the fact that there are National Coordinators in both countries and that there are recommendations but implementation is still lacking with regard to victims of trafficking.

One of most challenging aspects of the system, which doesn’t allow it to be inclusive, is the residency criteria within a municipality in order to receive services as provided in the Law on Social and Family Services. A social worker in Peja raised this very issue as she said “the law does not oblige us to pay special attention to children on the move, but only to the ones who reside in the municipality, so every CSW is responsible for the cases within their municipality”. In this instance, her approach she said was that “when I find a child from another country, I try to speak to him/her and advise him”. Similarly, the Officer of Communities and Returns also explained that many of the Roma children do not receive any social assistance as they are not registered and this prevents them from applying for social assistance, even if they would be eligible.

In addition there are specific areas of the system, which some duty bearers had particular concerns and which they view as not particularly inclusive. For example for a local NGO working with Roma children said the biggest challenge has been in the education system, where the duty of care that the educators have towards the children is not taken sufficiently seriously. This is especially an issue as they have dealt with cases where the schools find a variety of excuses to return children home, preventing them from getting an education, which may also result in the children taking to the streets to beg or conducting other activities, which can be harmful to their wellbeing.

At the same time there are also positive examples such as the services provided in shelters. The Director of a Shelter for Victims of Human Trafficking in Pristina says that although they are specialized to offer assistance to victims of trafficking, this is available to all irrespective of their origin or legal status. In this regard she explains that previously they have offered such services to children from Albania and Serbia. In such cases when it is safe to do so, the victims are returned to their country of origin in accordance with national procedures. Similarly, a social worker from Ferizaj says “services are the same for all children; we don’t check whether they are from other countries, even though we have had experience with children from Albania and Serbia”. In such cases she goes on to explain that we complete an evaluation form and then we cooperate with institutions from other countries”. However, she does not elaborate on what services are provided and other duty bearers have stated that the law requires them to make distinctions in terms of CoM from other countries and sometimes even municipalities.

While discrimination was not raised as an issue in itself, it nevertheless remains a concern. Certain professionals alluded to the fact that provision of services is made on the basis of national origin, meaning that those children from Albania are not able to access certain services including social assistance or education. This is despite the fact that the Anti-Discrimination Law¹⁸² prohibits discrimination on the basis of a range of protected characteristics including nationality or ethnicity¹⁸³ in a number of fields including; social protection and education.¹⁸⁴ However, in reality implementation of such provisions has been inadequate and this situation has left victims of discrimination without sufficient protection.¹⁸⁵ Currently, the Anti-Discrimination Law is in the process of being amended in order to address weaknesses in implementation including establishing an equality body to address discrimination cases.¹⁸⁶

¹⁸² Law No. 2004/3

¹⁸³ Article 2 (a), Anti-Discrimination Law

¹⁸⁴ Article 4, *ibid*

¹⁸⁵ See Youth Initiative for Human Rights Kosovo, ‘The Anti-Discrimination Law in Kosovo – seven years on’, December 2011

¹⁸⁶ See Legislative Strategy 2014, Office of the Prime Minister of Kosovo, available at http://www.kryeministri-ks.net/repository/docs/PROGRAMI_LEGJISLATIV_PER_VITIN_2014_3_ko.pdf accessed on 05/05/2014

e. Adequacy

One of the most important aspects that this research has considered is whether the CPS provides adequate protection for CoM. Many of the duty bearers interviewed were asked to specifically discuss this issue and their views are portrayed in this section. Due to previous research lacking on the issue of the CPS overall, this report focuses on the views of the duty bearers contacted in order to provide a perspective from those charged with providing protection at the local level.

The majority of the duty bearers provided answers to questions relating to adequacy through describing their role within the CPS, although at times they also identified that there are weaknesses within the system. As such it is important to group the responses of professionals in order to present them in a coherent manner, reflecting the strengths and weaknesses identified, which duty bearers encounter in their daily work.

i. Identifying CoM

One of the main weaknesses identified is the fact that while social workers sometimes work in the field to identify children in need, a social worker from Pristina explained that usually they “do not do this for CoM and in a way the system does not do a lot for CoM”. This view is shared by another social worker from a different CSW in Pristina who says “the system is not adequate because it only focuses on responding once the harm has been done, meaning not a lot is done on prevention”. While another social worker from Pristina says “bearing in mind that these children continue to be present on our streets begging, it is clear that society is not doing enough for them and neither are the institutions. For such cases, it is especially important we work together and that there is more and better cooperation and collaboration between institutions in order to adequately respond to the needs of CoM”. In agreement with many of his colleagues interviewed, the social worker from Obilic said that the child protection system does not offer enough outreach and is not able to respond to all the needs of children. However, according to him the working conditions of social workers also have an impact as they are very poor. As such improving conditions would directly impact upon their ability to optimize results.

In one case that a social worker from Pristina has dealt with, the family had 8 children who have been reintegrated in school. However, despite the CSW speaking to the parents they still go out and beg after school, which exposes them to a range of dangers. The social worker also adds that children are forced to beg or work because of poverty or their parents being sick. In both types of

cases she recognizes that as the CSW they need to work with the parents, however, they are unable to do that due to financial constraints. In this regard, she recommends that the government needs to do more in relation to those children, as well as to advocate for the general public not to give money to children that are seen begging. Similarly another social worker says that “sometimes children find themselves in situations where they have to beg and this is due to bad policies, the best example being the social assistance scheme”. Due to various obstacles, even in cases where children are removed from the street, there are no sustainable solutions that can be provided for the family. In this regard the social worker believes that a lot remains to be done in order to protect all children including those on the move. In light of the experience of these social workers, it is clear that there are functional problems within the system, which prevent it from offering adequate protection for CoM.

Whereas a social worker from Peja explains that a case she dealt with some children from Gjakova and upon identification, she referred them to the Gjakova CSW. In trafficking cases, she explains that they as social workers usually call the police and coordinate with the municipality that is in charge. In cases where the child needs medical attention, the social worker would coordinate this with the relevant service provider/medical professional. In Peja, she has dealt with 5 cases of trafficking, In addition she explains that “there were also cases of children that went to Pristina to beg and for a period, these children were placed in a shelter”. For this social worker, however, the main difficulties include working with children and parents from the RAE communities, dealing with the increase of CoM according to the seasons and those children that beg. In relation to the RAE communities, she explains that the main challenge is their socio-economic conditions, which means that the parents usually are unable to find work and other than social assistance, for which they might not always be eligible for, there is no other support that is offered. In light of this situation, providing assistance in these cases is particularly challenging she says.

Furthermore, she says that the municipality has a 24 hour hotline, a service which exists in other municipalities as far as she knows, although there are remaining challenges when dealing with CoM. One of such cases is the fact that the CSW does not have a fund to help children in an emergency situation, meaning that if a child needs food, “we usually pay this out of our own pocket” explains the social worker. Additionally, she recognizes that sometimes they are also struggling to decide as to what to do in a particular case. This is because if the child does not want to go back to the municipality where they come from, “we cannot force them and it is difficult to decide as to what to do with them”. Also in cases where the child might need to be placed in a shelter, at times there are also shortages of places in shelters. In this regard it is important to note that the strict criteria of shelters can present problems, as the social worker says “some shelters don’t accept boys above the age of 12, whereas children above 14 years old are not accepted without their parents”.

An additional challenge that she identifies is the fact that there are small but important distinctions that need to be taken into consideration, which is not always the case and this can impact upon the response. For example she says in Kosovo most of the CoM “are not without parental care but rather they are neglected and that there is a very small distinction between trafficking and prostitution”. Therefore, institutions should consider such cases carefully, especially the police and the prosecution. At the same time the social workers need to ensure that they are not viewed by the families as the enemy and that they should have the support of the police and the courts, when they are trying to fulfill their obligation of providing protection. Despite reporting that there are children from Albania that come to Peja, this social worker reported that she was not aware of the Additional Protocol, which exists between Kosovo and Albania in respect of children that trafficked.

ii. Having a wide mandate and cooperation

Another crucial element affecting adequacy of the CSW is their wide mandate, which has positive and negative aspects. As the Social Worker from Ferizaj describes, the CSW provides a range of services, including convening the “Guardianship Authority and the Task Force/CMR, as well as providing family visits, counseling, vocational courses, access to psychologists, support during reintegration, as well as material support for families”. While having a broad mandate means they are a “one stop shop” without the adequate human resources they are not able to fulfill their role. Additionally, at times they may not be able to focus on particular categories such as CoM, as their protection needs may be complex.

Since CoM’s protection needs change with their movements, cooperation with counterparts in different countries whether in the region or beyond is another important consideration. In this regard, a social worker from Ferizaj cited an example when they dealt with a case of a child from Serbia. They agreed with the respective authorities to meet at the border for the handover of the child and this was done without any problems. Whereas in relation to cooperation with Albania, the social worker explained that they are aware of the Additional Protocol that has been signed. However in practical terms, the social worker said that the police have an action plan, which involves the police accompanied by social workers to identify Albanian families on the street. Cases that are identified to be illegally staying in Kosovo are sent to court and then returned to Albania. In terms of access to services, for social assistance there are criteria said the social worker, meaning citizenship, although in urgent cases such as trafficking they will be assisted. Overall, it seems that social workers when dealing with such cases do not necessarily take a lead, rather they tend to assist other duty bearers such as the police. While this may be an appropriate way of working, in light of the persistency of children found to be begging, CSW should consider developing their own action plans so that they proactively seek these children

and find ways to meet their protection needs. At the same time, it is evident that positive examples exist such as the one cited with Serbia, which was successfully managed due to the willingness of social workers.

iii. The Task Force/CMR model

In order to effectively deal with such cases, the task force/CMR is viewed as an important mechanism, as all the relevant duty bearers know what their responsibilities are and maintain contact with the social worker. However, there are still problems particularly regarding cases where the socio-economic situation of a family is very poor and one of the children has been trafficked. For the CSW it is particularly challenging as they don't have any money to help them, not even to cover basic costs such as lunch at the police station. A social worker recommended that there should be a specific fund for dealing with these cases because he says "we are here to protect them but we don't have enough to cover the basic needs". He goes on to say that this aspect is especially important because following decentralization, the CSW is supposed to be the main duty bearer but they have been left to offer protection without the means, as they are not a priority in terms of funding within a municipality. As such the support provided from NGOs is absolutely crucial to meet the shortfall that exists.

iv. Having an operational plan

The police are also involved at various stages when it comes to ensuring protection for CoM. The Chief of the Human Trafficking Unit in Peja stated as the police "we have operational plans and follow up on inquiries;" although at times "we are also required to take action against the parents who are putting these children on the street". His impression was that "the institutions work better together at the national level", although "there is a need for more commitment from all the institutions in general". In terms of assistance, he accepted that this is usually only offered to children from Kosovo "unless they are determined to be victims of trafficking". Additionally, with regard to trafficking he stated that there are not that many cases, usually they are only related to prostitution and that "we only had two cases of children". In terms of provision of services, the police do not have a specific budget for child protection, although usually he stated that the budget for operational expenses is also used for children. Whereas a Community Police Officer in Pristina said that he agreed that the system could improve with regard to outreach and inclusiveness and he recommended that institutions involved in providing protection should especially focus on reaching out to CoM.

v. The perspective of NGOs

From the perspective of NGOs, the Director of a Shelter for Victims of Human Trafficking in Pristina said that in terms of protection offered, the Task Force/CMR is one of the ways in which multi-disciplinary teams can get together and intervene in an efficient manner. Additionally, as a service provider, the shelter usually has good cooperation with the CSW, on whom they rely for identification. However, this does not seem to be the case with all CSWs, as the shelter at times encounters difficulties in cooperating with CSW's outside Pristina, in cities like Peja and Prizren. Usually, the Director explains this is because the CSW do not have adequate financial means to deal with all these cases and social workers for example do not have vehicles to go on field visits in order to monitor the situation of a particular child.

Further problems exist in terms of reintegration of victims, which continue to persist especially in cases of domestic violence or mental illness and these are further exacerbated as the family does not want to be involved. Meanwhile that the majority of the services are provided by NGOs says the Director of the Shelter. While the government is willing to provide some money for food, it does not offer sufficient services and this is left to the NGOs to cover.

According to another local NGO, protection services suffer from inadequate funding and this is one of the main problems. As an NGO they explain that they raise money to help children from RAE communities such as by giving them clothes. At the same time, it is their perception that social workers also need to fully understand their mandate in the field of protecting children better, as well as be prepared to conduct visits and maintain contacts with all members of the local community irrespective of their economic conditions or way of life, which is not always the case. Nevertheless local mechanisms such as the Task Force/CMR are seen as a way enabling the protection of children at local level, even if it does not always result in a success story. In one case the NGO became aware of a child that was begging around 5-6 years old. The case was referred to the Task Force/CMR, which resulted in the police conducting an investigation and discovering that the child was not living with his parents but rather with another family, who were exploiting him. This case had a positive outcome as a result of the good cooperation between the police and the social workers, as the child was returned to his parents, started going to school and was reintegrated. However, in another case where a disabled girl was identified begging, which was referred to the Task Force/CMR, there was a delay in dealing with this case as the information did not reach the right person.

Meanwhile in Tdh's experience the child protection system does not adequately respond to returnee children. This is because the lack of financial resources makes it difficult for Kosovo to be able to fully support children that have been returned. However, there are also many practical problems including the fact that some of these children are not in school for a variety of reasons

including finding it hard to integrate in their new community; and social workers are not involved in assessing these cases and regularly conducting family visits. This is a great weakness in the system because the child's protection needs are not taken into account during the returning or reintegration process. As a result, this leaves these children in a vulnerable position, where their rights are not respected and in instances they may be exposed to various dangers such as hard labour or even trafficking. Furthermore, the majority of the children returned are from the RAE communities, which means they may face additional obstacles in terms of language barriers and lack of opportunities.

Overall, it cannot be said that the protection system is adequate and is able to respond to the protection needs of CoM. At the same time it must be recognized that some positive examples exist with duty bearers such as social workers and the police working very hard for these children by dedicating time and even their own resources to offer them some protection. Similarly, there is some cooperation taking place during identification between duty bearers, as well as offering protection either between municipalities or even beyond borders. However, one must bear in mind that this is not present throughout Kosovo and an adequate protection system cannot be dependent on the will of the individual. In this regard, there are no concrete plans on how to respond to the protection needs of CoM either through their general protection mandate or focusing on this specific category. Similarly, some duty bearers do not seem to know a lot about this category of children or the standards in place, such as the Additional Protocol with Albania, all of which are to the detriment of children who are on the move. As some duty bearers have noted there needs to be greater focus on ensuring that the child protection system is adequate through better operating procedures and cooperation between duty bearers, including with a particular focus on CoM.

Conclusion

In conclusion, as can be expected CoM face a range of difficulties and dangers; and without an effective child protection system, they are in effect left to fend for themselves and forced to behave as adults, losing out on their childhood. While the general perception may be that the majority of CoM in Kosovo are forced to engage in such activities either because they are trafficked or their parents force them to beg or collect scrap metal, this is not always substantiated. In any case, institutions charged with child protection such as the CSW and the police are under an obligation to provide protection for all children. Similarly, all other professionals, who have a duty of care towards children, such as teachers and health professionals have a legal obligation to report any suspicions they have about abuse.

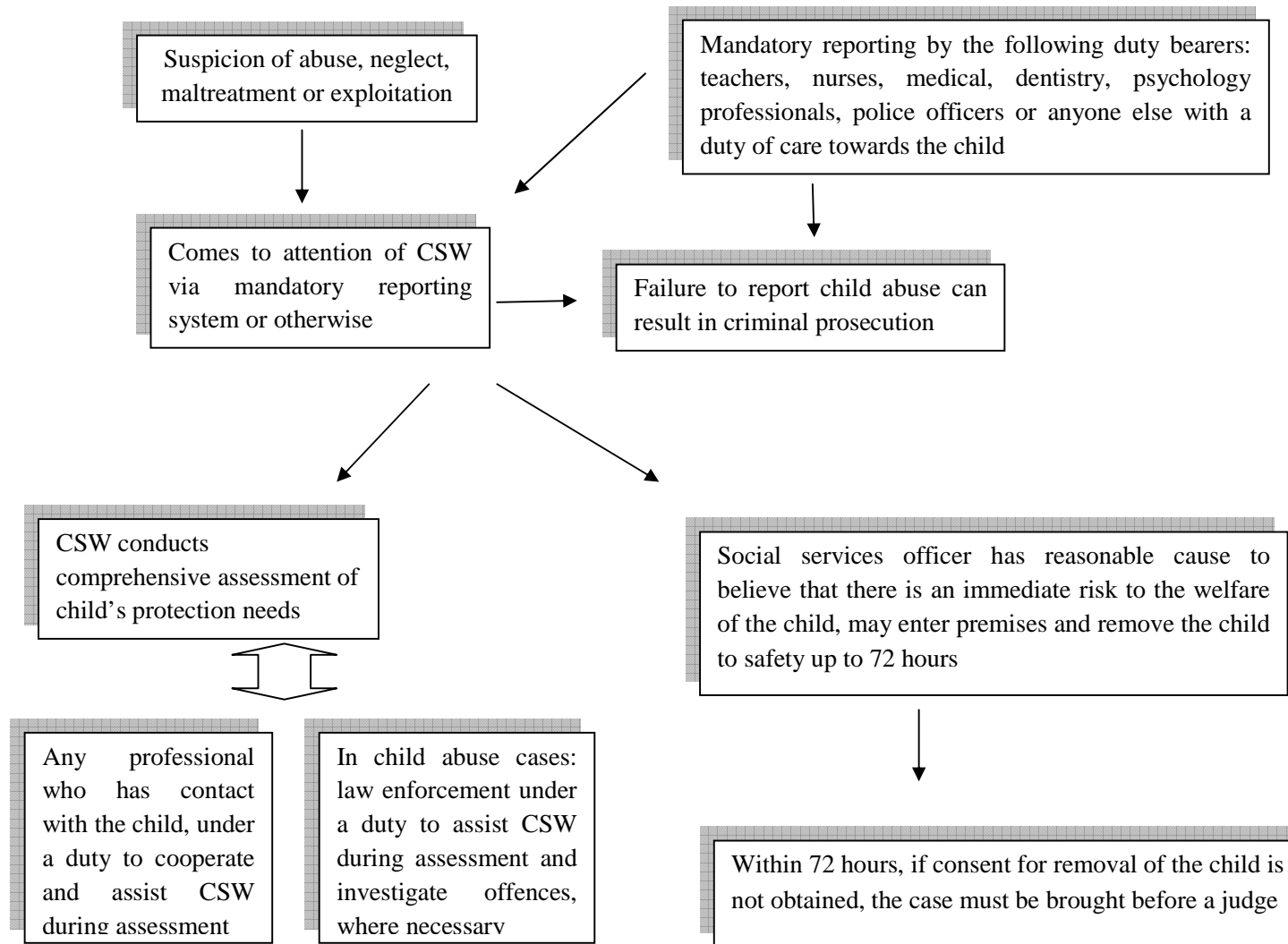
The reality in Kosovo is that CoM are widely visible but the system does not see them as concerning enough to offer them protection. Some institutions may even believe that we need to raise awareness and educate the general population so that they do not give to beggars, as opposed to investigating cases proactively and offering services to these children. However, the children who have participated in this research have been very clear, in the majority of cases their impoverished background pushes them on the street and in many cases the children feel responsible that they should be contributing rather than just relying on their parents, since the situation that they are in means they are not able to cover their basic needs. At the same time, even duty bearers accept that there is not enough outreach; the services are not as inclusive and not always adequate. While there are reasons for this including the fact that social protection is not seen as a political priority and there are financial constraints, there are still opportunities for collaboration between the duty bearers and NGOs, as well as businesses. However, the duty bearers at the central and local level need to be more proactive in utilizing these opportunities, which will allow them to meet their protection obligations towards CoM.

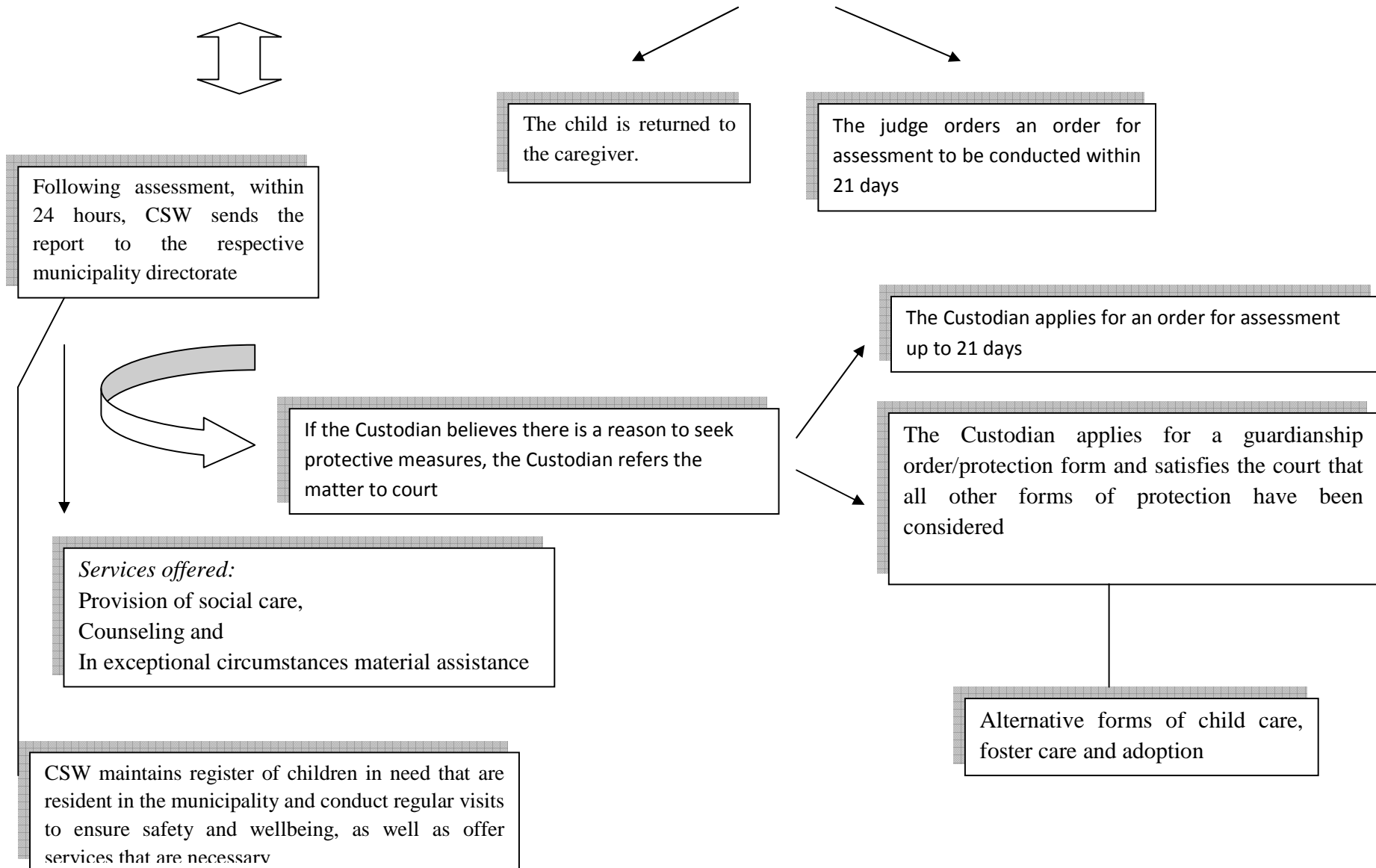
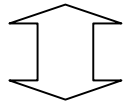
Recommendations

- MLSW together with the CSW's should develop Standard Operation Procedures (SOP) and a Protocol for Child Protection: in order for the CSW's to identify and assist CoM irrespective of their origin. In particular it is important to foresee how the CSW will identify CoM, cooperate with other duty bearers and CSW's in different municipalities. These should also be harmonised with those used in Albania and Montenegro, since there are children from Albania in Kosovo but also Kosovan children are reported to be in Montenegro. When doing so, it is also important to consider similar SOPs that may exist in other institutions such as the Police and the Labour Inspectorate;
- MLSW and CSW's should ensure that there is interconnectedness between CSW's when dealing with children who are moving between municipalities to ensure that information is shared and the necessary services and protection is provided irrespective of movement;
- MLSW and the CSW's should Develop Guidance: specifically detailing how CSW's are to offer service ensuring that these are inclusive for all CoM;
- Each CSW should develop an action plan: enabling social workers in the main regions/cities where there are many CoM so that they are identified regularly and services/protection is offered. This would ensure that this is done proactively, as oppose to on an ad hoc basis and there would need to be coordinated/harmonised with other duty bearers such as the police;

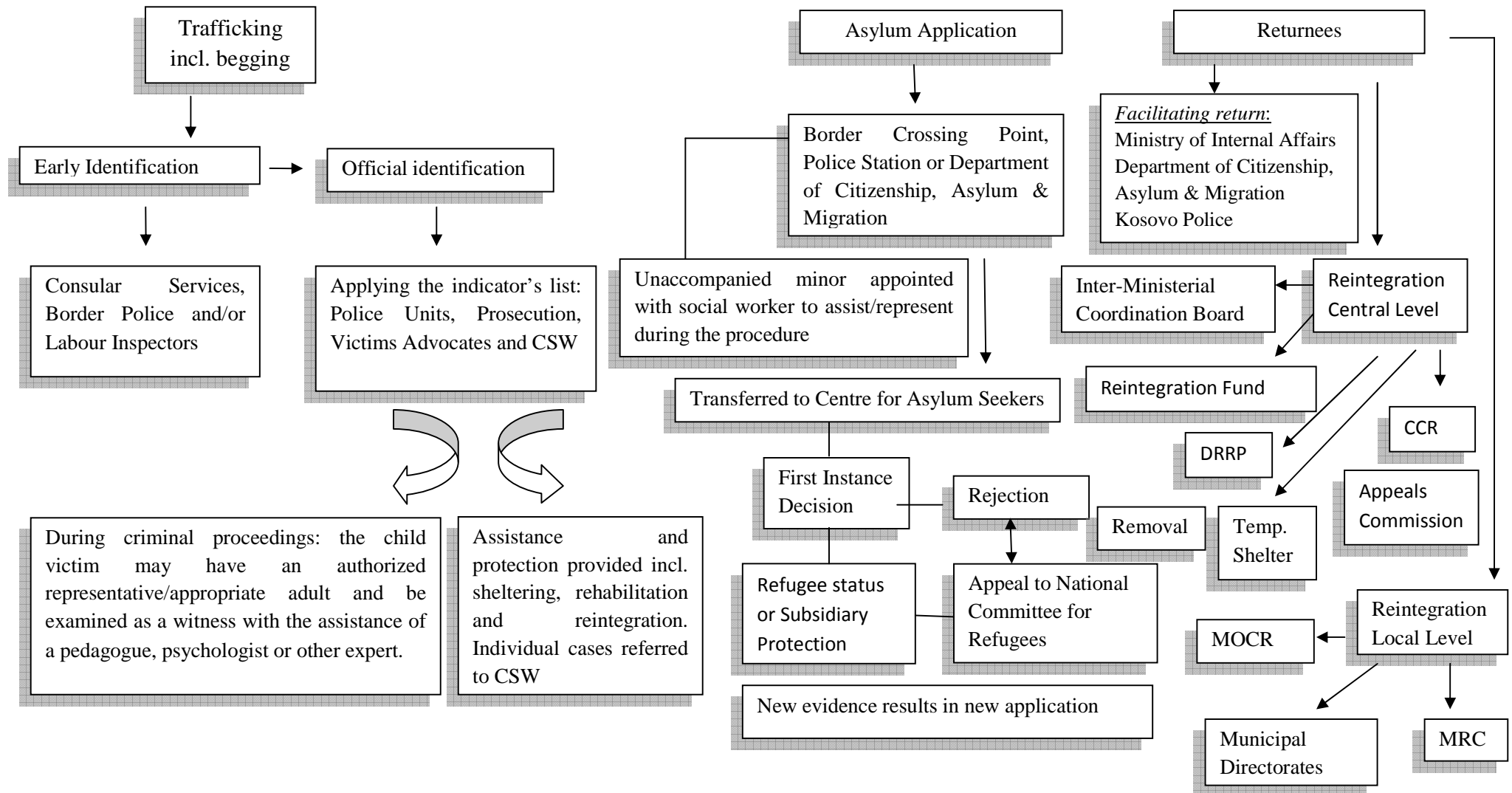
- Ensure continuous trainings for the CSW and other duty bearer in respect of identification of CoM and how to best interview CoM and offer them inclusive and adequate services and protection;
- MLSW and the CSW should conduct outreach: about the CPS towards other duty bearers especially focusing on those who are covered by mandatory reporting i.e. all those with a duty of care towards the child including teachers and health professionals. Additionally, CSW's should conduct outreach to inform adults and children about the services they provide with a focus on CoM;
- CSW should ensure adequate protection for CoM: by always being guided by the principle of what is in the best interests of the child and utilising a multi-disciplinary approach so that all relevant duty bearers contribute in a particular case and when deemed necessary when managing a case alone or through the CMR;
- Ensure coordination between duty bearers primarily between the CSW and the Police at Municipality level, as well as internationally in respect of the origin of CoM;
- The National Anti-Trafficking Coordinator together with the MLSW and the CSW's should raise awareness of the Additional Protocol among all duty bearers, organise additional joint meetings between Albania and Kosovo and establish contact points to enhance cooperation and implementation of the Protocol;
- MLSW should share good practices between municipalities in order for all CSW's to regularly conduct outreach and offer inclusive and adequate services in respect of CoM;
- Based on trends shown in this report and other research, the CSW together with other duty bearers and NGOs should proactively seek ways to assist families and children in need such as opening regional centres for day services, where families and children can receive different services such as counselling, medical assistance, numeracy and literacy classes, as well as advice on accessing different benefits from the state or assistance from NGOs;
- As poverty is one of the main reasons forcing children to work or beg, duty bearers particularly the MLSW together with the CSW's and the Ministry of Education, Science and Technology should consider innovative ways to work with families through providing advice and utilising assistance provided by NGOs or micro-financial institutions to make it easier for families to access credit in order to assist them to come out of poverty and allow their children to have an education;
- The GoK should reconsider the criteria of the social assistance scheme, in particular the age criterion for children, as well as consider introducing a specific means tested child benefit as a measure to reach the most vulnerable children who are facing poverty including CoM and
- The GoK should ensure sustainable and adequate funding for social services in Kosovo so that they are able to meet protection needs of all children including CoM.

CHILD PROTECTION SYSTEM IN KOSOVO





Other processes relevant to CoM



Annex 3 Questionnaire Sample – Children

1. Name
2. Where the child is based/found?
3. Children on the move are...
4. They come from..
5. Are they from here or another place? They come from...
6. Are you one of them? You are from...
7. Some children return here? When they go away they go to...
8. Do you think it would be good or bad to go somewhere else? Could you explain why?
9. Where are you living right now? Are you with your family, in an institution or...
10. How old are you?
11. How many children do you know like you?
12. Are there boys and girls, how many of each?
13. What do you do every day, for instance, are you alone, say a little about that...
14. Is any kind of organization helping or doing anything else with you? Explain what...
15. Is there anything else you would like to say?

Annex 4 Questionnaire Sample – Duty Bearers

1. What do you know about child protection services?
2. Where can they be found?
3. What is their mandate?
4. Do you know what they do?
5. Do you consider the system inclusive?
6. Is it easily accessible?
7. Does it offer outreach?
8. Is that effective?
9. Do you know if there are specialized child protection standards for particular groups of children?
10. Types of children?
11. Are any groups of children excluded? If so, who are they and why?
12. Do you feel those standards work?
13. What do you think they are?
14. How many children are covered by existing child protection services?
15. What are legal, administrative and practical obstacles that children on the move may face in accessing services?
16. When does that happen?
17. Do you know if there is documentation on those services?
18. Have you either produced, been involved in producing or use that documentation?
19. Has your organization allocated a budget for child protection?
20. If so, how much is that?
21. Is there anything else you would like to add to what you have already said? For instance, generally speaking do you believe that services work well for the marginalized children such as the ones on the move this study is looking at or do you think something else could be done?
22. Any other details

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