



Half way home

Monitoring the Reintegration of Children Returned
from EU Countries to South-East European Countries



Terre des hommes

Helping children worldwide. tdh.ch

Half Way Home

Monitoring the Reintegration of Children Returned from EU countries to South-East European Countries

The document was developed in the framework of the project “Monitoring the Situation of Children Returned from EU Member states” co-funded by the European Return Fund of the European Commission



August 2014

Contributors: Nóra Köves, Judit Németh-Almási, Victoria Borisch

Editor: Maria Antonia Di Maio

Cover Photo: Children benefitting from reintegration assistance in Moldova, 2013

Copyright: Tdh | Arina Cretu

The opinions expressed in the report are those of the authors and do not necessarily reflect the views of the European Commission

Half way home

**Monitoring the Reintegration of Children Returned
from EU to South-East European countries**

Table of contents

Foreword	5
Acknowledgements	7
Acronyms	7
Executive summary	9
Glossary of terms and definitions used	10
Introduction	12
Methodology	14

Part I – Main aspects to consider regarding the return of children from EU to third countries

Key principles in dealing with children in migration contexts	15
Best Interests Determination to identify a durable solution	16
EU legal standards applicable to the return of children	17
‘Life projects’ to identify and implement concrete durable solutions	19

Part II – Key legal provisions concerning the return of children in selected EU countries

Overview of the return situation in the selected EU countries	21
Key features of national legal provisions governing the return of children	22
Guardianship, legal assistance and representation	23
Return decisions	23
Appealing a return decision	25
Alternatives to return	25
<i>Family reunification</i>	25
<i>Integration in the host country</i>	26

Part III – Main results from field-research

Programs facilitating return between EU and SEE countries	27
Profiles and migration experiences of the children and families included in the research	28
Reintegration support provided by the Project	30
Key challenges hindering successful reintegration	32

Co-operation with local authorities.....	32
Vulnerability prior to departure	33
Discrimination based on minority status or gender	33
Are these children 'on the radar of services?'	33
Neglect of the views of the child	34
Trauma and post-traumatic stress disorders	34
Factors influencing Reintegration.....	35
Level of integration and length of stay in host country	35
Knowledge of language of the country of return	35
Administrative situation	36
Education and school attendance	36
Availability of social and medical services.....	37
Possibility to rely on family and social network.....	38
Access to labour market	38
Basic goods and adequate housing.....	39
Family situation	39
Availability of recreational activities	40
Information about rights and services	41
Timing of assistance	41
Conclusions and recommendations	41

Foreword

Today, an increasing number of children are moving across Europe, under different circumstances: voluntarily or forcibly, alone or with their parents, and often with other adults who are not able or willing to adequately care for them. Many children migrate for a variety of reasons – from job search or access to education, through to escaping unfavorable circumstances such as extreme poverty, social exclusion, violence or abuse. Although comprehensive figures are still missing, it is a common reality that large numbers of children also move within Europe, particularly from South-Eastern European countries towards the European Union.

After some months, or several years, many of the children return to their country of origin, alone or with (part of) their families. Some of them do so on their own choice, because they wish to go back to their own country and family. In other cases, the return is decided in the child's best interests by others, as the option that mostly fulfils his or her rights also in the long-term perspective. In other cases though, children have no real possibilities to remain in the host country. In some instances, after having travelled as separated or unaccompanied, they receive very limited support (and legal options) to remain in the country they regard as their 'new home' – especially upon turning eighteen – and have no choice but going back to their families and communities. Other times, they are returned by the relevant authorities, alone or together with their families, in the framework of procedures that they often fail to fully comprehend, and which are sometimes intimidating and even traumatizing to them.

Once back in their country of origin, children face an extraordinary amount of challenges to feeling "at home" again, and to imagine a positive future there. Children often cannot (re)establish positive relationships with their parents, relatives and/or with their peers and community. Often, they cannot enjoy their fundamental rights and access basic services such as health and education, as well as social support. They may have to sustain discrimination and stigma, and survive in very poor and uncomfortable conditions. They remain in isolation and feel "half-way home". Why does this happen?

A successful reintegration is a complex process that requires a full and diversified range of resources and interventions. It has to be based on a thorough assessment of the child's individual situation, undertaken by qualified professionals, and undertaken according to a tailored, comprehensive plan subsequently designed. It entails support at personal, family and sometimes community level. It builds on access to qualitative services. It indeed is a very challenging process.

And yet, all States in Europe have ratified the United Nations Convention on the Rights of the Child. Thus, they are obliged ensure the utmost protection and assistance to all children within their jurisdiction, treating them as human beings, children and rights holders first and foremost, whereas any other considerations related to their migration status should be secondary. This includes ongoing, holistic and long-term support to their (re) integration.

Regretfully, this was not the case for the children whose stories are captured by this report. As the following pages well illustrate, children's reintegration has been hindered by a complex range of factors, leading back to structural problems – such as extreme poverty – , social exclusion, as well as limited institutional capacity in both the country of origin and destination. Moreover, in several cases, return was not the option meeting the child's best interests, fact which poses substantial challenges to the reintegration process. In the majority of cases that we know of, a suitable reintegration plan was not designed prior to the child's return, thus the child and family were not adequately prepared to such a big change.

In the concluding observations addressed by the Committee on the Rights of the Child to States in Europe there are many recommendations for the implementation of the Convention concerning poor, excluded, abused, neglected, migrant, refugee, separated, unaccompanied, exploited children that should be taken into consideration and acted upon accordingly. Among others, the above-Committee recommended to ensure that when the return of children occurs, this happens with adequate safeguards, including an independent assessment of the conditions upon return, encompassing family environment¹. It recommended that coordination between countries of destination and of origin to ensure that children are returned to family members willing to care for them or to appropriate alternative caregivers²; and that mechanisms be established to identify children coming from conflict-affected countries or who may have

¹ UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : United Kingdom of Great Britain and Northern Ireland*, 20 October 2008, CRC/C/GBR/CO/4, available at: <http://www.refworld.org/docid/4906d1d72.html> [accessed 15 October 2014]

² UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : Spain*, 3 November 2010, CRC/C/ESP/CO/3-4, available at: <http://www.refworld.org/docid/506962b62.html> [accessed 15 October 2014]

been exploited by criminal groups, in order to ensure their protection, recovery and reintegration³. While these recommendations have been addressed to specific countries, their core messages could be extended to all countries in Europe facing similar challenges concerning the protection of migrant children.

I commend the work undertaken by the authors of the present report, who have tried to provide very easily accessible guidance on how to shape policies and programmes in order to effectively support authentic and long-term reintegration for children. They acknowledged that reintegration is a complex process, and that the different actors involved need to be equipped with further knowledge and tools in order to adequately support and monitor it. Therefore, they offer very concrete recommendations – based on their outstanding practical experiences – to overcome barriers, in search for sustainable, child rights-based integrated, holistic solutions. Along with the ‘Post-return monitoring framework’ – produced as part of the same project – this report offers to decision-makers and service providers a structured set of very constructive and realistic

proposals, for them to be fully enabled to adequately decide for, plan and support the reintegration of a child whose best interests equals to being reunited with his or her family in their country of origin. This is a very welcome effort that will hopefully contribute to making the full realization of the rights of migrant children a reality.

More broadly, this report is hopefully also drawing the attention of civil society advocates, policy makers and politicians at all levels to the complex needs of children at risk of leaving their home, those on the move and children returning home, and on the crucial need to provide them and their families with the best possible support to ensure their well-being and rights to develop their full potential.

Maria Heczog

President of Eurochild

Member and Rapporteur
of the United Nations Committee
on the Rights of the Child

³ UN Committee on the Rights of the Child (CRC), *Concluding observations on the combined third and fourth periodic reports of Luxembourg, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)*, 29 October 2013, CRC/C/LUX/CO/3-4, available at: <http://www.refworld.org/docid/52822d9e4.html> [accessed 15 October 2014]

ACKNOWLEDGEMENTS

Terre des hommes Foundation 'Lausanne' in Hungary would like to extend its gratitude to the Project social workers who have been instrumental in gathering information about the children involved in the research and also in improving their reintegration: Irma Siljak, Sabiha Husic and Habiba Kovac from Medica Zenica, Edlira Bashmili from Tdh Albania and Ardit Reka from Arsis Tirana, Visar Kryeziu from Terre des hommes Kosovo, Jasmina Rajkovska, Lence Markovic, Veselinka Cvetanovska from Open Gate/La Strada, Aida Petrovic, Marijana Milic, Ida Kolinovic and Valentina Vlahovic from the Montenegrin Women's Lobby, Nicola Crnic from the Ecumenical Humanitarian Organisation, Milica Djordjevic and Marko Tosic from the Center for Youth Integration.

Our thanks goes also to colleagues from partner organisations Martina Andreeva from Hors la rue, Astrid Winkler from ECPAT Austria and Valbona Hystuna and Alexandra Matou from ARSIS Thessaloniki for the desk-research and the interviews with stakeholders. Special thanks go to country members of the European Network of Ombudspersons for Children ('ENOC') who have kindly answered the query of researchers. Their perspective on a broader number of EU countries provided a useful insight in the situation of children involved in return processes in Europe.

Gratitude for the professional editing and review by Maria Antonia Di Maio and the editing and expertise provided by Mirela Shuteriqi, Pierre Cazenave, and Sendrine Constant from Terre des hommes. Last but not least, the authors would like to thank children and their families who shared their views and experiences, making the research very rich and interesting.

ACRONYMS

BIA	Best Interests Assessment
BID	Best Interests Determination
ECRE	European Council on Refugees and Exiles
ENOC	European Network of Ombudspersons for Children
EU	European Union
FYROM	Former Yugoslav Republic of Macedonia
ICMPD	International Centre for Migration Policy Development
IOM	International Organization for Migration
NGOs	Non-governmental organizations
OFII	French Office for Integration and Immigration
SEE	South-East European
UN CRC	United Nations Convention on the Rights of the Child
UNHCR	United Nations High Commissioner for Refugees

Executive summary

The present research was conducted as part of the Project “Monitoring the situation of children returned from EU Member States” – co-funded by the European Union’s Return Fund – aiming to document, analyze and improve the situation of children that have been returned from European Union (‘EU’) Member States to six South-East European (‘SEE’) countries, by ensuring that their best interests are upheld following the enforcement of a return decision. The research builds on the “Comparative Study on Practices in the Field of Return of Minors”, carried out by the European Council on Refugees and Exiles (‘ECRE’) and Save the Children (EU Office)⁴. Overall, research activities started in April 2013 and ended in August 2014.

The research methodology comprised of primarily qualitative analysis, carried out through desk-research and stakeholders’ interviews in a number of EU countries, as well as through field-research in six SEE countries. The main research tools applied were a ‘country fiche’ (a questionnaire) for the desk-review, and a ‘case file form’ to collect information from a total of 120 children (and their families) who were returned to SEE countries. Children involved in the research were selected according to the following criteria: a) Returned through official return processes; b) Representing both separated/unaccompanied children and children within families; c) Balancing different experiences, including asylum-seekers and ‘economic migrants’; and d) Children who were less than 18 years old when the return decision was taken.

The main limitations of the research concern: the incomplete application of the selection criteria to identify children and families involved in the research, due to difficulties in accessing cases of separated and unaccompanied children (who are therefore under-represented) and logistical constraints – which limited the research to few locations within each country; the limited scope and quality of data collected on children returned from EU to SEE countries in general; and the limited possibility to review the findings, conclusions and recommendations of the present report for external stakeholders.

In the four EU countries targeted by the research – all of which are bound by the relevant international and regional legal instruments – most of the legal provisions applicable to the return of children are envisaged as part of the general legal framework that apply to adults as well. Legal assistance, and assistance and representation by a guardian, are provided to children in the context of return to different extents in these countries. Usually,

similar types of return are envisaged by the national legal frameworks, with some differences across countries. Legal alternatives to return available to children appear to be limited, especially concerning family reunification in a third country.

Acknowledging the importance of ensuring a continuum in assistance from the host to the origin country to children in the context of return, the research aimed to also identify programs that are designed to facilitate the reintegration of persons (adults and children) returning to SEE from EU countries, involving a cooperation between the host and the origin country. It was found that most of these programs support individuals returning to their country of origin voluntarily, and that support extends for a limited period of time. Moreover, these programs seldom envisage child-centered measures to specifically support the reintegration of children.

The research found no evidence that an in-depth analysis and balancing of the different factors that should be taken into account in order to identify a long-term durable solution that meets the child’s best interests were undertaken for any of the 120 children returned from EU to different SEE countries, before a return decision was made and implemented. In a few cases, judging from the difficulties faced in the country of origin, return did not even appear to be the most appropriate long-term solution to realize the child’s best interests. The situation of children within families appears to have been generally overlooked, and their best interests not systematically assessed by authorities in the host country.

Except for a few cases, an individual reintegration plan was not developed before a decision to return the child (and family) was taken and implemented, and communication and cooperation among the host and origin countries was generally lacking, facts that seriously undermine the successful reintegration of children and their families.

The research highlighted several challenges that hinder the process of reintegration for children and families after return to the country of origin, in particular the lack of adequate access to the different services that they need (including health care, social assistance and support in obtaining official documents). This is due to the limited availability of services, eligibility requirements narrowing access, and also to the lack of information of children and families on the existing services, as well as to language barriers.

Among the factors that foster successful reintegration of children in the society, access to education resulted

⁴ <http://ecre.org/component/content/article/63-projects/261-study-on-the-return-of-children.html>

to play a fundamental role. An inclusive atmosphere in school enables children to develop their potential and to acquire skills for future jobs, provides a sense of stability, increases self-esteem and allows space for making friends. Children's reintegration in the education system is often hindered by several factors, including: discrimination experienced by children at school; lack of basic resources for families to enroll children in school; timing of the return (for example, in the middle of the school year); 'administrative invisibility'; language barriers; and children and parent's lack of trust in the importance of education.

The research also found that authorities in countries of origin reviewed in many cases lack adequate human resources and financial means to properly follow-up on returned children and to monitor their reintegration, as well as to detect difficulties arising in the process and address these timely. Except for the very limited monitoring envisaged in the framework of project-based initiatives, these children (and their families) were mostly left with no reintegration support.

It is recommended that any return decision should be based on a thorough 'best interests determination' procedure, to which all children should have access in a non-discriminatory manner. Such procedure should be planned and undertaken according to available authoritative guidance – in particular as provided by the United Nations Committee on the Rights of the Child and the United Nations High Commissioner for Refugees ('UNHCR'). While children with families may not be referred to a best interests determination procedure, their best interests shall nevertheless be carefully assessed, and their opinions taken into serious consideration, with a view to contributing to the overall decision in relation to the family or individual decisions in relation to family members.

It is recommended that – when, following a process to determine the child's best interests, it has been decided that return is the most appropriate durable solution for a child – a comprehensive, individually-tailored reintegration plan be developed and agreed upon between the child and the host country, in cooperation with relevant authorities from the country of origin and including input from all relevant actors.

Authorities should cooperate in order to proactively support the continuing reintegration of children in the school system. Measures put in place should include: raising awareness of children and their families about the importance of attaining education; fighting discrimination in school by sensitizing teachers and involving children in peer-to-peer and various recreational activities to foster their social inclusion; removing administrative barriers to children's enrollment in schools, including the timely transfer of relevant documentation among countries.

It is recommended that referral mechanisms be put in place and made operational in countries of origin, in order to ensure an early identification of challenges and appropriate assistance and support of children returned throughout the long and difficult reintegration process. Referral mechanisms should involve all relevant authorities (child protection, social services, health and school professionals, etc.) according to clear operating procedures. In order to provide professionals with tools to effectively monitor reintegration, mechanisms and models for post-return monitoring need to be jointly developed by all parties involved.

GLOSSARY OF TERMS AND DEFINITIONS USED

Best interests of the child:

The Committee on the Rights of the Child recently detailed that the „Child's best interests is a threefold concept:

- (a) A substantive right: The right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision on the issue at stake, and the guarantee that this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general. Article 3, paragraph 1, creates an intrinsic obligation for States, is directly applicable (self-executing) and can be invoked before a court.
- (b) A fundamental, interpretative legal principle: If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen. The rights enshrined in the Convention and its Optional Protocols provide the framework for interpretation.
- (c) A rule of procedure: Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child require procedural guarantees. Furthermore, the justification of a decision must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases"⁵.

⁵ Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests

Best Interests Determination (BID):

The term generally refers to the deliberation when deciding what type of services, actions, and orders will best serve a child as well as who is best suited to take care of a child. “Best interests” determinations are generally made by considering a number of factors related to the child’s circumstances and the parent or caregiver’s circumstances and capacity to parent, with the child’s ultimate safety and well-being the paramount concern.

Best Interests Assessment:

“An assessment made by staff taking action with regard to individual children, except when a BID procedure is required (above), designed to ensure that such action gives a primary consideration to the child’s best interests. The assessment can be done alone or in consultation with others by staff with the required expertise and requires the participation of the child”⁶.

Child:

Every human being below the age of eighteen years”⁷.

Child protection:

Child protection refers to “preventing and responding to violence, exploitation and abuse against children”⁸.

Unaccompanied children/minors:

“‘Unaccompanied minors’ means third-country nationals or stateless persons below the age of 18, who arrive on the territory of the [EU] Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered the territory of the Member States”⁹.

Separated children:

Under 18 years of age, outside their country of origin and separated from both parents or their previous legal, or customary primary caregiver¹⁰.

Trafficked child:

Any person under eighteen who is recruited, transported, transferred, harbored or received for the purpose of exploitation, either within or outside a country, even if no element of coercion, deception, abuse of authority or any other form of abuse is used”¹¹.

Refugee:

“As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or owing to such fear, is unwilling to return to it”¹².

Voluntary departure:

‘Voluntary departure’ means compliance with the obligation to return within the time-limit fixed for that purpose in the return decision¹³.

Removal:

‘Removal’ means the enforcement of the obligation to return, namely the physical transportation out of the Member State¹⁴.

Return decision:

‘Return decision’ means an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return¹⁵.

taken as a primary consideration (art.3, para. 1), 6.

⁶ UNHCR *Guidelines on Determining the Best Interests of the Child*, 2008, p.8.

⁷ UNCRC, Article 1, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁸ UNICEF, *What is child protection?*, 2006, http://www.unicef.org/protection/files/What_is_Child_Protection.pdf

⁹ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, Chapter 1, Article (2)(i), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:en:HTML>

¹⁰ Separated Children in Europe Programme (‘SCEP’), *Statement of Good Practice, 4th Revised Edition*, 2009. This definition – largely adopted by the General Comment No 5, recognizes that some children may appear ‘accompanied’ but in practice the accompanying adult may be either unable or unsuitable to

assume responsibility for their care.

¹¹ SCEP/Save the Children, *Position Paper on Preventing and Responding to Trafficking of Children in Europe*, 2007. This definition is largely based on Article 3 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).

¹² <http://www.unhcr.org/3b66c2aa10.html> Convention and Protocol Relating to the Status of Refugees, Article 1 (2) This article has been extended to those who had to flee after 1951 with the 1967 additional Protocol.

¹³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, Article 3 (8)

¹⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, Article 3 (5)

¹⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning

Reintegration

The process that takes place after the return of the child to his home, city or country (place of origin)¹⁶.

Non-refoulement:

According to this principle, “no Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”¹⁷.

Circular migration:

“Temporary or more long-term and usually recurring legal movements between two countries. Movement can occur either through migrants moving from their countries of origin or residence to a host country and then returning, or through migrants moving to their countries of origin for a shorter or longer period”¹⁸.

INTRODUCTION

The present research was carried out as part of the Project “Monitoring the situation of children returned from EU Member States”, implemented by 10 non-governmental organizations (‘NGOs’)¹⁹ with the main aim to document, analyze and improve the situation of children that have been returned from EU Member States to six SEE countries (Albania, Bosnia-Herzegovina, FYROM, Montenegro, Kosovo²⁰ and Serbia), by ensuring that their best interests are upheld following the enforcement of a return decision. The Project was co-funded by the European Union’s Return Fund.

The Project envisaged the following main activities in order to achieve the above-aims:

- **Monitoring** by social workers of 120 children and their families returned from several EU Member States to the above-six SEE countries, in order to document the evolution of their individual situation, and to provide

assistance and support needed to their successful reintegration;

- Carrying out a **research** aimed to increase the understanding among EU Member States about the factors that contribute to the reintegration of children – which is the subject of the present report; and
- Designing a **post return monitoring framework** aimed to support EU Member States, as well as countries of origin, to monitor the progress achieved and to support children in the process of reintegration following return, in compliance with their legal obligations to fulfil children’s rights.

The research – as well as the entire Project – is based on the “Comparative Study on Practices in the Field of Return of Minors” (hereinafter ‘Comparative Study’), carried out by the ECRE and Save the Children (EU Office), published in 2011 and funded by the European Commission²¹.

The Comparative Study, aimed “to help Member States develop an effective system for how to consider the return of children to countries outside the EU”²², provided a solid basis for further analysis of each country’s situation or focused assessments of particular features of existing practices. “One of the most striking findings of the Comparative Study is that, unless specific programmes are in place, there appears to be very few contacts between sending and receiving countries in relation to the circumstances of returning children or families”²³. The study also highlighted the “lack of solid infrastructure for assessing the situation of families or for providing effective reintegration support for families with children or separated children in the countries of return”²⁴.

The Comparative Study explicitly stressed the limited knowledge on the existing practices concerning the monitoring of, and support to the process of reintegration of children returned from EU in the countries of origin²⁵. The present research aimed to fill in the existing gaps in knowledge about issues, challenges and effective support to achieve successful reintegration of children and their families returned to their country of origin, based on real practices concerning individual cases and concrete experiences.

In this regard the current document does not intend to gather detailed statistics from EU Member States

illegally staying third-country nationals, Article 3 (4)

¹⁶ Supporting Child (Re)Integration: Terre des hommes Policy Paper, 2009, 3

¹⁷ <http://www.unhcr.org/3b66c2aa10.html> Convention and Protocol Relating to the Status of Refugees, Article 33 (1)

¹⁸ http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/circular-migration/26a_sweden_national_report_circular_migration_final_version_9dec2010_en.pdf Temporary and Circular migration, page 6.

¹⁹ ARSIS (Greece), Center for Youth Integration (Serbia), ECPAT Austria, Hors la rue (France)/Montenegrin Women Lobby, Open Gate-La Strada (FYROM), Terre des hommes Delegation in Albania, Terre des hommes Delegation in Kosovo, Terre des hommes Foundation “Lausanne” in Hungary, Medica Zenica (BiH)

²⁰ This designation is without prejudice to positions on status and in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

²¹ <http://ecre.org/component/content/article/63-projects/261-study-on-the-return-of-children.html>

²² ECRE/Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors* (2010), p.10.

²³ ECRE/Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors* (2010), p.14.

²⁴ ECRE/Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors* (2010), p.15.

²⁵ ECRE/Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors* (2010), p.16.

concerning the presence and situation of non-national children on their territories. Nor does this report intend to provide an extensive overview of the whole range of assistance and protection measures that EU Member States are obliged to grant to children in migration situations from the very first point of contact through to the identification of a long-term, durable solution, and its implementation.

The present report is divided in three main parts. Part I outlines the key principles governing the treatment of children in migration situations within the EU territory, stemming from international and regional human rights and other legal instruments. This section also highlights the main aspects to be considered when planning for and assessing progress made in the reintegration of a child who has been returned to his/her country of origin.

Part II of the report aims to provide a brief overview of the situation regarding the return of children from the four selected EU countries (Austria, France, Greece and Hungary), and to outline the main features of the legal framework concerning the treatment of children in each of these countries in the context of return.

The third and last part of the present report presents the main findings from the field-research carried out following the reintegration experience and process of 120 children and their families in the SEE countries where the Project has been implemented (Albania, Bosnia-Herzegovina, FYROM, Kosovo, Montenegro and Serbia). This section highlights the main challenges faced by children, their families, and the service providers in the process of reintegration over a period of 18 months. It then identifies the key-variables (factors) that play a crucial role in either fostering children's reintegration in their country of origin, or hindering it.

The report presents some conclusions that relate to the most significant findings of the research. It then proposes a series of key-recommendations, addressed to State authorities, local service providers, international agencies, NGOs and other stakeholders involved in the process of returning children to their country of origin, and of supporting their reintegration path.

The research methodology comprised primarily **qualitative** analysis, which was carried out through three main components: desk-research, individual interviews and field-research.

Project partners at ECPAT Austria, Hors la rue, ARSIS and Terre des hommes have conducted **desk-research** on the legislation, policies and current practices of returning children, including post-return monitoring mechanisms (if any), in a selected number of EU countries (Austria, France, Greece and Hungary).

Information gathered through desk-research was complemented by **semi-structured interviews with stakeholders** selected among State actors, local authorities, NGOs and International Agencies dealing with the return of children in the selected EU countries. The main tool used to collect information for the desk-research component was a 'country fiche' (a questionnaire). Additionally, some key-questions were addressed to members of the ENOC, in order to elicit background information on laws, policies and practices affecting the return of children in a broader number of EU countries.

Field-research was carried out in six SEE countries (Albania, Bosnia-Herzegovina, FYROM, Montenegro, Kosovo and Serbia). Project social workers in these countries identified and followed-up for 18 months a total of 120 children (20 per country), who were returned from different EU countries. Through monthly family visits paid to these children and their families, social workers gathered information on their migration experience, the process of return they were part of, and their current situations. Information was collected in anonymized case files and updated every six months (for a total of three times per case).

Furthermore, the research coordinator visited the six SEE countries involved and gathered additional information during meetings with government officials (Ministries of Interior, Ministries of Social Welfare etc.), border police, and NGOs about the reintegration process and services available to children and their families. Countries in SEE where the field-research was conducted (and assistance provided to returning children and their families) were selected in adherence to the requirements of the Call for Proposals to which the Project was designed to answer²⁶.

The desk-review and the interviews with stakeholders were conducted between August 2013 and January 2014; whereas the field-research was carried out between April 2013 and August 2014.

Children involved in the research were selected according to the following criteria:

- Children returned through official return processes (as a lot of children – probably the majority – return outside any procedure);
- Representing both separated/unaccompanied children and children within families;
- Balancing different experiences, including asylum-seekers and 'economic migrants';
- Children who were less than 18 years old at the moment when the return decision was taken (otherwise, no constraints on age groups were set).

²⁶ http://ec.europa.eu/home-affairs/funding/return/call_2011/Call%20for%20proposals.pdf

In practice, however, the vast majority of children identified and involved in the research were returned within their families (116 out of 120 involved). Social workers faced difficulties in identifying children returned as separated or unaccompanied, as information on their cases was not provided by relevant authorities in compliance with privacy and data protection legislation. Furthermore, the official numbers of children returned in the framework of a return procedure were very low.

The research brings some **limitations**, which are described below.

As previously highlighted in this paragraph, some of the selection criteria elaborated by the Project partners in order to ensure a balanced representation of children in the research were difficult to apply in practice. Therefore, children selected do not represent a fully balanced sample as it was initially intended to be, particularly in terms of bringing the perspective of both children within families and separated or unaccompanied children. Moreover, logistical constraints reduced the ability of partner organizations to follow cases distributed across the entire country, due to limited staff capacity and travel time. Therefore, cases of children returned were selected from one or maximum two geographical locations in each of the SEE countries covered.

METHODOLOGY

The research aimed to also provide an up-to-date picture of the current situation of children involved in the process of return from the selected EU countries to SEE countries. However, this was possible only to a limited extent. Collecting data on the numbers of children returned from these countries and on their profiles proved to be a challenging task. None of the countries covered by the research had established a country-wide data collection system regarding children who are being returned. When some data were available, these were usually not sufficiently detailed as per children's age, gender, and return mechanisms (which made it difficult to elicit information on whether the return was voluntary or forced, and whether the child was returned alone or within his/her family). Furthermore, the limitations of the data collected was also brought by constraints in Project partners' time and resources to carry out interviews and review existing sources in relation to the EU countries covered.

Finally, due to the research (and overall Project) timeline, it was not possible to allow stakeholders (particularly those involved in the research as key-informants, including children and their families) to comment on the present report and input on its recommendations before it was finalized. However, some preliminary findings were shared at an international conference organized in the framework of the Project with the aim to discuss possible

mechanisms for post-return monitoring, which gathered 65 professionals from 18 different countries, representing Government authorities, NGOs and international agencies²⁷. The views of these participants have also informed the contents of the present report.

Dealing with such a sensitive topic and directly involving children who were (and/or had been) in vulnerable situations entailed a range of **ethical concerns**, that were addressed by Project partners.

In order to ensure the utmost protection of children, their families and communities, Project partners and social workers involved in the research were trained on how to act in accordance to clear child safeguarding policies. This training was conducted by the leading partner (Terre des hommes) in accordance to its own policy, whereas Project partners had also their own policies in place.

Similarly, all Staff involved in the field-research were trained on child participation, in order to ensure that consultation of children and their families be undertaken according to the highest available standards, in a safe, meaningful and empowering way.

A specific concern was brought by the fact that field-research was carried out by the Project social workers who were also in charge of providing reintegration assistance to the children and families involved in the research. This circumstance put them in an ethically precarious situation. Adopting a participatory role in children's overall lives could raise expectations that go beyond the possibility to provide assistance offered by the Project. In order to avoid misunderstandings and frustrations, social workers were careful to remind research participants about the purpose of the research and the boundaries of the Project assistance, while referring them to existing services as needed. At the same time, social workers were able to build a very positive, trustful relation with children assisted, nurtured by ongoing contacts and support, provided over a long period of time. This allowed children to feel more comfortable in opening up and accounting for their experiences, views, problems and hopes.

²⁷ The Conference was held on 23-24 June 2014 in Budapest (Hungary). Further information is available at: <http://tdh-childprotection.org/news/how-can-eu-member-states-uphold-the-best-interests-of-the-child-after-their-return>

Main aspects to consider regarding the return of children from EU to third countries

Key principles in dealing with children in migration contexts

Unaccompanied and separated children, as well as children within families, enter the EU for many reasons. Many of them are seeking asylum because of a fear of persecution or because of human rights violations, armed conflict or disturbance in their own country. Other children are victims of trafficking for sexual or other forms of exploitation. Others have travelled to the EU in order to escape conditions of serious deprivation or to look for new opportunities and a better future for themselves and their families.

All these children should be perceived and treated as children first and foremost, and entitled to international protection under several treaties, primarily the United Nations Convention on the Rights of the Child ('UN CRC'), which – along with its Optional Protocols²⁸ – is at the heart of the international framework for children's rights²⁹. The CRC sets out minimum standards that apply to all children within a State's jurisdiction, without **discrimination** based on nationality, immigration status, statelessness or other considerations³⁰.

States have the duty to ensure **protection** to every child from any form of neglect, abuse, violence and exploitation³¹. In the case of separated and unaccompanied children, States need to provide special protection and assistance to children deprived of their family environment³². All children in migration situations have an inherent **right to life, survival and development**³³.

The views and wishes of these children should be sought and taken into account whenever decisions affecting them are being made. According to the **right to participate** enshrined in the CRC, States should ensure to the child who is capable of forming his/her own views the right to express those views freely in all matters affecting the child, his/her views being given due weight in accordance with the child's age and maturity³⁴. In particular, cultural and linguistic factors, which may act as a barrier to participation, must be addressed³⁵.

The **best interests of the child** shall be a primary consideration in all actions concerning children, whether undertaken by public or private institutions, legal, administrative organs or legislative bodies³⁶. For children outside their country, this principle must be respected during all decision-making stages, including in the search for durable solutions. According to the best interests principle, decisions and protection measures should be embedded in a broader, more comprehensive process, aimed to determine their best interests³⁷ (see also below, 'Best Interests Determination to identify a durable solution').

The General Comment No. 6³⁸ of the UN Committee on the Rights of the Child (the independent body in charge of monitoring the implementation of the CRC by its State parties) provides authoritative guidance on how the CRC principles and rights shall be applied to **unaccompanied and separated children**. In sum, these children should not be refused access to the territory, they should be appointed a guardian to advise and protect them. An attempt to identify such children should be made early in order to provide them with the necessary assistance as soon as possible. They should have access to all necessary services, including housing, education, vocational/professional training and health. Family tracing procedures should be initiated, unless this is not in the child's best interests. Detention must be avoided.

²⁸ Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and Optional Protocol on the Involvement of Children in Armed Conflicts.

²⁹ Other relevant instruments include: the UN Convention Relating to the Status of Refugees (1951) and the accompanying Protocol on the Refugees Status (1967), The UN Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961), the International Convention on the Elimination of All Forms of Racial Discrimination (1965).

³⁰ Art.2, CRC

³¹ Articles 19, 32, 34, 35, 36 UN Convention on the Rights of the Child (CRC). Other CRC articles relevant to children's right to protection are: 9,10, 11, 16, 20, 21, 22, 23, 24, 25, 37, 39, 39 and 40.

³² Article 20 CRC.

³³ Art.6, CRC

³⁴ Art.12, CRC

³⁵ SCEP, *Statement of Good Practice, 4th Revised Edition*, 2009, B4.

³⁶ Art.3 CRC

³⁷ SCEP, *Statement of Good Practices. 4th Revised Edition*, 2009, D9

³⁸ Committee on the Rights of the Child, General Comment No. 6 (2005) on the Treatment of unaccompanied and separated children outside their country of origin.

State's ultimate aim should be to identify secure, concrete and durable solutions to their situation, having their best interests as a primary consideration. Depending on the individual circumstances of the children, such solutions may include return to their country of origin, integration into the host country or transfer to another country³⁹. Therefore, return is only one among the options to be considered when assessing the appropriate durable solution for the situation of a separated or unaccompanied child; other options should be equally considered and carefully assessed.

Best Interests Determination to identify a durable solution

The principle of the best interests of the child recalled above has been the subject of extensive consideration and debate in academic, operational and other circles. The CRC does not provide a precise definition of this concept. While of crucial importance, it is difficult to operationalize the best interests principle in practice. In 2013 the UN Committee on the Rights of the Child issued a specific General Comment (No. 14)⁴⁰ "seeking to ensure the application of and respect for the best interests of the child"⁴¹. The Committee clarified that "the concept of the child's best interests is aimed at ensuring both the full and effective enjoyment of all the rights recognized in the Convention [the CRC] and the holistic development of the child"⁴².

The obligation of States to duly consider the child's best interests is a comprehensive obligation encompassing "all decisions and actions that directly or indirectly affect children"⁴³ taken by "all institutions whose work and decisions impact on children and the realization of their rights", including those dealing with protection, asylum, immigration and access to nationality⁴⁴.

Previously, in the context of separated and unaccompanied children, the UNHCR conceptualized a distinction between "best interests assessment" and "best interests

determination". 'A "best interests determination" ('BID') describes the formal process with strict procedural safeguards designed to determine the child's best interests for particularly important decisions affecting the child. It should facilitate adequate child participation without discrimination, involve decision-makers with relevant areas of expertise, and balance all relevant factors in order to assess the best option'⁴⁵. This must be a multi-disciplinary exercise involving relevant actors and undertaken by specialists and experts who work with children⁴⁶.

"A "best interests assessment" ('BIA') is an assessment made by staff taking action with regard to individual children, except when a best interests determination procedure is required (above), designed to ensure that such action gives a primary consideration to the child's best interests. The assessment can be done alone or in consultation with others by staff with the required expertise, and requires the participation of the child"⁴⁷. Unlike a BID, a best interests assessment does not require the strict procedural safeguards of a formal determination, but professionals should have the required skills and knowledge.

Assessing the child's best interests is an ongoing process that places the child's best interests at the center of any action and as a primary consideration and objective of any measure affecting him/her. While the above-procedures have been designed for children deprived of adequate parental care, their underlying principles also apply to children outside their country of origin or habitual residence, even if they are still living with their parents or other close family members.

These concepts are largely mirrored in the Committee's General Comment No. 14⁴⁸, according to which a BID should be based on a BIA previously conducted. General Comment No. 14 also provides guidance on elements⁴⁹ to

³⁹ Further authoritative guidance on how to protect and fulfil the rights of separated and unaccompanied children is provided by a range of documents, including the UNHCR *Guidelines on Determining the Best Interests of the Child*, 2008 (below), the UNHCR's *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum* (1997) and the SCEP, *Statement of Good Practices. 4th Revised Edition*, 2009.

⁴⁰ Committee on the Rights of the Children, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art.3, para. 1)

⁴¹ Committee on the Rights of the Children, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art.3, para. 1), 10

⁴² General Comment No. 14, 4.

⁴³ General Comment No. 14, 19.

⁴⁴ General Comment No. 14, 30

⁴⁵ UNHCR *Guidelines on Determining the Best Interests of the Child*, 2008, p.8. the UNHCR's *Guidelines on Determining the Best Interests of the Child* (2008), which describe a formal procedure to determine the best interests of the child, in particular for the identification of durable solutions for separated and unaccompanied children as well as of protection responses for other children at risk. The above-guidelines are developed for use in operational or "field" contexts, where UNHCR leads the protection response for refugees (or internally displaced persons). Although very inspirational, they are not designed for use in industrialized states, in which the state is responsible for both refugee status determination and child protection. To fill this gap, UNHCR and UNICEF are currently developing a set of guidelines on best interests determination for separated and unaccompanied children in industrialized countries.

⁴⁶ SCEP, *Statement of Good Practices. 4th Revised Edition*, 2009, B1.

⁴⁷ UNHCR *Guidelines on Determining the Best Interests of the Child*, 2008, p.8.

⁴⁸ General Comment No. 14, 46-47

⁴⁹ General Comment No. 14, 52-79.

be taken into account when assessing the child's best interests. These elements are briefly summarized below⁵⁰.

- **The child's views** is a crucial element, without which a decision does not respect the possibility for a child to influence the determination of his or her best interests. The Committee explicitly states that a condition of vulnerability, such as belonging to a minority group or being a migrant, does not deprive a child of the right to express his/her views in this process;
- **The child's identity** includes characteristic such as sex, sexual orientation, national origin, religion and beliefs, cultural identity and personality. Indeed children are not a homogeneous group and diversity shall be taken into account when assessing their best interests.
- **The preservation of the family environment and maintaining relations.** "The Committee recalls that it is indispensable to carry out the assessment and determination of the child's best interests in the context of potential separation of a child from his or her parents". It also mentions the need to take into account this element when the child's relations with his or her parents are interrupted by migration⁵¹.
- **Care, protection and safety of the child**, as it is necessary for his/her well-being, including the child's basic material, physical, educational and emotional needs, as well as needs for affection and safety. This assessment shall cover among others consideration of the protection against sexual, economic and other forms of exploitation.
- **The situation of vulnerability** of a child, including his/her "disability, belonging to a minority group, being a refugee or asylum seeker, victim of abuse, living in a street situation etc."⁵², is an important element to consider, as it triggers consideration for specific protection rights covered by the CRC and other international conventions.
- **The child's right to health** is central in assessing his or her best interests. In particular, "the health of the child and possibilities for treatment may also be part of a best-interests assessment and determination with regard to other types of significant decisions (e.g. granting a residence permit on humanitarian grounds)"⁵³.
- **The child's right to education** is part of a BIA and BID, as it is in the child's best interests "to have access to quality education, including early childhood education,

non-formal or informal education and related activities, free of charge"⁵⁴.

Not all the above elements will be relevant to every case, and different elements can be used in different ways in different cases⁵⁵ as proper assessments should be conducted on a case-by-case basis, taking the individual circumstances into account.

EU legal standards applicable to the return of children

Countries in Europe are obliged to ensure protection and assistance to all children on their territory without any discrimination, including to children in migration contexts. A number of regional instruments apply to the situation of these children. Their provisions must be anchored in the existing international legal framework on human rights and children's rights specifically. In particular, the EU deals with the situation of migrant children in a variety of instruments, briefly summarized below.

The "Directive 2008/115/EC of the European Parliament and the Council on the common standards and procedures in Member States for returning illegally staying third-country nationals" ('Return Directive') sets out a common framework of procedures and minimum standards for the Member States to follow for the removal and repatriation of "illegally staying third country nationals". Thus, the purpose of the Return Directive is not to establish in which cases non-nationals of a Member State have to be returned.

The Directive also contains specific measures that are relevant for the return of children. In particular, when implementing its provisions, Member States shall take due account of the best interests of the child and family life⁵⁶. In relation to the return decision regarding separated and unaccompanied children, the Directive states that before removing an "unaccompanied minor" from the territory of the Member State, the authorities of that State shall be "satisfied" that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return⁵⁷. It however does not specify the concrete steps that have to be followed by Member States in order to reach a certain degree of "satisfaction"⁵⁸.

⁵⁰ This part of the text, summarizing the elements to be taken into consideration for a BID according to the General Comment No.14, is taken from: *Terre des hommes in Albania, Statutory Service Providers' Response to the Protection Needs of Children on the Move. PART I. Theoretical Background*, forthcoming

⁵¹ General Comment No. 14, 58

⁵² General Comment No. 14, 75

⁵³ General Comment No. 14, 78.

⁵⁴ General Comment No. 14, 79

⁵⁵ General Comment No. 14, 80

⁵⁶ Preamble, 22.

⁵⁷ Art. 10 (2), Return Directive

⁵⁸ According to the UN Committee on the Rights of the Child's General Comment No. 6, "in the absence of the availability of care provided by parents or members of the extended family, return to the country of origin should, in principle, not take place without advance secure and concrete arrangements of

While a voluntary return decision or postponed removal is pending, children are to be guaranteed access to basic education, emergency health care and essential treatment of illness, family unity (with present family members) and any special needs should be taken into account during their stay in the host country⁵⁹. When the return is voluntary the period shall be extended appropriately, taking into consideration the child's school attendance⁶⁰. Unaccompanied children should be detained only as a measure of last resort and it should be for the shortest period of time. Certain conditions must be observed during any detention, including families being provided with separate accommodation guaranteeing adequate privacy; detained children having the possibility to engage in leisure activities, including play and recreational activities as appropriate. Unaccompanied children shall as far as possible be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age⁶¹.

In addition to the Return Directive, other EU legal provisions addressing the situation of third country national children⁶² include the EU Asylum Instruments⁶³ – which encompass a number of provisions related to the situation of asylum-seeking children –, the EU Trafficking Directive⁶⁴ – containing special provisions concerning

children identified as trafficking victims – and the Family Reunification Directive⁶⁵. They generally make reference to the international and regional human rights instruments such as the UN CRC and the European Convention on Human Rights and Fundamental Freedoms. The Trafficking Directive particularly recognizes that “Member States shall take the necessary measures with a view to finding a durable solution based on an individual assessment of the best interests of the child”⁶⁶.

EU Member States' legal system is based on the law of the European Union, and beside the treaties and summits, Directives are the most important shapers of the Member States' legal framework. The Directives are legally binding documents, but their transposition into national law is the responsibility of each Member State. Regardless of the process of transposition, individuals and their representatives can refer to the Directives before the courts of the Member States from the moment they entered into force.

The current legal framework applicable to the return of children within the EU also includes a series of readmission agreements with third countries, which are either bilateral or multilateral instruments between parties (countries or the EU) about the procedure of return. The Return Directive states that “the need for Community and bilateral readmission agreements with third countries to facilitate the return process is underlined. International cooperation with countries of origin at all stages of the return process is a prerequisite to achieving sustainable return.”⁶⁷ Prior to the entry into force of the Return Directive, Member States have been using a specimen agreement, which formed the basis of bilateral agreements between a Member State and a third country.⁶⁸ The specific protection needs of children during readmission are not defined in these agreements (neither separated and unaccompanied children, nor children with families).

The first EU Readmission Agreement with a SEE country was signed in 2005 with Albania⁶⁹. No reference to the situation of children is made in the text of this document.

care and custodial responsibilities upon return to the country of origin” (General Comment No. 6, 85) The ‘Comparative Study’ recommends that “where neither family reunification nor return to a nominated guardian is possible or appropriate, due consideration has been given to whether the needs and best interests of the child will be met by a residential placement, including family-based care. In this instance, appropriate consideration must be given to the purpose of the residential placement and the type, quality and monitoring of residential placement that is available and whether it will meet the needs and wishes of the individual child. The residential placement should be embedded in a functioning child protection system to ensure standards are met. An independent guardian in the country of origin must be assigned to act in the child's best interests. There must be a possibility to prepare an individual care plan which considers further attempts to trace the child's family and addresses long-term plans as well as immediate needs of the child” (ECRE/Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors* (2010), p.175).

⁵⁹ Art. 14 (1), Return Directive

⁶⁰ Article 7 (2), Return Directive

⁶¹ Article 17 (1-4), Return Directive

⁶² The EU legal provisions concerning the return of children from its Member States is more comprehensively described in the Comparative Study (ECRE/Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors* (2010), p.18-21), on which the present research is based.

⁶³ In particular, Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status; Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers

⁶⁴ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking

in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

⁶⁵ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

⁶⁶ Art.16, Trafficking Directive.

⁶⁷ Preamble (7), Return Directive

⁶⁸ [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31996Y0919\(07\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31996Y0919(07)) Council Recommendation of 30 November 1994 concerning a specimen bilateral readmission agreement between a Member State and a third country

⁶⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32005D0809> Council Decision of 7 November 2005 concerning the conclusion of the Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorization

In 2007 the EU concluded agreements with FYROM⁷⁰, Montenegro⁷¹, Serbia⁷² and Bosnia-Herzegovina⁷³. In these four agreements, a similar provision is included concerning children, stating that the signatory country “shall readmit the minor unmarried children (...) regardless of their place of birth or their nationality, unless they have an independent right of residence in the Requesting Member State.”⁷⁴ Besides, no provisions concerning special protection and assistance to be ensured to children in the process of readmission and after return is envisaged.

EU readmission agreements have been subject to many criticisms at the international level, including for their lack of compliance with the fulfillment of the human rights of individuals in the readmission process, including children. In its Communication on the Evaluation of the EU Readmission Agreements⁷⁵, the European Commission recognizes that procedural guarantees for third-country nationals subject to return are to be implemented in the framework of these agreements, which are regarded merely as “technical instruments bringing procedural improvements to cooperation between administrations”, leaving the situation of the person subject to readmission to relevant international, EU and national applicable law⁷⁶.

‘Life projects’ to identify and implement concrete durable solutions

A specific plan is of fundamental importance in order to promote the successful (re)integration of children. The reintegration plan needs to be tailored to the situation of each individual child, comprehensive, detailed and at the

same time flexible, in order to allow adaptation to changes in the situation of the child, his/her conditions, and the external environment, as they occur.

The Council of Europe developed the concept of “Life Project” in the context of separated and unaccompanied migrant children, whose development and adaptation was recommended to its Member States⁷⁷. A Life Project is a plan, drawn up and negotiated between the child and the authorities in the host country, aimed “to develop each child’s capacities and potential, supporting the development of independence, responsibility and resilience, to enable each young person to become an active contributor to society, whether ultimately he or she remains in the host country or returns to the country of origin”⁷⁸.

Life Projects should comprise individualized, open-ended objectives, which the child undertakes to pursue, the arrangements for monitoring their implementation, and a regular assessment based on exchanges between the child and the competent authorities. They should take account of the child’s personal profile and expectations, as well as the opportunities provided for him or her in the host country and the country of origin.

As an integrated policy tool, Life Projects can help EU Member States meet the needs of the separated and unaccompanied children, as well as migrants more broadly, and address any difficulties that may arise as a result of their migration.⁷⁹ It is important that each case is dealt with individually and that different perspectives are incorporated into a multidisciplinary approach in order to determine a solution that meets the best interests of the child⁸⁰.

The Life Project may, depending on its particular objectives, be implemented in the host country or, alternatively, in the host country and in the country of origin of the child, or in the country of origin. In specific cases, in particular in the case of family reunion with parents residing lawfully in a third country, the Life Project might be implemented in this country⁸¹. For children whose best interests equal

⁷⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007D0817> Council Decision of 8 November 2007 on the conclusion of the Agreement between the European Community and the former Yugoslav Republic of FYROM on the readmission of persons residing without authorization

⁷¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007D0818> Council Decision of 8 November 2007 concerning the conclusion of the Agreement between the European Community and the Republic of Montenegro on the readmission of persons residing without authorization

⁷² <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007D0819> Council Decision of 8 November 2007 concerning the conclusion of the Agreement between the European Community and the Republic of Serbia on the readmission of persons residing without authorization

⁷³ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007D0820> Council Decision of 8 November 2007 concerning the conclusion of the Agreement between the European Community and the Bosnia and Herzegovina on the readmission of persons residing without authorization

⁷⁴ Section 1, Article (2) in every Readmission Agreement

⁷⁵ Communication from the Commission to the European Parliament and the Council, Evaluation of EU Readmission Agreements COM (2011) 76

⁷⁶ Communication from the Commission to the European Parliament and the Council, Evaluation of EU Readmission Agreements COM (2011) 76, para. 4.2

⁷⁷ Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors.

⁷⁸ Louise Drammeh, Life Projects for unaccompanied migrant minors. A handbook for front-line professionals, Council of Europe 2010, p.11

⁷⁹ Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors, 3

⁸⁰ Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors 13-14.

⁸¹ Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors, 24

to being returned to their family in the country of origin, the authorities of both countries should take all practical steps to ensure its continuity and satisfactory conclusion⁸². Cross-national cooperation is considered as a necessary condition for Life Projects to be successful⁸³.

The Project in whose framework the present research was designed and conducted upholds the concept of Life Projects as briefly outlined above. According to Project partners, the goal of a reintegration plan is to “ensure that the child a) lives in a protective environment, b) has adequate access to his/her fundamental rights, and c) further develops his or her level of choice (capacity to protect him or herself in the future and chose)”⁸⁴.

The UNHCR suggests exploring and utilizing the expertise of international agencies in order to establish and re-establish and maintain contacts in the country of

origin, including with the child’s family, and in necessary and appropriate situations, develop an assistance programme to provide adequate support to the family prior to the child’s reintegration⁸⁵. The family is the main provider of services in the process of reintegration and they should be provided with the necessary assistance to facilitate the reintegration of the child⁸⁶. Their earliest support is necessary to help the child through the complex and often difficult transition between the host and origin country.

In the framework of the present research, only in few cases – out of the 120 children followed – evidence was found that authorities from the host country had established either communication with the family before the return of an unaccompanied or separated child (one case), or communication with the authorities of the country of origin before the return of the family.

⁸² Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors, 27

⁸³ Louise Drammeh, Life Projects for unaccompanied migrant minors. A handbook for front-line professionals, Council of Europe 2010, p.13.

⁸⁴ *Supporting Child (Re)Integration, Terre des hommes Policy Paper*, 2009

⁸⁵ UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, p.3

⁸⁶ *Supporting Child (Re)Integration: Terre des hommes Policy Paper*, 2009, p.8

Key legal provisions concerning the return of children in selected EU countries

In the framework of the research, Project partners based in Austria, Greece, France and Hungary gathered information concerning the domestic legal provisions governing the system and mechanisms in place to return children, as well as up-to-date data regarding the numbers of children who have been returned from these countries in the recent years. This information was collected through desk-review, and complemented by interviews with selected stakeholders in each country.

Data and information gathered are divided by country. Main similarities and differences among the situations and legal provisions concerning the return of children across the four countries reviewed are also highlighted, keeping in mind the broader picture in a larger number of EU countries provided by the ENOC representatives.

Overview of the return situation

In *Austria* the numbers of children returned have been relatively stable in the recent years, although reliable data are available only about voluntary returns, and do not encompass cases of forced return⁸⁷. In 2012, a total of 6.553⁸⁸ individuals (both adults and children) were returned from Austria, while in 2013 there were 3.773⁸⁹ cases of return between January and July. These data are not divided according to age-groups, thus not allowing to infer how many children are included in the figure. In the whole year 2013, a total of 202 separated and unaccompanied children were registered at the “Crisis Center of the City of Vienna for unaccompanied minors (UMs) and potential victims of child trafficking”⁹⁰. Out of these, only 24 were officially returned, while 70 children were hospitalized, 3 children were detained and 126 disappeared⁹¹.

In the year 2012, only one unaccompanied child from Bosnia-Herzegovina was returned through the voluntary return programme implemented by the International Organization for Migration (‘IOM’), while three unaccompanied children had been returned in 2011 (2 to Kosovo and 1 to Serbia) and five in 2010 (to Albania, Kosovo and Serbia). Data concerning children returned from Austria within families were not found throughout the research.

Although very limited statistical data could be collected in *Greece*, it appears that most of separated and unaccompanied children present in the country are from Albania, followed by children from Afghanistan, Pakistan, Syria, Bangladesh, Occupied Palestinian Territories and Algeria⁹². The majority of children returned from the country in the years 2012 and 2013 were from Albania, followed by children returned to Afghanistan⁹³. According to the data provided by the NGO “ARSIS” (operating in both in Greece and Albania, and also partner in the Project), in 2011 more than 300 children were returned from Greece to Albania, and more than 1.250 in the year 2010. According to this NGO, the majority of children from Albania come to Greece with their family or with relatives in order to beg in the country. Many of the children who later become unaccompanied were abandoned by their parents or relatives after living for some time in the country.

In the year 2013, IOM has supported the voluntary return of 15 children from Afghanistan and Pakistan⁹⁴. Project researchers could not collect data concerning children returned from Greece within their families.

According to the statistics provided by the French Office for Integration and Immigration (‘OFII’), the majority of

⁸⁷ Austrian Ministry of Foreign Affairs.

⁸⁸ http://www.bmi.gv.at/cms/BMI_Niederlassung/statistiken/files/2013/FrP_Massnahmen_Jahr_2012.pdf (19.08.2013)

⁸⁹ http://www.bmi.gv.at/cms/BMI_Niederlassung/statistiken/files/2013/FrP_Massnahmen_Juni_2013.pdf (19.08.2013)

⁹⁰ http://www.iomvienna.at/en/?option=com_content&view=article&id=451&Itemid=168&lang=en

⁹¹ According to these data, until 2006 around 90% of children registered as unaccompanied minors were from Bulgaria and Romania, while after the establishment of local child protection centers in those countries, their numbers decreased. In 2011 and 2012, the majority of separated and unaccompanied children referred to the above-centre were from Afghanistan

(22 and 41 children, respectively) whereas in 2013 separated and unaccompanied children from Bosnia-Herzegovina represented the most numerous group (64 children).

⁹² Information provided by the Greek Police.

⁹³ Information provided by the Greek Police.

⁹⁴ IOM Greece. Since February 2014, IOM has started a programme aiming to facilitate the return of 1.700 foreign nationals living in Greece to their countries of origin. The programme is supported by the Government of the United Kingdom. Apparently, this programme should also support the return and reintegration of separated and unaccompanied children living in Greece.

separated and unaccompanied children returned from *France* between 2003 and 2013 were from Romania (60), followed by children from Bulgaria (6) and Albania (5). Four children were returned to, respectively, Afghanistan, Cambodia, Lithuania and Spain, while 3 children were returned to Armenia, to China and to Brazil. According to data from the Ministry of Justice, between April and December 2013 the majority of the 2.280 newly arrived unaccompanied children in France were from Sub-Saharan Africa (Guinea, DRC, Republic of the Congo, Mali), Asia (Bangladesh, Pakistan, Afghanistan) and the Maghreb (Algeria, Morocco, Tunisia), while children from Albania and Kosovo simply represented the largest group of unaccompanied and separated children from European countries (5%)⁹⁵. Therefore, the inclusion in return procedures seems to affect children from SEE countries in a much higher proportion, compared to their presence in France.

While separated and unaccompanied children returned from France are registered, data concerning the presence and numbers of children returned with their families from this country are not available.

In *Hungary*, the number of separated and unaccompanied children detected at the borders significantly increased in the last five years, reaching an outstanding number (875) in 2012⁹⁶. Unfortunately, though, no data on the numbers and circumstances of children who have been returned are available at national level. The Alien Registration Authority from the county of Csongrad⁹⁷ reported that in 2013, five separated and unaccompanied children were returned, out of the total of 346 registered in the county. While this is a significant area in terms of migration inflows, the above-figure fails to provide an overall picture of the situation in the whole country. According to the Hungarian Office of Immigration and Nationality, a total of 354 children had their asylum claim rejected in 2013. These children were either returned or disappeared. No data concerning families returned with children were found in the framework of the research. Apparently, both the Police and the Office of Immigration and Nationality register adults and children separately and not as members of the same family.

Key features of national legal provisions governing the return of children

All the four EU countries reviewed have ratified the relevant international and regional instruments – including the Convention on the Exercise of Children's

Rights (1966), the European Convention on Human Rights (1949), the UN CRC, and the Charter of Fundamental Rights of the European Union – and transposed the EU Directives affecting children in migration situations, including the Return Directive.

With the partial exception of France, in the four countries reviewed most of the legal provisions applicable to the return of children are envisaged as part of the general legal framework that applies to adults as well.

In *Austria*, there is a general framework that applies to both adults and children, while a few specific provisions relate to unaccompanied children. Most provisions applicable to the return of third country nationals can be found in the “Aliens Police Act”, and also in the “Austrian Residence and Settlement Act”, which details the treatment of unaccompanied children.

Similarly, in *Hungary* there are some specific legal provisions on the return of children, but these are envisaged as part of the general legal framework on the situation and treatment of foreign nationals, which applies to both adults and children. Most of the legal provisions governing return are included in the “Act II on the Admission and Right of Residence of Third-Country Nationals” (2007), which – among other provisions – defines the status of “unaccompanied minors”⁹⁸, and in the “Act LXXX on asylum” (2007), which also encompasses the prohibition of refoulement⁹⁹.

In *Greece*, the protection and promotion of children's rights are enshrined in the Constitution; alongside, several laws and decrees have been adopted to ensure that the domestic legal framework is in line with the provisions of the international conventions ratified by the country, as well as with EU Directives and Regulations. The provisions on return of children are envisaged in the framework of migration and refugee laws applicable to third-country nationals. Additionally, special protection is provided to EU citizens from expulsion, and additional safeguards are established in the case of children.

In *France*, two partially different legal regimes apply to foreign national children, according to whether they are intercepted at the border – and confined to the “waiting area” –, or on the French territory. Children intercepted at the border and placed in the “waiting area” do not benefit from substantial safeguards compared to adults. They can be deprived of freedom, and returned to their country of origin or last country of transit. Children who are detected on the French territory are entitled to stay in the country and to receive a temporary residence permit. A return

⁹⁵ Information provided by the Child Judicial Protection Directorate within the Ministry of Justice

⁹⁶ Information provided by the Police HQs.

⁹⁷ The county bordering with Serbia.

⁹⁸ Para. 2, e.

⁹⁹ Para. 45 (1).

decision can be taken by a juvenile judge for a child who is assisted by the child protection services.

Guardianship, legal assistance and representation

Legal assistance, and assistance and representation by a guardian, are provided to children in the context of return to different extents in each of the countries reviewed.

In *Austria*, the system grants legal assistance only to foreign children under 16; if they are older, they have legal capacity to act in procedures related to – among others – return. This provision treats foreign children differently, since Austrian children enjoy full protection measures up to 18 years, the age of legal majority¹⁰⁰. This provision means that the presence of a legal representative is not compulsory in other procedures handled by the Police, such as pre-return detention¹⁰¹, and that parents and guardians are not entitled to act as legal representatives for these children. Concerning guardians, these are not required to have any specific training for working with unaccompanied and separated children, which raises concerns over their capacity to act on behalf of these children in the context of the return procedures and to effectively represent and uphold each child's best interests.

The above-consideration also applies to *Hungary*, where guardians lack training on the specific situation of unaccompanied and separated children, and can hardly provide them with effective assistance, including in the context of return.

In *Greece*, public prosecutors for children have full caseloads and limited capacity to take the necessary steps for the appointment of a guardian. There is also a limited availability of guardians who could be appointed, and they are not trained to work with children in migration context. Therefore, separated and unaccompanied children are often left without adequate representation in the context of procedures related to return.

In *France*, children are in principle entitled to receive legal assistance, including in the context of return. However, this possibility is limited in practice, due to the complicated request process that children have to go through, which requires some qualified assistance. Separated and unaccompanied children can be subjected to different forms of legal representation, following a decision by a judicial authority: delegation of parental authority (the legal representative can perform usual and unusual acts), guardianship (s/he can perform usual and unusual acts), guardian body (s/he can perform usual acts in the name of the child and unusual acts only with the permission of the judge) and *ad hoc* administrator (appointed only for

a specific procedure – children in the asylum procedure, assistance to children in the waiting area, child victim of trafficking). Although the majority of separated and unaccompanied children have a social worker appointed as guardian, normally these have limited capacity due to high caseload, and can therefore provide limited support and assistance to children in exercising their rights.

Return decisions

If the child is not granted the refugee status or any other form of protection envisaged by the respective national legal framework, s/he has no right to stay in the country, and should therefore be returned. Each of the countries reviewed has its own legal provisions and practical procedures concerning the return of children, although they are all obliged to respect international legal obligations. Usually, similar types of return are envisaged by the national legal frameworks, with some differences across countries.

In *Hungary* the legal framework defines several forms of return, that are:

1. "Assisted return": when a third country national was refused entry, the person shall remain for a maximum period of eight hours or shall remain in a designated place located in the border zone for a maximum period of seventy-two hours, or if having arrived by means of air transport, in a designated place of the airport for a maximum period of eight days¹⁰², after which s/he should be sent back to country from which s/he had arrived;
2. "Expulsion": the immigration authority shall order the expulsion of a third-country national who has crossed the border illegally, or has attempted to do so; fails to comply with the requirements for the right of residence; was engaged in any gainful employment in the absence of the prescribed work permit or any permit required under statutory provisions; whose entry and residence represents a threat to national security, public security or public policy; or whose entry and residence represents a threat and is potentially dangerous to public health.¹⁰³
3. "Assisted voluntary return": the immigration authority shall prescribe a deadline for voluntary return in its resolution ordering expulsion (above), or in its ruling adopted for carrying out the expulsion ordered by the court, between the seventh and the thirtieth day following the communication of the decision to the third-country national, if s/he agrees to leave the territory on his/her own accord. The time period provided for above shall not exclude the possibility

¹⁰² <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4979cae12> Refworld – Act II of 2007 on the entry and stay of third-country nationals, RRTN Section 41§. 61. p.

¹⁰³ <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4979cae12> Refworld – Act II of 2007 on the entry and stay of third-country nationals, RRTN Section 43§. 63. p.

¹⁰⁰ http://www.ktn.gv.at/201804_DE (23.08.2013)

¹⁰¹ Sec.12 para.1-3 FPG.

for the third-country national concerned to leave earlier. If the child who is in the parental custody of an expelled third-country national pursues studies in a public education institution, the immigration authority may – upon request or on its own initiative – extend the period for voluntary return up to the end of the running school semester.¹⁰⁴

4. “Deportation”: A return or expulsion measure ordered by the court or the immigration authority shall be enforced by way of transporting the third-country national affected under official escort if the third-country national: is released from imprisonment as sentenced for a deliberate crime; makes it necessary to supervise his/her exit for national security reasons, if so required by commitment under international treaties, or for the protection of public security or public policy; failed to leave the territory by the day following the deadline prescribed in the resolution for expulsion.¹⁰⁵

All the above provisions can be applied to both adults and children who did not receive any form of protection allowing him/her to remain in the country.

In *Austria* the law envisages three types of return, as briefly described below.

1. “Voluntary return”: third country nationals who do not receive a positive decision to stay in Austria can take part to voluntary return programs (instead of being forcefully returned), which are run by different organizations, including Caritas Austria, IOM, etc.¹⁰⁶ As soon as a return decision against an “illegally staying third country-national” has been taken, the person is granted a certain period of time before having to leave the country (voluntary departure period), which equals to 14 days and can be extended only once of 14 more days. No special provisions are envisaged for children, who in principle follow the same procedure as of adults.
2. “Expulsion”: this is the legally binding instruction to leave the territory. It can lead to either deportation or voluntary return.
3. “Deportation”: this can be defined as the forceful return of “illegally staying third-country nationals”. This provision is applied when third country-nationals not being entitled to stay fail to leave Austrian territory in due time. Deportation of children is in principle

possible.¹⁰⁷ The law¹⁰⁸ emphasizes that, before the deportation is executed, serious efforts have to be made to find the child’s parents or other close relatives, or a suitable reception facility in the child’s country of origin – although the nature and type of efforts to be made are not specified in the law. In case a family is deported, authorities have to make sure that any negative impact on the family life is avoided to the extent possible¹⁰⁹.

In *France*, the law expressly excludes children from the possibility to be deported from the country, except when they are intercepted at the border and placed in the “waiting area” (above). Separated and unaccompanied children can be returned, following a decision by a judicial authority, in the framework of “humanitarian return assistance” schemes envisaged by a government decree¹¹⁰.

Although children with families are themselves not subject to return decisions, they can “follow” their parents who are being returned. There are also different return programs applicable to families with children. These are:

1. The “humanitarian return assistance”, for which any foreign national, including EU nationals, who are destitute or in difficulty is eligible. The French state offers to the individual, his/her spouse and children the opportunity to return to their home country or to a host country;
2. Adults and families can benefit from the “aid program for resettlement”, implemented in some third countries by the OFII in cooperation with local organizations, which provide assistance to returned migrants in starting-up small businesses. Bosnia-Herzegovina is one of the eligible countries¹¹¹;
3. Adults and families can also return through the “aid program for voluntary return”: it applies to any foreign national that has been refused permission to remain or whose residence permit has not been renewed and who has been requested or ordered to leave the French territory or has received an expulsion order, unless s/ he is in administrative detention.

In *Greece* the “return decision” is defined as “the administration act stating or declaring the stay of a third-country national to be illegal and imposing an obligation to return”. The return decision is followed by a “deportation order” according to which the return process is

¹⁰⁴ <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4979cae12> Refworld – Act II of 2007 on the entry and stay of third-country nationals, RRTN Section 42§. 62. p.

¹⁰⁵ <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4979cae12> Refworld – Act II of 2007 on the entry and stay of third-country nationals, RRTN Section 65§. 86. p.

¹⁰⁶ ECRE/SC 2011: 38

¹⁰⁷ [1] But deportations of minors are unusual. Yet, to some extent the impression is given that authorities wait until the unaccompanied asylum seeking minors attains full age before any measure is set. (Stakeholder Interview, NGO asylkoordination Österreich)

¹⁰⁸ Sec.46 para.3 FPG

¹⁰⁹ (sec.46 para 4 FPG).

¹¹⁰ DPM/ACI 3 n.2006-522 of 7 December 2006.

¹¹¹ http://www.ofii.fr/article.php3?id_article=783

implemented. The “removal” means the enforcement of the return decision, namely the physical transportation out of the Greek territory.”¹¹² Alongside, an administrative detention order is issued so as to facilitate the implementation of the return decision.¹¹³ This procedure described above applies to children as well. If a child does not possess any valid document to enter and stay in the country, s/he can be subject of administrative deportation procedure.

In the context of refugee law as well as in anti-trafficking legislation, the term “repatriation” is used in order to describe the return of asylum seekers, refugees and trafficking victims¹¹⁴, who are recognized as belonging to vulnerable groups and thus eligible for assisted voluntary return. Unless identified as belonging to the above-groups, children cannot benefit from these return schemes.

Appealing a return decision

In *Austria* return decisions that – following structural changes in the administrative system entered into force as of January 2014 – are issued by the Federal Agency for Immigration and Asylum, can be appealed before the federal administrative court (*Bundesverwaltungsgericht*)¹¹⁵. If the return decision is issued by the Aliens Police authorities (*Fremdenpolizeibehörden*), along with a re-entry ban (for at least 18 months and a maximum of 5 years)¹¹⁶, this decision can be challenged before the independent administrative senate (*Verwaltungsbehörden*) of the federal provinces¹¹⁷.

In *France*, the legal representative of the child can appeal a return decision made by the judge before the courts. Therefore, in the case of separated and unaccompanied children, child protection services could play an important role in the remedy since they can make an appeal against the court decision of return.

There is a similar situation in *Hungary*, where expulsion, return and deportation decisions can be appealed before administrative or judicial authorities. Separated and unaccompanied children have to rely on their guardians, representing them, in order to make an appeal.

Alternatives to return

It is a shared experience across EU countries that children often drop out of the assistance system before

even awaiting for a decision on their status to be taken. Often these children have parents or relatives living in another EU Member State and are trying to join them. However, in most cases children attempt to do so by themselves, undertaking dangerous journeys, rather than being assisted and escorted by the relevant authorities in both countries.

In other cases, children decide to remain in the host country even before a decision on their case has been taken, or following a negative decision (or the attainment of the age of majority, which often implies becoming “irregularly staying” foreigners), often living in unsafe conditions outside the support provided by child protection or other social services.

The research has reviewed legal alternative options to a return decision affecting children, primarily separated or unaccompanied, namely family reunification and integration in the host country.

Family reunification

In *Hungary*, family reunification is rarely a real possibility for unaccompanied and separated children, due to the strict rules laid down by the law. Family members of persons with refugee status and the parents of unaccompanied children with refugee status, or their legally appointed guardian, may be granted a residence permit on the grounds of family reunification.¹¹⁸ The sister or brother of the refugee may be also granted a residence permit on the grounds of family reunification, but only in case they are unable to provide for themselves because of health problems.¹¹⁹ Applications may be submitted to the Consulate of Hungary or any other agency authorized to accept such applications in the country where the applicant is permanently or temporarily resident, or in the country of the applicant’s nationality¹²⁰. When the family member is lodging the application, s/he shall present his/her valid travel document.¹²¹ Because of these conditions, family reunification becomes practically impossible for some countries’ citizens (for instance Somalia¹²²).

¹¹⁸ <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4979cae12> Refworld – Act II of 2007 on the entry and stay of third-country nationals, Government Decree 475(1)

¹¹⁹ <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4979cae12> Refworld – Act II of 2007 on the entry and stay of third-country nationals, Government Decree 475(7)

¹²⁰ <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4979cae12> Refworld – Act II of 2007 on the entry and stay of third-country nationals, RRTN Section 19§ (2)

¹²¹ <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4979cae12> Refworld – Act II of 2007 on the entry and stay of third-country nationals, RRTN Section 19§ (4)

¹²² <http://helsinki.hu/wp-content/uploads/HHC-Famreun-of-Somalis-2009-HUN-FINAL.pdf> Hungarian Helsinki Committee: The family reunification of Somali refugees

¹¹² Law 3907/11: Establishment of Asylum Service and First Reception Service, compliance of the Greek legislation with the provisions of the Directive 2008/115/EC « about the common standards and procedures in Member States for returning illegally staying third-country nationals» and other provisions λοιπές διατάξεις. (Official Gazette 7 A/26-1-2011)

¹¹³ [1] article 76 L.3386/05

¹¹⁴ [1] Indicatively : Article 34 PD 96/08, article 13 L. N. 3064/02, article 48(47) L.3386/05

¹¹⁵ Sec.9 para 2 FPG 2014.

¹¹⁶ sec.52, 53 FPG

¹¹⁷ sec. 9 para.1a FPG

In *Austria*, there are also difficulties in obtaining family reunification in practice. Although the law envisages this opportunity, it is linked to expensive DNA tests and the presentation of official documents that are hard to obtain. Therefore, only few individuals have a real chance to apply. In very rare cases parents or siblings can join an unaccompanied child in Austria¹²³, when they fulfill the following criteria: the child has already been granted asylum or subsidiary protection, and the application for family reunification has been submitted before the child's 18th birthday.

In *France* children are not given the possibility to apply for family reunification. Adult foreign nationals have the possibility to ask for family reunification to reunite with their spouse and children, if they have been legally residing in France for at least 18 months.¹²⁴ In *Greece* the state only allows parents to apply for family reunification with their children.

Integration in the host country

If the child has been granted asylum or other forms of protection, s/he is entitled to stay in the host country. The authorities should support the child's local integration and to ensure him/her a satisfying life in compliance with his/her best interests.

In *France* according to the law¹²⁵, a child has to be taken into care by child protection services in order to receive "material, educational and psychological support". Specifically, child protection services should provide him/her with an accommodation, and ensure the child's access to education and to health care.

In *Hungary*, asylum-seeking separated and unaccompanied children who are recognised as refugees will be granted a permanent residence permit. Children who are granted subsidiary protection receive a residence permit that lasts five years, renewable. Children recognized as refugees or

beneficiaries of subsidiary protection are entitled to receive permanent care within the mainstream child protection system. Once in the system, these children are entitled to apply for after-care support, which is provided between 18-24 years for children within the child protection system.

Besides refugee status and subsidiary protection, in Hungary there is a sort of humanitarian protection that a third-country national can be granted. This form of protection is renewable on an annual basis. In principle, separated and unaccompanied children who did not apply for international protection could receive the above-mentioned form of protection, and be placed under permanent care and allowed to remain in the country. However, this case does not seem to happen frequently in practice.

In *Austria* the first national action plan for integration was presented in 2009 and contained various measures in order to support a successful integration for foreign nationals. However, the plan received strong criticisms by several actors for some strict conditions that it puts on reintegration support, for example the expectation that migrants must learn German before entering Austrian territory.¹²⁶ The Austrian Integration Fund (*Integrationsfonds*) supports a range of projects to foster local integration of individuals who have been granted asylum or subsidiary protection. In each federal province, projects to facilitate the access to the job market for foreign citizens are implemented – which offer German language courses, training for job interviews and other forms of support. In principle, children could be included among beneficiaries of the above-projects, although they do not provide specific measures tailored to supporting children's reintegration.

In *Greece* the structures aimed to support local integration have very limited capacity. Therefore, many children cannot access them in practice.

¹²³ according to sec.2 para.1(22) AsylG -

¹²⁴ Articles L411-1 to L441-1 and R411-1 to R431-1 from the CESEDA: <http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070158&dateTexte=vig>

¹²⁵ Article L221 -1 of CASF

¹²⁶ <http://www.bmi.gv.at/cms/cs03documentsbmi/809.pdf> (21.08.2013)

Main results from field-research in 6 SEE countries

The six SEE countries involved in the Project have been experiencing significant migration of their populations over the past decades, due to a number of different reasons, including conflicts and transition from State to market economy and consequent social and economic difficulties.

Western Europe has been one of the key-destination for both adults and children (separated and unaccompanied, as well as within families). Some of them intended to move permanently abroad, while others were engaged in circular migration. In 2009-2010 the EU gradually lifted visa requirements for all countries in the Balkans – except for Kosovo, currently in the process of negotiations with the EU. This circumstance resulted in a major recent migration trend from these countries to different EU Member States¹²⁷.

Along with migration, SEE countries have also been experiencing returns of their citizens according to different patterns. While individuals affected by the conflict in Bosnia-Herzegovina have been returning for a long time, those who escaped the war in Kosovo have returned more recently. Albania has been a significant country of origin of adults, families and children migrating to Greece since the late 1990s. Due to the financial crisis started in 2008, and the subsequent job shortage in Greece, a large number of Albanian citizens have been returning to their home country. Other countries experience relatively low and rather stable numbers of returns.

These situations pose challenges to the SEE countries, who are responding to different degrees to the need of engaging in the return process and supporting the reintegration of their citizens (and sometimes nationals of third countries), and to meet their aforementioned obligations under international as well as regional legal instruments, including to fulfill the rights of children who are returned to their territory and need to be supported in the reintegration process.

¹²⁷ This trend can also be evidenced by the returnee children identified in the framework of the Project: in Serbia and FYROM most of the children identified sought asylum in European countries with their families and were returned after short periods of stay, between 3 months to a maximum of one year.

Programs facilitating return between EU and SEE countries

The Comparative Study noted that “reintegration initiatives concerning children should comprise of two phases – a general orientation and awareness raising whilst the child is still within the Member State and an active reintegration plan that is delivered once the child arrives back in their country or origin”¹²⁸.

The present research aimed to also identify programs that are designed to facilitate the reintegration of persons (adults and children) who are returning to SEE countries from EU countries, involving a cooperation between the host and the origin country. Most of these programs support individuals returning to their country of origin voluntarily.

The large majority of programs reviewed is being implemented in *Kosovo*, where international donors have supported large-scale initiatives to support the reintegration of returnees. Under the leadership of the Ministry for Communities and Returns, several forms of assistance are provided to families returned to Kosovo, ranging from food and basic items, through to support in starting-up income-generating activities. The above Ministry’s Office works in co-operation with other services available at municipal level, especially with the Centres for Social Work, based on a memorandum of understanding signed among relevant ministries. In particular, in 2014 a pilot-project supported by the Kosovo Ministry of Education was initiated in four cities to deliver catch-up classes for returned children. Similar programs offering assistance to children in catching up with school have been financed by the European Commission.

Again in Kosovo, since 2010 the International Centre for Migration Policy Development (‘ICMPD’) has been implementing a reintegration project, aimed to support individuals returning from the federal provinces of Styria and Vienna in Austria. The project (named “ReKoKo – Reintegration Kosovo Cooperation”) is supported by the two federal governments above and targets both adults

¹²⁸ ECRE/Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors* (2010), p.84.

and children returning to Kosovo on a voluntary basis. Assistance provided by ICMPD includes temporary accommodation support, assistance in dealing with the administrative system, and the provision of food and hygienic products. The Austrian authorities supporting the project offer pre-departure counselling. Children can also benefit from medical assistance, language courses and support in the process of school enrolment.

The IOM has been implementing an assisted voluntary return programme, facilitating reintegration of individuals returned to Kosovo. However their programme targets adults or families only.

In *Hungary*, the IOM provides assistance to migrants in transit. Through assistance activities, the Organization aims to also identify potential beneficiaries of their assisted voluntary return programme.¹²⁹ The Organization's Assisted Voluntary Return and Reintegration Programme in Hungary is open also to unaccompanied and separated children. However, these represent a small percentage of the beneficiaries assisted. This Programme offers travel assistance during return and pre-departure counselling. In addition, a child can apply for a reintegration grant, upon completion and submission of a reintegration plan. The grant is provided in-kind and can be used for starting-up a business or for completing education – along with covering some other services and items needed by the child (including accommodation, transportation and medical care). The IOM Budapest Office cooperates with IOM Missions in countries of origin in order to carry out family tracing and assessment, and to collect the necessary documentation.

In *France*, there are several programs for assisted voluntary return available to adults and families with children (above – “Return decisions”), funded by the State and implemented in cooperation with organizations working in the countries of origin. These provide a range of assistance services, from assistance in the return process, through to support in starting-up income-generating activities. Bosnia-Herzegovina is included among the eligible countries for assisted voluntary return schemes implemented by French authorities.

Other reintegration strategies and programmes have been accounted for by various stakeholders in *FYROM*, *Serbia* and *Bosnia-Herzegovina*, providing information and referral from the border point of individuals who are being returned, as well as other services. However, there was little evidence that these programmes have systematically reached all children and families who have been returned to those countries (and they had not affected the families

and children assisted in the framework of the Project and included in the present research).

Profiles and migration experiences of the children and families included in the research

Based on the selection criteria set out at the beginning of the research, adapted to meet the reality and limitations on the ground (above, “Methodology”), the field-research included a total of 120 children across the six SEE countries involved. Out of these children:

- 116 migrated and were returned with (a) parent(s) or other close family member(s), while only 4 were unaccompanied by any adult responsible for them;
- 63 were males and 57 females;
- 20 children were born outside of their families' country of origin, to which they were returned.

It has to be noted that – although this was not included among the selection criteria – a considerable number of children (87) involved in the research belonged to the Roma or other ethnic minorities. This circumstance can be probably explained with the fact that ethnic minorities in SEE (as well as in other) countries are often discriminated against and this circumstance acts as a push factor for migration as a strategy to support themselves and to improve their living conditions. In some cases – namely Kosovo – Roma communities also faced significant safety risks during the latest armed conflict and sought protection abroad.

	Albania	Bosnia-H.	FYROM	Kosovo	Montenegro	Serbia	Total
Children	20	20	20	20	20	20	120
Girls	11	8	8	12	10	8	57
Boys	9	12	12	8	10	12	63
Roma, Egyptian or Ashkali minorities	15	13	20	10	9	20	87
Born outside country of origin	5	8	0	6	2	1	20
Unaccompanied or separated	4	0	0	0	0	0	4

The living situation experienced by these children and their families before and after return, as well as their migration experience, greatly differs among the countries reviewed and also within the same country. These features are briefly depicted below.

¹²⁹ http://www.iom.hu/index.php?option=com_content&view=article&id=2&Itemid=2&lang=en International Organization for Migration (IOM) About IOM

In **Albania** the research involved 20 families. Generally, they were living in very poor conditions, had a low level of education and were marginalized from the rest of the society. The majority (15) of the children involved belonged to the Roma community, while 2 children identified themselves as Egyptians. Most of the families included in the research were returned from Greece (17). Some of these families were circular migrants – they had been going back to Greece several times and staying there from a few months to few years. In Greece, families searched for jobs or begged on the streets and then went back to Albania. Most of the families did not possess the necessary documentation to stay in Greece for more than 3 months¹³⁰, thus they tried to extend their stay illegally and had consequently been returned after some time. Many of the children were begging together with their parents (15 out of the total 20 children were begging on the street), three children were doing other jobs (such as collecting cans, selling flowers etc.) and only one child was registered in the local school.

These families' situation did not change dramatically after they were returned, although less children were compelled to beg or work. However, they appear to be still marginalized and living in poor conditions. Two children (from Northern Albania) reported that they felt unsafe due to a family feud. None of the parents within the families involved in the research in Albania have a regular or permanent job. Four families have no income from work at all, but there are 8 families in which at least two family members (parents or other relatives) have some type of income-generating activity (mostly irregular), while in 6 families only one parent has an irregular part-time job. In 4 families the parents were still begging (one of them went to Greece again to engage in begging there). Most of these families were not getting any financial assistance from the state (16 out of 21). Albeit some of them could be entitled to receive such assistance, they nevertheless were not able to apply for it, due to the administrative burden that was entailed by the process.

In **Bosnia-Herzegovina** most of the families (14 out of 20) and children involved in the Project have self-identified as belonging to the Roma community. Eight of them have returned approximately ten years before, and the rest of them in the previous years; consequently, the level of reintegration significantly differs across cases. Most of them had gone to Germany (17), because they thought that they would be provided with the highest standard of assistance for refugees there. Indeed, most of them seemed to have very good memories from the time spent in that country. Most of the families spent only few months in Germany (only 4 families stayed for years) and they

mostly didn't work there, and were accommodated in an asylum center (12). From the remaining families only 3 had both parents working legally in the host country, while the other ones worked irregularly there, although neither parents nor their children were begging. Conversely, after their return to Bosnia-Herzegovina, two children started to beg, and many parents (in 12 families) had just an irregular, part-time job, while one family had no sources of income at all. In only 3 families could one parent work legally, and although most of them (12 families) received financial assistance from the State, this does not cover even their basic needs. Some of these families had a small piece of land that covered part of their subsistence needs. Some of the Roma children also faced multiple forms of discrimination.

Due to the situation described above, most children failed to see their future in the country, they did not have positive expectations. Having experienced different living standards, they would have liked to go back to Germany (or other countries in EU), where they could hope for a better life and for opportunities that they could not have in Bosnia-Herzegovina.

In **FYROM** all the families and children included in the research stated that they belong to the Roma community. Most of the families had migrated in order to find job opportunities and better living standards – as they mainly experienced poverty and unemployment in FYROM.

Most families applied for asylum in Germany. However, many of them decided to return to FYROM due to a very negative experience in the German centers for asylum seekers. Reportedly, they had no private space and experienced discrimination while there. Some families even reported cases of violence and physical fights, which had a very bad emotional effect on the children as well. One family reported that they did not even have beds and the food was inedible, but they were forbidden to bring food from outside the camp. Their children were not allowed to cry and speak loud. Moreover, these families did not have the possibility to work in the host country – only one father could work within the asylum center, and another one had a part-time, probably irregular job in Slovenia.

Most of the families were returned to FYROM from Germany (13). They stayed there only for a few months and later they tried to go somewhere else, namely to Luxembourg, Sweden, Slovenia or Denmark. After return, in many of these families the parents were not working either (7 families), while the other ones were just working part-time probably irregularly. From the 20 families investigated, only 8 received financial assistance from the State. Four families left FYROM again during the project's duration.

¹³⁰ Due to visa liberalization, Albanians with a bio-metric passport can receive a short-stay visa to travel to any Schengen States for up to 90 days

In **Montenegro** the families and children investigated were mostly Montenegrin citizens (13), while some of them were Serbian (6) from Kosovo and one child was stateless, as she did not have the citizenship of any country (she applied for Kosovo's identity documents). Ten children identified themselves as belonging to the Roma minority. Many of these families had been living abroad for more than 10 years, and some of their children were even born there. Only 8 families had stayed less than one year in the host country. Their migration routes were spread among different destination countries (unlike in Albania or FYROM – above): Montenegrin families had gone to Germany (8), Luxembourg (4), Austria (1), Switzerland (2), Belgium (4) and The Netherlands (1). Some of them had migrated again several times after they had returned from one country. Since they mostly stayed for a long time abroad, the return was a shock for many children, especially for those who had never been to Montenegro before (or were too little to remember about that). After return, the majority of parents (in 17 families) were both unemployed, while only 3 parents had an irregular part-time job. Twelve families relied on income from financial assistance only, and another two were getting some money from relatives, so they were living in very poor conditions. In the host country 10 parents could work and the financial support from the state was higher. From the 20 families involved in the research, 9 parents had occasional/contracted jobs and one parent had a regular job. All parents and children stated that they enjoyed better living conditions and had more favorable prospects in the host country.

In **Serbia** all the children involved in the research identified themselves as belonging to the Roma minority. One child was from Kosovo. Families had migrated mostly to Germany (13), and four of them had gone to Sweden, two to France, one to Switzerland and one to Belgium. Some families were 'circular migrants': after they had been returned, they had gone to another country. Twelve families had stayed longer than one year in the host country, while the remaining ones had spent just a few months abroad. In the host country, in most of the families (14) parents were not working, while some of them received financial assistance. Others tried to work irregularly in order to support their living. After return to Serbia, their situation slightly improved. Most of them were either legally employed or working irregularly in part-time or full-time jobs, and only one family did not have any income. Only 7 families were receiving financial assistance from the State. Parents and children sometimes faced discrimination and language barriers (they were speaking only Roma language). Children especially underwent serious disadvantages and discrimination in school because of language issues.

Out of the total 20 children investigated in **Kosovo**, 9 identified themselves as belonging to the Roma or Ashkali minorities. The families followed by the project (16) had spent several years abroad, some of them had even

stayed for 16-17 years in the host country(ies); therefore some of their children were born abroad, and they had never been in Kosovo before they were returned. The return was a big shock for many children. Most of them did not speak Albanian (they spoke the host country's language and/or Roma language), therefore it was very hard for them to integrate there. They had migrated to different countries: primarily Germany (7 families), Sweden (6 families), Switzerland (3 families) and Norway (3 families), while the remaining ones had been in France, Belgium, Finland, Luxembourg, Austria, Hungary and Italy.

There were families who had been living in two or three different countries before their return to Kosovo. In the host countries most of the adults had occasional, mostly informal jobs. After being returned, 15 parents were working or had occasional jobs, providing them with some income. Except for three families, none of them were receiving financial assistance, due to the legal provisions in place in Kosovo, according to which families with children older than 5 years were not eligible for financial aid. Three families had some support from relatives. Returned families did receive housing assistance, support to pay utility bills, hygienic materials and humanitarian food aid for the first six months, with a possibility to extend such assistance for another six months.

Host countries	Albania	Bosnia-H.	FYROM	Kosovo	Montenegro	Serbia
Greece	171 ¹³¹					
Italy	1			1		
Germany	1	17	13	6	7	12
France	2			1		2
Switzerland		1		2	2	1
Sweden			2	5		4
Belgium		2		2	5	1
Luxemburg			3	1	4	
Slovenia			1			
Denmark			1			
Austria				1	1	
The Netherlands					1	
Norway				1		

Reintegration support provided by the Project

As already highlighted (above – "Introduction"), the research was accompanied by some assistance to the children and families, provided in order to support their

¹³¹ Figures in this table refer to families.

reintegration: social workers assisting children and families supported them in acquiring the necessary official documents, in accessing social welfare benefits (when possible), they provided psycho-social assistance through counselling and discussions, helped children to enroll in school and encouraged them to attend school regularly. They also provided families with medication when that was needed – and not provided for by existing public services – and covered medical examinations when families did not have any health insurance. They raised the attention of state authorities on some of the most at-risk cases of children and referred these cases to the relevant services. In addition, children were also involved in some peer-to-peer activities: these generally were group activities with returnee children and some other children of the same age-groups who were willing to ‘befriend’ these children, and help them discuss their everyday challenges, problems and joys.

In the framework of the Project, social workers visited children and families once a month over an 18-month period. At each visit, social workers were filling in the case files, highlighting progress (or increasing problems), while at the same time adjusting the interventions accordingly. The first files were filled in at the outset of the Project, also serving as a baseline. They subsequently collected information concerning the children’s history of migration (length of stay, reasons for returning, process of return, whether the child was consulted before return and how he/she felt about the return process). In several cases these histories were not shared in the beginning, but only after the families felt comfortable with the social worker and mutual trust had been built.

Social workers provided researchers with updates of the case files every six months, with special focus on the following issues:

- housing situation;
- employment of parents;
- school attendance and progress;
- family relations;
- signs of discrimination;
- suspect of abuse (or substance abuse) to which the child was exposed;
- special measures undertaken by public authorities that support children’s reintegration;
- evidence that public services have visited the family or provided them with assistance.

These updates formed the basis for both the present research and the Project’s internal impact monitoring system. In the framework of the latter, based on the evidence collected, it was possible to assess a number of positive effects brought about by the Project (or to which the Project contributed) in the lives of children assisted and of their families. In the majority of cases, the most important change assessed was that children started to

have positive plans for their future in the country, and in particular they started to aspire to continue their studies. Those children that faced problems due to language barriers enrolled in school and improved their grades, following the language courses offered.

Some children who had health problems received the needed medication and surgery operation and saw an improvement in their conditions. Several children who used to beg were able to get out of this situation and they were enjoying being at school, as well as attending the daily centers’ activities provided by the Project. Some girls – from the Roma communities – were able to socialize more as a result of intensive discussions with their family members about their safety concerns – and this greatly improved their overall well-being. In many cases, Project social workers – through the regular visits and referral to appropriate services – could help family members overcome their addiction (alcohol or drugs) and revert the negative effects that it was having on their children (abuse or neglect).

The Project networked with other service providers that supplied families with food aid and complemented it with hygienic products and firewood. Collaboration was also established with some NGOs that succeeded to involve children’s parents in income generating schemes: in one case 10 high schools agreed that the father of a child would collect their plastic garbage, which he then sold to recycling companies to make some money for the family. In a few other cases some mothers started selling second-hand clothes. In these cases, family relations tended to improve as a result of better living standards.

Families reported to social workers that the attention in itself (and the psycho-social counselling) was the most valuable assistance they could benefit from: they felt that they were not alone, that they could talk to someone about their daily struggles and that there was someone willing to help them. This type of ‘regular attention’ motivated some families to ‘try harder’ and find a source of income, and to pay more attention to the development of their children, including their school attendance and performance.

In several cases, social workers supported children and families in overcoming particular challenges arising during the reintegration process. Many children (56) reported to be victims of outright bullying at school: in most cases this was due to their minority status, but also because they left the country and were returned – and hence were perceived as ‘outsiders’, and/or envied by their peers (and families) who had never ‘dared’ to leave the country. Some children complained that their teachers were impatient with them, even resorting to verbal abuse when they were not able to keep up with the school instructions. Children were also comparing this situation with the situation they had experienced while abroad,

where in their words teachers' attitude was much kinder and friendlier than those in the 'home country'. In some cases social workers tried to discuss these problems with the teacher or school psychologist, and/or to encourage parents to do so, which resulted in some improvements to the situation.

In other cases, the Project attempted to address various kinds of barriers to accessing services that children and families were experiencing: two children with disabilities could not attend school in FYROM, while some families in Albania could not navigate the health care system unless the Project social workers accompanied them, due to the discrimination faced and to the complexities in administrative procedures. There were also 15 cases of 'administrative invisibility', which took a lot of efforts for social workers and state authorities to solve: in particular this was the case for children born in Greece without birth certificates, and children born in Germany from Kosovar parents, residing currently in Montenegro. All these challenges are explored in greater depth in the following section of this report ("Key challenges hindering successful reintegration").

Not all cases followed by the Project were successful. In each country, there were few cases among the 20 ones followed (for a total of 15 children across all countries covered), where the family did not succeed in reintegrating in the country and decided to migrate again¹³². Social workers lost contacts with them, therefore could not report about how their new migration attempt was going. In some cases children felt so alien in their new surroundings that they eventually found ways to leave again by themselves. In other cases, new problems added on the existing ones, such as domestic abuse incidents, natural disasters that destroyed the family house and all furniture/appliances, or institutionalization of a child due to the neglect of his mother.

Key challenges hindering successful reintegration

Based on the analysis of case files provided by the social workers, as well as on in-depth discussions with them, the research identified some of the key-obstacles that hampered the successful reintegration of children and their families after return to their country of origin. These challenges are described below.

While in several cases challenges faced by children and their families were so difficult that they casted

considerable doubt over the appropriateness of a return decision and its compliance with the child's best interests, this report focuses on (and analyzes) the actual situation that children and families experienced after return to the country of origin, and does not trace back, nor does it assess the decision-making process undertaken in the host country in each individual case.

Co-operation with local authorities

The social workers supporting children and families' reintegration in the framework of the Project were also tasked to ensure that the local statutory child protection services such as Centers for Social Work and the Child Protection Units (where existing) were notified about the situation of these families, and that the necessary referrals to services were made. Project social workers invited State social workers to accompany them to visit the families, especially children who were in very vulnerable situations, and to take up their role in assisting them.

Success in involving State social and child protection services varied across the Project countries. In Albania, where the partner NGO has played an active role in supporting local Child Protection Units, these units made some efforts to address the situations and also enlisted other services through referrals, in order to find solutions to the problems faced by these children – although cooperation among institutions still needs improvement. Moreover, Albania is the only country among those included in the research where local Child Protection Units engaged with the Project social workers in developing individual reintegration plans for children who had been returned.

In Kosovo, as mentioned above, family visits were conducted by the Municipal Office for Communities and Return and they provided assistance in the form of hygienic and food packages as well as subsidies to cover house rents. Representatives visited families once a month on average, which according to families was a too long interval, compared to their consumption rate of the above-supplies. Moreover, representatives of the Municipal Office of Communities and Return lacked sufficient training to properly conduct family assessments¹³³. In FYROM and in Bosnia-Herzegovina Centers for Social Work were always notified of the different problems the children and their families were facing, but they reported to have work overload and to be consequently unable to assist them. In these countries, Project social workers had to entirely replace the work of public social services and to provide the whole range of reintegration assistance to the families concerned.

¹³² As mentioned above ("Profiles and migration experiences of the children and families included in the research"), several families have a strategy of circular migration, going back and forth between countries, in the attempt to improve their living conditions.

¹³³ In order to mitigate this problem, since April 2014 qualified social workers from the Centers for Social Work are accompanying them to family visits.

In Montenegro the Centers for Social Work visited families in about half of the cases – but mainly to assess their eligibility for social aid. However, State authorities started special programs to support families and individuals living in the Konic' camps 1 and 2: these informal settlements made up of shacks and containers are inhabited mainly by refugees from Kosovo. The conditions at the camp are very difficult and families could not access most of the services.

Vulnerability prior to departure

The majority of the children involved in the research came from highly vulnerable families living below the poverty line (76 out of 120). In these cases, migration has mainly been attempted as a strategy to escape poverty and to find better living conditions elsewhere. While the migration experience has often negatively affected these families – in several cases, they sold all their possessions and their houses in order to afford it – the reintegration posed striking challenges mostly due to their marginalization and extreme poverty, and not so much due to the loss of social capital or cultural references during the absence from the country of origin (as it could be noted in other cases).

	Albania	Bosnia-H.	FYROM	Kosovo	Montenegro	Serbia	Total
Number of children living below the official poverty line	5	17	14	0	20	20	76

Many families stayed in the destination country for only a few months, returning to even more critical social problems than those they had left: lack of adequate housing – including poor hygienic conditions and lack of drinking water – no employment or income generating opportunities, poor access to healthcare and to school for children. These challenges were mainly stemming from their pre-existing marginalization and poverty, rather than from their migration experience.

Discrimination based on minority status or gender

Although this was not determined by the selection criteria (above – “Methodology”), approximately two thirds (87 out of 120) of the children involved in the research belonged to Roma communities or other ethnic minorities. These children (and their families) reported that they were often subjected to discrimination, exclusion and bullying, particularly at school. In FYROM, a child had a disability and he stopped attending school also due to his negative experiences of discrimination.

Discrimination makes it also difficult for children's parents to find employment. The migration experience only worsened this situation, since it compounded

with discrimination due to their lack of documents, no language proficiency and gaps in education. The success of these families in reintegrating and in carving out an existence in these societies was hindered by the multiple discrimination they faced.

Discrimination takes places also on the basis of gender. Project partners found that in some cases – particularly among Roma families – girls from around 12 years of age were often not allowed by their parents to attend school or to even go outside the home for protective reasons.

This gender-based discrimination against girls emerged as a determining factor hindering their reintegration: girls in these cases have less of a chance to continue their education – fact which violates a fundamental right that they should enjoy – and thus aspire to have a decent profession. Being confined within the home makes them suffer in complete isolation.

Some children were also discriminated against because of their extremely poor living conditions. For example, in Montenegro a child was bullied for his ‘inappropriate’ clothes, the only ones that his family could afford to purchase.

Are these children ‘on the radar of services?’

Children and families followed by the research had been returned to countries where child protection systems are not well-established and functioning, and basic services are often available to a rather limited extent. This circumstance, coupled with the shortage of job opportunities, poses a great challenge to their successful reintegration.

In general, children involved in the research had access to the medical services that they required. In some cases, however (such as in Albania), these services were available but children did not have access to them due to lack of health cards. Also, the cost of medications was a serious barrier for most families. Moreover, some primary health care services, as well as mental health services, were lacking. Twenty-four hour services are not available in some of the countries, whereas in some cases only emergency services are available within a reasonable distance. This was the case in many instances in Kosovo. Lack of documents and language barriers seem to be the biggest factors impeding access to services. Lack of funds, lack of education, discrimination and cultural barriers also factor into the accessibility of services.

Social workers working for the Project made special efforts to contact State social services (which are in most cases decentralized to municipal level), in order to inform them of the presence of the returned children and families – and they also made specific referrals to them when they faced issues that should be addressed by public social services

(for example lack of school attendance by children, signs of domestic violence, suspects of child begging). It has been the experience of the Project staff that State social services have very limited capacity to pay family visits or to provide tailored assistance to families in need¹³⁴.

Furthermore, most countries do not have a system to effectively monitor the reintegration of returned children or families: while all of the six countries have developed national referral mechanisms for victims of trafficking that authorities are aware of, there is no similar mechanism for the other returned children or families, despite their high number in some countries. While these families may be registered at the border (for instance in Serbia and FYROM), they are not followed further and no referral is made for them to local authorities and service providers. In FYROM there is a National Program for reintegration of returnees; however there is no mechanism for its implementation, nor for the follow up and referral of cases. In Serbia individuals returned have an initial meeting with the Commissariat for Refugees and Migration and are registered with them, but no follow-up usually takes place. In Albania the local police is sometimes notified about return cases, but the notice does not reach the local Child Protection Unit that could potentially follow-up on the children at risk.

Neglect of the views of the child

The views of the child were not taken into account when making the return decision in the vast majority of cases analyzed. Not only this goes against the right and key-principle according to which a child should be allowed to express his/her views and opinions on all decisions that will directly affect him/her, but it also hinders a successful reintegration. Although the research did not focus on the return decision-making process undertaken in the host country, the lack of (or very limited) consideration of the views of the child in such a process emerged as a significant element hindering successful reintegration following the return. In most cases, the child was not asked if s/he wanted to be returned or where s/he wanted to be returned to. If the child was asked, his/her opinion does not appear to have had a significant influence on the outcome of the decision-making process. In some cases, it was apparently assumed that the views of the child reflected those of the parents. In any case, the child's views were apparently not regarded as a key-element – to be balanced against other factors – in identifying the long-term solution that is in the best interests of a particular child, in light of the available options.

In reality, more often than not, the child did not want to return to the country of origin. There were many reasons that children reported this, such as better opportunities, positive school experience and relationships established with friends in the host country. The length of time that the child lived in the host country appears to have an impact on their desire to remain there. In the cases where children wanted to return, this was often due to poor conditions in centers for asylum-seekers in which they were accommodated, where they felt threatened because of their belonging to a religious minority¹³⁵, or due to unsafe (or even exploitative) living conditions¹³⁶. Moreover, they sometimes wanted to return because they strongly missed family and friends in the home country.

Many of the children had radically different life habits and quality in the host country compared to their situation after return: they had a higher standard of living, good housing conditions, and were integrated in the education system there. This has been especially the case for children returned to Kosovo and Montenegro. Many of these children experienced a real 'culture shock' due to return.

Trauma and post-traumatic stress disorders

Trauma suffered during their migration and/or caused by negative experiences before or during the return process can significantly hinder the reintegration of children. Many children have mentioned their fearful experiences in the asylum centers in the host country: they were threatened both by the local population outside the center, as well as bullied and physically attacked by fellow asylum applicants within the center. For these children being back in the home country was rather a relief, since they felt safer back home. However the traumatizing experiences affects their psychological well-being and hampers their successful reintegration.

Case-studies 1, Albania

One of the most challenging cases that social workers dealt with in the framework of the Project concerned a girl who had been abused by her father. She was returned from Greece and had post-traumatic stress disorders from the abuse suffered. Moreover, she had a 'cultural shock' once she was back in Albania, due to the very different lifestyles that she had experienced in the two countries. Her difficulties in identifying positive life plans mainly stemmed from her history of abuse, but being in a relatively unknown environment worsened her situation. In this case, the most important assistance that both partner NGOs and local Child Protection Units were trying to provide was aimed to help her overcome her trauma.

¹³⁴ In Albania Terre des hommes – and other NGOs – have invested in training and coaching child protection units. Project social workers have referred cases to those child protection units that are functioning and in these cases family visits have been made.

¹³⁵ This was the case for families of Christian religion accommodated in centers where most people were Muslims.

¹³⁶ In cases where parents and children were living and/or working on the street.

Although the research did not analyze the return processes in which children and their families had been involved, Project social workers collected several recounts about unclear, unfriendly and scary procedures experienced by both adults and – particularly – children, who often could not explain what kind of decision was taken, by whom and what options were given to them (if any). These experiences originated trauma and anxiety in many of the children followed by the research (See Case study 1).

Factors influencing Reintegration

A number of factors have been identified as influencing reintegration, based on the monitoring and reviews of the cases of 120 children over an 18 month-period. These factors are illustrated in the following paragraphs.

Level of integration and length of stay in host country

This factor has resulted to be one of the most important ones affecting children's reintegration. Children that were born in the host country or have spent more than 10 years there, speak the language only of the host country, and have been attending school there (often successfully), have an especially difficult time back in the country of 'origin'. In their cases it is more appropriate to speak of 'integration', since they experience the country of return as a completely new environment, having no cultural, language or historical links with it. They have to adapt to a completely different culture, system and language – fact which often creates stress and difficulties. Furthermore, in these cases children accounted that they had a very different – much higher – living standard in the host country (See Case study 2).

Contrasts of lifestyles and life quality is thus certainly a factor influencing reintegration: as mentioned above, children living more than a decade in the host country have experienced different lifestyles, higher living and housing standards, hygienic conditions, educational and cultural supply (cinema, theater, etc.) that they cannot have in the country of 'origin'. Re-creating a social network (particularly through peer-to-peer activities) and school integration have been found as important for these children to experience a different atmosphere and get out of their isolating home environment.

Some children were involved in street-activities in the country of destination, thus they also underwent a change in lifestyles, from a very difficult (although rather free) lifestyle in the host country, into more regulated settings in the country of origin. In Albania, Project social workers identified and worked with 18 children who had been begging in the destination country. For them, giving up this lifestyle once they were back in Albania was rather a relief and they enjoyed being back in school (when that

Case study 2, Montenegro

Milan¹³⁷ (13 year old) was born in Germany. His parents had left Kosovo with Serbian passports, fleeing the war there. While in Germany, Milan's parents divorced, his mother remarried and had 4 children from her second marriage, all born in Germany. As Milan's father had no permanent job, he had no right to further stay in the country. In the decision-making process, Milan was consulted about whether he wanted to stay in Germany, or to follow his father – and he stated that he wanted to leave with his father. Upon the father's request, they were returned to Montenegro.

The return was a complete shock to Milan: the language, the culture, the living standards, all were very different in Montenegro. He lost connections with his friends and some of his family members, his school education and other activities he used to be involved in when in Germany.

In Montenegro the father and son did not have access to social benefits and they survived thanks to the support that they received from the father's mother who also lived in Germany. As part of the assistance provided by the Project, Milan received clothes and shoes especially for the winter season, as well as other household items, and official documents were acquired.

The biggest challenge for Milan was the language barrier, which was the main reason for not being able to attend school. Thus the social workers of the Project enrolled him in Montenegrin language classes and involved him in peer-to-peer activities during which he could practice. Milan also met four other children who were in a similar situation and they became good friends, supporting each other.

Despite all these efforts Milan apparently does not wish to stay in Montenegro. His father has arranged for a German friend (a 65-year-old woman) to take custody of the child and Milan is waiting for a visa to return to the country where he was born.

was possible) or attending vocational training courses. Their reintegration was generally progressing well.

Knowledge of language of the country of return

The second most important factor influencing reintegration was the knowledge of the local language. Upon return, many children struggled with the language barrier if they were not fluent in the national language of the country they were returned to. This varies greatly depending on the individual situation of the child, but in all cases it

¹³⁷ Children's names, as well as some details of their stories, have been changed throughout the report, in order to ensure the utmost confidentiality and to prevent disclosure of information that could make them recognizable.

contributed to problems with school attendance and in socializing with their peers. Language barriers can also make accessing the necessary services more difficult.

Among the children followed by the Project, two main types of challenges appeared in relation to language knowledge. Some children were used to speak the language of the host country with a high level of proficiency, but did not speak the language of the country of 'origin' they were returned to. Other children did not speak the majority language in the country of return, only Roma language, fact which greatly isolated them from the mainstream society, and made school integration difficult. Both groups needed considerable assistance in order to integrate, to attend school and be able to communicate with teachers and schoolmates. This was provided in the form of language courses, and all children concerned made good progress. Thus, for example, by the second monitoring visit (after six months from the initial visit), younger children had no problems speaking to social workers.

Administrative situation

Statelessness and lack of birth registration hinder the access to any type of services, including education and health, thus negatively affecting the reintegration process. Unfortunately, lack of birth registration among Roma

Case study 3, Montenegro

Sredan, 9 year old, was born in Germany. His family, including his siblings (older sister and brother), had been living there for 15 years. Although the family originally was from Herceg Novi (in Montenegro), German authorities returned them to Belgrade, and provided them with 100 euros to enable them to make the trip 'home' to Herceg Novi. The return was a very stressful experience for the whole family, especially for the children who were born in Germany. After return they were homeless for days, forced to sleep in the street until they found some – albeit precarious – accommodation. They lived there for some time, until a fire destroyed their house – and much of their documents – and then they moved to Podgorica where they have been living for the following two years.

The parents had Montenegrin citizenship, so they received some social assistance, out of which they also had to pay the rent for the shack they occupy. The children however were stateless, having no citizenship. Only Sredan attended school, whereas his siblings had not attended since they were returned.

In the framework of the Project, children were assisted in order to obtain the Montenegrin citizenship, be provided with school materials, and basic items and goods for the whole family. Peer-mentors helped Sredan improve his school performance and reintegration in the local community.

communities remains an issue – particularly in Albania and, to some extent, in Kosovo. For example, 15 children in Albania were not registered at birth, and the situation was even more complicated when they were born in Greece. In Montenegro a child was born in Germany but had no citizenship, since her mother who was from Kosovo had no identity documents. Despite a lot of efforts and cross-border communication among Project partners in the two countries, the issue was not solved in the framework of the Project duration.

Fortunately, despite the absence of birth registration certificates, both in Albania and Montenegro children were allowed to attend school and to have access to basic health care and other services that they needed. However, the situation of stateless children remained critical (*See Case study 3*).

Together with citizenship and birth registration, the possession of official documentation (primarily identity card and residence permit) is also crucial in order to access services – and thus the absence of such documents hinders the reintegration process. Children's parents can often not access unemployment benefits or health care due to lack of official documents. The research highlighted the need to help families acquire these official documents and also to connect them to existing services (including health insurance, social welfare, unemployment benefits and employment counselling).

Education and school attendance

Besides being a fundamental right enshrined in the UN CRC, the research showed rather evidently how important integration into the education system is as a factor contributing to the reintegration of children. In addition to developing his/her potential and providing future job prospects, education can provide a sense of stability and continuity for children, allowing space for making friends and integrating in a community. School performance and an inclusive and welcoming atmosphere in school greatly facilitates the integration of children, and especially helps them develop positive life plans about studies or acquire skills for a future job.

Among the 120 children followed, at least half of them had not attended school for some time after return, either because of the timing (for example, they had come back in the middle of school year), because they did not have any certification to demonstrate which grade they had accomplished, or due to language barriers (above, "Knowledge of language of the country of return"). As of August 2014, 28 school-age children were not in school yet – whereas some of the children followed by the research were not of school-age yet. Children who were in street situation in the host country needed special assistance – provided by the Project social workers and State actors – in order to be enrolled in school.

As already mentioned above (“Discrimination based on minority status or gender”), in several cases children experienced bullying and discrimination, which further hindered their positive school attendance.

	Albania	Bosnia-H.	FYROM	Kosovo	Montenegro	Serbia	Total
Number of school-age children not enrolled in school	16	3	2	3	3	1	28
Children who reported bullying and discrimination at school	15	12	3	4	20	2	56

Case-study 4, catch-up classes and after-school support

In Bosnia-Herzegovina there are classes to help children to catch up with school, while in Albania schools offer similar assistance to vulnerable children. In April 2014, the Kosovar Ministry of Education, Science and Technology started to offer language courses to returned children, which is preparatory to catch-up classes, once children have sufficient command of the local language.

Project partners and other NGOs in Serbia and Albania work with children in street situations, integrating them in the programs of their drop-in centers, helping them with homework after school and involving them in other activities. These services have been instrumental in ensuring that the returned children followed in the framework of the Project successfully attended school.

Supporting children in realizing their interests and in developing their talents is a powerful element in building their self-confidence and resilience, and in supporting their reintegration. As it is shown in the case-study below, being able to cultivate a talent can greatly help children feel ‘home’ again (See Case study 5).

Availability of social and medical services

Social services that are able to identify the needs of children and families and are able to refer them to other services are instrumental when it comes to reintegration. Ideally the different services should work in a network and in cooperation with each other and refer cases in an efficient manner – and should also be pro-active in identifying at-risk cases. In Kosovo, for example, Case Management Roundtables were set up with the participation of child protection services, health care, police, school teachers and psychologists, in order to improve the management and referral of high-risk cases.

Case study 5, Kosovo

After having lived in Sweden for three years (and previously also in Norway), Nora, 14-year-old, returned to Kosovo in 2011 together with her younger brother and parents. The family returned from Sweden voluntarily and received some benefits offered by the Kosovar Government - including subsidies to cover the rent of the apartment and food packages for 12 months. In order to better support his family financially, the father opened a small kiosk, but he had to close it as he was not able to pay the rent. Social and economic conditions became the biggest worry of the family.

Nora suffered from post-traumatic stress disorders after return, which also worsened her psoriasis. She felt isolated, had difficulties in making new friends and suffered from bullying at school. Unfortunately teachers were not very supportive with her.

Based on discussions with Nora and her family, the Project support was focused on improving the emotional and psychological wellbeing of Nora and on addressing her health problems. Family counseling helped to improve wellbeing of the whole family too. Nora’s father, at the beginning very negative and pessimistic about their return to Kosovo, changed his attitudes in order to create a better psychological environment at home for his children, started to pay more attention to them, spending more time with them in order to help them overcome difficulties with their reintegration process.

Nora’s parents were also encouraged to talk to her teachers, a fact which helped to raise teachers’ awareness about specific needs of returned children, and contributed to help Nora improve her results at school.

Through peer-to-peer activities Nora made new friends, who also shared similar experiences. Interaction with other children of her age helped her to open up and feel more integrated. Eventually she became a peer-to-peer mentor for other children. As it was discovered, Nora had a talent, she liked singing a lot. She started having singing classes with a private teacher, and even sent an application to the Albanian talent-show “X Factor”. Her talent did not go unnoticed – she made it to the finals.

Through successful social work – regular family visits, psychological counselling sessions, taking the child’s opinion seriously into consideration – a noticeable positive impact was achieved. Nora has become a self-confident, well-integrated, happy girl in Kosovo. Her grades at school improved, she made new friends and she continued to develop her talent.

Furthermore, the father became more active in looking for assistance at the municipal level and from local NGOs, and he also started to spend more time with his children on a regular basis.

Regretfully, the research has highlighted that social services are often not pro-active: state social workers have very limited time and means to conduct family visits, while specialized services are not accessible or not available at all. In many cases, legislation restricts the possibility for families to access social assistance (in Kosovo, for example, families have access to such aid only if there are children under 5 years of age). In some cases, when a child needed special health treatment, this service was not available. In other cases, the cost of medication was too high (especially compared to the family's income). Purchasing the necessary medication was a problem for families in almost all countries included in the Project.

The existence of specific programs to support reintegration after return constitutes a valuable resource in trying to foster the successful reintegration of children and families in SEE countries. The majority of these programmes have been identified in Kosovo (see above – "Programs facilitating return between EU and SEE countries").

Sometimes they also envisage specific measures to support children's inclusion in the school system, such as catch-up classes and language courses. The possibility to rely on specialized interventions aimed to support the reintegration of children after return is a considerable resource and positively influences the child's well-being and social integration.

Possibility to rely on family and social network

Friends and relatives can considerably help children and families feel at home. They can also provide material support, such as temporary housing, loans, etc. Friends can help parents find a job or start an income-generating activity, they can refer them to services, and point out other opportunities. A child feels much more 'at home' when he has friends with whom he can spend time, relate to, and discuss his/her problems.

In the Project there were two particularly vulnerable groups when it comes to social networks: marginalized groups, who, by the very fact of being socially excluded, had very weak social networks also prior to their migration experience; and migrants who have spent more than 10 years abroad, thus having lost their friends and family ties, with children who have no social, cultural or language connections to the country of return. To address this problem, the Project developed a peer-mentoring scheme, identifying volunteers in the community who were willing and interested in spending time with the returned children: different countries applied different methodologies, but the overall goal was to involve peers – children and youth – in order to start building the social network of the returned children. This activity provided also an opportunity to build the awareness of young people about child rights and migration issues.

Children involved in peer-to-peer activities reported that they enjoyed these activities and made new friends. These occasions provided them with an opportunity to get out of their homes and neighborhoods, to make new experiences and learn new things, as well as to improve their language skills. These activities helped them build their resilience and self-confidence. In some cases among the peers there were also children who experienced migration, which facilitated sharing their experiences.

Integration – and especially the development of positive life plans, is made more difficult when half of the family, or other important persons (friends, boyfriends/girlfriends) are left in the host country. Conversely, it is much easier for children to project their life in the country of return when all their dearest persons are close to them.

Among the children involved in the Project, there were a few cases when one parent remained – usually after a divorce – in the host country. Some children have siblings who remained in the host country after getting married. These children miss their parents and siblings and miss being in contact with them. As seen above (case-study, Montenegro), having relatives left behind may also influence children in choosing to return to the host country. Indeed, the two other children included in the Project were seriously considering return to the country of destination, in order to join siblings or to get married there.

	Albania	Bosnia-H.	FYROM	Kosovo	Montenegro	Serbia	Total
Children whose family member(s) remained abroad	4	1	1	0	0	1	7

Access to labour market

The ability of parents to carve out an existence in the country of origin is key to their survival and their reintegration in the society. If they have no means to keep their children well fed and dressed, parents (and children themselves) consider other options, including to leave the country again. Exclusion from the labour market also leads to further social exclusion, since a workplace means being included in a social network, and developing new friendships.

The same applies to young people who are of legal age to work. In the six countries included in the Project, unemployment rates are considerably high ranging between 14% in Montenegro and 44% in Bosnia-Herzegovina. Parents followed in the framework of the Project faced considerable difficulties in finding employment. In FYROM, one family member had a temporary job out

of 12 families. In Serbia, in only three families did one member have a regular job, while in 13 other cases, they had unstable, badly remunerated or seasonal jobs. In Bosnia-Herzegovina children's parents were involved in the informal economy in 16 cases, while only 4 parents had regular jobs. In Kosovo 12 family members had some type of irregular, occasional job. In Albania almost all families survived from recycling, while three families that started micro-businesses selling second-hand clothes.

Basic goods and adequate housing

Returned to nothing, no house, no furniture, and having no income-generating opportunities, families struggle to survive. Some of the families followed by the Project lived in shacks, in segregated, informal settlements with no heating, no running water and other basic services and commodities (especially in Serbia, Montenegro and FYROM). In other cases the quality of housing was rather low and due to the lack of income the family had no means to improve it. Poverty could also be a potential barrier to school attendance, if families did not have the necessary means to properly dress their children and to buy the necessary school equipment.

In all these cases, following thorough assessments of the families' situation, and as part of the integration, the Project tried to address the most urgent needs of children: clothing (especially winter clothing), shoes, school materials (school bags, pencils, notebooks, etc.) and hygienic items were purchased. In order to provide minimum comfort to the families, sometimes stoves, kitchen utensils and basic furniture items were also purchased for them. Some families were involved in income-generating activities and/or supported in registering at the local employment office.

Structural difficulties related to poverty and marginalization, such as quality of housing (e.g. absence of running water, leaking roof, insufficient heating, absence of windows), as well as social exclusion and segregation, and lack of access to the labour market, proved to be much more difficult to address in the framework of a single Project. These problems would require a more complex and long-term intervention, involving all relevant public and private actors.

It is important to underline that in some cases – especially in Albania, FYROM and Serbia – the families suffered from poverty before leaving the country, while their migration often increased their marginalization. In these cases, the reintegration of children is challenging more due to their poverty and marginalization, than to their returnee status.

Family situation

In the case of unaccompanied and separated children, the extent to which the family is welcoming the child back or, conversely, his/her return puts a strain on family

relations, represent a significant factor influencing the child's reintegration.

The return of separated and unaccompanied children to their family should be based on a thorough assessment of the family's situation and their ability and willingness to welcome back the child. While return to his/her family is the preferred option, there are cases in which return (or immediate return) to the family is not in the best interests of an individual child. Alike the whole report, this paragraph provides an account – through the illustration of concrete examples – of how family dynamics influence the successful reintegration after the child has been returned to his/her country of origin, without considering the process and assessment that led to the return decision.

As mentioned earlier ("Methodology"), the research sample included very few cases of separated or unaccompanied children, thus making it difficult to explore this variable in great depth through field-analysis. Project social workers followed two cases in which the process of reintegrating the children into the family could be questioned. In the first case, security issues were at play and more advance preparation could have been beneficial for ensuring a more secure and safe environment for the children to return to; whereas in the second case, the family (who had migrated jointly) was suitable and willing to take the children back, but did not have the conditions to properly care for them. These cases are illustrated here below (*See Case study 6*).

Case-study 6, Albania

Two boys were returned from France to Albania after their asylum request had been rejected. French authorities asked Albanian authorities to carry out a family assessment, during which children's parents had stated that they were not welcoming the boys back, not because they would not want them back, but because (as they reported) there were serious concerns about their safety. Apparently, indeed, the family had sent children abroad to protect them from a dispute with another family. In Albania feuds are still happening occasionally and 'revenge' is targeted not only at the person who allegedly offended the other family, but potentially also against the children. Living in a small town in North Albania, the family feared that they could not ensure the safety of their sons. Despite this, the boys were returned to their parents, but could hardly go out for fear of reprisals. Fortunately they were able to go to school, but after school they were confined to their home. In this context, despite the family counselling and referral to other services provided in the framework of the Project, reintegration in the society proved to be very difficult for these children.

As the case above shows, the family should be regarded and supported as a whole, and in advance while fostering the reintegration of a child. This support should be comprehensive and include a range of options, including the possibility for the entire family to relocate, to respond to safety threats.

Out of the 120 children followed, in one case the family situation seriously deteriorated due to extremely difficult living situations and family breakdown, and the child was

consequently placed in residential care. Although families should be supported to care for their children, and family-based alternative care should be preferred when the family is temporary or permanently unable to care for them, in some cases – also due to the limited care options available in a country – residential facilities can provide care and support to children, for a limited period of time (*See Case study 7*).

Availability of recreational activities

In order to find stability, and build positive life plans in their home country, children need useful, constructive and at the same time entertaining after-school activities. Play and recreational activities are fundamental in fostering children's physical and emotional well-being. These activities promote the development of creativity, imagination, self-confidence, self-efficacy and strengthen physical, social, cognitive and emotional skills. They contribute to all aspects of learning and foster abilities to create links and develop a sense of belonging to a community and a society, and a sense of their own identity, all essential aspects of a successful reintegration.

Project partners in Albania and in Serbia organized recreational activities within their drop-in centers, coupled with assistance in doing homework. These

Case-study 7, Albania

D.J., a 12-year-old boy born in Tirana, had left for Greece with his mother when he was three. He never met his father. During the time they spent in Greece, the mother worked as a cleaner at different houses, but they were still living in very poor conditions. D.J. had to help his mother and take care of his younger brother and sister who were born in Greece. These two children had not been registered at birth. D.J. was compelled to beg in the street in order to contribute to the family income.

D.J. was detected by Greek Police and since the family's stay in Greece was irregular at that time, Greek authorities decided to return the family back to Albania. The mother and the two small children left initially, while D.J. was returned a week later, alone, and met his mother at the border. After being returned to Albania, D.J. and his family went to live at his grandparent's.

The Project social workers assessed the family's living situation as rather poor: the house was dirty and in precarious conditions. The mother and her three children were sleeping in the kitchen. The grandfather was abusive towards the children and forced them to beg. D.J.'s mother was not working and thus could not provide her children with adequate material care. They had no medical care and none of the children attended school. They could not receive social benefits since they lacked official documents. Due to the difficult living conditions, the mother went back to Greece, leaving her children behind. The Project social workers referred the case to the State Social Services and the three children were taken into care at a residential institution.

Since he was placed in residential care, D.J. was supported in keeping contacts with his mother. The Project social workers facilitated her access to the employment office in Albania, in order for her to find a way to return to her country and family. D.J. regularly attended school and accomplished the grades accordingly. He became fluent in Albanian. He received individual counselling and was included in group discussions. He received the necessary documents – while the situation was lengthier for his brother and sister who were born in Greece. D.J. wished to continue school and hoped that his mother could find a way to return to Albania, for them to live together as a family.

Case study 8, Serbia

The parents of Jelena (14 year old) went to Germany in 1991. They had four children (Jelena, two twin brothers aged 16 and their 11-year-old brother). They stayed in Germany for 16 years and were returned to Serbia in 2006.

After return, they first lived with a relative, who shortly later refused to host them any longer. The family then moved to New Belgrade and built a barrack there. However, one day the father sold the barrack for 400 euros, took the money and went to Kosovo, leaving the rest of the family on the street. The children did not hear from him since.

The family went through many hard periods, where they did not even have a crumb of bread, but the mother never lost hopes. She found a job as cleaning lady. All four children attend school regularly and also helped at home and collected materials for recycling. Jelena was met by the Project social workers while begging on the street, and invited to attend activities at a daily center. The ongoing, regular support provided by the Centre staff, coupled with some material assistance to the whole family, led to significant improvements in Jelena's school performance and overall well-being. She became one of the best students in her class, being an example to other schoolmates. She decided to enroll in high school and to find a job. She started to believe that she can have a better life in future.

activities helped children to “be children”, play and make friends in a safe environment, supporting them in being part of a social network rather than being excluded, or out on the street, often begging. Project partners also organized summer camps in Kosovo and Albania, to which children returned were invited to spend the summer weeks in a safe environment among peers, and to engage in enjoyable, playful activities.

Peer-to-peer activities have been organized in all the six countries with both returnee and other children: these activities provided children with an opportunity to socialize beyond their communities and to make

Case study 9, Bosnia-Herzegovina

“We are glad that there is someone who cares and has interest in us”

A twelve-year old girl, Aida, was returned from Germany to Bosnia and Herzegovina in 2013 together with her family (parents and younger brother and sister). They had been in Germany for 2 months and had applied for asylum, but received a negative decision. After return they have been living in one part of her grandmother’s house. Her parents were unemployed, although they occasionally worked selling products on the market without license.

The family has been seriously considering going back to Germany even though they had a negative experience at the asylum center, where reportedly the conditions were bad and they lived in an isolated area. However, as Aida’s mother used to say, “life in the asylum center was bad, but we were not hungry”. The family was positively surprised when Aida was included in the Project. During the first meeting with Project staff, Aida’s mother said: : “We are glad that there is someone who cares and has interest in us. No one has ever visited us since we have returned”.

Aida and her family benefited in several ways from the support of the Project social worker. It should be noted that Aida had a health condition that required orthopedic insoles and she endured considerable pain without these, but these were unaffordable for her parents (100 Euros). Besides different forms of material assistance, the family was supported through referral to, and information about other service providers that could address their needs. In agreement with her parents, the Project partner supported Aida to receive orthopedic insoles which could be obtained free of charge thanks to the social insurance. Since the family had not had accessed to this information and the availability of assistance scheme before, the support provided by the social worker was instrumental in ensuring that they could access their rights.

new, valuable experiences. Some of the children from marginalized communities appreciated these events as the only opportunity to ‘get away’ from their everyday life in poverty. In Kosovo, some of them have later participated in trainings to become peer-mentors to other returned children (See Case study 8).

Information about rights and services

Access to services, such as social assistance, pensions, health insurance and other benefits also depend on the knowledge that the potential users have about existing opportunities and available options. Project social workers found that in some cases families were not aware of the fact that they were eligible for different forms of assistance. In other cases families needed support in navigating the existing service system, as well as in acquiring all the official documentation needed to access assistance (See Case study 9).

Timing of assistance

In order to be successful, reintegration assistance needs to be provided in a timely fashion – and this is especially true for children. The Project also involved children who were returned more than 2 years before, and for those that had not continued their education due to different barriers (language, discrimination, lack of attention from parents, gaps in knowledge about the school system, lack of school certificates etc.) throughout this period, it was close to impossible to reintegrate them in the education system after such a long hiatus: they had lost interest in school, had developed different habits and daily routines, and had given up their plans and hopes concerning education.

It proved to be very difficult as well to involve these children and young people in any type of professional development plan or vocational education course either, even when they had finished primary school in the host country. While they were often integrated into the society, navigated well their environment and had friends, they appeared to have lost a positive attitude and confidence towards the future in general, and the aspiration to reach a better life for themselves than their parents have.

Conclusions and recommendations

A number of findings that emerged in the framework of the present research require significant attention by all actors dealing with the situation of children who may be returned from EU to SEE countries, in order to ensure that the rights of these children are upheld throughout the return and reintegration process – both when separated or unaccompanied, or travelling together with their family.

Based on the above-findings, a series of conclusions have been drawn, particularly focusing on issues of significance to the objectives and scope of the research,

i.e. to fill in the existing gaps in knowledge about issues, challenges and effective support to achieve successful reintegration of children and their families returned to their country of origin. Recommendations aimed to address the key-challenges emerging from the research have been developed and prioritized, in order to guide future policy and practice. These conclusions and recommendations are presented below.

Best interests principle and determination

All countries that ratified the UN CRC, including all countries in EU and SEE, are obliged to uphold the fundamental rights of children within their jurisdiction without discrimination, including children in migration situations, both separated and unaccompanied, and children with families. In particular, the best interests principle should underpin any action impacting on an individual child. This principle should be operationalized in practice, in order to identify a durable solution for each child identified outside his/her country on an individual basis.

The research found no evidence that an in-depth analysis and balancing of the different factors that should be taken into account during a BID process was undertaken for the 120 children returned from EU to different SEE countries prior to a return decision was made and implemented¹³⁸. In particular, problems that children (and families) would face upon return were not appropriately anticipated and addressed, leading to serious challenges to their successful reintegration in the origin country – which in a few cases did not even seem to be the most appropriate long-term solution to realize the child's best interests. Moreover, the situation of children within families appears to have been generally overlooked, and their best interests not systematically assessed by authorities in the host country.

R1. It is recommended that any return decision be based on a thorough BID procedure, to which all children should have access in a non-discriminatory manner. Such BID should be planned and undertaken according to available authoritative guidance – in particular as provided by the UN Committee on the Rights of the Child and the UNHCR. The views and wishes of the child should be appropriately sought and taken into consideration at all stages of this procedure, in compliance with the child participation principle and right.

R.2 The specific situation of children within families should be also considered. Children with families may not be referred to a BID procedure, but their best interests shall be carefully assessed, and their opinions taken into serious consideration, with a view to contributing to

the overall decision in relation to the family or individual decisions in relation to family members.

Preparation to return and reintegration

The present research has found that, except for a few cases, an individual reintegration plan was not developed before the child's return. The research found that lack of coordination and cooperation among the host and origin countries seriously undermines the successful reintegration of children and their families, who are not adequately prepared to face the new situation and related difficulties. This confirms the previous findings of the Comparative Study, which noted that “unless specific programmes are in place, there appears to be very few contacts between sending and receiving countries in relation to the circumstances of returning children or families”¹³⁹. It also highlighted the lack of solid infrastructure for assessing the situation of families or for providing effective reintegration support to families with children or separated children in the countries of return.

R.3 It is recommended that – when, following a BID process, it has been decided that return is the best durable solution for a child – a comprehensive, individually-tailored reintegration plan be developed and agreed upon between the child and the host country, in cooperation with relevant authorities from the country of origin and including inputs from all relevant actors. Existing models, such as the ‘Life Project’ recommended by the Council of Europe, should be considered to support this process.

R.4 Both countries of origin and destination should be accountable for the implementation of the reintegration plan, and mechanisms should be put in place to ensure that such accountability can be concretely relied upon by the child, his/her family, the different actors involved in the process and the society at large.

Key-challenges hindering reintegration in the country of origin

The research highlighted several challenges that hinder the process of reintegration for children returned to their origin country and their families. The report also presents some interventions that mitigate those challenges. Among all important aspects reviewed, the research particularly emphasized the lack of adequate access of children and their families to the different services that they need (including health care, social assistance and support in obtaining official documents). This is often due to the lack of information of children and families, language barriers and limited service availability, including restrictions to (free) access to existing services.

¹³⁸ This information is based on the interviews with the families and children – and the research had no means to verify this with the returning countries.

¹³⁹ ECRE/Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors* (2010), p.14.

Children and families returned often had very limited opportunities to meet their basic needs such as housing and food. Without support from the larger family and local community, they often face desperation and hopelessness. Support services and programmes which provide for regular social work to counsel families and children are critically lacking, although (as the research has shown) they play a decisive role in fostering durable integration in the country of return.

The research also highlighted that access to education is fundamental to support the children's reintegration in the society. It promotes integration in the local community, expanding social networks, and it fosters children's self-esteem and believes in a positive future in the country of return. Access to education is often hindered by several factors, including: discrimination experienced by children at school; lack of basic resources for families to enroll children in school; timing of the return (i.e. in the middle of the school year); 'administrative invisibility'; language barriers; and children and parent's lack of trust in the importance of education.

As evidenced in the present report, authorities in countries of origin generally lack adequate human resources and financial means to properly follow-up on returned children and to monitor their reintegration, as well as to detect difficulties arising in the process and address these timely. Except for the very limited monitoring envisaged in the framework of project-based initiatives, these children (and their families) are mostly left with no reintegration support.

R.5 Returned children's access to basic services shall be facilitated through timely communication, appropriate referral among the different service providers and coordinated responses. It is recommended that referral mechanisms be put in place and made operational in countries of origin, in order to ensure early identification of challenges and appropriate assistance and support to children returned throughout the long and difficult reintegration process.

R.6 Children and their families should be properly informed about their rights and existing services in a language and manner that they can understand. Their access to such services should be facilitated through timely communication and referral among the different service providers. Social work and regular counselling should always be part of the reintegration support available to children and families.

R.7 All relevant authorities should cooperate in order to proactively support the continuing reintegration of children in the school system. Measures put in place should include: raising awareness of children and their families about the importance of attaining education;

fighting discrimination in school by sensitizing teachers and involving children in peer-to-peer and various recreational activities to foster social inclusion; removing administrative barriers to children's enrollment in schools. Children should benefit from school catch-up classes and language courses. Their involvement in recreational and after-school activities – together with other children from their community – is also recommended, as it proved to be highly beneficial for these children's social inclusion.

R.8 Referral mechanisms should involve all relevant authorities (child protection, social services, health and school professionals, etc.) according to clear operating procedures. In order to provide professionals with tools to effectively monitor the reintegration of these children, mechanisms and models for post-return monitoring need to be jointly developed by all parties involved¹⁴⁰.

R.9 Administrative invisibility and access to official documentation – including but not limited to birth certificates, personal identification documents, health cards, registration and/or residency documentation as well as other social security documentation – should be made readily available when children and families are returned back to their country of origin. Host countries should ensure continuous communication with their counterparts in countries of origin to provide appropriate assistance in securing access to these documents prior to the enforcement of the return decision.

Protecting the child throughout the entire return and reintegration process

Although this was outside the scope and focus of the present research, the report highlighted that children who were part of a return process from EU to SEE countries, both alone and with their families, accounted for rather unfriendly, unclear and sometimes scary experiences they had in relation to these processes.

R.10 It is imperative that children's right to protection is upheld throughout the entire return process. To this purpose, it is recommended that all EU countries returning children should ensure that child-friendly procedures are in place at all stages of the process. Tools designed to achieve good practices in line with international and regional obligations, such as the "Checklist for supporting Member States when considering the return of children to third countries"¹⁴¹, produced in the framework of the Comparative Study, should be used – and regularly updated.

¹⁴⁰ A model of post-return monitoring has been drawn up in the framework of this Project, in order to support professionals to operationalize this recommendation (see above, 'Introduction').

¹⁴¹ ECRE/Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors* (2010), p.166 and following.



THE PROJECT IS CO-FUNDED BY THE EUROPEAN RETURN FUND OF THE EUROPEAN COMMISSION