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▶ STANDARD OPERATING PROCEDURES FOR INVESTIGATION AND ADJUDICATION OF CASES RELATED TO HAZARDOUS CHILD LABOUR

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▶ ABBREVIATIONS

▶ AI	Administrative Instruction
▶ CC	Criminal Code
▶ CPC	Criminal Procedure Code
▶ CSW	Center for Social Work
▶ ILO	International Labor Organization
▶ JJC	Juvenile Justice Code
▶ MFLT	Ministry of Finance, Labor and Transfers
▶ SOP	Standard Operating Procedures
▶ VA	Victim Advocate

▶ CHAPTER I

UNDERSTANDING THE HAZARDOUS CHILD LABOR, ACCORDING TO INTERNATIONAL STANDARDS AND KOSOVO LEGISLATION

1. Introduction

Definitions according to international standards as well as human rights standards oblige the justice system in Kosovo, in their direct implementation, and in case of possible conflict with domestic legal provisions have priority over the latter¹. The understanding of hazardous forms of child labor is also subject to such a standard and should be taken into account by the judicial system when investigating and adjudicating cases in accordance with the requirements of the Constitution of Kosovo². These international acts are in force under the national legislation of Kosovo through the Constitution of the Republic of Kosovo under "Direct Applicability of International Agreements and Instruments" (Article 22). The major part of domestic legislation is aligned with these requirements of international standards as well as human rights. Therefore the further description provides an analysis, starting from the applicable international standards in defining hazardous child labor, their implementation in the Kosovo legal framework and focusing on the child victim to guarantee a victim-centered approach. It is also required that, in order to provide long-term solutions to victim-centered cases, access to the justice system be guaranteed in terms of human rights and child's rights in particular.

The content of Standard Operating Procedures for the investigation and adjudication of cases of exploitation of children in hazardous child labour, has also been drafted in accordance with the analysis undertaken in 2021, by the Kosovo Academy of Justice in cooperation with the Project MAP '16³ funded by the US Department of Labor and managed by the International Labor Organization. Relevant analysis "Identification and investigation of child labour cases: Challenges of the Justice System,"⁴ as a training module for prosecutors and judges, among others provides an analysis of the legal framework and relevant legal acts. Furthermore, the Project MAP '16 in cooperation with the Academy of Justice, based on the recommendations from the training held with judges and prosecutors on February 26, 2021 in Prishtina has identified the need to draft Standard Operating Procedures for the investigation and adjudication of cases related to hazardous child labor. It is worth noting that the document in question should be used in conjunction with the Standard Operating Procedures, as a training package for judges and prosecutors and Victim Advocates in line with the multi-disciplinary approach for investigating and adjudicating cases of child exploitation in hazardous child labor.

¹ Constitution of the Republic of Kosovo, 2008, Article 22.

² See Constitution of the Republic of Kosovo, 2008, Article 22.

³ The project " Measurement, awareness-raising and policy engagement to accelerate action against child labour and forced labour (MAP 16)" is funded by the US Department of Labor and managed by the International Labor Organization, supported by the Kosovo Academy of Justice.

⁴ See the Training Module for Prosecutors and Judges designed for the ILO and the Academy of Justice by the trainer: Prof / Ass. Dr. Bedri Bahtiri, Prishtina, 2021.

2. Definitions according to international standards and Kosovo legislation

The analysis below provides the main explanations regarding the current legal framework, relevant international legal acts for the protection of the child rights against hazardous work, including international legislation on human rights protection as a basis for identifying and investigating these cases on the basis of international standards. These international legal acts focus on the protection of children from the worst forms of child labor, with an emphasis on hazardous labor.

Relevant international legal acts are:

- ▶ European Convention for the Protection of Human Rights and Fundamental Freedoms
- ▶ International Covenant on Civil and Political Rights;
- ▶ European Social Charter;
- ▶ International Covenant on Economic, Social and Cultural Rights;
- ▶ The United Nations Convention on the Rights of the Child;
- ▶ ILO Forced Labour Convention No. 29;
- ▶ ILO Protocol P029 on Forced Labor Convention No.29 (2014);
- ▶ ILO Convention No. 138 Minimum Age for Admission to Employment;
- ▶ ILO Convention No. 182 on Worst Forms of Child Labour;

European Convention for the Protection of Human Rights and Fundamental Freedoms

European Convention for the Protection of Human Rights and Fundamental Freedoms,⁵ prohibits forced or compulsory labour, under Article 4 (Prohibition of slavery and forced labour), paragraph 2. This provision does not define the meaning of forced or compulsory labor, but lists the work that is excluded from “forced and compulsory labor”. The European Convention provides that “forced or compulsory labour” shall not include:

- a. *any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;*
- b. *any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;*
- c. *any service exacted in case of an emergency or calamity threatening the life or well-being of the community;*
- d. *any work or service which forms part of normal civic obligations.”*

This convention is in force under the national legislation of Kosovo through the Constitution of the Republic of Kosovo under Direct Applicability of International Agreements and Instruments (Article 22), paragraph (2). Courts may take these international definitions into account in the reasoning of cases investigated and adjudicated when making decisions.

⁵ See Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, amended by Protocols No. 11, 14, and 15, 4 November 1950, found at: https://www.echr.coe.int/documents/convention_sqi.pdf.

International Covenant on Civil and Political Rights

International Covenant Political Rights on Civil and,⁶ has been adopted by the United Nations General Assembly in 1966 and is in force since 1976. The above Covenant regulates that No one shall be required to perform forced or compulsory labour, while it excludes only the cases when the forced labor is of military character, imprisonment or in the form of normal civil obligations (Article 8). The abovementioned Covenant also states that Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State (Article 24). It is worth reiterating that protection measures issued by the responsible institutions, including the courts, can and should take proactive protection measures to protect children regardless of gender, status, religion, etc. This Covenant is in force under the national legislation of Kosovo listed expressly in the part of Direct Applicability of International Agreements and Instruments in Kosovo under Article 22 of the Constitution of Kosovo under Direct Applicability of International Agreements and Instruments (Article 22), paragraph 3.

European Social Charter

European Social Charter,⁷ regulates and lists some of the international principles and rights that shall be followed by the states parties, which emphasizes the protection of children from harmful work, the minimum age of employment and determines the forms of engagement of children in work in accordance with international standards. The first paragraph in the European Social Charter states that “Everyone shall have the opportunity to earn his living in an occupation freely entered upon” (Part 1, paragraph 1). It is also mentioned that “Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed” (paragraph 2).

Whereas the European Social Charter, in order to regulate and ensure the implementation of the right of children to protection in Article 7, obliges the member states according to the obligations listed below:

- ▶ To provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;
- ▶ To provide that a higher minimum age of admission to employment shall be 18 with respect to prescribed occupations regarded as dangerous or unhealthy;
- ▶ To provide that children who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;
- ▶ To provide that the working hours of persons under 18 years of age shall be limited;
- ▶ To recognise the right of young workers to a fair wage or other appropriate allowances;
- ▶ To provide that employed persons of under 18 years of age shall be entitled to not less than four weeks’ annual holiday;
- ▶ To provide measures that persons under 18 years of age shall not be employed in night work;
- ▶ To provide that persons under 18 years of age employed in occupations prescribed by law shall be subject to regular medical control;
- ▶ To ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

⁶ The UN General Assembly, International Covenant on Civil and Political Rights, December 16, 1966, United Nations, is found at: <https://hrrp.eu/alb/docs/CCPR-a.pdf>.

⁷ Council of Europe, European Social Charter, 18 October 1961, is found at: <https://rm.coe.int/168047e169>.

International Covenant on Economic, Social and Cultural Rights

International Covenant on Economic, Social and Cultural Rights⁸, is in force and has been adopted by the General Assembly of the United Nations Organization in 1976. This Covenant in Article 10, stipulates that states must set measures to protect children and young people from economic and social exploitation, set a minimum age for employment, and also determines that the employment of children at work that is detrimental to morals, health, and their normal development should be punished by the states parties (paragraph 3).

The United Nations Convention on the Rights of the Child

One of the key Conventions as well as the Innovative Conventions in the protection of the rights of the child in particular, the United Nations Convention on the Rights of the Child,⁹ entered into force in 1989. Based on this Convention, States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be harmful to the child's education, health or physical, mental and moral development (Article 32, paragraph 1). The Convention imposes an obligation on States Parties to set a minimum age for employment, to regulate working hours and working conditions, and to require States to apply legal penalties to ensure the application of Article 32 (paragraph 2). Also, as a Convention directly listed in Article 22 of the Constitution of the Republic of Kosovo, regarding the obligations of institutions in the implementation of international agreements and instruments, can be used by courts in justifying actions taken in the investigation and adjudication of cases of hazardous forms of child labor.

⁸ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, is found at: <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

⁹ The UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, is found at <https://www.unicef.org/montenegro/media/9291/file/MNE-media-MNEpublication505.pdf>.

¹⁰ The International Labor Organization (ILO), Forced Labor Convention No. 29, June 28, 1930, is found at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029.

ILO Forced Labour Convention No. 29;

ILO Forced Labour Convention,¹⁰ is ratified by the International Labor Organization in 1930, which obliges ratifying states to prohibit the use of forced or compulsory labor (Article 1). The convention in question states that *"the term forced or compulsory labor shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily"*(Article 2). Thus, ILO Convention No.29 defines forced or compulsory labor, where the form of punishment is not specified, whether physical, verbal but only that forced labor is also the service that is exacted under the menace of any penalty and which is not provided voluntarily. It is worth mentioning that the established human rights standards for protection from forced labor have their origin in this convention which is later amended by the ILO Protocol No. 029 on Forced Labor (2014).

▶▶ ILO Forced Labour Convention, is ratified by the International Labor Organization in 1930, which obliges ratifying states to prohibit the use of forced or compulsory labor (Article 1).

ILO Protocol on Forced Labor No.29 (2014)

The amendment of ILO Convention No. 29 on Forced Labor¹¹, is regulated by the Additional Protocol to this Convention in 2014 by the International Labor Organization. The Protocol recognizes the important role played by the Forced Labor Convention (1930) (No. 29) in combating forced labor, but notes that additional measures are needed to ensure the effective implementation of the provisions of the Convention. The Protocol states that States Parties to ILO Convention No. 29 are obliged to take effective measures to prohibit forced labor, including legal remedies and compensation for victims, and most importantly provides for States Parties to sanction and prosecute perpetrators of forced labor (Article 1). In particular, the courts must act in order not to continue with the impunity of the perpetrators of these acts against child victims and to end the impunity of the perpetrators.

▶▶ The amendment of ILO Convention No. 29 on Forced Labor, is regulated by the Additional Protocol to this Convention in 2014 by the International Labor Organization.

¹¹ The International Labor Organization (ILO), Protocol to the Forced Labor Convention P029, 2014, is found at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3174672.

¹² The International Labor Organization (ILO), Convention on the Minimum Age for Admission to Employment No. 138, June 1973, is found at https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C138.

¹³ The International Labor Organization (ILO), Convention on the Worst Forms of Child Labor No. 182, 1999, is found in https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C182:NO.

ILO Convention No. 138 on Minimum Age for Admission to Employment

ILO Convention on Minimum Age¹² is adopted by the International Labor Organization in 1973, and provides that member states must set the minimum age for employment in accordance with the physical and mental development of young people (Article 1). It determines that the minimum age specified shall not be less than 15 years of age (Article 2, paragraph 3). As for employment which harms the health or morals of the person, the minimum age can not be set below 18 years of age, unless it is ensured that the well-being of the young person will not be affected, then it is allowed to set the minimum age of employment to 16 years of age (Article 3). This is ensured only when the competent authorities at the national level consult with employers' and workers' organizations, and also states that it is a condition that the health, safety and morals of young people will not be compromised, and that the young people in question receive specific instructions or trainings in the respective branch of activity (Article 3).

ILO Convention No. 182 on Worst Forms of Child Labour;

Worst Forms of Child Labour Convention¹³ was adopted in 1999 by the International Labor Organization (ILO), and defines the worst forms of child labor and outlines some measures for effective implementation of child labor protection from hard work to be undertaken by states. The Convention in Article 3 defines that the worst forms of child labor are:

- ▶ All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, forced or compulsory labor;
- ▶ The use or offering of a child for prostitution, production of pornography, or for pornographic performance;

- ▶ The use or offering of a child for illicit activities, in particular for the production and trafficking of drugs;
- ▶ Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of the child.

Convention No. 182 obliges States parties to take measures to ensure the effective implementation of the provisions of the Convention for the protection of children against the worst forms of child labor, including criminal and other appropriate sanctions (Article 7). It also specifies that each Member State should take into account the impact of education on the prevention and elimination of worst forms of child labor (paragraph 2). Article 7, paragraph 2 also states that Member States must prevent worst forms of child labor, provide direct assistance for the removal of children from worst forms of child labor, the social integration of children and ensure that children have access to education.

Legal acts for the protection of children's rights in Kosovo:

- ▶ The Constitution of the Republic of Kosovo;
- ▶ Law No. 03/L-212 on Labour;
- ▶ Kosovo Law No. 2004/32 on Family and Law No. 06 / L-077 on Amending and Supplementing the Family Law No. 2004/32;
- ▶ Law No. 06/L-084 on Child Protection;
- ▶ Criminal Code of the Republic of Kosovo (2019);
- ▶ Juvenile Justice Code;
- ▶ Administrative Instruction No. 05/2013 on the Prevention and Prohibition of Hazardous Child Labor.

Constitution of the Republic of Kosovo

The Constitution of Kosovo prohibits forced labor and contains provisions for the protection of the welfare of children. Article 28 of the Constitution provides that:

*"No one shall be required to perform forced labor. Labor or services provided by law by persons convicted by a final court decision while serving their sentence or during a State of Emergency declared in compliance with the rules set forth in this Constitution shall not be considered as forced labor."*¹⁴

Also, according to the Constitution of the Republic of Kosovo, children shall enjoy the rights to be protected from violence, maltreatment and exploitation as well as the right to the care necessary for their wellbeing (Article 50). With these provisions, the Constitution regulates the prohibition of forced labor and at the same time obliges the child exploitation protection and requires increased care by the institutions responsible for the wellbeing of children.

Law on Labour (No. 03/L-212)

The Law on Labour¹⁵ regulates terms and criteria for establishment of an employment relationship within the territory of Kosovo in Article 7, stating that persons over 18 years of age may conclude an employment relationship. The minimum age to enter into an employment relationship is 15 years old, only if the work is not illegal and is defined by law by nature as easy labour in this case when it does not represent a risk to the welfare and development of the child (Article 7, paragraph 2). Also, the Law on Labour prohibits the night shifts for persons under the age of 18 (Article 27, paragraph 3). These provisions regulate which work is suitable for children and that hard labour is prohibited for children as the only labour that is allowed to be performed by persons under the age of 18 is easy and safe labour for the welfare of the child.

¹⁴ Constitution of the Republic of Kosovo, Article 28 paragraph 2

¹⁵ Law No. 03 / L-212 of Labor, Official Gazette of the Republic of Kosovo No. 90/01, December 2010

Law on Family (No. 2004/32)

Law on Family¹⁶, and the Law on Amending and Supplementing the Law No. 2004/32 on Family¹⁷ lay down the legal framework for the regulation of parent-child relations as well as family relations. Law on Family No.2004/31, also mentions the responsibilities of the parents towards the child, the rights of the children and the obligations towards the parents. The Law on Family provides that *"Children enjoy the right for protection from economic utilization, child exploitation trafficking and sexual exploitation and from any activity which could be harmful or hazardous to their education or health"* (Article 125, paragraph 5).

Parental responsibility and obligations to children by the parent are regulated by Article 128, stating that a child is under parental responsibility until the age of majority (paragraph 2), and parents are legally obliged under paragraph 3 to ensure the principles for the protection of children in Article 125, including the protection from exploitation. It also mentions that parents are obliged to ensure emotional, social and material welfare (Article 128, paragraph 4). It further states that ensuring the well-being of the child should consider and take into account the skills and desires of the child in question. This law also stipulates that from the age of 15 years on a child who earns income by his own work, is under the obligation to financially contribute for his own maintenance and if required, also for a reasonable contribution to the maintenance of the family he lives with (Article 292). It should be noted that the permitted work must be in accordance with the provisions of the Labor Law which state that a person can work from the age of 15 onwards only if the labour in question is easy labour and does not represent a risk to well-being and development of the child (Labor Law No. 03 / L-212, Article 7, paragraph 2).

Criminal Code of the Republic of Kosovo

Criminal Code of Kosovo¹⁸ regulates sanctions in relation to forced labor in Article 163 "Slavery, slavery-like conditions and forced labour". It stipulates that the person who purchases or sells another person in forced labour, including denying a person the fruits of his or her labour, coercing a person to provide their labour or denying a person the freedom to change his or her status or work conditions, shall be punished by fine and imprisonment of two (2) to ten (10) years (Article 163, paragraph 1). The Criminal Code also stipulates that whoever violates the European Convention on Human Rights as in above conditions, shall be punished from 2 to 10 years, whereas if the offense is committed against a person with whom the perpetrator has a family relationship, the punishment is raised to 3 to 10 years (Article 163, paragraph 2 and 3). The Criminal Code also stipulates that whoever violates international provisions on the protection of the rights of the child in the context of forced labor, is imprisoned from 3 to fifteen years (Article 163, paragraph 4).

Juvenile Justice Code

The Juvenile Justice Code, among other things, defines its scope to also include the protection of juveniles and children that are victims of, and harmed by criminal act. The Juvenile Justice Code also defines the legal provisions regarding the protection of the child as a victim in criminal proceedings, in particular regarding cases related to the hard / hazardous labour of children such as mistreating or abandoning a child; violating family obligations; failure to secure the livelihood; and failure to report child abuse.¹⁹

¹⁶ Law No. 2004/32 on Family, Official Gazette of the Republic of Kosovo No. 4/01, September 2006

¹⁷ Law on Amending and Supplementing the Law on Family, Official Gazette of the Republic of Kosovo No. 3/17, January 2019.

¹⁸ Criminal Code of the Republic of Kosovo, Official Gazette of the Republic of Kosovo, no. 2/14 January 2019.

¹⁹ Article 108, paragraphs 1.27-1.31 of the Juvenile Justice Code.

Law on Child Protection (No. 06/L-084)

Law on Child Protection²⁰ was adopted in 2019 and entered into force in July 2020. The law in question aims to protect the child harmonized with the Constitution of the Republic of Kosovo, the United Nations Convention on the Rights of the Child and international acts for the protection of children. Law on Child Protection states that the child allowed labor should not endanger physical and mental well-being, the right to education, health and the right to leisure and play (Article 49). Furthermore, it determines that the child employment must be monitored by the Labour Inspectorate, to ensure safety and working conditions (paragraph 3). The Law on Child Protection regulates the minimum age of a child for employment by prohibiting the employment of persons under the minimum age. Article 50 stipulates "No employer can hire and enter into an employment contract with any child under the age of fifteen (15)" (paragraph 2). Furthermore, the law stipulates that allowed child labor is only an economic activity that is not harmful and does not affect the education or leisure of the child, while prohibited work is any activity that harms safety, health, morals and physical condition of the child (Article 3). The law also stipulates that the child can be employed only in economic activities that are not harmful to the development and health of the child, especially if they do not prevent them from attending school and using leisure time, and if that labour is not prohibited by applicable law. The work is also allowed that is part of the professional internship and under the respective supervision after all the risks have been identified and eliminated. In regards to the payment of contributions, the employer shall be obliged to register the employed child with the Tax Administration of Kosovo, and other institutions that manage and administer mandatory pension schemes and others.

The law also provides in Article 59 that children victims who have been subject to child labor that is not in compliance with this law and applicable legislation shall be provided with medical and psychological assistance, rehabilitation and reintegration measures, legal aid and the right to compensation in accordance with the law on Crime Victim Compensation.

Administrative Instruction No.05/2013 on the Prevention and Prohibition of Hazardous Child Labor

This Administrative Instruction defines hazardous child labor, and obliges the institutions responsible for the prevention and monitoring of hazardous child labor in order to prevent hazardous child labor. Article 4 states that any form listed in the Annex to the Administrative Instruction is strictly prohibited and requires immediate intervention. The exceptions to this provision are highlighted as follows:

"Any child's work, paid or unpaid, volunteer work, a form of alternative measure for juveniles in conflict with the law, work as part of professional practice or any other economic engagement of the child may be allowed only with the permission of parent, guardian or custodian body, only under appropriate supervision and after a documented assessment of risks and measures for management of risks the child may be exposed to" (Article 5). Thus, any child labour should be done under the supervision of the competent bodies and after assessing the risks and the way in which the child can be protected from exposure to these risks, so the permission of the parent or legal guardian alone is not enough. Furthermore, each child's case identified in Hazardous Child Labour should be referred to the Center for Social Work (Article 6, paragraph 4). This Instruction also obliges the Custodian Body to initiate misdemeanor proceedings or criminal charges if children are forced to perform labour deemed as hazardous child labour (Article 7). Also Article 6 paragraph 3 of this Administrative Instruction obliges the municipal authorities to establish standard operating procedures for Child Labour Monitoring as a process of identifying, evaluating, withdrawing and protecting children from hazardous labour.

²⁰ Law No. 06/L-084 on Child Protection, Official Gazette of the Republic of Kosovo No. 14/17, July 2019

List of General Activities and Priority Sectors which are prohibited under AI No. 05/2013

(A) Generic activities for immediate prohibition for children under the age of 18 years include:

- ① Night work, which according to AI No 01/2012 includes the period from 22 pm to 6 am. For children who have not have established working relationships but are engaged in economic activities, night work between 20:00 to 06:00 should be prohibited as a matter of priority;
- ② Lifting up and carrying of weight over 15 kg intermittent work (male) - 10 kg intermittent work (female);
- ③ Lifting up and carrying of weight over 10 kg continuous work (M) and over 5 kg continuous work (female);
- ④ Work underground, under the water and in confined spaces;
- ⑤ Work at heights of above 2 m;
- ⑥ Exposure to extremely high or low temperatures or against noises or trembling;
- ⑦ Exposure to toxic substances,
- ⑧ Exposure to biological substances
- ⑨ Exposure to radioactivity;
- ⑩ Exposure to carcinogenic substances, dust and gases.

(B) Sectors for immediate prohibition for children up to the age of 18 and defined as a priority by the Government according to AI No.05/2013 are:

- ① Agriculture and forestry;
- ② Work on streets;
- ③ Work in construction;
- ④ Work in landfills;
- ⑤ Work on the exploitation of natural resources.

Administrative Instruction No.03/2013 has also defined the most prevalent forms of child exploitation in Kosovo, requiring immediate institutional response. According to AI No.03/2013 dangerous activities which have prevalence in Kosovo and should have priority in response are:

- a. Operation with agriculture machinery;
- b. Work with pesticides and spraying;
- c. Work on harvesting;
- d. Heavy physical work in the fields and digging holes for afforestation or tree planting;
- e. Wood cutting and wood processing;
- f. Work in slaughterhouses and meat processing industry (slaughtering, transporting and selling animals);
- g. Hunting;
- h. Collecting forest fruits and harvesting trees;
- i. Work in the greenhouse;
- j. Work in beekeeping;
- l. Carrying heavy weights;
- m. Vehicle fenders cleaning in traffic;
- n. Transportation of goods by wheelbarrow;
- o. Begging;
- p. Soil digging;
- q. Transportation of heavy weights;
- r. Sieving of sand and cement;
- s. Work on scaffolding;
- t. Metal processing;
- u. Work in landfills;
- v. Research, collection and transportation of waste; and
- x. Work in the exploitation of natural resources.

3. Causes of child labor and the most prevalent forms in Kosovo

The causes of the involvement of children in hazardous work in Kosovo have been identified in a series of documents drafted by the Ministry of Labor and Social Welfare, now the Ministry of Finance, Labor and Transfers (MFLT). In particular, two basic documents “Guidelines for the Management of Child Labour Cases” as well as “Standard Operating Procedures for Children in Hazardous Child Labour,” drafted by MFLT, identify these causes of various natures. Among other things, a number of reasons are identified that push children into hazardous work, with poverty being the most important factor. Poverty and engagement of children in hazardous work are also considered as a result of a “low economic balance” in the family, community and country level.²¹ Furthermore, in addition to poverty, there are other factors that contribute to child labor, including a supportive attitude towards child labor where parents and society in general see child labor as part of child rearing and consider it a “normal” phenomenon of coping with poverty, relativizing the risks to children in hazardous work.²² Parents also support child labor as a way to keep their children safe, in regions where some children are discriminated against and subjected to school violence such as Roma children in Europe, and Kosovo is no exception. Other factors identified are the disordered family environment such as single-parent families; the illness of the parent or the inability of the person in charge of the family to ensure welfare and to provide for the family’s food obligations; alcohol or drug addiction; abusive environment and domestic violence, etc.

In some cases children are forced by their parents to work on the streets or even leave home and work on the streets due to the disordered family environment (Ibid, 2020: 10-20). Other identified factors are lack of access to education such as geographical distance from schools, discrimination and expectations from parents that children perform specific tasks while still children and institutional lack of response to the phenomenon of early and forced marriages.²³ Another basis for discrimination is gender, where gender-based segregation of labor forces girls and boys to limit their job prospects, such as girls may be forced to stay at home and perform unpaid work.²⁴ Another reason may be the demand of businesses to employ cheaper labor, which is often associated with the informal economy. The guideline also identified the lack of contracts in the informal sector that makes it difficult to protect children from abusive working conditions and to identify children at work. This directly affects the higher prevalence of the worst forms of child labor, including activities such as trafficking in human beings and prostitution (if criminalized). (Ibid, 2020:19-20). However, weak law enforcement and the rule of law in particular affect the increasing of the engagement of children in hazardous work.

²¹ Ibid. Pages 19-21, see “Guidelines for the Management of Child Labour Cases,” 2020, Ministry of Labor and Social Welfare.

²² Ibid, pages 19-20.

²³ See the publication supported by UN WOMEN in Kosovo and implemented by the Roma, Ashkali and Egyptian Women’s Network “Report on the implementation of the requirements of the Istanbul Convention regarding the situation of early or forced marriages in the Roma, Ashkali and Egyptian communities, 2019.

²⁴ Supra note in 21.

4. Relevant definitions for investigation, prosecution and protection of children, victims of hazardous child labour

Children - are defined in the Juvenile Justice Code as any person under 18 years of age.

Sensitive Victim - The Criminal Code of Kosovo (2019) among other things defines sensitive victims who are offered increased care in the criminal justice system. According to the Criminal Code, a sensitive victim is a child, a person with a physical or mental disability, a person with a disability, a pregnant woman, an elderly woman or a person whose relationship or dependence on the perpetrator makes him or her particularly sensitive to the repeated victimization, repeated intimidation or repeated revenge.²⁵

Permissible work for children - shall mean the participation of the child in economic activities that are not harmful to the development and health of the child, especially if they do not prevent them from attending school and using leisure time. Allowed is also the work that is part of the professional internship and under the respective supervision after all the risks have been identified and eliminated.²⁶

Prohibited work for children - shall mean the work or activity that harms the safety, health, morals and psycho-physical development of the child as a result of lack of experience and knowledge for performing the work tasks and duties.²⁷

Hazardous child labour - shall mean the works that can result in death, (often permanent) injury or (often permanent) illness of the child as a result of the inconsistency of the nature of work with the age and psychophysical development of the child, and as a result of insufficient safety at the workplace.²⁸

Child protection: According to Article 3 of the Juvenile Justice Code, paragraph 1.7 child protection - means the prevention and response

to violence, mistreatment, abuse, exploitation and neglect, abduction, sexual exploitation, trafficking and child labor inside and outside the home.

Child maltreatment or abandonment - The Criminal Code defines in Article 243 the criminal offense of child maltreatment or abandonment by the parent, adoptive parent, caregiver or other person exercising parental authority over the child, who maltreats the child using physical or mental measures *or violates his or her obligation to care for and educate the child*, and provides for imprisonment of six (6) months to three (3) years. Paragraph 1.4 also defines that a parent, adoptive parent, caregiver or other person exercising parental authority over a child *who compels such child to work excessively or to perform work that is not suitable for the age of the child or compels such child to beg for money or other material gain, or compels such child to engage in other activities that endanger or damage the child's development* shall be punished by a fine and by imprisonment of one (1) to five (5) years. In case the criminal offense from this article results in serious damage to the mental health or serious injury of the child, the perpetrator shall be punished by imprisonment of two (2) to eight (8) years.

Violation of family obligations - The Criminal Code in Article 244 defines that anyone who violates his legal family obligations, *leaving in serious condition a family member who is unable to take care of himself*, is punished by imprisonment of three (3) months to three (3) years. Paragraph 1.2 further states that when the offense provided for in paragraph 1 of this Article involves a child, the perpetrator shall be punished by imprisonment of six (6) months to five (5) years. If the offense provided for in paragraph 1 of this Article results in the death of a family member or serious damage to his or her health, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years.

Avoiding maintenance support - The Criminal Code in Article 245 defines that anyone who evades the provision of maintenance support to a person whom he or she is obliged to support based on a decision of the court which has entered into force, a settlement concluded before the court which has entered into force or a decision by another competent authority by avoiding employment, falsely reporting employment or income, changing jobs, place of residence or abode, alienating property *or otherwise failing to provide subsistence support to such person*, shall be punished by imprisonment of up to one (1) year. Also, paragraph 1.3 states that when the criminal offense from paragraph 1 of this article involves a child, the perpetrator shall be punished by imprisonment of three (3) months to three (3) years.

Failure to report child abuse - The Criminal Code also provides for responsibility for professionals, i.e. the obligation to report a child abuse case and in case of failure to report it provides for criminal sanctions. Furthermore, Article 247 defines that whoever has reason to suspect that a child has suffered an incident of child abuse, mistreatment, abandonment or neglect and fails to immediately report abuse or neglect shall be punished by a fine or up to three (3) years of imprisonment. In case the criminal offense from paragraph 1. of this article is committed by a parent, an adoptive parent or caregiver, the perpetrator shall be punished by imprisonment of six (6) months to three (3) years (See paragraph 1.2). *Also, whoever while engaged in a professional capacity related to the child, has reason to suspect that a child has suffered an incident of child abuse, mistreatment, abandonment or neglect or has*

been subjected to violence or a threat of violence and fails to immediately report it, shall be punished a fine or imprisonment of three (3) months to three (3) years. If the offense provided for in paragraph 1, 2 or 3 of this Article results in the death of the child or serious damage to his health, the perpetrator shall be punished by imprisonment of one (1) to eight (8) years (paragraph 1.4).

In addition to criminal offenses and criminal sanctions presented by the Criminal Code, the Law on Child Protection provides for fines in the amount of five hundred (500) euros up to twenty thousand (20,000) euros for *legal entities*, responsible persons or a body with public authority, for violations defined in articles 50, 51, and 52 of this law, including cases of violation of prohibited child labor as well as sanctioning actions in case of violations or omissions. The competent body within the relevant Ministry of Labor and Social Welfare and the competent body within the relevant Ministry of Internal Affairs impose a fine in accordance with the legislation in force in the amount of one hundred (100) euros to two thousand (2,000) euros for a *natural person*, for the violations defined in articles 50, 51, and 52 of this law, including sanctioning actions in case of violations or omissions. The competent body within the relevant Ministry of Labor and Social Welfare and the competent body within the relevant Ministry of Internal Affairs impose the fine in accordance with the legislation in force.

▶▶ Child protection - means the prevention and response to violence, mistreatment, abuse, exploitation and neglect, abduction, sexual exploitation, trafficking and child labor inside and outside the home.

²⁵ Article 113, Definitions paragraph 39.

²⁶ Law on Child Protection, Article 3, paragraph 1.12.

²⁷ Ibid, Article 3, paragraph 1.13.

²⁸ Ibid, Article 3, paragraph 1.14.

5. The main concepts of access to justice and the principle of the best interests of the child

The main concepts of the approach of working with children are based on existing principles of international human rights standards and in particular on the “Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice” (2010).²⁹ The case law of the European Court of Human Rights is also reflected in the relevant Guideline.

The basic principles to consider when investigating and adjudicating child labor are:

Participation

The right of all children to be informed about their rights, to be given appropriate ways to access justice and to be consulted and heard in proceedings involving or affecting them should be respected. This includes giving due weight to the children’s views bearing in mind their maturity and any communication difficulties they may have in order to make this participation meaningful.

Best interests of the child

The effective implementation of the right of children should be guaranteed so that their best interests be the main consideration in all matters involving or affecting them.

In assessing the best interests of the child involved or affected, consideration should be given to:

- a. his/her views;
- b. all the rights of the child, such as the right to dignity, liberty and equal treatment should be respected at all times;
- c. a comprehensive approach should be considered by all relevant authorities in order to take into account all interests at stake, including the psychological and physical well-being as well as the legal, social and economic interests of the child.

- d. Also, judicial authorities responsible for making final decisions should also make, where necessary, coordinated efforts to establish a multidisciplinary approach in assessing the best interests of the child in procedures involving the child.

Respect for dignity

The child should be treated with care, sensitivity, fairness and respect throughout any procedure or case, paying special attention to his/her personal situation, well-being and specific needs, and with full respect for physical and psychological integrity. This treatment should be given to every child, in any judicial or non-judicial proceedings or cases or other interventions, regardless of his/her status and legal capacity.

Protection from discrimination

The rights of the child must be guaranteed “without discrimination on any grounds such as gender, race, color or ethnicity, age, language, religion, political or other opinion, national or social origin, socio-economic background, status of their parents, national minority association, property status, birth, sexual orientation, gender identity or other status. Specific protection and assistance should be provided to the most vulnerable children, such as migrant children, refugee and asylum-seeking children, unaccompanied children, children with disabilities, homeless and street children, Roma children and children in residential institutions. The principle of the rule of law must be fully applied to children as well as to adults. Also the elements of due process, such as the principle of legality and proportionality, the presumption of innocence, the right to a fair trial, the right to legal advice, the right to access to trial and the right to appeal, must be guaranteed for children, as for adults. Effective mechanisms for the protection of the child as well as the exercise of the right to appeal independently and effectively must also be provided.³⁰

²⁹ See at <https://rm.coe.int/16804b2cf3>

³⁰ Ibid, Basic principles taken from the “Guideline of the Committee of Ministers of the Council of Europe on child-friendly justice,” 2010.

▶ CHAPTER II

INSTITUTIONAL ROLES AND RESPONSIBILITIES IN RESPONDING TO HAZARDOUS CHILD LABOUR

1. The purpose of Standard Operating Procedures in the investigation and adjudication of hazardous child labor

The purpose of the SOP is to establish a referral, operational and proactive system to respond in a timely manner in the investigation and adjudication of cases related to hazardous child labor. Furthermore, the SOPs also aim to clarify the roles and responsibilities of each party involved in proactive and adequate investigation of child labour cases, with a view to ensure that child labour is prevented, child labour cases are referred, while justice and immediate protection of children is provided.

By designing and implementing these standard operating procedures, institutional mechanisms harmonize and coordinate cooperation and alignment in the phases of investigative activities, criminal prosecution but also of taking court decisions to refer, protect and reintegrate child victims of hazardous child labor in Kosovo. Roles, responsibilities and procedures provided in a tabular form, listing criminal or misdemeanor offenses, responsible organizations, leading and supporting organizations are directly reflected by the provisions of relevant local legislation, other bylaws in force and institutional policies and based on international human rights standards in accordance with the requirements of the Constitution of the Republic of Kosovo.

These procedures should also be seen in conjunction with existing strategic documents and other relevant policy documents such as the Standard Operating Procedures for Children in Hazardous Child Labour, developed by the Ministry of Finance, Labor and Transfers to determine the role and responsibilities of competent institutions in child protection through identification, referral, protection, rehabilitation and reintegration, drafted pursuant to the Law on Child Protection 06 / L-084. Also the roles and responsibilities of Victim Advocates, part of the State Prosecutors Office, are further specified in these SOPs in order to be more easily identified by the courts, existing child protection mechanisms. SOPs as a reference and operational document should provide above all protection, including timely and appropriate

response to the best interests of children, Kosovars or foreigners or stateless persons, for all types of work and exploitation, regardless of whether it is related to organized crime or not.

Furthermore, SOPs are intended to:

- ▶ Explain in detail the roles and responsibilities of each actor involved in the investigation, trial and protection of child victims from hazardous labour;
- ▶ Require the implementation of local legislation and international standards in accordance with the obligations provided by the Constitution of Kosovo;
- ▶ Enable the coordination of immediate and proactive response of prosecutors, judges and other responsible actors through inter-institutional mechanisms in protecting the cases of child victims from hazardous labour.

2. Roles and responsibilities of the judicial system and key actors in responding to cases of child victims of hard labor

Victim Advocates-Satte Prosecution: Victims Advocacy and Assistance Office (VAAO) assists and represents child victims in cases of child abuse and ill-treatment, victims of domestic violence, trafficking in human beings, rape, murder, and victims of crime in general, before the police, prosecution office and the court. Their roles and responsibilities are further described in the Standard Operating Procedures for the Victims Advocacy and Assistance Office, approved on 18 October 2014. According to the above SOPs, victim advocates are official persons authorized to provide support and assistance to victims of crime to have access to the judicial bodies, as an authorized representative with certain powers.

Relevant legal provisions	Roles and responsibilities
Kosovo Juvenile Justice Code, Article 3, definitions. Criminal Procedure Code, Article 63, paragraph 3. Law on Child Protection, Article 3, paragraph 1.8. Standard Operating Procedures for the Victims Advocacy and Assistance Office, adopted on October 18, 2014.	The Victim Advocates in Kosovo justice system are a unique example including with the countries of the region, to ensure legal representation of victims during criminal proceedings. This institutional mechanism is part of the State Prosecutors Office and represents the interests and rights of victims of crime, including child victims of abuse and maltreatment, before, during and after criminal proceedings. ³¹ The Juvenile Justice Code of Kosovo defines the role and responsibilities of the victim advocate as the authorized representative for the protection of the interests of child victims; ³² The Criminal Procedure Code defines the role of victim advocate as a representatives of the injured party in criminal proceedings; The Law on Child Protection also defines the role of VAs, meaning “the public official person, who represents the injured party in court and administrative proceedings, including the child. The victim’s advocate provides support and assistance to victims of crime, represents the victim in proceedings before the court, notifies the victim of his/her rights, represent the victim’s interests before the court and the prosecution and acts on behalf of the victim, when appropriate, in accordance with the applicable laws.” ³³

³¹ See the Council of Europe in Kosovo, publication “Quality Guidelines for Shelters for Victims of Violence Against Women and Domestic Violence,” at https://www.wave-network.org/wp-content/uploads/Shelter_Guideline_ALB.pdf

³² Ibid, Article 3 definitions, paragraph 1.19. See at <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18019>;

³³ See Article 3, paragraph 1.8 available at <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=20844>

Relevant legal provisions	Roles and responsibilities
	The role of the victim advocate is to ensure that victims’ rights are respected and that appropriate services are provided, including: <ul style="list-style-type: none"> ▶ Notify the injured party of his / her rights; ▶ To represent the interests of the victim in the proceedings before the prosecution and the court; ▶ Refer the victim to other service providers; ▶ Acts on behalf of the victim when necessary and appropriate to prevent the further violation of the rights of the victim; ▶ Implements and requires action to guarantee the protection of the victim; ▶ Holds the responsibility to pursue representation in court on behalf of a victim under Article 63 of the Criminal Code of Kosovo as well as the Juvenile Justice Code; ▶ Ensure that the rights of the victim are reviewed during all stages of criminal justice proceedings; ▶ Ensure that the rights and interests of victims are protected, including their special needs as witnesses. This can be done by enabling victims to testify in court without being present or at least without the presence of the suspected perpetrator, particularly through the use of appropriate communication technologies, where possible;³⁴ ▶ The obligation to advise victims on their right to seek redress according to the form of punitive damages provided for in Article 218 of the Criminal Procedure Code of Kosovo; ▶ To ensure that the victim is informed of the possibility of filing a declaration of damage caused in order to be considered by the court as a party to criminal proceedings and that the victim has access to these standard forms. If the victim decides to complete this form, they will do so within the timeframe (from the early stages of the investigation and up to 60 days from the filing of the indictment. The victim may be assisted by an authorized representative to complete this form. ▶ Ensure proper cooperation with shelters in their respective region in cases where victims and children need shelter. They ensure that, through the shelter, the victim is also informed in advance about certain hearings when the victim’s appearance in court is requested; ▶ Maintain open lines of communication with legal aid offices in their regions to ensure that such services are provided to victims of violent crime;

³⁴ The Council of Europe in Kosovo, publication “Quality Guidelines for Shelters for Victims of Violence Against Women and Domestic Violence,” at https://www.wave-network.org/wp-content/uploads/Shelter_Guideline_ALB.pdf

Prosecutors: Prosecutors, like judges, have a responsibility to provide protection for victims who come before them during criminal proceedings. It is important that the protection of vulnerable victims and child victims from hazardous labour be immediate, while the approach to investigating the cases in question be proactive. Late response can harm the health and well-being of the victim, in the absence of added protection for these cases, as required by the relevant above-mentioned articles of the Criminal Code. Kosovo has a comprehensive guaranteed protection regime for vulnerable victims, including child victims (see section on definitions of criminal offenses and additional definitions for vulnerable categories above in Chapter I).

Relevant legal provisions	Roles and responsibilities
Juvenile Justice Code, Article 43 definitions Criminal Procedure Code, Article 6 See also Article 19, paragraph 1.14 on Damage	<p>Juvenile State Prosecutor – who has expertise in criminal matters involving the juvenile, child and young adult, prosecution of adult offenders for the offences caused to juveniles, and who is competent to exercise the responsibilities set forth in the Juvenile Justice Code;</p> <p>Police investigations may be initiated by the police officer in accordance with Articles 69-83 of the Criminal Procedure Code.</p> <p>Criminal proceedings are initiated only by a decision of the state prosecutor when there is a reasonable suspicion that a criminal offense has been committed.</p> <p>It is worth mentioning that the state prosecutor can initiate criminal proceedings after receiving information from the police, other public institution, private institution, citizen, media, from information received in another criminal procedure or after the complaint or proposal of the injured party.</p> <p>If the state prosecutor considers that sufficient evidence has been gathered during the investigation to continue the main trial, he / she drafts the indictment and presents the facts on which he / she bases the indictment and provides evidence for these facts.</p> <p>Harm that directly or indirectly results from a criminal action, including loss of property, and the amount of damages may be proven by the representative of the injured party, the victim advocate or the state prosecutor. A court may order the payment of damages based on a reasonable estimate of the monetary value of the harm directly or indirectly caused by a criminal offence. (Article 19, CPC).</p> <p>If during the criminal procedure it is established that the parent abuses or neglects the parental duties and rights, or is violating the rights of the child, the prosecutor informs the guardianship body about the non-contentious procedure for the removal of parental care rights from the parent (Article 113 CPC).</p>

Guardianship Body - Centers for Social Work: provide assistance to victims in ensuring rights, tools and services from other agencies, including coordination with housing services, social assistance and access to education for children. The CSW is always called upon to respond in cases where the case concerns children involved in the case, whether as direct or indirect victims. In such cases the CSW provides all necessary assistance, with the appointment of a case manager.

CSWs as representatives of people in need, including children in need, provide support and social services, among others, for children from disordered family relationships; in case of risk of abuse or exploitation. Furthermore, the Law on Child Protection provides that CSWs are responsible for coordinating and organizing the integrated child protection system at the municipal level; implement national and local policies to protect the child, including interventions and appropriate measures to prevent and protect the child from abuse, neglect, maltreatment and violence.³⁵ Also, each CSW must designate at least one (1) responsible and specialized official to coordinate measures and interventions for child protection by exercising each competence according to the legislation in force.

Relevant legal provisions	Roles and responsibilities
<p>Law on Family</p> <p>Law on Social and Family Services, No. 02 / L-17</p> <p>Law on Child Protection</p> <p>Standard Operating Procedures for Monitoring Child Labor, developed by the Ministry of Finance, Labor and Transfers</p> <p>Guidelines for Child Labour Case Management, MLSW</p>	<p>Representatives of persons in need, including children in need, provide support and social services, among others, for children from disordered family relationships; in case of risk of abuse or maltreatment;</p> <p>Ensure coordination and organization of an integrated child protection system at the municipal level; implement national and local policies to protect the child, including interventions and appropriate measures to prevent and protect the child from abuse, neglect, maltreatment and violence</p> <p>Exercise the role of the guardianship body.</p>
<ul style="list-style-type: none"> ▶ The CSW appoints the case manager ▶ Performs the case assessment (initial and comprehensive) ▶ Coordinates activities for the provision of social services (preparation of service plan, implementation of service plan and case monitoring, including the quality and impact of services provided) ▶ Provides support to the victim ▶ For a child under the age of 18 without parental care, in addition to the case manager, the guardianship body also appoints a legal guardian ▶ A work plan is drafted together with the victim if he / she is housed in shelters for protection and assistance to child victims; ▶ Informs the victim about the existing services and the possibility to benefit from them; ▶ Assists in obtaining personal documents and other administrative services for the victim. ▶ In cases when the child victim is in a disordered family relationship and at risk of ill-treatment or abuse, CSW can also submit a request for removal of parental right before the relevant court; ▶ Exercises the role of the guardianship body even in cases when the parental right is revoked ▶ Refers to social assistance if it meets the criteria according to law; ▶ Removes the child from the family if there is danger; ▶ For important decisions for children the case manager consults with the child's legal guardian; ▶ Gives professional opinion submitted at the request of justice bodies / courts, prosecution, police.³⁶ 	

³⁵ Article 15, Law on Child Protection.

³⁶ Adapted from CSW legal responsibilities defined in the Law on Social and Family Services, and SOPs for the treatment and provision of assistance to victims of domestic violence. See at <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2447>

Support Organizations - Shelters: Provide short and mid-term shelter as well as other support services for victims and their families after victimization.³⁷ In cases of more serious abuse and mistreatment they may even offer residential shelter until the child victim reaches adulthood.³⁸ According to Article 8 of Kosovo Law 02 / L-17 on Social and Family Services,³⁹ the non-governmental sector provides contract services, on behalf of the Municipal Directorate in case of local services, as well as the Department of Social and Family Policies with the support of the now Ministry of Labor, Transfers and Finance (managed in the past by the former MLSW), when the need arises to provide services throughout Kosovo or even on their own initiative (for example with donor support). Therefore, the non-governmental sector that provides services to victims of crime, including victims of domestic violence, abuse and misuse of children but also victims of trafficking, is registered with the MLSW and is subject to licensing by agreeing to adhere to licensing regulations as defined by the ministry.⁴⁰ The ministry has also provided financial support to shelters since 2005 and shelters have the right to seek funding support from municipalities. Each year, the Ministry of Finance, Transfers and Labor must, through a public call, announce for external contracting social services and funding of NGOs, according to the Regulation of the Government of Kosovo (Ministry of Finance) No. 04/2017 on Criteria, Standards and Procedures for Public Financing of NGOs.

There are currently 41 licensed NGOs in Kosovo, ten of which are licensed and contracted as service providers for victims of gender-based violence and victims of trafficking, as well as child victims. As of December 2019, there were 900 individuals licensed to provide social services and 21 licensed NGOs. There are 22 policies of minimum standards approved by MLSW for the provision of social services (See, Strategy of the Ministry of Labor and Social Welfare, 2018-2022 and the Council of Europe report, 2019).⁴¹ Shelters also provide professional services and training for victims with a view to reintegrating them into society.

³⁷ See, for example, "Standard Operating Procedures for the Victims Advocacy and Assistance Office, at <https://docplayer.net/69548956-Udhezim-mbi-procedurat-standarde-te-veprimit-per-zyren-per-mbrojtje-dhe-ndihme-viktimave.html>

³⁸ See the Council of Europe in Kosovo, publication "Quality Guidelines for Shelters for Victims of Violence Against Women and Domestic Violence," at https://www.wave-network.org/wp-content/uploads/Shelter_Guideline_ALB.pdf

³⁹ See <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2447>

⁴⁰ See Council of Europe in Kosovo, publication "Quality Guidelines for Shelters for Victims of Violence Against Women and Domestic Violence," at https://www.wave-network.org/ewp-content/uploads/Shelter_Guideline_ALB.pdf

⁴¹ See the report Council of Europe in Kosovo "Needs Assessment for the Development of a Quality Guideline for VAW and DV Shelters in Kosovo (2019).

Relevant legal provisions	Roles and responsibilities
Law on Social and Family Services, No. 02/L-17 Law on Child Protection Regulation of the Government of Kosovo (Ministry of Finance) No. 04/2017 on Criteria, Standards and Procedures for Public Funding of NGOs	Provide short- and mid-term shelter as well as other support services for victims and their families after victimization; In cases of more serious abuse and ill-treatment they may also offer residential shelter until the child victim reaches adulthood; Provide contract services, on behalf of the Municipal Directorate in case of local services, as well as the Department for Social and Family Policy with the support of the now Ministry of Labor, Transfers and Finance (former MLSW), when the need arises to provide services throughout Kosovo or even on their own initiative with the support of donors.

- ▶ Shelters provide safe and supportive environment;
- ▶ Clothing, food;
- ▶ Health services and medication;
- ▶ Psycho-social counselling and legal advice;
- ▶ Recreational activities;
- ▶ 24 hours security and care;
- ▶ Contact VAs for legal advice to the victim;
- ▶ May refer the victim for medical treatment;
- ▶ Develop an individual victim plan in cooperation with the CSW;
- ▶ Require the presence of the Case Manager from the CSW for administrative matters - issuance of documents;
- ▶ Maintain the confidentiality of victim data;
- ▶ Enable the monitored contact of the victim with a family member as well as notifying the family in cases when the parental right has not been revoked;
- ▶ the family in cases when the parental right has not been revoked;
- ▶ Advising the victim on the potential consequences in case of refusing shelter;
- ▶ Opening the case file;
- ▶ Informing the victim about the rules and services of the shelter as well as drafting an individual plan
- ▶ Development of a Memorandum of Understanding between the shelter, the CSW and the victim for the education plan;
- ▶ Providing training;
- ▶ They should provide special space for victims with special needs

3. Other parties supporting child victims

Educational institutions

Educational Institutions plan individualized educational support for the withdrawal of children from work and identify barriers to access to education at the school level. They can also plan interventions at the school level and propose measures for the Municipal Department of Education as well as the Ministry of Education, Science and Technology.⁴²

Educational institutions can plan awareness-raising activities for students on the problem associated with hazardous jobs and plan collaborations with other service providers and partners such as the police, CSWs, NGOs that provide educational programs and focus on child protection, businesses, etc. The aim should be the removal of children from labour that combine school and work and/or the return and reintegration of children who have dropped out of school.⁴³

Health institutions

Health institutions identify victims in the first contacts with them during the medical examination; provide health services to the victim free of charge. They should notify the police in cases where it is suspected that the patient's wounds or injuries were caused as a result of violence or maltreatment and abuse of the child. They must also prepare the medical report and open the case file, which is kept confidential in accordance with the Law on personal data protection.⁴⁴ They also prepare a written report on the case when requested by the judiciary and implement the requirement for mandatory medical treatment for drug and alcohol addiction and psychosocial treatment, including cases of perpetrators of violence according to the measure imposed by the court. Also, health institutions plan counseling activities for parents or guardians and other family members of children injured at work about the possible risks to the health and development of children. Plan collaborations with school institutions and CSWs in providing professional support in addressing the topic of child economic abuse and health consequences (SOPs, MFLT).

Vocational training centers, are located within the regional employment centers which provide a range of vocational training for victims. Upon completion of the training, the victim can be registered in the list of jobseekers in order to be considered for employment.

⁴² Standard Operating Procedures for Children in Hazardous Child Labour, Ministry of Finance, Labor and Transfers, 2021.

⁴³ Ibid.

⁴⁴ Ibid.

► CHAPTER III

PROTECTING CHILDREN, VICTIMS OF HAZARDOUS LABOUR

Prosecutors and judges are expected to provide information about the victim's rights, which include the following:

- Victims have certain rights and should be informed of those rights.
- Victims need to be well informed in order to make their own decisions about participating in all stages of the criminal justice process. It is not recommended to simply read a list of victims' rights. It is more effective to have a conversation with the victim about the relevant criminal proceedings, his/her obligations and rights, which would allow him/her to ask questions. Such conversations should take place as early as possible. It is good practice to explain to the victim his/her rights in person and to provide written material that the victim can consult at a later date.
- The right to be treated with compassion and respect for their dignity.
- The right to have access to the criminal justice system and prompt treatment.
- The right to fair restitution and compensation, including making a claim for compensation for damages in criminal cases.
- The right to express their views and concerns and have them presented and considered at appropriate stages of the criminal case, including: submitting proposals regarding the evidence; reviewing records and becoming familiar with them and making proposals for further investigations; and to be heard in preliminary hearings, the main hearing, and making a concluding speech.
- The right to have proper assistance throughout the legal process, including legal aid
- The right to information about their rights, their role and purpose, timing and progress of their case and the disposition of their case, including information about the release of an accused / convicted person from detention or escape from custody; the status of their complaint, the progress of investigations or proceedings, their role in the proceedings and the outcome of the case.

- The right to support, including necessary material, medical, psychological and social assistance through government, voluntary, community-based and internal means.⁴⁵

1. Communication tips for prosecutors when interviewing child victims

- Care should be taken when interviewing victims in a victim-centered approach so as not to cause secondary victimization, as well as to ensure that the perpetrator is held to account.
- Effective communication with the victim at the outset is essential to help the victim give a clear account of what happened. This will enable prosecutors to make more informed decisions on how to proceed with the case.
- The prosecutor has to earn the trust of the victim. The victim needs to know that he/she is being heard and that their needs are being understood and addressed.
- The information and manner of communication of the prosecutor can empower him for the smooth running of the trial. The interview should take place in a neutral environment, where the victim feels safe and comfortable and should have privacy. Interview locations should not be in the interrogation room at the police station or where the victim may be contacted by the perpetrator. The prosecutor and a victim advocate should, if possible, conduct the interview together. The victim's advocate will provide support as he or she goes through the trauma of recounting the violation. Consider allowing the victim to be accompanied in meetings by a lawyer and/or support person. When allowing a support person who is a relative or friend, consider whether the presence of such a person could be considered harmful. Consider recording interview with the victim (audio and visual if possible) to reduce the need for additional interviews.
- When interacting with the victim, it is important to put the victim at ease by using a safe and supportive language. Listen carefully to the victim. Give him/her time to tell you what happened. Give the victim time to tell what happened in his/her words (i.e., unstructured

⁴⁵ The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly Resolution 40/34

interview). Then when there are things left out of what you wanted to explore, you can always come back to them with open-ended questions.

- ▶ When asking questions, allow silence in the conversation so that the victim can compose their thoughts
- ▶ Ask questions clearly and in a non-judgmental or accusatory manner.
- ▶ Do not use legal technical language. While it is important to show empathy during the interview, do not become overly emotional. You need to ensure that the victim has control over the flow of information and avoid the risk of imposing your personal views
- ▶ Do not express frustration or annoyance if the victim has difficulty remembering facts or giving clear answers. Pay attention to signs of trauma, anxiety or stress and provide reassurance when needed.
- ▶ Do not make promises that you cannot keep.
- ▶ Prosecution of a case can take a long time and this can be difficult for the victim. Try to understand the victim's challenges. Victims can have multiple problems, as child victims are sensitive. They may have low self-esteem or may experience the past again by experiencing anxiety or aggression.
- ▶ Be patient and spend time with them;
- ▶ At the end of the interview, make sure that the victim is aware of the possibility of communicating with you and the possibility of contact. Explain the role of the victim in the trial, including the stages of the criminal trial, the timing, and whether any special proceedings will be used (e.g., video evidence, defenses). The victim most likely has no knowledge of the legal system.
- ▶ Be aware that there may be a significant period of time between the actual interview and the court appearance. Explain how his/her statement will be used in the trial and that the defense will receive a copy of it.

- ▶ Explain your role in criminal proceedings, including the role of other courtroom actors, such as the judge, court clerk, etc. Explain the rights and opportunities of the victim.⁴⁶

2. Communication tips for judges when interacting with the victim

Judges' interactions with victims are usually limited to the testimony of witnesses in court (during pre-trial hearings or trials). All judges should be aware that the victim/witness may have had previous interactions in court and thus should be prepared to clearly explain the legal process currently taking place, the possible outcomes and consequences for the victim. All judges play a critical role in minimizing the factors that contribute to secondary victimization and re-traumatization. This can be done by including a victim-sensitive approach in their engagement/interactions with victims.⁴⁷

3. Tips for judges when communicating with victims:

- ▶ Listen carefully to the victim.
- ▶ Be proactive in asking about specific details.
- ▶ Do not ask unjustly intrusive questions, embarrassing, or overtly repetitive questions.
- ▶ Treat victims with dignity and respect. It is the judge who sets the tone and creates the environment for a fair trial.
- ▶ Do not express frustration or annoyance if the victim appears to be not cooperative.
- ▶ Keep in mind both what you say and what you communicate through body language.
- ▶ Explain the rights and opportunities of the victim.
- ▶ Explain the purpose of the particular hearing and the process.

⁴⁶ Ibid and also the Manual for the Training of Judges and Prosecutors in Dealing with Cases of Domestic Violence, Section on International Standards, Council of Europe, 2021.

⁴⁷ Ibid.

2. The rights defined in the legislation regarding the protection of child victims

The Juvenile Justice Code also explains in detail the process of protecting child victims, reflecting a range of rights guaranteed by international human rights standards and the rights of the child in particular.

The Right to be informed (Article 119):⁴⁸

The victim or witness child, parents, adoptive parent, guardian, authorized representative, victims' defence counsel from the first contact with the trial and during the entire this trial shall be immediately informed on the course of the trial and, for as much as it is possible and appropriate, on the issues below:

- ▶ criminal court proceedings including both adults and juveniles, including the role of victim or witness children, importance, time and manner the testifying is provided, as well as the methods how the interviews are conducted during the preparatory or trial proceedings;
- ▶ the existing supporting mechanisms for victim or witness child when he files an appeal and participates in the preparatory proceedings or court proceedings, including assigning of an authorized representative or other appropriate person, appointed to provide assistance for the victim;
- ▶ the location and special schedule of sessions and other relevant activities;
- ▶ availability of protection measures;
- ▶ the existing mechanisms for reviewing of rulings that harm the victim or witness child;
- ▶ the relevant rights of the victim and witness children;
- ▶ the existing opportunities for gaining compensation from the offender or the state through court proceedings, civil proceedings and other proceedings;

- ▶ availability of health, psychological, social and other relevant services and means that provide for the use of these services, as well as the availability of counselling and legal representation or any other kind and emergency financial support, if such a thing is possible;

- ▶ the progress and solution of a specific case, including detention, arrest and detention on remand of the defendant, any close change of this situation, the prosecutor's ruling, relevant developments after completion of the trial and the final result of the case.

- ▶ **Safety of child victim:** At every stage of the court proceedings, when the security of the victim or witness child is at risk, the competent judge shall decide to undertake protection measures for the child. These measures may include the measures provided by the relevant Law on protection against domestic violence, but not limited to: 1.1. avoid direct contact between the victim or witness child and the defendant at any stage of the court proceedings; 1.2. require protection for victim or witness child from the police or other relevant institutions and to not make public the location of the child; 1.3. undertake or request from the competent authorities undertaking of other protection measures that may be judged as appropriate.⁴⁹

The competent judge shall ensure that the procedures in relation to the testifying of the victim or witness child are conducted in a language that is simple and understandable for the child. If the child needs assistance in translation to a language he understands, a translator shall be made available free of charge. If it is assessed that special assistance measures should be undertaken, having into consideration the age, level of maturity or individual special needs of the child that may include, but not limited to, disabilities, if any, poverty or risk from re-victimization, in order for the child to testify

⁴⁸ See Official Gazette of the Republic of Kosovo no. 17/18 October 2018, Prishtina 54 Juvenile Justice Code No. 06/I-006.

⁴⁹ Article 121 Protection Measures and Orders 1.

or participate in the court proceedings, such measures are provided free of charge.⁵⁰

From the beginning of the investigation stage and during the trial, victim or witness children shall be supported by a trained person who has the professional capabilities to communicate with children of different ages and development stages and to assist them in order to prevent the risk from violation, re-victimization. The supporting person shall be appointed by the competent judge. The supporting person shall be given sufficient time to familiarize with the child before the first interview is conducted. Every interview of the victim or witness child conducted within the court proceedings shall be conducted in the presence of the supporting person. The continuity of relations between the child and the supporting person shall be ensured for as long as it is possible during the court proceedings. The competent judge that appointed the supporting person shall monitor the work of the supporting person and shall assist him, where appropriate. If the supporting person fails to perform his duties and functions in accordance with this Chapter, the court shall appoint a replacing supporting person after consulting the child.⁵¹

The Role of the Supporting Person: provides the child with responsible emotional support; provides the child with assistance appropriate for the child during the court proceedings. This assistance may include measures for mitigation of negative consequences of the criminal offence for the child, measures to assist the child to continue his daily life as well as the measures to assist the child to face administrative issues arising from the circumstances of the case; provide advice if therapy or counselling is necessary; get in touch and communicate with the parents or guardian, family, friends and the authorized representative, when appropriate; inform the child on the composition of investigation team or the court as well as on the other issues foreseen in this Chapter; through coordination with the authorized representative representing the child or in the absence of this authorized representative shall discuss with the court, the child and parents or his guardian about the different alternatives of providing testimony, such as, e.g. when they

become available, video recording or by other means to protect the highest interest of the child.

Through coordination with the advocate representing the child or in the absence of this advocate shall discuss with the police, prosecutor and the court if it is advisable to issue an order for protection measures; request the issuance of the order for protection measures, when appropriate.⁵²

Waiting Areas: The Court shall ensure that the victim or witness children have the opportunity to wait in special waiting areas, furnished in an appropriate and friendly manner for the children, including facilitations for people with special needs. When possible, the waiting areas used by victim or witness children shall be separated from the waiting areas designated for adult witnesses. The competent judge, when appropriate, may order the victim or witness child wait in a location away from the courtroom and invite the child to appear when necessary. The competent judge shall give priority to hearing of the evidence of victim or witness children, in order to shorten the time of waiting when presenting in the court.

Emotional Support for Victim and Witness Children (Article 128): Apart from the parents, guardian and authorized representative or other appropriate person appointed to provide assistance, the competent judge shall allow the supporting person to accompany the victim or witness child during the time he participates in the court proceedings, in order to reduce anxiety or stress. The competent judge shall inform the supporting person that he as well as the child himself may request from the court rest when the child needs it. The competent judge may order removal of parents or guardian of the child from the session only when this is for the highest interest of the child.

Equipment in the Courtroom (Article 129): The competent judge shall ensure that the appropriate arrangements are made in the courtroom for victim or witness children, such as, for example, but not limited to, use of chairs with raised seats and assistance to children with disabilities. The layout of the courtroom shall ensure that, as long as it is possible, the child has the possibility to sit close to parents, guardian, supporting person or his authorized representative during the entire proceedings.

Questioning from Opposing Party (Article 130): When appropriate and taking into consideration the rights of the offender, the competent judge shall not allow questioning of the victim or witness child by the offender. This questioning by the opposing party may be undertaken by the authorized representative through the juvenile judge whose task is to prevent addressing of any question that may expose the child to intimidation, difficulty or unnecessary anxiety. The judge can take steps to protect the child victim through the interview if possible, such as: behind a screen; using equipment that alter the image and voice; through questioning in a different location simultaneously transmitted to the courtroom through a closed circuit monitor; through a questioning of a witness child recorded in videotape, before the hearing session, in cases when the authorized representative of the offender participates in the questioning and when he is given the possibility to ask the victim or witness child; to hold close trial sessions; to order temporary removal of the offender from the courtroom if the child refuses to testify in the presence of the defendant or if the circumstances show that the child may refrain to tell the truth in the presence of that person. Similarly, to allow breaks during the time the child is testifying; to undertake every other measure that the court may assess necessary, including, as the case may be, maintaining of confidentiality and taking into consideration the best interest of the child and the rights of defendant.

Information on the Final Result of the Court (Article 133 and Article 134): The competent judge shall inform the child, parents or his guardian and the supporting person of the final result of the court. The competent judge shall invite the supporting person to provide emotional support for the child, to assist him accept the final result of the court, if necessary. Immediately after the completion of court proceedings, the supporting person shall connect with the appropriate organizations and professionals to ensure that the victim or witness child is provided with further counselling and treatment, if necessary.

⁵⁰ Article 122 Language, Translator and other Measures for Special Assistance.

⁵¹ Article 124, JJC.

⁵² Article 125 of the Juvenile Justice Code.



ANNEX I:

ANNEX I: TABLE OF SOPS FOR RESPONDING TO
HAZARDOUS CHILD LABOR CASES

ANNEX 2: MECHANISMS AND INTER-INSTITUTIONAL COORDINATION



► ANNEX I:

Table of SOPs for responding to hazardous child labor cases

INVESTIGATION

Actions	Responsible institution	Supporting institution	Support actions by other stakeholders
1. After receiving information from various stakeholders (Police, Media, Private Persons, etc.) the investigative process begins	Police, State Prosecutor	Victims' Advocate Centre for Social Work	Media, Private Persons, Educational Institutions, Health Institutions, NGOs, etc.
2. The police are authorized to undertake certain investigative actions such as the collection of evidence, the time of commission of the criminal offense, the manner of commission of the criminal offense)	State Prosecutor, Kosovo Police	Victims' Advocate Centre for Social Work	Health Institutions Educational Institutions, Forensics
3. Collection of evidence as a process means, inter alia: obtaining the statement of the child as a victim (not more than 2 times according to the criminal procedure); obtaining evidence from other witnesses; the statement of the suspect; information from the Centre for Social Work and the Victims' Advocate; medical reports; collection of material evidence; scene inspection; photography; accompanying documentation for the case as well as receiving the official note from the CSW, etc. The presence of a psychologist, victims' advocate, CSW, parent is also ensured when possible (not in cases where the removal of parental rights is required)	State Prosecutor, Kosovo Police	Victims' Advocate Centre for Social Work	Health Institutions Educational Institutions, Forensics
4. After the evidence is collected, the investigation or criminal report is initiated	State Prosecutor, Kosovo Police	Victims' Advocate Centre for Social Work	Educational and health institutions
5. Filing an indictment	State Prosecutor	Victims' Advocate Centre for Social Work, Kosovo Police	
6. Procedural actions of the court (the competence, the statute of limitations, the initial examination, the second examination and the main examination are determined)	Judge	Parties involved in court proceedings	
7. If during the criminal procedure it is established that the parent abuses or neglects the parental duties and rights, or is violating the rights of the child, the prosecutor informs the guardianship body about the non-contentious procedure for the removal of parental care rights from the parent.	State Prosecutor	VA, CSW	Organizations licensed to provide housing service for children without parental care

8. The victim is informed about his/her rights in court (prosecutor, VA, Judge) and a suitable environment is created during the interrogation of the child victim in accordance with the interrogation techniques and procedures defined in Chapter I, Part Five of the Juvenile Justice Code	State Prosecutor Victims' Advocate	The Centre for Social Work as a support institution also defined in the Juvenile Justice Code	NGOs providing services to child victims of abuse and maltreatment can also provide psycho-social counselling as well as temporary accommodation
9. In accordance with the requirements of the Juvenile Justice Code, services, institutions or organizations that provide services to children, take appropriate measures in order that persons who have been charged with a criminal offense, classified as a criminal offense against a child, are not in contact with children (Article 116)	State Prosecutor Judge	Victims' Advocate Centre for Social Work	NGOs providing services to child victims of abuse and maltreatment can also provide psycho-social counselling as well as temporary accommodation
10. The victim or witness child, from the first contact with the trial and during the entire this trial, is immediately informed on the course of the trial, including: the role of victim or witness children; the existing supporting mechanisms for victim or witness child; availability of protection measures; the relevant rights of the victim and witness children; the existing opportunities for gaining compensation from the offender or the state; availability of health, psychological, social and other relevant services; the progress and solution of a specific case, including detention, arrest and detention on remand of the defendant, etc. (see further Article 119)	State Prosecutor Judge	CSW, VA	NGOs providing services to child victims of abuse and maltreatment may also provide counselling
11. For further judicial actions see the part of the SOP table, the part related to the Trial procedure			
12. Court decision	Court		
13. Rehabilitation and reintegration of the Victim, including the active involvement of the support institution after the court proceedings under Article 134 of the Juvenile Justice Code: After the court completion of court proceedings, the supporting person shall connect with the appropriate organizations or professionals to ensure that the victim or witness child is provided with further counselling or treatment.	Victims' Advocate from the State Prosecution Judge	CSW	Service-providing NGOs for child victims of abuse and maltreatment can also provide psychosocial counselling as well as temporary housing (see the full list of actions that service-providing NGOs can take in Chapter III Roles and Responsibilities of different stakeholders in providing protection to child victims).

PROTECTION

Action	Carrying institution	Supporting Institution	Support actions by other stakeholders
1. It is the obligation of parents, teachers, doctors, social workers, victims' advocates and other categories of professionals, where appropriate, to notify the police, if there is grounded basis to suspect that the child is a victim of a criminal offense. The persons above assist the child until the child gets the proper professional assistance. The obligation to file a report, as provided in Article 114 of the Juvenile Justice Code, exceeds the obligation for confidentiality of information, except in the case of lawyer-client confidentiality.	CSW, VA	Teachers, doctors and other categories of professionals	NGOs providing child victim services as well as other NGOs engaged in child victim assistance.
2. Services, institutions or organizations that provide services to children, take appropriate measures so that persons who have been charged with a criminal offense, classified as a criminal offense against a child, are not in contact with children.	CSW, Victims' Advocate, State Prosecutor, Judge	CSW, Victims' Advocate	NGOs providing child victim services that provide shelter for the child victim
3. Identification of the victim child cases is performed by various institutional stakeholders or service providers and child rights monitors such as NGOs	CSW, Victims' Advocate, State Prosecutor	NGOs in providing basic services such as temporary housing	Identification by other external stakeholders such as the media
4. Referral of the victim child case and appointment of the case manager is performed by the CSW	CSW	Victims' Advocate, State Prosecutor, Kosovo Police	
5. Case assessment as well as coordination of steps for further action on the case is done in close cooperation of CSWs with VAs	CSW, VA	State Prosecutor	NGOs providing services to child victims such as "Shpresa dhe Shtëpi për Fëmijë" (Hope and Home for Children) in Prishtina, supported by the Ministry of Finance, Labour and Transfers (former MLSW) in accordance with the licensed mandate and funding of shelters for child victims
6. Providing the victim child support by the CSW by appointing a legal guardian and providing temporary accommodation as well as continuing education if it is considered that the victim is not at risk	CSW	Victims' Advocate, State Prosecutor	NGOs providing services to victim children Educational Institutions
7. The representation of the victim child in the police is provided by the CSW	CSW and Victims' Advocate	State Prosecutor	

Action	Carrying institution	Supporting Institution	Support actions by other stakeholders
8. Compilation of the request for protection order is undertaken according to the case	VA, CSW	State Prosecutor	
9. Representation in court is provided	VA, CSW	State Prosecutor, Judge	NGOs providing services to victim children
10. Referral to other stakeholders for ongoing support for the victim is initiated	CSW, VA	NGO	Educational Institutions, Health Institutions
11. The compilation of the victim's statement is initiated	VA	CSW, State Prosecutor	NGOs providing services to victim children
12. The claim for Compensation is drafted, the victim is immediately informed about the possibility of compensation (See Article 62 of the Criminal Procedure Code of Kosovo)	VA	CSW, State Prosecutor	
13. Long-term reintegration and rehabilitation of the victim child after court proceedings is provided	CSW	VA	NGOs providing services to victim children Educational Institutions Health Institutions

TRIAL

Action	Responsible institution	Supporting Institution	Support actions by other stakeholders
<p>1. At any stage of the judicial process, when the safety of the victim or witness child is deemed to be in danger, the Judge decides to take protective measures for the child. These measures may include the measures provided for in the relevant Law on Protection Against Domestic Violence, but not limited to the following:</p> <p>1.1. avoid direct contact between the victim or witness child and the accused, at any stage of the trial;</p> <p>1.2. request protection for the victim or witness child from the police or other relevant institutions and not make public the location of the child;</p> <p>1.3. take or request from the competent authorities the taking of other protective measures that may be deemed appropriate.</p>	Judge	VA, CSW	<p>NGOs providing services to victim children</p> <p>Educational Institutions</p> <p>Health Institutions</p>
<p>2. The Judge shall ensure that the proceedings concerning the testimony of the victim or witness child are conducted in a language that is simple and understandable to the child and that the trial is provided in a language understandable to the victim child, the interpreter and other measures for special help.</p>	Judge	VA, CSW	
<p>3. The court shall issue a written authorization for the medical examination or taking of examination from the body only if there are grounded reasons to believe that the examination or taking of a sample from the body is necessary in the presence of the parent or legal guardian.</p> <p>In case of deprivation of parental rights or the parent suspected of committing a criminal offense, the presence of the parent is not allowed</p>	Judge	VA, CSW	<p>NGOs providing services to victim children</p> <p>Health Institutions</p>
<p>4. The support person is appointed by the Judge and is from the Centre for Social Work. The judge can also consult with the victim regarding the gender of the support person if there are preferences.</p> <p>Any interview of the victim or witness child, conducted in the context of the trial, is conducted in the presence of the support person.</p>	Judge	CSW	<p>NGOs providing services to victim children</p>
<p>5. The Judge, who appoints the support person, monitors the work of the support person and assists him, as the case may be. If the support person does not perform his/her duties and functions in accordance with this chapter, the court shall appoint a replacement support person after consultation with the child</p>	Judge	CSW	<p>NGOs providing services to victim children</p>
<p>6. The Judge may appoint a psychologist or relevant expert for examination of child's capability. The examination of capability aims to determine whether or not the child is capable to understand the questions addressed to him or her in a language that is understandable to him or her, as well as the importance to answer them truthfully.</p> <p>The Judge may proceed with the assessment of capability based on the questions posed by the prosecutor and defence counsel if the Judge considers that the examination of child's capability may be conducted even without the expert whose presence cannot be ensured.</p>	Judge	CSW	<p>Psychologist, relevant expert in the field</p>

Action	Responsible institution	Supporting Institution	Support actions by other stakeholders
<p>7. The court shall ensure that the victim or witness children have the opportunity to wait in special waiting environments, furnished in an appropriate and friendly manner for the children, including facilitations for people with special needs. The waiting environments used by victim or witness children are not visible or allowable for the persons charged for committing the criminal offense.</p>	Judge	CSW, VA	
<p>8. Apart from the parents, guardian and authorized representative or other appropriate person appointed to provide assistance, the Judge shall allow the supporting person to accompany the victim or witness child during the time he participates in the court proceedings, in order to reduce anxiety or stress.</p> <p>The Judge shall inform the supporting person that he as well as the child himself may request from the court rest when the child needs it.</p> <p>The Judge may order removal of parents or guardian of the child from the session only when this is for the highest interest of the child.</p>	Judge	CSW, VA	<p>NGOs providing the victim child services if designated as supporters</p>
<p>9. With the request of victim or witness child, parents, guardian, authorized representative, his/her supporting person, appointed to provide assistance or based on the request of the institution, the Judge shall, taking into consideration the best interest of the child, order one or many of the measures to protect the private life and physical wellbeing of victim and witness children such as: prohibit the disclosure of the identity of the child; non-publication of information revealing the identity of the child; set a nickname for the child, etc.</p> <p>(See for more details Article 131 of the Juvenile Justice Code).</p>	Judge	CSW, VA, State Prosecutor	<p>NGOs providing services to victim children</p>
<p>10. The Judge shall inform the victim or witness, child parents, guardian and his/her authorized representative of the procedures to ask for compensation. After the punishment of the offender and apart from any other measure imposed against him, the Judge, with the request of the prosecutor, victim, parents or his guardian, or victim's authorized representative, or based on the request of the institution itself, may order that offender make the restitution or compensation for the child.</p> <p>(See Article 132 of the Juvenile Justice Code)</p>	Judge	CSW, VA, State Prosecutor	
<p>11. The Judge shall inform the child, parents or his guardian and the supporting person of the final result of the court. The Judge shall invite the supporting person to provide emotional support to the child, to assist him/her accept the final result of the court, if necessary.</p>	Judge	CSW	<p>NGOs providing the victim child services if designated as supporters</p>
<p>12. The role of the support person after the completion of court proceedings (see above columns on Defence)</p>			

▶ ANNEX II:

Mechanisms and inter-institutional coordination

Institutional monitoring mechanisms

1. Court
2. Ministry responsible for providing social and labor services
3. Department of Social and Family Policy
4. Relevant Ministry of Education and Science
5. Relevant Ministry of Health
6. Relevant Ministry of Agriculture, Forestry and Rural Development
7. Relevant Ministry of Local Government Administration
8. Municipality
9. Directorate of Health and Social Welfare
10. Municipal Directorate of Education
11. Municipal Directorate of Agriculture
12. Ombudsperson's Office
13. Labor Inspectorate
14. State Prosecutor
15. Coalition of NGOs for the Protection of Children

Operational institutional mechanisms

1. Labor Inspectorate
 2. Kosovo Police
 3. Municipal Inspectorate
 4. Centers for Social Work
 5. Family Medical Centers
 6. Secondary and tertiary health care institutions
 7. Mental Health Centers
 8. Schools
 9. Agency for Rural Development
 10. Forest Agency
 11. Victims Advocacy and Assistance Office
 12. Employment Offices
 13. Vocational Training Centers
 14. Case Management Roundtables
 15. NGOs and Shelters
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