



CHILD PROTECTION HUB
FOR SOUTH EAST EUROPE
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REVIEWING EXISTING QUALITY MECHANISMS IN CHILD PROTECTION. BOSNIA AND HERZEGOVINA 2017. NATIONAL REPORT



SARAJEVO, 2017



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IN CHILD PROTECTION
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NATIONAL REPORT

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**THIS PUBLICATION WAS POSSIBLE THANKS
TO THE SUPPORT OF:**





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Background of the Project

The Child Protection Hub for South East Europe is a regional initiative operating in eight countries of South East Europe to provide capacity development and networking opportunities for child protection professionals and related workforce to develop and improve the knowledge base available for these professionals / in their languages.

Every year, the Hub develops a policy paper on a select topic of wider interest, in order to explore one aspect of policies effecting children, to identify good practice and to facilitate cross-country learning of different approaches and solutions to similar problems. These papers are the basis of Child Hub's annual thematic conferences. In 2015 the first conference – and paper explored multi-disciplinary child protection – and collected policy documents and tools that were in use in the region. In 2016 the impact of decentralisation on social services was discussed at the annual conference and a series of papers from 9 countries described the national situation.

In 2017 Child Hub wants to produce papers describing existing standards, regulations, indicators and systems for the monitoring of the quality of child protection services in 8 countries (Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Kosovo, Moldova, Romania and Serbia). The existence of standards has been in focus in many countries in the recent past, and the EU has also acknowledged its importance in its Reflection paper – encouraging and asking Member States to follow the 10 principles included. In line with the **European Union's 10 principles of integrated child protection services** the research should assess as to what extent countries comply with the principle of:

„Standards, indicators and tools and systems of monitoring and evaluation are in place. Systems are effectively regulated and independently monitored and accountable ensuring accessible, quality, child-sensitive services and care for all children“.

Beyond country reports a regional review should also summarise main similarities among the countries as well as identify potentially promising practices that are worth replicating.

Key Concepts

Accountability: an aspect of governance, that implies that governments, elected officials are accountable, answerable to their constituents, citizens. It implies that beneficiaries are regularly informed of the actions of government agencies and have a say in future actions and activities.

Best Interest of the Child: a child rights principle deriving from the UN Convention on the Rights of the Child. Assessing the best interests of a child means to evaluate and balance „all elements necessary to make a decision in a specific situation for a specific individual child or group of children.

Case review: in our context it will mean a process of reviewing lessons learnt from a child protection case in order to improve child protection practices. The review is ideally a public document widely distributed among different institutions and child protection actors.

Child protection services: in our context it will mean all types of services around the child that supports their proper development, well-being and protection from abuse, exploitation, neglect. Services can be delivered by state bodies (e.g. centres for child protection), non-governmental organisations (e.g. NGO-run shelters, kindergartens, etc.), church organisations (church-led educational institutions) and even for-profit organisations, based on a service contract with government.

Child-sensitive services: in our context it will mean the extent to which services (e.g. juvenile justice processes, correctional facilities, victim-protection programs, etc.) are tailored to the specific needs of children, whether the communication within these services is child-friendly, whether the services are accessible easily for ALL children, including vulnerable populations.

Do no Harm: the principle of do-no-harm in our context will mean that child protection professionals have to minimise harm to children when intervening or acting on their behalf. Professionals always have to weigh in the benefits as well as the potential harm of their interventions.

Institutional care: children who are not under the care of their parents or relatives for any reason are under state care. This may take the form of foster care, kinship care but also institutional care, when children are living in group homes under the supervision and care of professional child protection professionals.

Promising Practice: a method or technique that has been generally accepted as superior to any alternatives because it produces results that are superior to those achieved by other means or because it has become a standard way of doing things, e.g., a standard way of complying with legal or ethical requirements. For a proper description of good practice please consult FAO's document.

Transparency: transparency in our context will mean operating in such a way that it is easy for citizens to see what actions are performed. It guides governments' decisions and policies on the disclosure of information as a measure of accountability.

Research Methodology

The research design applied a mixed-methods approach in order to ensure that data was rich, with strong explanatory potential, while also being comprehensive, measurable and accurate. A mixed methods approach improved the validity of results. The evaluation drew on the perceptions, views, feedback and data provided by beneficiaries, partners and stakeholders as well as by researching all available sources. Diverse data sources were included to ensure that results were objective, reliable, and based on the most comprehensive and relevant information available.

Where it was available, quantitative data was used to provide an overall description and numerical measure of research results.

Qualitative data provided a more in depth understanding of the results. It was particularly useful for exploring subjective and contextual issues, identifying and understanding relationships. Qualitative data provided the most valuable evidence for answering

research questions about the relevance, effectiveness, efficiency and sustainability of the Child Protection System in general, thus the Monitoring and data collection system. Methods that were used throughout this endeavour encompassed **desk research, online questioner and semi-structured interviews.**

In accordance with provided guidance from Child Hub team regarding preparing questions for the research which will be later compared with other countries in the region, the overall question of the research was supposed to answer is: *How does the national government ensure that it can provide necessary oversight over child protection services at different levels of governance in the country and what are potential promising practices in this regard?*

In order to give answer to this and many other questions, an online survey was created and shared with more than 20 stakeholders coming from Centres for Social Welfare throughout BiH out of which 16 provided response. The questioner was sublimed out of following questions:

- What are the policies and laws regulating the monitoring the quality of child protection services and what are the tools and methodologies used?
- To what extent is the system providing appropriate oversight over services provided directly by government agencies, institutions and organisations and over services provided by other service providers (including church organisations, non-profits and for-profits)
- Is the existing system independent, accountable and transparent?
- How does the monitoring/oversight system reflect the best interest of the child?
- Is there a mechanism to channel in the voice of service users (children and families)? If so, what is this mechanism?

Desk review

A desk review included a review of existing laws, regulations, policies, standards and systems, methodologies used, working mechanisms (e.g. structures, committees, etc.), both at national, entity, district levels, actual monitoring reports, or any external evaluation done by donors, international organisations (e.g. assessments or donor strategies related to the development of child protection systems), shadow reports of NGOs, or other reviews or evaluations of the child protection system.

Semi/structured interviews

Semi/structured interviews method involved preparing, organizing and conducting interviews with relevant stakeholders. Sampling involved relevant 15 institutions of social welfare taking into consideration geographical, constitutional, level of authority, resources and time consuming factors. Name and positions of respondents remains unrevealed in the Research results. Questions for interviews were developed and tested in order to collect more data about knowledge of child protection professionals related to researching subject.

Interview Questions:

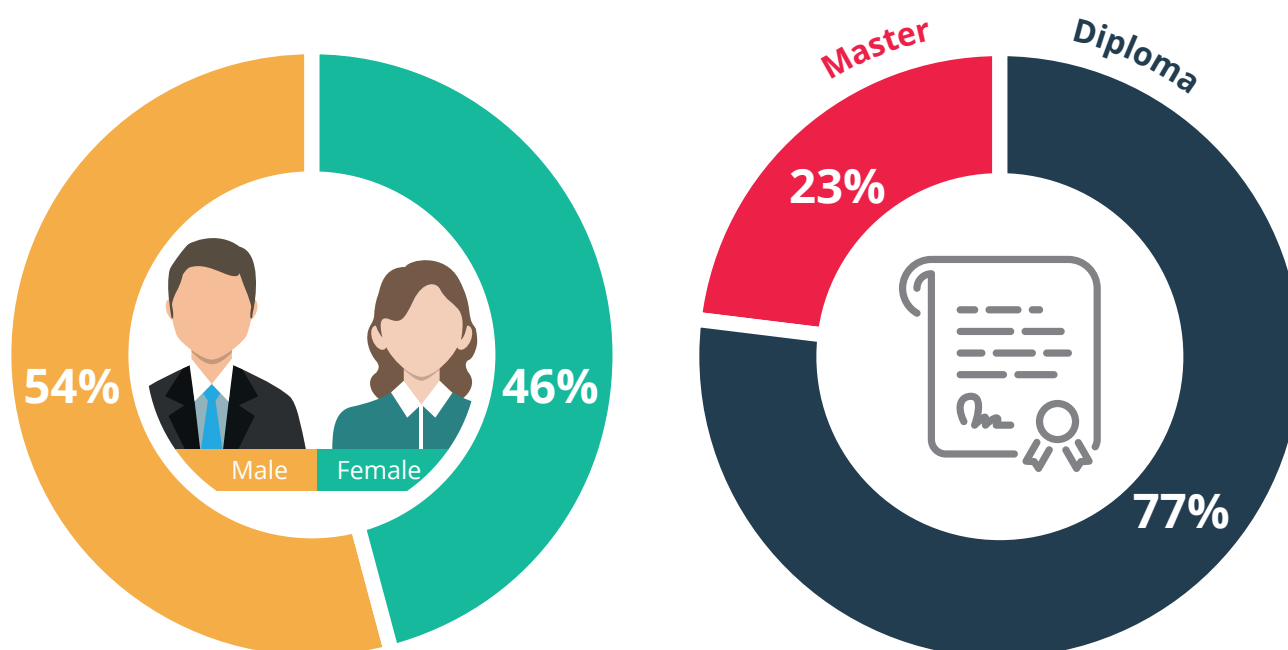
- Personal data (gender, professional experience, level of education and workplace institution)?
- Role of person in the design, development, legislating, implementation, supervision, oversight of quality mechanisms in the country?
- Are there special procedures for overseeing institutional care of children?
- Are there standards and monitoring framework for the protection of especially vulnerable groups, e.g. victims of violence, trafficking, etc.?
- How does monitoring work - describe in detail?
- Any identified promising practice either in country or outside?
- What is the role of family in the child care and protection system (what should it be)?
- Recommendations for improvement?

Total 10 interviews have been conducted with key stakeholders. Requests for interviews have been submitted to 15 relevant institutions in BiH. Ten out of fifteen invitees accepted to participate in the Research. Below is the graph which represents the participation of each relevant institution in the interview process.



1. EXECUTIVE SUMMARY

The goal of this document is to provide the overview of existing monitoring system of Child Protection system in Bosnia and Herzegovina. It will also provide information on the overall Quality Mechanisms in Child Protection in Bosnia and Herzegovina. This document is covering all relevant child protection frameworks. The analysis starts with overview of general data about respondents showing that 54% of the respondents are males and 46 % females. Very significant data about level of education stated that 77% of them have higher educations, and 23% have master degrees (graphs below). Data about education combined with work experience shows us that respondents are more than competent to share with us their knowledge.



As for the work experience of the respondents, most of them have more than 10 years of experience in the field of Child Protection/Social protection (61%). 31% of the respondents have between 5-10 years of experience and only 8% has been working in the area of child protection for less than 5 years. (Graph below)



This report has identified and documented existing monitoring mechanisms in Child Protection System. It also addresses other Child protection system issues such as Child's best interest determination, gaps in the regulatory framework, gaps in children and their family's participation including feedback from professionals from social welfare institutions.

Child protection monitoring system in Bosnia and Herzegovina is not harmonized across the country and due to the constitutional setup there is no one solely responsible institution for monitoring of this system. Country data collection and monitoring of child protection system is regulated through a very complex system and without adequate coordination among those actors. Monitoring of child protection, according to many different legislative provisions, is responsibility of state level institution, two entities (Republika Srpska and Federation of B-H) and Brcko District, which are main actors in regulating, implementing, monitoring and data collection processes in child protection,

and also responsibility of lower levels of governance such as Cantonal ministries. It is safe to say that there is no systematic and coordinated approach in Child protection monitoring in Bosnia and Herzegovina but rather several un-harmonized systems across different levels of governance. With that in mind, the following document will portray the existing framework in order to gain insight into harmonization of all laws with international treaties that Bosnia and Herzegovina signed, standards, indicators and tools and systems of monitoring and evaluation. Information about existing practices will be provided and positive outcomes of interventions that are relevant for the given thematic. The document will try to name all relevant institutions, including role of CSO, media and explain their role in the overall Monitoring system of Child protection. Desk review and the interviews conducted have enabled identification of gaps and deficiencies in the system of monitoring of Child Protection, thus adequate recommendations have been provided in order to improve existing system, which are as follows:

- Harmonize laws and regulations for equitable monitoring of CP System at all levels of governance
- Support in establishment and administering of single database as part of Social welfare system all over Country, which will serve all children and all of their needs, regardless of nature of their need (any judiciary proceeding, parental care, poverty etc.)
- * Establish access to Social welfare database, for other relevant stakeholders in need of CP data with respect to their jurisdictions (statistical institutes, police, judiciary) for their monitoring and other needs
- * Monitoring and data collection conducted by the statistical Institutes within the field of social protection should be updated to reflect the current legal frameworks, including data on children in conflict with the law, child victims/witnesses, children at risk of committing minor or criminal offense, children at risk of abuse or neglect, children living in institutions, children living in foster care, etc. Currently the beneficiaries are categorised in large sub groups which are not sufficiently specific, or linked to relevant legislation or services, as follows:

- * Endangered by family situation
 - * Mentally and physically handicapped
 - * With behavioural and personality disorders
 - * Persons with socially unacceptable behaviour
 - * Mentally ill persons
 - * Persons in need of different social welfare services
 - * Without category¹.
- Establish a coordinating body for data collection and monitoring of CP system in order to harmonize monitoring system as much as possible due to a fact that in the current system there are too many institutions involved and the process is largely unharmonized. One option is to establish this body as part of the existing Council for Children which is operating on state level.
 - Conduct trainings on monitoring of CP system for all relevant personal in charged with the data collection and monitoring

The document has also identified key recommendations for improving overall system of Child Protection, which were clear through conducting of this study and are provided in this document. This report has also identified and documented other existing mechanisms in Child Protection System such as Child's best interest determination, gaps in the regulatory framework, gaps in children and their family's participation including feedback from professionals from social welfare institutions. Also this report will present findings and the results of the online survey conducted with professionals from relevant institutions and findings from the interviews conducted. A previously mentioned, participants of this assessment provided clear recommendations for improvement which will be listed in this report.

1 The definition of each of these categories can be found in the FBIH Statistical Bulletin on Social Protection for 2016, p. 6

2. GENERAL DESCRIPTION OF THE CHILD PROTECTION SYSTEM SETUP

The system of child protection in Bosnia and Herzegovina is regulated within national documents which are aligned with international documents signed and ratified in order to legally bind country to accept and to protect people's rights and freedoms. These national documents are divided by jurisdictions within the state structures, having different roles and responsibilities of all actors from national, over cantonal to municipality level. Through constitutions of B-H, and later on of Republika Srpska and Federation of B-H, we can see that child protection, in terms of practice, regulations and decision making in Bosnia and Herzegovina have different treatment having the Ministry of Human Rights and Refugees and the Ministry of Civil Affairs at national level as coordinating bodies for child protection. Two entities (Republika Srpska and Federation of B-H) and Brcko District are main actors in regulating, implementing, monitoring and data collection processes in child protection or better to say have jurisdictions guarantying fulfilling rights and freedoms for all citizens implementing different social policies including child protection ones. At the national level, the Council for Children have been established throughout the years as a nationally-based coordinating and advisory body. System of child protection in RS is centralized and it governed by the Government of RS, Ministry for Family, Youth and Sport, Ministry of Health and Social Protection, Ministry of Justice RS, Ombudsmen for Children of RS, Council for Children RS, Public Fund for Child Protection RS, social work centres, services of social and child protection, institutions of social and child protection etc. Child protection system in the other part of the country, Federation of BiH, is on the other hand mainly decentralized and It's made of: Ministry of Labour and Social Politics, Ministry of Justice, but most of the services are provided on the Cantonal level where following institutions are in charge for child protection, such as, cantonal ministries of work and cantonal institutions of social and child protection, centres for social work, homes for orphan children, CSO and more. In Brèko district system of child protection is made of Section for social and child protection which functions by District Brèko government and in whose' jurisdiction are

all affairs from the area of child protection and, where the centre for social protection acts. *(Research report analysis of situation in the area of child protection in Bosnia and Herzegovina social service workforce mapping, Child Protection Hub January 2016)*

According to Child Protection Index for Bosnia and Herzegovina, BH scores 0,515 out of a total possible score of 1,0 in the category of “governance environment” and ranks eighth out of the nine Index countries.² The Index had a task to measure five dimensions of government action for each of the articles of the UNCRC that refer to child protection naming five dimensions: policy and law, services, capacity, coordination and accountability. The Index is emphasizing crucial elements of the child protection system in B-H having three entities - the Republika Srpska, Brcko District and the Federation of Bosnia and Herzegovina - as relatively autonomous and saying that the responsibility of social protection resides with the individual entities. The Federation of Bosnia and Herzegovina is setup so that the obligation of social protection resides with the cantons or municipalities, having 10 cantons in the Federation that are also relatively autonomous. On the other side, Republika Srpska has centralized system of child protection for which three ministries and a certain number of institutions have jurisdiction over child protection. Therefore, all these levels and autonomy within BH present a challenge for national and entity coordination. Accordingly, the large number of distinct bodies dilutes authority and demands significant efforts of coordination for basic policy actions and analysis.³ There is a parliamentary body on child protection in B-H consisted of the Joint Commission for Human Rights, Rights of Children, Youth, Immigration, Refugees, Asylum and Ethics. This is very important step in setting accountable and functional body at national level in order to harmonize and coordinate all activities related to child protection in B-H. However, latest trends in adopting different laws that are regulating child protection and even function of this body is

² Child Protection Index, measuring government efforts to protect girls and boys Bosnia and Herzegovina, 2016

³ Child Protection Index, measuring government efforts to protect girls and boys Bosnia and Herzegovina, 2016, pg. 11

issue of funding which is lacking. Some laws are even offering descriptions that for most of the activities to be implemented there is no need or space for funding. BH also maintains the Institution of Ombudsman for Human Rights. The Ombudsman office is independent, holds the power to investigate and recommend actions and is aligned with the international standards of the Paris Principles. Because recommendations from the Ombudsman's office do not require a response by government, there is a sense that such findings are often underutilised. It is recommended that recommendations from the Ombudsman's office require a substantive response by government actors involved so that all complaints and observations are reviewed and addressed accordingly. It is also recommended that the Federation entity create its own independent Ombudsman office for child rights.⁴ Given the variance of approach, policy and implementation in separate entities, only entity level Ombudsman will be able to delve into detailed complaints and seek answers.⁵

4 Republika Srpska has already established Ombudsman for Children.

5 Ibid pg. 12

3. DESCRIPTION OF THE MEASUREMENT SYSTEM

Having in mind disparity of child protection system in B-H among entity and cantonal levels, and coordination role at national level only, throughout the text existing framework will be shown in order to gain insight into harmonization of all laws, standards, indicators and tools and systems of monitoring and evaluation with international ones, providing information about its practice.

3.1. Regulatory framework

The UN Convention on the rights of the Child is a part of the annex I of the Dayton Peace accords and, as all other conventions ratified by B-H, It has priority in enforcement over the national legislation, because it has the power of a constitutional norm.

Bosnia and Herzegovina has also become signatory to the following two optional protocols to the Convention on the rights of the Child, namely:

- Optional Protocol on the involvement of children in armed conflict, and
- Optional Protocol on the sale of children, child prostitution and child pornography.

The B-H has also signed the Millennium declaration. In 2012, Bosnia and Herzegovina concluded the procedure of accession to the following Conventions:

1. Council of Europe Convention on the Protection of Children against sexual exploitation and sexual abuse;
2. Council of Europe Convention on Contact concerning Children;
3. Convention on the international recovery of Child support and other Forms of Family Maintenance (The Hague Convention).

The B-H Presidency held its 24th regular session on 25 June 2012 and rendered the decision on ratification of three aforementioned Conventions (official gazette of B-H/ international treaties no. 11/12).

Bosnia and Herzegovina also signed and ratified the optional Protocol to the Convention on the rights of the Child on a Communications Procedure. In general, it can be noted that majority of laws in BIH is harmonized with the Convention. However,

there is a lack of nation-level comprehensive legislation relative to the rights of the child which would provide for a full and direct influence of the Convention on the national legislation. (Action Plan for Children B-H 2015-18)

3.2. Institutional framework

BiH has a number of permanent government bodies tasked to ensure the coordination of national policy. The Ministry of Human Rights and Refugees and the Ministry of Civil Affairs are national level coordinating bodies for child protection. The Council for Children is also a nationally-based coordinating and advisory body. However, because BH's three entities - the Brcko District, Republika Srpska and the Federation of Bosnia and Herzegovina - are relatively autonomous, the responsibility of social protection resides with the individual entities. In the Federation of Bosnia and Herzegovina (the Federation), the obligation of social protection resides with the cantons or municipalities. There are 10 cantons in the Federation that are also relatively autonomous (Research report analysis of situation in the area of child protection in Bosnia and Herzegovina social service workforce mapping, Child Protection Hub January 2016). Health, Education and Social Protection Systems in Bosnia and Herzegovina is decentralized. The existing bodies are supposed to respond to the needs of children through the system's institutions in accordance with the constitutional responsibilities. At national level, Council of Children is assigned with a role to monitor implementation of all activities related to child protection. Their actions are regulated within new Action Plan for Children of Bosnia and Herzegovina 2015-2018 adopted by Council of Ministers B-H in 2015.

All activities related to Child Protection are regulated within entities or Brcko District having the Centres for Social Work as main bodies for the implementation of different services related to child protection in Bosnia and Herzegovina. Social workers within CSW are overloaded with a broad array of responsibilities, ranging from administration of social protection schemes to welfare issues for elderly, persons with disabilities and children. Monitoring of CSWs, thus child protection services, is conducted by the director of the named centres, as well as senior workers at the CSW through supervision. Federal and cantonal ministries are also required to monitor the work of the CSWs: the federal inspector monitors the implementation of family and criminal law, while in

the Federation, Cantonal ministries monitor social protection⁶. In Republika Srpska its done by Ministry of Health and Social Protection. As part of their responsibility, Ministry and municipalities have split responsibilities in monitoring the work of institutions and CSW. Ministry of Health and Social Protection is in charge of monitoring the work of all institutions for social welfare while municipalities are in charge of monitoring the work of CSW. Though monitoring is conducted several times per year, there is no defined methodology for the monitoring mechanism. The child protection system does not have any mechanisms for collecting, classifying, and analysing statistical data to ensure quality among the social service system. When it comes to Brcko District, all activities have been implemented throughout Department of Health, subdivision for social protection. It is important to mention Institution of Ombudsman for Human Rights, Department for monitoring the rights of the child. Their role is to Monitor that state of the rights and freedoms of children, and issue reports on the rights and freedoms of children, and to follow functioning of legislative, executive and judicial authorities relevant for realization of the rights if children and cooperate with other departments especially in cases when violations of children's rights are related to violations of civil rights. Additionally, the Ombudsman for Children of Republika Srpska has a similar roles and responsibilities as Department for monitoring of rights of child at national level, but only for Republika Srpska. Brcko District and Federation of B-H do not have similar institutions.

3.3. International standards and conventions as the basis of the system

In order to show clear information related to child protection system in Bosnia and Herzegovina, below are all international documents ratified and signed by the Bosnia and Herzegovina authorities and continued with existing legal framework that defines child protection in Bosnia and Herzegovina. These documents are significant for further analysis of all existing standards, tools and systems, and for providing useful recommendations for improvement.

6 Child Protection Hub, The Social Service Workforce as Related to Child Protection in Southeast Europe: A Regional Overview, 2016 pg. 18

International documents:

- European Social Charter,
- Child Rights Convention,
- European Convention for the Protection of Civil Rights and Fundamental Freedoms,
- International Covenant on Economic, Social and Cultural Rights,
- Convention Concerning the Prohibition and Immediate Action for the Elimination of Worst Forms of Child Labour,
- Convention on the Rights of Persons with Disabilities,
- UN Guidelines for the Alternative Care of Children,
- European Convention on prohibition of sexual abuse of children,
- Convention on Contact concerning Children,
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights,
- Framework Convention for the Protection of National Minorities,
- European Charter on the Participation of Young People in Local and Regional Life,
- International Convention on the Elimination of All Forms of Racial Discrimination

National documents

- Constitution of Bosnia and Herzegovina,
- Constitution of Federation of B-H,
- Constitution of Republika Srpska,
- Statute of the Brcko District of Bosnia and Herzegovina,
- Law on Prohibiting Discrimination in Bosnia and Herzegovina,
- Law on Human Rights Ombudsman of Bosnia and Herzegovina,
- Law on Protection of Rights of National Minorities of Bosnia and Herzegovina,
- Law on Gender Equality of Bosnia and Herzegovina,

- Law on Citizenship of Bosnia and Herzegovina,
- Action Plan for Children of B-H 2015-2018
- Federation of Bosnia and Herzegovina
- Law on the Basis of Social Protection, Protection of Civil War Victims and Protection of Families with Children of the Federation of B-H,
- Family Law of the Federation of B-H,
- Law on Protection and Treatment of Children and Minors in Criminal Proceedings of Federation of B-H
- Criminal Code of Federation B-H,
- Law on Protection from Domestic Violence in Federation of B-H,
- Law on Foster Care of Federation of B-H,
- Law on Volunteering of Federation of B-H.

Republika Srpska

- Law on Protection and Treatment of Children and Minors in Criminal Proceedings in RS,
- Law on Child Protection RS,
- Family Law RS,
- Law on Social Protection in RS,
- Criminal Code of RS,
- Law on Protection from Domestic Violence in RS,
- Law on Volunteering RS,
- Law on Primary Education in RS,
- Law on Ombudsman for Children RS,
- Law on Health Protection RS,
- Law on Health Insurance RS,
- Law on Preventing Violence on Sport Events RS,
- Strategy for Combatting Domestic Violence in RS,
- Protocol on Procedures in Cases of Peer Violence,
- Protocol on Procedures in Cases of Violence, Abusing and Neglecting Children,
- Program for Early Growth and Development 2016-2020,
- Strategy for Enhancing of Social Protection of Children Without Parental Care,

- Strategy for Control over Drugs and Combatting Drug Abuse RS,
- Law on Preschool Education RS,
- Law on Student Standard RS,
- Law on Pupil Standard RS,
- Law on Secondary Education RS,
- Strategy of Educational Development 2016-2021 in RS.

Brcko District

- Criminal Code of Brcko District,
- Family Law of Brcko District,
- Law on Social Protection of District Brèko B-H,
- Law on Child Protection of District Brèko B-H,
- Law on Protection and Treatment of Children and Minors in Criminal Proceedings of Brèko District B-H.

4. HOW DO THE FOLLOWING PRINCIPLES ENSURED IN THE CPS

4.1. Best interest determination

In the general Comment of the CRC No. 14. The Committee explained that ‘best interests’ has three aspects: it is a substantive right, a legal interpretative principle and a rule of procedure⁷. When determining a child’s best interests, the entirety of the child’s rights as well as his/her individual circumstances must be taken into account. determining the best interests of the child also involves adequate child participation without discrimination and with due weight given to the views of the child, in addition to input from decision-makers with relevant expertise.⁸ This principle is embedded in most of the regulations that are linked with child protection. However, implementation of the principle on the field is very questionable or non-existing. Most of the interview respondents explained that child best interest is vaguely represented in the legislative framework and other important policy documents, but in practice, there is no systemic approach and is still considered as very innovative approach. As one of the respondents stated “The best interest of a child is regulated, but in practice this does not happen. Children are often victims of the system, and sometimes of their own parents”.

The Committee on the rights of the Child recommended in 2012 that Bosnia and Herzegovina develop, “procedures and criteria to provide guidance for determining the best interests of the child in every area and to disseminate them to public and private social welfare institutions, courts of law, administrative authorities and legislative bodies. The legal reasoning of all judicial and administrative judgments and decisions should also be based on this principle.⁹ The majority of justice sector professionals stated that although the best interests of the child are taken into account there is no coordinated or comprehensive monitoring of the entire process and decisions or internal guidelines on how to conduct the best interests determination. Justice sector professionals stressed that the understanding of the best interests of the child is rather superficial and interpreted as a general concept rather than as a rule of procedure. (Children’s Equitable Access to Justice in Bosnia and Herzegovina, UNICEF 2016).

7 see the united Nations Committee on the rights of the Child, general Comment No.14, The right of the child to have his or her best interests taken as a primary consideration, CRC/C/GC/14, United Nations, Geneva, 29 May 2013, para.6.

8 ibid. paragraphs 41, 47 and 54

9 Committee on the rights of the Child, Concluding observations Bosnia and Herzegovina 2012, para. 32

The implementation of the principle is also very uncertain when it comes to the placement of children deprived of a family environment into different forms of alternative care, including institutions. The system of child protection in Bosnia and Herzegovina do not recognize nor have developed procedures and criteria to provide guidance for determining the best interests of the child in every area, and to disseminate them to public and private social welfare institutions, courts of law, administrative authorities and legislative bodies. This was recommended by the CRC Committee through their report in 2012 and still situation is being the same. There have been some improvements in late period where Ministry for Human Rights and Refugees with support of UNICEF has started working on the development of Guidelines for best interest determination. It is still to be seen whether this will be done comprehensively in terms of scope, content and to be continuous process.

4.2. Do no harm

Tackling do no harm principle is essential in terms of common understanding the principle among child protection professionals in Bosnia and Herzegovina. If we start from the premise that child protection professionals have to minimise harm to children when intervening or acting on their behalf it means they are full capacitated, educated and supported to deliver these very challenging errands. However, according to Research Report “ANALYSIS OF SITUATION IN THE AREA OF CHILD PROTECTION IN BOSNIA AND HERZEGOVINA Social Service Workforce Mapping”, professionals involved in research believe that social workers are “experts for everything”, which is a huge problem in practice. It means that they are facing with scarce and at times outdated information on the latest approaches and methodologies related to child protection; lack of motivation for additional learning, in particular after getting a “permanent” job; lack of good practices which would increase motivation and serve as an example different from the usual practice.¹⁰ Also, they are overburdened with different administrative tasks that are directly affecting their basic work with beneficiaries automatically reducing

¹⁰ Research Report “ANALYSIS OF SITUATION IN THE AREA OF CHILD PROTECTION IN BOSNIA AND HERZEGOVINA Social Service Workforce Mapping, 2016. pg. 39

their ability, time and resources to practice profession. Their daily routine is mainly “regulated” by massive development of various documentation needed to provide different kind of support to beneficiaries leaving them with very small space to really talk and visit beneficiaries in order to check whether that support is needed. Most of the professionals would say they are respecting do no harm principle mentioning that it is visible in legislative which automatically they respect as well. However, practice shows us sometimes even if they using legislative to practice their work it doesn’t mean they are practicing this principle in proper manner which leads to the question do they know what it means in practice. Throughout conducted interview it is visible that this principle alongside with best interest determination is only generally accepted in legislative because it was needed to be in line with international standards. However, respondents stated that disharmonized legislative is present which is the cause of direct discrimination together with financial support (e.g. right to child allowance and its height is not the same minding whole country, health insurance of children, the height of child benefits related to foster care, etc.). Very few professionals see that distorted perception of social welfare in public and lack of professionals, lack of understanding and the vision of social welfare from decision makers in country and all other problems directly affects this principle in practice. If we analyse one day of social worker we would easily see that social workers are not able to organize counselling, to organize field visits, to monitor provided help nor use part of the day to analyse their job, and not mentioning to have the supervision which is more than needed within centres. This way, we would probably have roughly 80% of the work dealing with administration while 20% would be direct work with beneficiaries, which do no harm principle set under the mark of question when it comes to practice. Combining aforementioned with the fact that this practice of social welfare is present in Bosnia and Herzegovina 20 years back in the past and spicing it up with educational system and new professionals as result, it is very questionable do they honestly practice true social work in general or they are “experts for everything” which in the end leaves them to opposite what they wanted to practice at first.

4.3. Equal access to services – including for vulnerable children

Equal access to services for children refers to the right to obtain an effective and fair response when a right has been violated, to secure protection or to solve a dispute through fair and transparent processes that protect the dignity of children and promotes their development. Equal, meaning that all children, regardless of their age, gender, ethnicity, nationality, disability, socioeconomic background or any other status, can equally avail themselves of remedies and protection of their rights free from discrimination. One of the most pronounced finding of the Equitable access to justice Research (UNICEF, 2016) is that children themselves and the community do not see children as rights-holders.

The UN high Commissioner for human rights has noted that vulnerable groups, “are often exposed to multiple forms of stigmatization and discrimination, including on grounds of sex, disability, race, ethnicity, colour, language, religion, national or social origin, property, birth or other status.”¹¹

All children experience awareness and information barriers and encounter a variety of legal, practical, social and cultural obstacles in their path to receive service, such obstacles are exacerbated by vulnerabilities, such as poverty or ethnicity, and influenced strongly by social and cultural norms. Particular attention must be paid to the most excluded, poor and the difficult to reach, recognising that these children often face particular challenges regarding their protection needs.

The social protection bodies, the centres for social welfare, serve as the first point of contact and reference for vulnerable families and children. Most affected categories of vulnerable children in B-H are Roma children, considering that the Roma children are the largest and most disadvantaged national minority group in B-H. Also, other categories that are frequently mentioned in several analysed documents are implying that following groups are to be considered most vulnerable and should be paid a lot more attention in addressing the issue of providing them with adequate child protection services. The groups are as follows: Children with disabilities, Children from poor families and rural area, Children in institutional care.

11 Office of the High Commissioner for Human Rights, Equitable Access to Justice for Children BiH, UNICEF 2016

5. SCOPE OF THE QUALITY CONTROL

Having in mind that Bosnia and Herzegovina as state ratified and signed above mentioned conventions and treaties, its duty is to create and submit periodical reports about implementation of recommendations in order to harmonize domestic laws, policies and procedure related to child protection. By this moment, Bosnia and Herzegovina have prepared and presented four periodical reports related to protecting rights of the child in Bosnia and Herzegovina and received recommendations for improvement situation, accordingly. All activities have been coordinated by Ministry of Human Rights and Refugees B-H who is trying to collect as many data as possible. Unfortunately, having centralized and decentralized systems in two entities make this errand difficult in harmonizing all actors into one central data base and developing clear indicators which will allow fluent processes in data collection. Provisionally, the quality controls encompass social protection, health, justice and education but the process is not coherent in terms of indicators recommended by CRC Committee. The existing system of measuring the quality of conducted services and interventions yet is not fully covered with procedures, indicators, tools and educations which ensure that each and every professional is responsible to monitor each and every action and understand the meaning of data collection. The qualitative functioning of child protection system and meeting the needs of children and families with children, is mainly affected by the insufficient capacities of centres for social work / social protection services for their operation. More analysis indicates that the staff capacities of the centres for social work and social welfare services and facilities child protection are very low, which is an additional problem of the functioning of child protection. Centres/services generally lack staff or it is under-represented (psychologist, educator, and lawyer). Deficit of the staff is present in all centres / services as well as in institutions of child protection.¹² Also, staff working in centres are mainly occupied with a huge administration tasks related to provision of different social giving which could be the crucial factor in measuring the quality of their daily work.

12 Child Protection Index, measuring government efforts to protect girls and boys Bosnia and Herzegovina, 2016, pg. 30

6. ROLE OF OTHER ACTORS IN MONITORING (CSO, OMBUDSMAN, MEDIA AND OTHER)

Civil society has important role in order to implement CRC throughout two major networks “Snazniji glas za djecu”¹³ (Stronger Voice for Children) and NEVAC¹⁴ (Network for elimination violence against children). These two networks have been involved in very large number of activities because they are municipality based organizations. Also, several international organizations are very much involved in supporting, coordinating and monitoring the implementation of child protection activities gathered in Group for protection of child rights. Role of civil society as supporting factor in monitoring the rights of the child resulted in developing alternative reports in previous years while latest one Alternative Report on child rights situation in B-H provide information for period 2014-2016. This activity has been harmonized with CRC recommendations in terms of providing answers about child protection situation and recent improvements. Taking into consideration that Committee recommended that the State party consider enacting national legislation prohibiting the disclosure of personal details of children by the media and/or journalists and ensuring commensurate penalties for such conduct, this process haven’t been implemented. The Committee also urged the State party to establish child-specific and child-friendly mechanisms for children to complain against breaches of their privacy, and to increase the protection of children involved in penal proceedings. Even though several sporadic educations and materials have been conducted and developed, this remains still unresolved issue. Furthermore, the Committee recommended that the State party consider conducting campaigns to raise awareness of the Convention and the right of the child to privacy among journalists and other media professionals. UNICEF have been involved in signing memorandum of understanding with some media partners in order to realize campaigns relevant

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- 13 „Udruženje za pomoć mentalno nedovoljno razvijenim licima“ Banja Luka, UG „Svjetionik“ Prijedor, Udruženje za brigu i opća prava djece „Naša djeca“ Zenica, Udruženje „Zemlja djece“ Tuzla, UG „Zdravo da ste“ Banja Luka, UG „Sretni Romi“ Tuzla, NVO „Budi aktivan“ Sarajevo, Udruženje roditelja djece i omladine sa posebnim potrebama „Sunce nam je zajedničko“ Trebinje, Centar za obrazovne inicijative „Step by step“ Sarajevo, Udruženje građana „Budućnost“ Modriča, Udruženje „Vesta“ Tuzla, NVO „Naša djeca“ Sarajevo, Dnevni centar za pomoć djeci iz porodica sa višestrukim problemima „Dječiji dnevni centar“ Trebinje, UG „Tolerancijom protiv različitosti“ ToPeer Doboj, Humanitarna organizacija „Bezdan-Sprofondo“ Sarajevo, Udruženje „Nova generacija“ Banja Luka, Organizacija za djecu i mlade „Osmijeh za Osmijeh“ Tuzla, „Centar za prava djeteta“ Konjic, Udruženje roditelja i prijatelja osoba sa posebnim potrebama „Sunce“ Mostar, „Fondacija lokalne demokratije“, Sarajevo.
- 14 „Nova Generacija“ Banja Luka, „Ružičnjak“ Mostar, „Centar mladih“ Kotor-Varoš, „Narko Ne“ Sarajevo, „SOS“ Sarajevo, „IBH“ Sarajevo, „ToPeer“ Doboj, „Medica“ Zenica, „Leptir“ Srebrenica, „Nada“ Prijedor, „Most“ Višegrad, „Krila nade“ Sarajevo, „Alfa“ Bihać, „OAZA“ Trebinje, „Budi mi prijatelj“ Visoko, „In Fondacija“ Banja Luka, „Zdravo da ste“ Banja Luka, „Udruženje građana oštećenog vida“ Tuzla, „Ključ budućnosti“ Ključ, „DON“ Prijedor, „Prijateljice“ Tuzla, „Lasta“ Drvar, „Altruist“ Mostar, „Vermont“ Brčko, „La Vie“ Livno, „Mladi volonteri“, „Primanatura“, „Bolje sutra“, „Omladinski centar“, Fondacija za kulturni, edukativni i socijalni razvoj Publika Sarajevo, Fondacija „Malik i Srđan“

for social protection and inclusion, juvenile justice and safety of families in emergency situations. Recently UNICEF BiH developed Guidelines for media professionals on reporting on children “Media in the child’s best interest”¹⁵. Institutions of Ombudsman for child rights at national level and in Republika Srpska had increase reporting related to education, health, life without violence, children involved in divorces and children establishing contacts with parents. Most of these reports have been proceeded to responsible institutions (centres for social work, relevant ministries of social protection, courts, etc.). All of these reporting have been recorded in regular annual reports developed by these institutions. Interestingly, when asked about tools and methodologies for monitoring of child protection system and institutions who are providing regular reports, respondents of the interview first thought about CSOs and international organisations such as UNICEF and Save the Children.

15 <http://www.zasvakodijete.ba/djecai-mediji-publikacija-mediji-u-najboljem-interesu-djeteta-predstavljena-na-palama-u-srebrenici-i-brckom/>

7. SPECIAL MEASURES TO MONITOR INSTITUTIONAL CARE

According to Child Protection Index for Bosnia and Herzegovina, BH does not have high rates of children separated from their parents, and less than one-third of these children live in residential institutions operated by the state. Despite the low numbers, it remains concerning that poverty is one of the main reasons why children are placed in institutional care. Such placements do not conform to the best interests of a child. Foster care options are not yet well-developed or scaled nationally.¹⁶ In Federation B-H, latest document related to institutional care is Situation analysis on position of children without parental care and families under the risk of separation produced in 2016. Idea was to assess the quality of implementation of Action Plan related to this subject for period 2013-2016. Findings from the analysis emphasize that all centres for social work participated in this research and that there has been improvement when it comes to evidence of children without parental care, unlike situation from researches in previous years. According to the analysis, more coordination and data usage have been achieved through SOTAC database.¹⁷ However, practice highlighted some shortfalls in this database and e.g. missing information about plan of protection, visits of relatives, etc. which could be resolved by updating it with needed information. Furthermore, analysis address lack of criteria for identifying children and families under the risk of separation which is done by the assessment of professionals within centre, and on the basis of frequency of provided services. Centres in Federation have different practice which is also result of missing clear criteria, the way of service provision, monitoring and support after the separation. Also, unique database of potential adoptive parents is missing along with procedure of evidencing requests for adoption, the ways of revision of requests and appointing families in cases of adoption. These steps are positive in creating better environment for children without parental care, children in institutional care and families under the risk of separation, but we can see that Federation have a long road to establish the system which will be able to identify every child and prepared to provide quality services in accordance with existing needs. Similar situation is in the entity Republika Srpska where the system is faced with different practice on the field and where database of potential adoptive parents is needed. Also, procedures should be in place and followed by all professionals in order to have aligned practice, especially when it comes to foreign citizens.

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Child Protection Index, measuring government efforts to protect girls and boys Bosnia and Herzegovina, 2016, pg. 10

8. DESCRIPTION OF THE STANDARDS/INDICATORS

Obligation to monitor child protection services is mainly addressed within domestic legislative but in general manner (e.g. Law on Foster Care Federation BiH, Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings FBiH and Republika Srpska, etc.). Verification has been made throughout online survey where results and the answers provided by the stakeholders depicting the fact that most of the relevant standards/indicators are provided in the existing legislation and ratified international conventions. On the other hand, the implementation of these standards is usually in question given the de-centralized and complicated BiH structure and political implications which inflict all of the process, thus the child protection system in general. Following, laws are addressing that there is need and obligation to monitor implementation of the laws and the status of provided services throughout different bodies consisted of relevant representatives (membership varies depending on which entity/canton is involved but mainly within entities). Their responsibility is to collect data and information, create reports and deliver it on semi-annual or annual basis. Standards and indicators foreseen by laws should be stipulated in details within other by-laws, protocols and procedures thus prepared for practitioners in the field. However, situation in practice is far from satisfying. Often, throughout adopting new legislative ministries have obligation to organize public debates, create and to put in place different procedures that will ease the process of implementation of law in practice, alongside with timely organized education for professionals. If this process involves multi-sectoral cooperation it can last for several years for relevant ministries to finalize this task even beyond “vacatio legis” period which is utterly unacceptable when it comes to protecting the children (e.g. adopting and implementation of Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings FBiH). Things get complicated when ministries try to drop down this obligation to lower levels especially in Federation BiH where cantons have their own ministries who should prepare these procedures to be practiced. There are vast number of examples of not respecting standards (e.g. health insurance of children, child allowance which differ from canton to canton where half of the canton are not providing it at all, right to education in maternal language, etc.).

These examples of geographical discrimination are present in BiH more than 10 years and mostly caused due to the financial ability of the system and political disputes. Each of the systems in Federation BiH, Republika Srpska and Brcko District need for further improvement especially in terms of developing guiding procedures, allocating funds and strengthening capacities of professionals within institutions. When it comes to professionals who are responsible to practice these standards for child protection, it has to be noted that professionals are lacking guidance and staff to properly take care about standards in their institutions and to monitor it in a way which will provide the child protection system real picture of needs and provided help. According to respondents from online survey, they indicate that there is no unique and standardized methodology which will bring them instructions how to deal with specifics and this rather left to institutions to figure it out. Also, financial status of the system, temporary status of professionals and lack of knowledge among professionals related to perception of need to develop minimum standards and quality indicators are the main factors why child protection system in Bosnia and Herzegovina is not evaluated properly and based on real needs. Situation like this is horrifying for coordinating bodies at national level such as Ministry of Human Rights and Refugees BiH which responsibility is to monitor, collect data and reporting in accordance with relevant international treaties. Improvement has been made in recent year by developing Guidelines for collecting data on juvenile offenders in BiH at national level in order to gain insight into real situation about juvenile offending rather using existing different statistical and analytical data. Still, forthcoming period will show the benefit of these guidelines.

9. MODE OF DATA COLLECTION

In the centres / services in Bosnia and Herzegovina there are no systematic and comprehensive mechanisms for monitoring the implementation of laws and by-laws, policies, strategies and action plans in the field of child protection. The existing child protection system is not sufficiently transparent or inclusive of other actors and users of child protection. Child protection system in B-H does not have enough appropriate mechanisms and methods for collecting, classifying and analysing statistical data on all parameters. Unique evidence for the rights of child protection in the Federation of B-H do not exist. The situation in RS is somewhat different, but generally lack of quality databases results in an incomplete or insufficiently accurate records. The most accurate records of beneficiaries of child protection has Brèko District of Bosnia and Herzegovina. The gathering of statistical data presents the problems of non-compliance of existing methods (accuracy and reliability), which is one of the greatest weaknesses when it comes to informational base for decision-making and to efficiently and effectively, monitor, evaluate and report on the success of the implementation of policy objectives, strategies, action plans and regulations in the area of child protection. The lack of efficient mechanisms of communication and cooperation between the entities (RS and FBiH) and BD, as well as communication and cooperation between the cantons of the Federation in the process of data collecting, significantly complicates and inevitably affects the quality decision making in the field of child protection.¹⁸ When it comes to data collection, even at the entity level there are no unique and accurate databases for child protection on all grounds. While in RS by certain parameters, there are unique records of user children of appropriate rights and forms of child protection, in the Federation of Bosnia and Herzegovina due to the undeveloped mechanism for monitoring the state of the system on the entity level, do not exist. Due to the lack of unique database in the field of child protection it is not possible to analyse the functioning of the child protection system, and thus to plan appropriate measures. Given the complexity of the shared competence in the field of child, on the level of the State of B-H same on the level of the Federation of Bosnia and Herzegovina, and in that regard also the lack of appropriate institutional

18 Child Protection Index, measuring government efforts to protect girls and boys Bosnia and Herzegovina, 2016 pg. 31

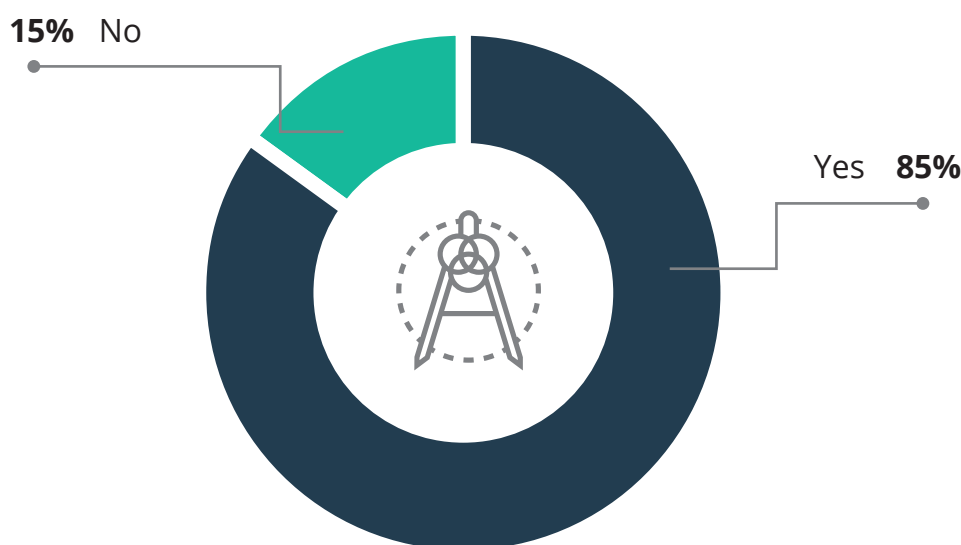
mechanisms and methods for collecting, classifying and analysing statistical data are the key shortcomings and obstacles in the establishment of an efficient system of child protection. Existing databases (SOTAC)¹⁹ has certain disadvantages. There is insufficient data entry and update causing that data isn't accurate and reliable. The database is not bound with other institutions that collect data on the state entity and cantonal levels. Statistical data collected in the field are often inaccurate, arbitrary and unreliable because they are filled by unskilled people who sometimes are not so sure what the questionnaires are asking for, and questionnaires themselves are often non-uniform.²⁰ Process of data collection is very questionable having in mind different approaches within entities and district, thus hardening conducting different analysis, monitoring the quality of interventions and reporting it to CRC Committee, of course. Even though, there has been some improvements regarding data collection e.g. Guidelines for data collection monitoring juvenile offenders in B-H; establishing monitoring teams for trafficking at regional levels, etc., still the whole system is missing one comprehensive data which will allow professionals to analyse previous interventions and accordingly to offer decision makers solutions for child protection based on real needs for each phase of child development. The situation is somewhat better in the judicial system due to existence of comprehensive data collection and management system run by High Judicial and Prosecutorial Council (HJPC), called CMS and TCMS. The data is inserted by all courts and prosecutor offices as part of the judicial proceedings, the data is available to the public per request. Small part of the data on children is available in the Entities Statistical agencies annual bulletins. Partial data on children in contact with the law is also available in the Entities Ministries of Interior annual reports on the state of crime. As it was previously described, mayor deficiencies can be found in the decentralized system, which is applicable to the data collection system.

19 SOTAC system is web platform that enables evidence of all social welfare beneficiaries and all ways of received help in Federation B-H. The system generates reports for municipal administration needs (centres, departments, etc.), cantonal CSW needs, responsible cantonal ministries which are, at the end, compiled of needs of Federal Ministry of Labour and Social Policy. This software enabled better communication of all CSW and Federal Ministry of Labour and Social Policy through one database which consist all data of funds allocated to beneficiaries based on Law on the Basis of Social Protection, Protection of Civil War Victims and Protection of Families with Children of the Federation of B-H. Resource: <http://www.comp-it.com.ba/sotac/> Date of accession 7th of September 2017.

20 Ibid.

The above statements are in compliance with the survey results. One of the survey finding is clearly showing that the majority of stakeholders are not familiarized with any of the data collection and monitoring systems that are in place. When asked “Are you familiar with the tools and methodology used to monitor the quality of child protection services” 85 % said No (see graph below). And the following question provided the same results. Those who said they are familiar with existing tools and methodologies referred to various number of Conventions, Laws, researches conducted and similar, proving once again that there is no centralized data collection system in place for Child Protection, but rather many different procedures and ad-hoc studies that are unreliable and not very sustainable. What should be provided as recommendation and as a first step is to conduct thorough analysis of all the existing data collection mechanisms which are recognized as promising practice and proved to be sustainable in practice, in similar structured countries, region and in BiH. The second step should be developing minimal standards or harmonized indicators which should be offered and presented to all relevant stakeholders as basis for data collection in forthcoming period. Other activities should include recommendation that people should be appointed and educated within relevant institutions whose jobs will be to deal with these matters only.

TOOLS AND METHODOLOGY USED TO MONITOR THE QUALITY OF CHILD PROTECTION SERVICES



10. WORKING MECHANISMS

Working structures related to functioning of child protection have been mentioned earlier where entities and centres for social work have leading roles and responsibilities to respect and implement every activity regarding rights of the child. Different (permanent or ad hoc) bodies have been established within relevant ministries at national, entity and municipal level in order to plan, realize and monitor the quality of implementation of activities e.g. council for enhancing juvenile justice system in RS, FB-H and BD. Council for Children on B-H level have been revived and functional gain. There is Council for Children at Republika Srpska level while Federation of B-H and Brcko District do not have similar bodies. Related to gender equality, there is Agency for gender equality at national level while each entity has its own body with similar name. For regulating media, Regulatory Communication Agency has jurisdiction. Two major network “Snazniji glas za djecu” and NEVAC are consisted of number of organizations with aim to plan, implement and monitor CRC implementation in Bosnia and Herzegovina. These CSOs represents the most active stakeholder in addressing issues related to fulfilling rights of the child.

11. MECHANISMS TO INCLUDE THE VOICE OF SERVICE USERS (FAMILIES AND CHILDREN)

Institution of Ombudsman for Human Rights enabled mechanism to receive appeals from every person who considers that one's rights have been violated. This can be done through specially developed form and submitted by e-mail, fax, mail or personally delivered. However, lack of internal capacities and funding affects the efficiency, process of reacting to citizens' appeals, monitoring the implementation certain measure and cooperation with other relevant stakeholders to protect rights of the children. Similar situation is in Republika Srpska where Ombudsman for Children react in similar way. When it comes to other mechanisms, there are pupil/student councils within primary and secondary schools along with parent councils. The voice of families and children have been sporadically included in planning phases of certain projects, mainly supported and implemented from international organizations involved in child protection. This

also is related to above mentioned two networks of civil society organizations but these mechanisms should be more developed, promoted and monitored. Ethical code for conducting research with children and about children is very good tool that has been developed in order to provide clear instructions and acceptable behaviours achieving high standards based on CRC.

As stated in the Research done by UNICEF BiH in 2016 (Children's Equitable Access to Justice in Bosnia and Herzegovina) *"Interviews with children reaffirmed the importance of the need to first empower children to express their views and opinions. They also confirmed that any decision directly or indirectly related to a child requires individual, child-centred, multi-disciplinary and timely interventions"*.

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12. MECHANISMS TO PROVIDE FEEDBACK TO SERVICE USERS

Efficient mechanism of providing feedback and complaint mechanisms is existing, but it's not very efficient. As this study has shown overall system of Child protection is highly influenced by the decentralization of the Country. System of complaint to any human rights violation including children rights is with the Human Rights Ombudsman of BiH. What was clear from the survey and interviews conducted as part of this study that almost half of the relevant professionals don't believe in the existence of these mechanisms. As shown in the graph below, when asked about any functional mechanisms within the system where all users and children can appeal or address specific problems only 54% answered yes.



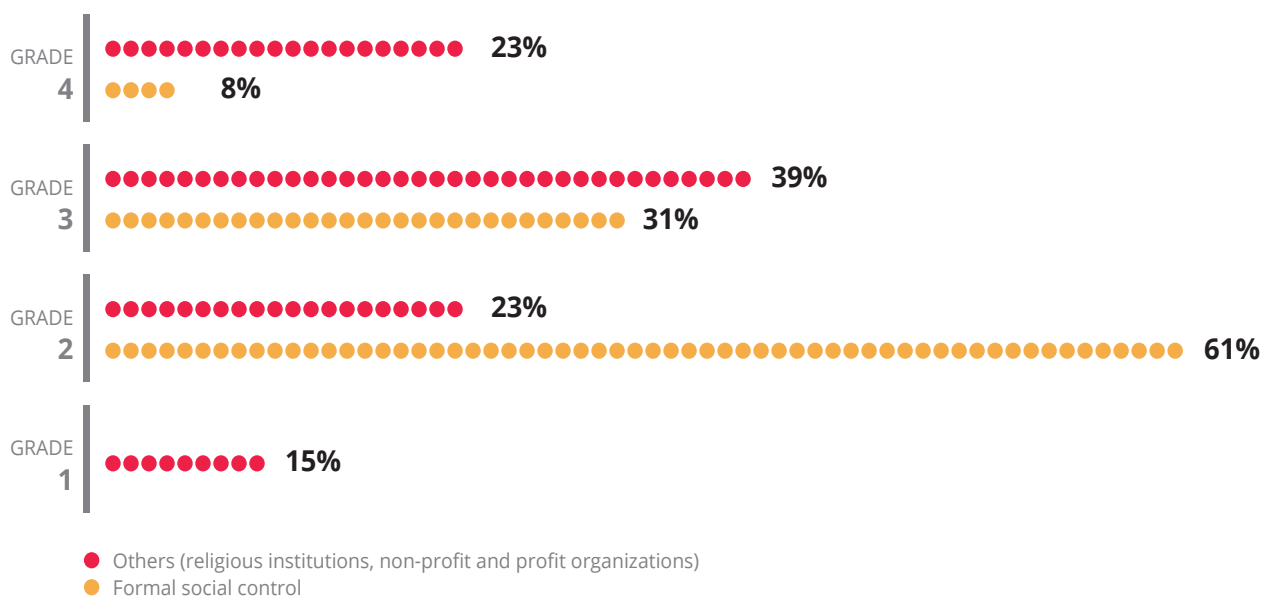
Confirming the result of this study that existing mechanisms are not efficient enough one of the respondent clearly stated that “Although there are mechanisms within the formal legal authority in terms of the possibility of filing complaints with the second instance bodies, we feel that the children themselves are not fully acquainted and do not have all the information necessary for these actions and even the possibility of directly addressing the Ombudsman for the children’s rights of BiH.” This also brings to another point, existing feedback mechanism are not transparent enough and are not very well promoted by the relevant institutions.

Along with the official channel of filing complaints there is an existing system of Free Legal Aid (FLA) in BiH. As all other services, FLA is not harmonized across the country. Legislative and relevant policy documents are on the Entity and Cantonal levels which once more is giving unequal treatment to children across country.

13. ROLES AND RESPONSIBILITIES

Roles and responsibilities within child protection system have been earlier elaborated in accordance with existing institutions, structure and legislative. In order to gain insight into the quality of monitoring services among stakeholders in child protection system, this section will try to visualize the real impact of provide services within existing institutions, CSOs, religious institutions and others.

Respondents were asked to evaluate to what extent the system of child protection is appropriately conducting monitoring of provided services for and to children, provided by different stakeholders between formal social control and others (religious institutions, non-profit and profit organizations). Response scale were given from one (not at all) to five (very good). Most of the interviewed stakeholders, when it comes to formal social control, rated between two and three about monitoring of child protection services thus confirming that this activity is rather being done but not in manner it should be. When it comes to other stakeholders (religious institutions, non-profit and profit organizations) responses varied between 3 and 4 which. (as shown in the graph below)



These responses are in line with desk review findings where it was mentioned that most of the activities on monitoring child protection services have been initiated and conducted by CSOs or international organizations. This leads to the fact that institutions are taking passive role in monitoring the quality of provided services while other actors are more active and supportive in conducting these processes. Considering role of institutions which responsibility is to regularly plan, implement and monitor the quality of child protection services it is visible they are conducting some activities and they are used mainly to satisfy the form of reporting. However, also it is visible that accountability is at minimum level toward these processes caused by various factors which are already addressed in this report. It seems that other organizations involved in providing services for children are more accountable and active in this field trying to support institutions and force them to be more responsible toward children. Beside the role of CSOs to be corrector factor in society, difference between those CSOs who are providing services can be that institutions are secured when it comes to funding while CSOs are trying not only to secure funding but also to be active, innovative and need oriented always seeking the feedback from beneficiaries.

14. GAPS IN THE REGULATORY FRAMEWORK

As mentioned before competences for child protection are mainly decentralised to the level of the Entities, District and Cantons. Various departments within the Institutions of BiH, other Agencies and Councils monitor the policies implemented by the Entities and District Brcko. The Institution of Human Rights Ombudsmen of Bosnia and Herzegovina monitors child protection and policies towards disabled persons. The BiH Council for Children within the Ministry of Human Rights and Refugees monitors the implementation of national Plan for Children. The Roma Council monitors the implementation of Roma inclusion policy. The Gender Equality Agency within the Ministry of Human Rights and Refugees of BiH monitors equal opportunities legislation etc.

All laws regulating child protection system are adopted at the Entities, District and Cantonal levels, which creates huge disparities and inequality among children population in BiH. The lack of harmonisation of laws and coordination of Entity laws creates major problems in the area of child protection as well as at the monitoring of child protection system.

Interviewed professionals from social services were queried about their views on gaps that hinder children's access to Child protection service and many professionals elaborated on specific issues. Most of them mentioned laws and budgeting as the crucial gap in achieving children's right for all children in BiH, equally, which can be seen in one of the respondent's statement "One of the key issues in the BiH child protection system is the lack of harmonization of laws, the lack of action plans and strategies applied across the country". Moreover, professional emphasized lack of human capacities in the child protection system, inadequate capacity building programs for professional working with children and other. As one of the respondents explained when asked how do you perceive gaps in the overall CP system: "Insufficient professional approach to work, insufficient budget, in certain areas of inadequate human capacity, poor management, political pressures and often neglecting the needs and best interests of children". The respondent's opinion is confirming all of the previous assessment findings related to different gaps in overall Child Protection System, thus in the regulatory framework and monitoring of existing services. These concerns have been described and will be described in further detail throughout the report, as appropriate.

15. ASSESSMENT OF THE SYSTEM

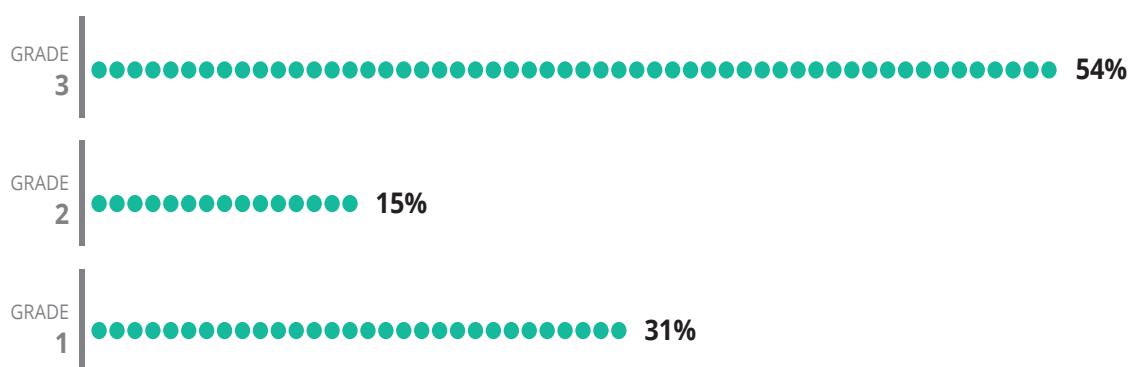
Respondents were not sure how to rate the system of child protection in Bosnia and Herzegovina using basic principles of accountability, transparency and independence. When it comes to independence more than 60% of respondents stated that system is not independent, around 55% said it is not accountable while 85% respondents stated that system is not transparent. The reasons behind these answers confirmed that most of professionals in institutions are not capable to cope with this issues, the system is not based on proper needs and mainly defined by the political options, it is dependent on the budget therefore control is not sufficient, it is not based on the facts, lacking sanctions, disharmonized statistical reporting and lacking of data base for non-material services. Further on, almost 100% of respondents said that budgeting for children is not sufficient and it is not planned for every year within budgets which is one of the indicators of planning child wellbeing in institutions and from decision makers. Relevant public reports do not show results nor measures taken to improve the quality of monitoring of the system. 55% of respondents said that relevant sanctions and other mechanism are not in in place to enable quality of monitoring while fewer said there are which is also indicative because maybe they are in place but if they are practiced in right manner it is not sure.

15.1 Relevance

In order to provide information about the relevance of the system, in coming sections, answers of respondents about the effectiveness, efficiency, impact and sustainability will be shown using scale of answers from one (not at all) to five (very good).

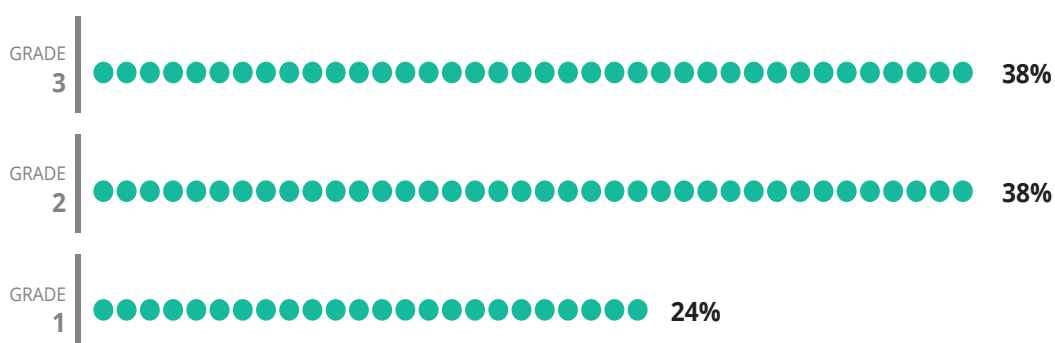
15.2 Effectiveness

Considering the effectiveness of the system, 54% of the respondents stated that child protection system in Bosnia and Herzegovina is at the satisfying level (grade 3). It is interesting that 31% of respondents said that the system is not effective (grade 1) while 15% stated that system is almost ineffective (grade 2). It is for sure by their answers (maximizing answer with grade 3 out of 5) that all of them are aware that system needs to be improved in order to be effective especially if considered above displayed issues that professionals are facing with.



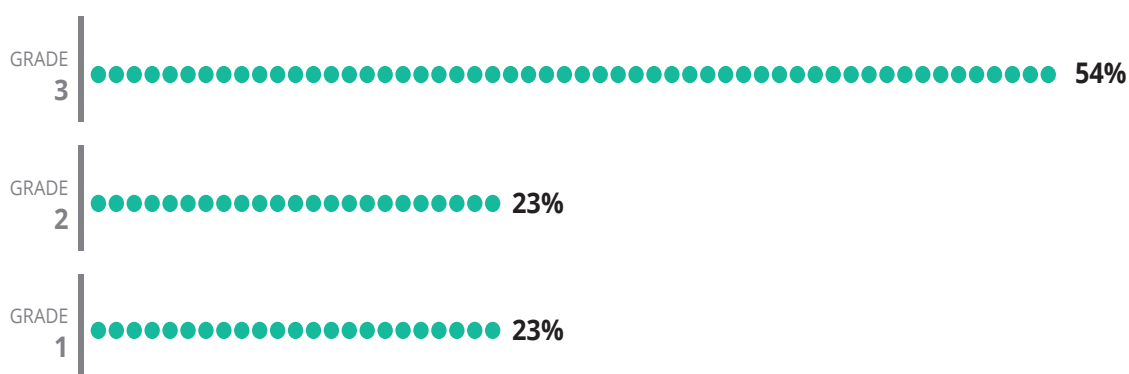
15.3 Efficiency

Almost 80% of respondents declared that the system is between non efficient and semi efficient (38%; grade 2, 38%; grade 3) while 24% of them stated that the system is inefficient. Commonness between prior section and this one is that people used same grades to evaluate the system stating that changes needs to be put in place immediately.



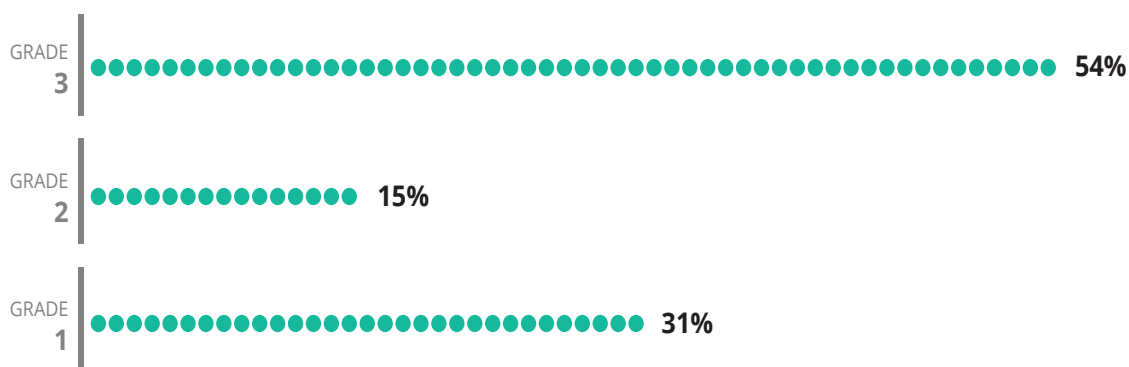
15.4. Impact

54% of respondents have opinion that impact of the system to secure child protection is existing, but the impact of services provided can be on a much higher level (grade 3) while 46% of them considers that the CP system, either does not have any impact at all (23%; grade 1) or its impact is very small (24%; grade2).



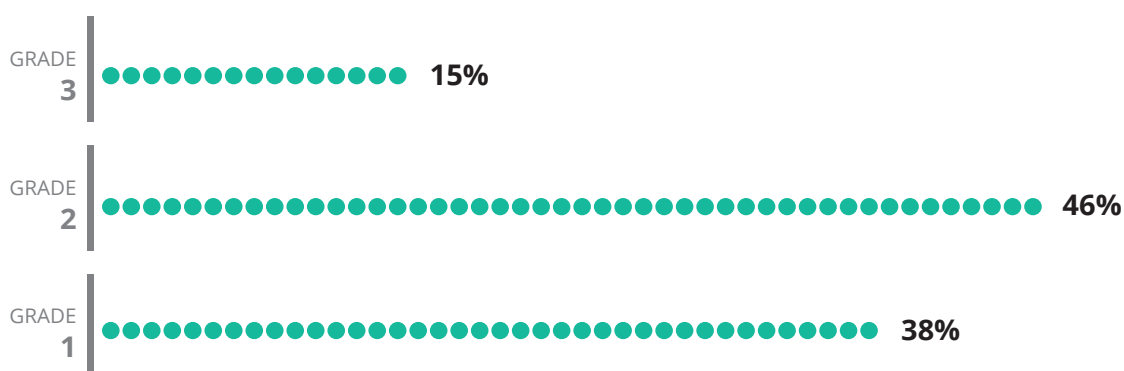
15.5 Sustainability

The same percentage of respondents who answered that the impact on the system of child protection in Bosnia and Herzegovina is somewhere in the middle, answered that the system is sustainable in similar form (54%; grade 3). However, other part of the respondents do not share same opinion stating that the system is not sustainable at all (31%; grade 1) or has some segments of sustainability (15%; grade 2).



15.6 Participation of children and families

What can be concluded after reviewing relevant papers, documents and studies, and based on the interviews conducted, that participation of children and their families in the processes that are concerning them is minimal. As most of the CP system, children and their families' participation is affected by the complexity of the country and many different practices in different parts of BiH. Participation of children in any proceedings that concern them is definitely not a practice. This has been confirmed by professional during interviews and as part of the survey. Majority of respondents stated that children participation is either not existing or barely existing, more precisely, when asked to grade the statement "to which extent the child protection system in BiH is participatory, i.e. how much it includes the opinions of children and their families in the process of their protection", 38 per cent gave it grade 1 (to no extent) and 46 per-cent gave it grade 2 (to minimum extent).



Study on Children's Equitable Access to Justice in Bosnia and Herzegovina has also addressed the issue of children's participation, but only in judicial proceeding and its finding are aligned with findings of this study, which can be seen from the following: *"This is compounded by the reality that many children see remedies as useless, because they do not feel that they are listened to, believed or that their experiences are valued. Some children even identified negative consequences, such as social ostracism, for bringing forward rights violations. Another barrier for children when accessing justice is their distrust of official institutions and fear that their case will not be processed fairly or transparently. This was highlighted in particular by children living in vulnerable situations. (Children's Equitable Access to Justice in Bosnia and Herzegovina, UNICEF 2016)"*.

16. PROMISING PRACTICES

Throughout conducting interviews with different stakeholders, the question which couldn't be avoided is what kind of promising practices practitioners are aware of, that is positive and delivering results. Several promising practices were mentioned which could be used as sole or could be used within different others. One of promising practices is Drop in Centres in Bosnia and Herzegovina that are dealing with street involved children. Basics of their work is direct work with children and parents through identifying beneficiaries and providing them support within centres or other institutions in local community because they are part of referral mechanism at local level. This practice is present in BiH for several years discovering children who, until that moment, were not visible offering children different services (e.g. education, food, connection with social welfare centres, etc.). Children upon enrolling into centre services have individual plans developed together with children and employed staff, trying to ensure their best interest. Plan can be altered but in accordance with the staff and children interests and needs. The quality of services has been well designed throughout minimum standards for drop in centres which is the document that every centre owns and it regulates each and every activity, premise, member of staff, etc. to be equal in each location taking into consideration need of education and data collection.

What also has been addressed is related to participation of children where the Family Law stipulates as mandatory for professionals to ask children if it is capable to understand the proceeding. This could be also replicated to other procedures and proceeding where children opinion is not regulated only as "children could be asked" but mandatory and in a child friendly way. Also, work of the National Council of Children BiH resulted with positive outcomes via creating different recommendations and policies directly involving children and their opinions.

Respondents also named several new initiatives that are very promising but results should be visible in forthcoming period. It is about fostering as a relatively new concept in BiH which has great potential focusing on strengthening the system of foster care families with excluding placing children in institutions. They also praised different day care centres that are providing service beyond CSW capacities, like several Day care centres for children at risk. Juvenile Justice system, and the legislation adopted in recent years has very promising effect, by creating mostly restorative system of justice for

children. It contains plenty of solutions for the prosecution in order to avoid detention. The existing laws (Law on protection and treatment of children and minors in criminal proceedings RS, FBiH and BDBiH) as *lex specialis* have both material and procedural components. It has provisions on juveniles in conflict with the law but also provision on protecting children who are victims/witnesses of criminal offences.

17. RECOMMENDATIONS FOR IMPROVEMENT

Summarizing all of the results given by this study it is clear that every area of Child Protection System and its monitoring needs plenty of improvement. There are a lot of positive trends and activities conducted in that direction by both governmental institutions and other stakeholders, but the highest obstacle is beside structural complexity of BiH and unstable political situation remains low position of child protection at agenda of decision makers. In order to improve CP system in BiH there are several more general and comprehensive recommendations that should be taken under consideration by the government.

- Strengthen the legislative and policy framework relevant to CP that will involve clear roles and responsibilities of each actor at different levels of authority, obliging professionals to be more proactive, responsive and accountable to their duties;
- Timely harmonize all relevant laws on every levels of government in order to have equitable access to CP services across all country establishing focal points or bodies that will be responsible for monitoring and analysing the quality of child protection service;
- Establish a multidisciplinary coordinated service to assist children in all of their needs;

- Create a unique database which will grasp needs of CP system and developing set of tools, indicators, education programs and setting up regular communication channel that will serve as a platform for prompt and harmonized approach in building up the system of quality monitoring of child protection services;
- Create clear procedures on the child right to a Best Interests Determination,
- Allocate more resources directly on behalf of the children needs and provide transparent tender procedures in order to be properly shared and for right cause;
- Create procedures that we will precisely determine and define child best interest for professionals.

17.1 Summary of recommendations of the interviewed experts and of the researcher, based on its own analysis

- Need for education of professionals in Centres for Social Work on development of individual plans for children and family in proceeding where it is needed (e.g. divorce);
- Initiate changing the Family Law in FBiH allowing that court could temporarily make administrative order aiming to respect timing in divorce cases thus respecting child rights;
- Make amendment in Criminal Code FBiH in order to resolve the position of child protection professionals especially in terms of conflict situations and providing the best treatment and care for children;
- To use Child Week as potential for better and harmonized activities in country in order to sensitise public and to place child protection higher at the list of priorities;
- To support more preventive work by strengthening multi-sector approach and developing proper services for beneficiaries;
- Establishing unique fund for child protection at state level;
- Continuation in strengthening capacities of institutions and organizations whose work and responsibility is child protection especially when it comes to new trends;
- Creating new and updating existing data base;
- Engaging and supporting CSOs in further monitoring of child protection and fulfilling child rights;
- To quality establish accountability of professionals in legislative and in practice.

ANNEX

Laws and regulations attached verbatim (if available, in English)

LITERATURE

Mapping of EU country child protection systems by the Fundamental Rights Agency:
<http://fra.europa.eu/en/publication/2015/mapping-child-protection-systems-eu>

EU's Reflection Paper on Integrated Child Protection System
<https://childhub.org/en/child-protection-online-library/9th-european-forum-rights-child-coordination-and-cooperation-1>

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<http://www.fao.org/docrep/019/as547e/as547e.pdf>

Measuring and Monitoring Child Protection Systems - Proposed Regional Core Indicators for East Asia and the Pacific
<http://www.socialserviceworkforce.org/resources/measuring-and-monitoring-child-protection-systems-proposed-regional-core-indicators-east>

Child Protection Resource Pack (UNICEF) – How to Plan, Monitor and Evaluate Child Protection Programmes
<https://www.unicef.org/protection/files/CPR-WEB.pdf>

Children's Equitable Access to Justice
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