



Terre des hommes

Ndihmë për fëmijët.



**Case management and cross-sectoral work for
protection of children in conflict with the law who
are under the minimum age of criminal responsibility**

Training Module



Republika e Kosovës
Republika Kosovo - Republic of Kosovo
Gjendje - State - Government
Ministria e Administratës Publike / Министерство Јавне Администрације /
Ministry of Public Administration
INSTITUTI I KOSOVËS PËR ADMINISTRATËN PUBLIKE
KOSOVO INSTITUTE FOR PUBLIC ADMINISTRATION



**DEFENCE for
CHILDREN**



Ministry of Foreign Affairs of the
Netherlands

**Case management and cross-sectoral
work for protection of children in conflict with
the law who are under the minimum age of
criminal responsibility**

Training Module

Introduction

Terre des hommes Kosovo, in cooperation with the partner Defence for Children International from the Netherlands, aims at building and strengthening the capacities of institutions and professionals for protection of children in conflict with the law who are under the minimum age of criminal responsibility (MACR), and has prepared the training manual “Case management and cross-sectoral work for protection of children in conflict with the law who are under the minimum age of criminal responsibility”. The Manual is supported by the MATRA Project – “Child Protection System Strengthening for Children in Conflict with the Law”, which is financed by the Ministry of Foreign Affairs from the Netherlands. The program is aimed at supporting the strengthening of the rule of law in Ukraine, Georgia, Albania and Kosovo by improving the realization of children's rights in the child protection and justice systems, in order to ensure that children in conflict with the law are protected in the best manner possible. This module has been drafted with joint expertise and experience of the local expert Mr. Armen Mustafa; Dutch experts Ms. Myra ter Meulen; Ms. Annelies Hendriks in close collaboration with the staff of partner organizations: Defence for Children ECPAT - Ms. Ytje Hokverda, Ms. Sharon Detrick; Terre des hommes - Ms. Fjolla Hoxha Tërmkolli.

Sustainability of the training module will be provided by Kosovo Institute for Public Administration - KIPA, based on the memorandum of understanding they have with Terre des hommes Kosovo. The professionals who will be trained as trainers of trainers will be certified as trainers of Terre des hommes and KIPA in accordance with the procedures and normative acts of KIPA and they will continue to deliver trainings for professionals even after the project will be finished.

In addition, in 2018, the Assembly of the Republic of Kosovo approved the new Juvenile Justice Code No. 006/L-006, which provides for several legal amendments in the field of justice for children who are in conflict with the law, or risking to come into conflict with the law. One of the main novelties of this Code are Help and Protection Measures for children under the minimum age of criminal responsibility who are perpetrators of a criminal offence. The purpose of help and protection measures is to protect children under the minimum age of criminal responsibility who are perpetrators of criminal offences through a cross-sectoral work aimed at preventing the recommitment of the offence and rehabilitation and reintegration of these children in the community.

In 2019, the Assembly of the Republic of Kosovo adopted Law No. 06/L-084 on Child Protection, which, among others, aims at ensuring the cooperation between institutions at central and local level, as well as organizations for child protection. This law has entered into force one (1) year after its publication in the Official Gazette of the Republic of Kosovo, respectively in July 2020.

In 2018, Terre des Hommes Kosovo conducted an analysis and research to identify the advantages and disadvantages of the justice system and protection of children in conflict with the law in practice. The main challenges and disadvantages identified in the report refer to: (i) drafting of the sub-legal acts to ensure the full implementation of the Juvenile Justice Code and Law on Child Protection; (ii) lack of plans for preventing and reintegrating children in conflict with the law, in particular children under the minimum age of criminal responsibility, and the need for drafting them; (iii) the need for an integrated and multidisciplinary approach in managing the cases of children in conflict with the law. For this purpose and based on Article 8.4 of the Juvenile Justice Code, the Ministry of Justice in support of Terre des Hommes has drafted the draft of Administrative Instruction for the protection and treatment of children who commit criminal offenses under the minimum age of criminal responsibility.

This Manual aims at addressing these legal requirements and research findings, by assisting institutions in building their professional capacities, as well as strengthening the cross-sectoral cooperation in protection of children in conflict with the law who are under the minimum age of criminal responsibility.

The objectives of this manual are:

- To strengthen the cooperation between the actors involved in the case management related to the protection of children who commit criminal offenses, and who are under the minimum age of criminal responsibility.
- To support the implementation of the administrative instruction on measures for the treatment and protection of children, perpetrators of criminal offenses under the minimum age of criminal responsibility.
- To serve the drafting of the administrative instruction on the Multidisciplinary Roundtable for Assistance in Case Management.

The Manual is divided into three sections. Section One is dedicated to the legal framework concerning the protection and rights of children in conflict with the law who are under the minimum age of criminal responsibility, based on the relevant international standards and national legislation.

Section Two is related to the cross-sectoral cooperation of partners who are involved in child protection, responsibilities of main stakeholders, including the role of parents and children, as well as case management procedure.

Section Three is related to the comprehensive assessment of children needs, protection program and individual service plan, including the monitoring of service provision and file closure.

Acronyms

CRC – Convention on the Rights of the Child

CSW – Centre for Social Work

GB – Guardianship Body

MACR – Minimum age of criminal responsibility

MATRA – “Child protection system strengthening for children in conflict with the law” project

NGO – Non-governmental organization

PP – Power Point

RCM – Multidisciplinary roundtable for case management

UN – United Nations

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Section 1

Legal framework concerning the protection and rights of the children in conflict with the law who are under the minimum age of criminal responsibility in practice

Objectives:

- Presentation of the international standards on the protection and rights of children in conflict with the law who are under the minimum age of criminal responsibility
- Presentation of the main provisions within the national legislation concerning the protection and rights of children in conflict with the law who are under the minimum age of criminal responsibility
- Exploration of ways to implement in practice the international standards and national provisions for the protection and rights of children in conflict with the law who are under the minimum age of criminal responsibility.

Expected results:

- Knowledge of the international standards on the protection and rights of children in conflict with the law who are under the minimum age of criminal responsibility
- Recognition and understanding of the main provisions within the national legislation concerning the protection and rights of children in conflict with the law who are under the minimum age of criminal responsibility
- Improved knowledge and skills to implement in practice the international standards and national provisions for the protection and rights of children in conflict with the law who are under the minimum age of criminal responsibility.

Duration of the session: 1 day

Key words:

International instruments, international standards, national legislation, children's rights, children in conflict with the law who are under the minimum age of criminal responsibility, juvenile justice, child protection, child-friendly justice, best interests of the child, child participation, multidisciplinary approach, cross-sectoral collaboration.

Reading materials:

- Case management and cross-sectoral work for the protection of children in conflict with the law who are under the age of criminal responsibility. Training module.
- Principles Underpinning the Protocol (page 267 – 268). In: Modules on Child Protection (2016) Terre des Hommes https://childhub.org/en/system/tdf/library/attachments/modules_on_child_protection_eng.pdf?file=1&type=node&id=21969
- The difference between the CMR and Case Management (p. 435). In: Modules on Child Protection (2016) Terre des Hommes https://childhub.org/en/system/tdf/library/attachments/modules_on_child_protection_eng.pdf?file=1&type=node&id=21969

Activity 1.1

1.1 International Standards

The two main international instruments containing the international standards on the protection and rights of children in conflict with the law who are under the minimum age of criminal responsibility are: the Convention on the Rights of the Child; and the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.. These international standards are enshrined in national legislation, ranging from the Constitution to the laws and administrative instructions governing the field of the protection and rights of children in conflict with the law.

1.1.1 Convention on the Rights of the Child

The Convention on the Rights of the Child (hereinafter referred to as the CRC) was adopted by the General Assembly of the United Nations on 20 November 1989. The CRC is the most widely ratified international human rights treaty in the world. This is also because of the importance it holds as it solely deals with children and provides for a commitment by states to adhere to and guarantee the rights provided for in the CRC¹. This in turn requires states, which have ratified the CRC, to report on its implementation. The Republic of Kosovo, due to political problems, has not ratified the CRC. However, the CRC is an integral part of the Constitution and other legislation in Kosovo dealing with child protection. In doing so, Kosovo has undertaken unilateral obligations for implementation thereof and for reporting to the Committee on the Rights of the Child, as a mechanism responsible for monitoring the implementation of the rights laid down in the CRC.

When it comes to child protection, the CRC first provides for in Article 1 that the child is any person under the age of 18 who enjoys the rights conferred by the CRC.

In particular, the CRC sets out the basic principles and rights for the protection of children, in which respect, States Parties must take all measures to ensure that they are adhered to in ensuring the protection of the child. Some of the provisions to be taken into consideration for children in conflict with the law and under the minimum age of criminal responsibility are: non-discrimination (Article 2), best interests of the child (Article 3), parental responsibilities and family assistance (Articles 5 and 18), the right to life, survival and development (Article 6), separation from parents (as a last resort and in the best interests of a child) (Article 9), respect for the child's views / participation (Article 12), children deprived of their family environment / alternative care (Article 20), privacy (Article 16), and minimum age of criminal responsibility (Article 40(3)(a)).

Specifically, with regard to the protection and rights of children in conflict with the law, there are two provisions of the CRC, namely Articles 37 and 40:

Article 37 requires that persons under the age of 18 who have committed a criminal offence shall not be subject to any form of torture or inhumane treatment, death penalty, or life imprisonment. Moreover, the deprivation of liberty cannot be done arbitrarily and shall be used only as a measure of last resort and for the shortest appropriate period of time. It also requires that every child deprived of their liberty be treated with dignity, in accordance with age and separately from adults, then the right to legal assistance and the right to challenge the decision of depriving them of their liberty².

Article 40, however, requires the preservation of the dignity of the child who has committed the offence, taking into account the age and desire to reintegrate into society. To this end, Party States shall take special care that no child be alleged as, be accused of, or recognized for a criminal offense that were not prohibited by national or international law at the time they were committed

Then providing guarantees, such as: presumption of innocence, informing promptly through parents or legal guardians, his case being examined without delay by a competent authority or judicial authority, no obligation to prove or plead guilty; the right to appeal, assistance in the case of failure to understand or speak the language used and respect for his private life at all stages of the proceedings.

Party States shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the criminal law, and, in particular: The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the criminal law; whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings providing that human rights and legal safeguards are fully respected.

¹Terre des hommes; Child Protection Modules, p. 12

²Convention on the Rights of the Child, Article 37

A variety of provisions, such as care, guidance and supervision; counselling; probation; family care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.³

The Committee on the Rights of the Child in General Comment No. 24, emphasized that children who commit a criminal offense when they are below the minimum age of criminal responsibility, cannot be held responsible in a criminal law process, which means that these children cannot be formally charged or prosecuted. For these children, special protective measures can be considered on a case-by-case basis, by the appropriate civil or administrative authorities. With regard to these measures, States parties shall report to the Committee on how children under the minimum age of criminal responsibility are treated when they are in conflict with the law, and what kind of safeguards are in place to ensure the protection of such children. Also, in cases where there is no proof of age and it cannot be established whether the child's age is at or above the minimum age of criminal responsibility, then that child shall not be held criminally responsible.⁴

Other key provisions of the CRC emphasized by the Committee on the Rights of the Child in General Comment No. 24 as regards children in conflict with the law who are under the minimum age of criminal responsibility (MACR) include the following:

- The juvenile justice and child protection systems of States must include attention for prevention of child offending, including through early intervention directed at children under the MACR who commit an offence.
- Children in conflict with the law who are under the MACR are to be provided with specialized assistance and services according to their needs, by the appropriate authorities, and should not be viewed as children who have committed criminal offences.
- Effective inter-agency coordination should be promoted.
- A multidisciplinary approach must be provided for.
- Interventions must be preceded by a comprehensive and interdisciplinary individual assessment of the child's needs.
- Interventions should focus on support for families, e.g. counseling and guidance.
- As an absolute priority, children should be supported within their families and communities.
- An out-of-home placement may only be used in exceptional cases and should preferably be in a family setting rather than placement in residential care.
- Placement in residential care may be appropriate in some exceptional cases, to provide the necessary array of professional services. However, it may only be used as a measure of last resort and for the shortest appropriate period of time and should be subject to judicial review.

³Convention on the Rights of the Child, Article 37

⁴Convention on the Rights of the Child, Article 40

1.1.2 Council of Europe's Guidelines on child-friendly justice

The aim of the Council of Europe's Guidelines on child-friendly justice (hereinafter referred to as the Guidelines) is to determine the role, and the views, rights and needs of the child in judicial proceedings and in alternatives to such proceedings, and therefore should apply to all procedures in which children are likely to be, for whatever reason and in whatever capacity, brought into contact with all competent bodies and services involved in implementing criminal, civil or administrative law. The guidelines aim to ensure that, in any such proceedings, all rights of children, among which the right to information, to representation, to participation and to protection, are fully respected.⁵

Definitions for the purposes of these guidelines are as following:

- a "child" means any person under the age of 18 years
- "parent" refers to the person(s) with parental responsibility. In case the parent(s) is/are absent or no longer holding parental responsibility, this can be a guardian or an appointed legal representative.
- "child-friendly justice" refers to justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level, giving due consideration to the child's level of maturity and understanding and the circumstances of the case.⁶

The fundamental principles set out in the Council of Europe's Guidelines on child-friendly justice are as follows:

- Participation
- Best interests of the child
- Dignity
- Protection from discrimination
- Rule of law.

And the general elements of child-friendly justice are as follows:

- Information and advice
- Protection of private and family life
- Safety (special preventive measures)
- Training of professionals
- Multidisciplinary approach
- Deprivation of liberty (should only be used as a measure of last resort).

⁵Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, p. 16

⁶Ibid, fq, 17

Metodologjia

Step One: The trainer first seeks from participants to brainstorm regarding key international child protection instruments and standards, the basic and specific principles of these instruments regarding the rights and protection of child that are in conflict with the law and are below the age of criminal responsibility. The participants' opinions are written on the flipchart.

Step Two: : After receiving opinions and conducting a brief discussion, the trainer proceeds to the PowerPoint (PP) presentation of pre-prepared materials (from the module and beyond) that relate to key aspects of international standards in general for child protection, the main provisions of the Convention on the Rights of the Child and those of the Council of Europe Guidelines on child-friendly justice, with particular emphasis on those provisions that are important to a child in conflict with the law under the age of criminal responsibility.

Step Three: The trainer divides the participants into groups of two and asks two questions for the participants in the groups of two to discuss and answer in a large group (plenary).

Questions may be:

1. Which principle or right do you consider as the most important in dealing with a child in conflict with the law under the age of criminal responsibility? Why?
2. What is the level of work done and what are the challenges in the protection of a child in conflict with the law, under the age of criminal responsibility?

Step Four: Participants are divided into groups (3-4 members per group) and are given the task to list the main laws and documents that govern or relate to the protection of a child in conflict with the law, under the age of criminal responsibility.

Step Five: The groups present the work

Training methods

PP presentation, discussions, pair work, group work, brainstorming. Quiz on children's rights.

Training tools

Presentation in PP, Theoretical material, Flipchart, marker

Activity 1.2

1.2 Domestic Legislation

Domestic legislation, starting with the country's constitutions, as well as other primary and secondary legislation are in line with international standards in the field of human rights in general, but also of protection and rights of the child in particular.

1.2.1 The Constitution

The Constitution as the supreme act, in particular with regard to the Human Rights, Article 22 specifies that "Human rights and fundamental freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and, in the case of conflict, prevail over provisions of other laws and acts of public institutions". This constitutional provision lists international instruments, including the Convention on the Rights of the Child.

Also, in the context of the fundamental rights listed in the Constitution, Article 50 specifically deals with the rights of the child. According to this article, children enjoy the right to protection and care necessary for their wellbeing, equal rights for all children, the right to be protected from violence, maltreatment and exploitation; the right to regular personal relations and direct contact with parents, unless a competent institution determines that this is in contradiction with the best interest of the child by particularly emphasizing the fact that all action taken for children are for the best interest of the child.

1.2.2. Juvenile Justice Code

The Juvenile Justice Code No. 06/L-006, as a basic law regulating the manner and procedures of work with children committing a criminal act, children witnesses and children victims of criminal acts.

With respect to children in conflict with the law and under the age of criminal responsibility, the Code provides the definition of this category, according to which this child is a child who at the time of committing of the criminal act has not reached fourteen (14) years of age.

The Code also sets out the basic principles of working with children, in line with international standards deriving from the Convention and other protocols. Within their framework, the Principle of Best Interest should be the predominant principle throughout the procedure and actions taken against the child.

The first Chapter of Part Two of the Code is specifically dedicated to children under the age of criminal responsibility, with the title "Help and protection measures for the child as an offender of a criminal offence under the age of criminal responsibility".

This chapter, in the article 8.1 defines the age of 14 as the age of criminal responsibility, according to which any child who at the time of the commission of the offense is not of this age, no court proceedings shall be commenced and any court proceedings commenced immediately shall be terminated, thereafter, the guardianship body (henceforth GB) shall be notified regarding the case by the police after consulting the juvenile state prosecutor.

Also, article 8.2 defines importance of interdisciplinary work in the protection and treatment of these children is emphasized, which work is led by the Guardianship Body.

Article 8.3, determines a deadline of not more than 7 days and in urgent cases 24 hours, from receiving information or becoming aware of the commission of a serious criminal offence (criminal offenses punishable by 5 years imprisonment or more) or repeated offence, the police shall thereafter inform and request from the Guardianship body to take appropriate urgent measures with regard to the treatment and protection of the child.

According to Draft Administrative Instruction, one such measure is placement in a safe place (homes for the protection of children, or placement of the child outside the home, in another family). This measure is taken by the Custodian Body, no later than twenty-four (24) hours from the receipt of information by the police, in consultation with the state prosecutor for juveniles, in cases where there are reasonable grounds that for a specific case, there is a serious, immediate risk to a child's health, safety and well-being. This measure may not last more than seventy-two hours (72) and ends when the custodial body compiles the child protection program.

This chapter, in the article 8.4 also stipulates that the Government of Kosovo through a legal act (administrative instruction) regulates the manner of protection of children who are perpetrators of criminal offences under the age of social responsibility, the protection and treatment program, always based on the best interest of the child.⁷

Based to Article 8.4, the Government of the Republic of Kosovo, respectively the Ministry of Justice, with the support of Terre des hommes, has drafted the "Administrative Instruction for the Protection and Treatment of Children Performing Criminal Offenses below the Age of Criminal Liability". This draft instruction, which will be approved by the Government of the Republic of Kosovo, provides for the procedures and responsibilities that must be implemented by every institution and professionals in their daily work to protect children in conflict with the law who are under the age of criminal responsibility. These obligations and responsibilities will be further elaborated in this training module.

1.2.3 Law on Child Protection

Law on Child Protection No. 06/L-084, is a law that regulates the field of child protection and rights, guaranteeing and ensuring the responsibility of parents, family, guardianship body, society and the state with regard to the care, protection and development of the child, based on the best interest of the child. This law defines the basic principles and mechanisms responsible for child protection, child protection measures; guaranteeing the well-being and improving the quality of life of the child; cooperation between institutions and organizations in child protection at all levels.

Among the measures for child protection that are relevant in the cross-sectorial work of professionals are: preventive measures, legal protection measures, legal obligation to report and placement in homes for child protection.

Further, the law also provides various definitions, including the definition of "Children" means any human being under the age of eighteen (18), excluding the cases when the adult age is reached earlier, in compliance with the legislation he/she is subject to. In cases when the age of the person is not fully determined, but there are reasons which imply that the person in question is a child, this person is considered as a child and benefits from this Law until his/her age is fully determined;⁸

The Law on Child Protection also defines Child-Friendly Justice as follows: "the justice system that ensures observance and effective implementation of the rights of children at the highest level, primarily taking into account the best interest of the child, non-discrimination, dignity protection, and child participation by giving the proper attention to the level of maturity and understanding of the child, and to the circumstances of the case".

Whereas, children in conflict with the law and under the age of criminal responsibility are also considered to be within the definition of Children in Need of Protection that is defined as "individual under the age of criminal responsibility, who is alleged to have committed or accused of the commission of a criminal offence".

The Law on Child Protection also provides for the drafting of a sub-legal act by the Government, to regulate work procedures and responsibilities at multidisciplinary tables for assistance in case management, led by the case manager.

This law enters into force one (1) year after its publication in the Official Gazette of the Republic of Kosovo, respectively in July 2020.

⁷ Juvenile Justice code, No. 06/L-006

⁸ Law on Child Protection, No. 06/L-084

1.2.4 Law on Social and Family Services

Law No. 02/L-17 on Social and Family Services is a basic law regulating and promoting social and family services for people and families in need.

Children in need include children in conflict with the law and under the age of criminal responsibility, who are referred to as children with asocial behaviour.

The Law on Services defines their mechanisms and responsibilities in the provision of social and family services at the central and local level (Municipality and Centre for Social Work), as well as the role of the non-governmental sector.

This law defines services for children and families, where the best interests of the child should be the primary and most important consideration during the provision of services. Within service provision this law also defines service provision when the child has behavioural difficulties or is “delinquent”. The services provided under this law, provided by the Centre for Social Work, are related to the social care and counselling for children and families in need of services.⁹

The Government of Kosovo has approved the concept document which recommends the drafting of a new law on social and family services. According to the concept document, social and family services reform is envisaged, the advancement of child protection forms, the integration of social services, the increase of quality and accountability and the provision of sustainable financing of social services. The drafting of the new law is in the phase where the working group has been established, but the work has not started yet.

Methodology

Step one: After the groups present group work on legislation regulating the protection of children in conflict with the law, under the age of criminal responsibility, the trainer begins by presenting pre-prepared PowerPoint presentation related to the main provisions of national legislation regulating the protection of children in conflict with the law under the age of criminal responsibility.

Step two: Discussion in pairs regarding the question

What is the main challenge with regard to the application of legal provisions in practice in protecting children in conflict with the law under the age of criminal responsibility? Why?

Step three: Group work on analysing today's practice of working with children in conflict with the law under the age of criminal responsibility

Step four: Groups present their work and a summary discussion takes place

Training methods

Presentation in PowerPoint, discussion, work in pairs, work in groups

Training methods

Presentation in PP, Theoretical material, Flipchart, marker

⁹Law No. 02/L-17 on Social and Family Services

Activity 1.3

1.3 Main Principles of working with children in conflict with the law under the age of criminal responsibility

The main principles guiding the work of professionals and institutions with children in conflict with the law under the age of criminal responsibility are:

1.3.1 Not initiating court proceedings for children under the age of criminal responsibility

For a child who has not reached the age of fourteen (14) at the time of the commission of the offence, no judicial proceedings shall be initiated, and if they have been initiated, the same shall be terminated as soon as the child's age is determined. The police, after consulting the Juvenile Prosecutor, notifies the guardianship body with regard to the case.

1.3.2 The best interests of the child & respect for the views of the child (child participation)

Any professional and competent body dealing with child protection, shall, in any decision and activity taken in the course of their duties, be obliged to prioritize the best interests of the child. The best interest of the child implies that the following must be taken into account:

- a) needs of the child for physical and psychological development, education and health, security and sustainability and also child upbringing/belonging to a family;
- b) views of the child, in accordance with the age and maturity of the child;
- c) history of the child, considering the special situations of abuse, neglect, exploitation or other forms of child violence, and the potential risk that similar situations may occur in the future;
- ç) capacity of the parents or persons in charge of child upbringing to respond to the needs of the child;
- d) continuity of personal relations between the child and the parents, with whom the child has gender, social and/or spiritual relations. Decisions and acts of the competent bodies must contain a special reasoning related to how the best interest of the child will be ensured.¹⁰

Article 3(1) of the CRC provides that, [i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." In other words, regarding every decision that has an impact on a child or a group of children, the best interests of the child must be a primary consideration..

Regarding children in conflict with the law who are under the minimum age of criminal responsibility, this means that the best interests of the child must be a primary consideration throughout the entire process and in all decisions taken. Children differ from adults in their physical and psychological development and their emotional and educational needs. Such differences constitute the basis for a different treatment for children. The protection of the best interests of the child also means that the child's background, context and possible needs for child protection or assistance measures need to be assessed, at an early stage in the process. A child who has suffered trauma, for example, should receive proper treatment. States are obliged to take all appropriate measures to promote the physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts (art. 39 of the CRC). The Committee on the Rights of the Child has noted that, "[t]he right of children to have their best interests be a primary consideration in all matters involving or affecting them must be respected, especially when they are victims of violence, as well as in all measures of prevention".¹¹

¹⁰ Draft Working Protocol on Management of Cases of Children in Conflict with the Law in Albania

¹¹ Committee on the Rights of the Child, General Comment No. 13 (2011) The right of the child to freedom from all forms of violence, UN Doc. CRC/C/GC/13, 18 April 2011, para. 3

Various international instruments refer to the multidisciplinary approach regarding assessments on the best interests of the child, including the CRC, the UN Guidelines for the Alternative Care of Children (paras. 57, 70),¹² the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (para. 43),¹³ General Comment No. 13 (2011) The right of the child to freedom from all forms of violence (paras. 50, 56, 71),¹⁴ 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) (paras. 47, 64, 76, 94, 95),¹⁵ (EU) Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (art. 7),¹⁶ the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of the Council of Europe (arts. 10-12, 14, 31, 34),¹⁷ and the Guidelines on Child-Friendly Justice of the Council of Europe (paras. 16-18, 70-72).¹⁸

The Committee on the Rights of the Child recommends that as far as possible a multidisciplinary team of professionals should be involved in assessing and determining the best interests of the child. This also requires the participation of the child and parents or other persons legally responsible for the child, taking into account the evolving capacities of the child.¹⁹

The Guidelines on child-friendly justice of the Council of Europe provide that, “while the judicial authorities have the ultimate competence and responsibility for making the final decisions, member states should make, where necessary, concerted efforts to establish multidisciplinary approaches with the objective of assessing the best interests of the child.”²⁰ The explanatory memorandum asserts that the Guidelines as a whole encourage member states to strengthen the interdisciplinary approach when working with children (para. 70). In cases involving children, professionals should benefit from the support and advice of other professionals of different disciplines when taking decisions which will impact directly or indirectly on the present or future wellbeing of the child (para. 71). A multidisciplinary approach is particularly necessary when dealing with children in conflict with the law. The existing and growing understanding of children's psychology, needs, behaviour and development is not always sufficiently shared with professionals in the law enforcement areas (para. 72).

Assessing the best interests of the child includes the assessment of the child's history and child protection needs.²¹ The Committee on the Rights of the Child has noted that:

“The best interests of a child in a specific situation of vulnerability will not be the same as those of all the children in the same vulnerable situation. Authorities and decision-makers need to take into account the different kinds and degrees of vulnerability of each child, as each child is unique and each situation must be assessed according to the child's uniqueness. An individualized assessment of each child's history from birth should be carried out, with regular reviews by a multidisciplinary team and recommended reasonable accommodation throughout the child's development process”.²²

A child who has suffered trauma, for example, should receive proper treatment (see also above). The obligation to protect children from violence (article 19(2) of the CRC) includes an effective inter-sectoral referral procedure. To this end, professionals working within the child protection system need to be trained in inter-agency cooperation and protocols for collaboration. The process involves: “(a) a participatory, multi-disciplinary assessment of the short- and long-term needs of the child, caregivers and family, which invites and gives due weight to the child's views as well as those of the caregivers and family; (b) sharing of the assessment results with the child, caregivers and family; (c) referral of the child and family to a range of services to meet those needs; and (d) follow-up and evaluation of the adequateness of the intervention.”²³

¹² General Assembly resolution 64/142 of 24 February 2010

¹³ ECOSOC resolution 2005/20 of 22 July 2005. See also Appendix 1 below.

¹⁴ Committee on the Rights of the Child, General Comment No. 13 (2011)

The right of the child to freedom from all forms of violence, UN Doc. CRC/C/GC/13, 18 April 2011.

¹⁵ Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), UN Doc. CRC/C/GC/14, 29 May 2013, para. 47.

¹⁶ Directive 2016/800/EU of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings. See also Appendix 1 below.

¹⁷ CETS No. 201. See also Appendix 1 below.

¹⁸ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice of 17 November 2010.

¹⁹ Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), UN Doc. CRC/C/GC/14, 29 May 2013, para. 47.

²⁰ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice adopted by the Committee of Ministers of the Council of Europe on 17 November 2010, p. 18. See also Appendix 1.

²¹ Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), UN Doc. CRC/C/GC/14, 29 May 2013, para. 76.

²² Ibid., para. 76.

²³ Committee on the Rights of the Child, General Comment No. 13 (2011) The right of the child to freedom from all forms of violence, UN Doc. CRC/C/GC/13, 18 April 2011, para. 50.

The Guidelines on child-friendly justice provide that:

"16. With the full respect of the child's right to private and family life, close co-operation between different professionals should be encouraged between different professionals should be encouraged in order to obtain a comprehensive understanding of the child, and an assessment of his or her legal, psychological, social, emotional, physical and cognitive situation.

17. A common assessment framework should be established for professionals working with or for children (such as lawyers, psychologists, physicians, police, immigration officials, social workers and mediators) in proceedings or interventions that involve or affect children to provide any necessary support to those taking decisions, enabling them to best serve children's interests in a given case.

*18. While implementing a multidisciplinary approach, professional rules on confidentiality should be respected."*²⁴

Child participation

Under Article 12 of the CRC, the right of children to be heard and to have their views given due weight must be respected systematically in all decision-making processes, and their empowerment and participation should be central to child caregiving and protection strategies and programmes. To assess the best interests of the child, it is important to include the child's view. Children have the right to information (art. 17 of the CRC) and the right to express their views and have them given due weight (art. 12(1) of the CRC). This includes the right to be heard in all proceedings affecting them, which must be respected and implemented throughout every stage of the process (art. 12(2) of the CRC). If the child chooses to be heard, he or she can decide to be heard either directly, or through a representative or appropriate body. It is recommended that, wherever possible, the child must be given the opportunity to be directly heard in any proceedings.²⁷

In its General Comment No. 12 (2009) The right of the child to be heard, the Committee on the Rights of the Child offers practical guidance regarding implementation and provides five steps to be taken in order to effectively realize the right of the child to be heard:

1. The child must be informed about:

1. a) his or her right to express his or her opinion in all matters affecting children, in particular in any judicial and administrative decision-making processes;
b) the impact that his or her expressed views will have on the outcome;
c) the option of either communicating directly or through a representative;
d) possible consequences of this choice;
e) what to expect during the hearing (how, when and where the hearing takes place, with who) and what choices the child can make in this regard.
2. The child must be heard in a context that is enabling and encouraging, so that the child can be sure that the adult is willing to listen and seriously consider what the child has decided to communicate. Preferably the child is not heard in open court, but under conditions of confidentiality.
3. Pikëpamjeve të fëmijës duhet t'i kushtohet vëmendje e duhur. Nëse fëmija është në gjendje të formojë pikëpamjet e tij në mënyrë të arsyeshme dhe të pavarur, pikëpamjet e fëmijës duhet të konsiderohen si faktor i rëndësishëm në zgjidhjen e çështjes.
4. The decision-maker has to inform the child of the outcome of the process and explain how her or his views were considered.
5. The child must be enabled to respond to the decision and must be provided with complaint procedures and remedies when their right to be heard and for their views to be given due weight is disregarded and violated.²⁸

²⁴Ibid., para. 23.

²⁵Committee on the Rights of the Child, General Comment No. 13 (2011) The right of the child to freedom from all forms of violence, UN Doc. CRC/C/GC/13, para. 13.

²⁶Committee on the Rights of the Child, General Comment No. 13 (2011) The right of the child to freedom from all forms of violence, UN Doc. CRC/C/GC/13, para. 13.

²⁸Ibid., para. 12.

1.3.3 The principle of equal treatment

The principle of equal treatment implies that a child in conflict with the law is guaranteed that in all proceedings, the child will be treated equally, without any discrimination, regardless of sex, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, educational or social status, disability, belonging to a specific group and any other condition of the child, parent or legal representative of the juvenile. This treatment implies that child protection professionals and institutions should take measures to prevent any form of discrimination, providing children with the necessary support in their efforts to integrate into the society. At the same time, any person taking care of the child and any professional who considers that a child under the age of criminal responsibility is being discriminated against or not treated fairly may initiate proceedings before the competent authority in accordance with the provisions of the Law on the Protection from Discrimination.

1.3.4 Family and partners principle for the child

During the entire process of work and at all stages, working with children in conflict with the law and under the age of criminal responsibility, must be based on the principle that each child must have a family (biological or other), namely a family-friendly environment. For these children, a child protection program, must be developed, where the work will be managed by an employee (case manager) and by a multidisciplinary team. Also, with the aim of prevention, treatment and reintegration into the society of a child under the age of criminal responsibility, work must be carried with the family, in increasing their capacities to deal with the problem (child behaviour). This also requires mobilization of other partners who, together with the family, will assist the child so that he or she does not repeat that behaviour.

1.4 Rights of children in conflict with the law and under the age of criminal responsibility

When dealing with children in conflict with the law and under the age of criminal responsibility, it should be borne in mind respecting some of their procedural rights, which are explained below:

1.4.1 The right to have a parent or guardian

At the moment the child is detained by the police, under the suspicion of committing a criminal offence, the parent or guardian must be notified immediately. In situations where it is not possible to notify them immediately, or is detrimental to the interests of the child, or is expressly refused by the child, the police shall notify the Centre for Social Work. This right of the child is an obligation for the police and is enforced within the principle of the best interest of the child. In all cases where a child is suspected of committing a criminal offense, the Centre for Social Work (hereinafter referred to as CSW) must be notified without exception.

The child must be accompanied by the parent or guardian, even when receiving relevant information by the social services official.

1.4.2 Child's right to be heard

When receiving relevant information and at all stages, the child has the right to freely express his/her views on any matter relating to him/her, assessing them in accordance with his/her age and maturity. This can be done directly, or through a legal representative (lawyer) or appropriate institution (CSW). See also 2.3.2 above on the principle of child participation under Article 12 of the CRC.

1.4.3 Child's right to privacy

All proceedings conducted with any child who is suspected, or even has committed a criminal offence and is under the age of criminal responsibility, shall be confidential. This includes protection of child's identity, confidential treatment and confidentiality of data in general to any third party, including mass media and social media. To ensure this right, institutions must take all measures to ensure the confidentiality of the child in all circumstances.

1.4.4 Children's right to psychological assistance

The child, as needed and at the request of the relevant institution (Centre for social work), which is conducting the procedure, or at the request of the legal representative, should be provided with mental health support at all stages, by a specialist psychologist, licensed by the relevant institution (Ministry of Health). The psychologist provides mental health support to better understand the child's condition and assesses his or her statements, in line with mental development, helps the child to cope with the particular situation, in which he or she is in, but also to better analyse the situation and better build re-socialization of the child.

1.4.5 The right to medical examination

The child has right to a physical/psychiatric medical examination, with or without the consent of his or her legal representative (in the cases when the situation is life threatening for child, or issued by a judge). This medical examination/check is carried out in accordance with the code of ethics and the Deontological Code, respecting the dignity of the child. If, despite all efforts, medical examination is impossible, the case manager determines the impossibility of child medical examination.

1.5 Cross-cutting approach and training of professionals

All work in the protection of children who are in conflict with the law and who are under the age of criminal responsibility should have a multidisciplinary approach, thus, cooperation between different professionals should be encouraged in order to obtain a comprehensive understanding of the child, in the legal, psychological, social, emotional, physical situation. See also 2.3.2 above.

In this regard, it is necessary to establish a common framework of assessment for professionals working with or for children in proceedings or interventions that involve or affect children to provide any necessary support to decision-makers, to children's interests in any given case.²⁹

All professionals working with and for children should receive necessary interdisciplinary training on the rights and needs of children of different age groups, and on proceedings that are adapted to them.

Professionals having direct contact with children should also be trained in communicating with them at all ages and stages of development, and with children in situations of particular vulnerability.³⁰

Methodology

Step one: A discussion may be started based on prior activities, where in pairs, it was discussed on what principle or right they consider as most important.

Step two: Trainer presents in PP the material prepared on the main principles and rights for the protection of children in conflict with the law and under the age of criminal responsibility.

Step three: work in pairs or groups.

Case study, analysing on the basis of the principles and rights presented, on how they are interpreted in practice.

Step four: prezantimi i punës në çifte / grupe

Training methods

Presentations in PP, discussion, work in couples, group work, and case study.

Training tools

Presentation in PP, Theoretical material, Flipchart, marker

²⁹Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, p. 23

³⁰Ibid, p.23

Case Study 1

Erald is under 14 years old. He lives only with his father.

Erald's mother left home when he was 6 years old, and she no longer held contact with him. His father, Oemal, explains that the boy suffered a lot when his mother left. Erald was constantly looking for his mother, crying and complaining about her absence.

The family lived in poverty. Erald's father is a disabled person and receives a monthly pension. This is the only income the family has.

The boy had early problems in following social rules and norms. He has difficulty attending classes and has dropped out of school, despite the efforts to include him in the learning process

When Erald was at school, the psychologist tried to conduct several sessions with him. But the psychologist was working in some schools and could not afford Erald the time he needed.

The boy began making friends with children with similar problems and adult as well, and with community members involved in anti-social behaviour. His father tried to attribute the problems to the boy's behaviour to his friends. He is also blaming his ex-wife, explaining that the child's emotional condition and behaviour deteriorated after she left.

When he was about 13 years old, Erald had his first contact with the police. Erald has continued to engage in anti-social behaviour and to be detained by police. Police officers have repeatedly informed his father to show up at the police station to interrogate the boy. Father suspected that Erald was using drugs. The child has become violent towards his father, and the latter has twice sought restraining/protective orders. The father is unable to deal with the boy because of his physical disability.

Session 2

Cross-sectoral cooperation

Objectives:

- > Presentation of the role and responsibilities of each actor involved in the protection of children who are in conflict with the law, under the age of criminal responsibility;
- > Analysing and discussing the responsibilities of different professionals/institutions protecting children in conflict with the law, under the age of criminal responsibility;
- > Understanding and discussing the importance of cross-sectoral joint work in protecting children in conflict with the law, under the age of criminal responsibility;
- > Acquaintance with, and application of, case management procedures in cross-sectoral work to protect children in conflict with the law, under the age of criminal responsibility;
- > Acquaintance with, and discussion of, cases in the work of multidisciplinary roundtables for assistance to case management (hereinafter RCM).

Expected results:

- > Knowing and understanding the role and responsibility of each actor involved in protecting children in conflict with the law, under the age of criminal responsibility;
- > Knowing and implementing in practice the responsibilities by each professional/institution involved in protection of children in conflict with the law, under the age of criminal responsibility;
- > Understanding the importance of cross-sectoral joint work in protecting children in conflict with the law, under the age of criminal responsibility;
- > Training on practical implementation of work management procedures, in cross-sectoral work for the protection of children in conflict with the law, under the age of criminal responsibility;
- > Practical implementation of the case management procedure in the multidisciplinary roundtables for assistance to case management.

Session duration: 1 day

Key words:

Cross-sectoral work, professionals/institutions responsible, Child, parent, case management, multidisciplinary roundtable

Activity 2.1

2.1 Cross-sectoral work for protection of children under the age of criminal responsibility and who are in conflict with the law

Working on child protection requires a cross-sectoral approach, among many institutions and professionals, involved or required to be involved. This also applies when it comes to the protection of children who are in conflict with the law and who are under the age of criminal responsibility. The purpose of cross-sectoral work is multidimensional, which includes:

- Identifying children who are under the age of criminal responsibility, who may be at risk or are at risk of conflict with the law, and those who need support;
- Referring cases to the Centre for Social Work;
- Sharing information in a comprehensive way and in time, in order to facilitate the assessment of the situation of children;
- Comprehensive assessment of the needs and circumstances of children who are in conflict with the law and under the age of criminal responsibility;
- Drafting a programme for child protection and supporting any plan developed to provide services to children and their families as set out in the plan.
- Attending co-ordination meetings as required, including attending multidisciplinary roundtables for assistance to case management;
- Providing up-to-date information on progress.³¹

Cross-sectoral cooperation is necessary and would be a precondition to prevent future recidivist behaviour by children. Therefore, if organizations and agencies work together, better results are achieved with children. Even when only one agency works on a case, decisions regarding concerns for child protection should never be made by an individual worker, but it should be made from a group/in consultation with a supervisor.³²

Methodology Child Development

The trainer shares knowledge on child development, with emphasis on attachment (showing the video of The Still Face experiment + the video of how sensible a toddler is) (if possible when the training is in real life: do the exercise with the balloon), moral development and puberty.

³¹Terre Des Hommes. Working Protocol: Cross-sectoral work in Child Protection, p. 11

³²Ibid., p. 10

Methodology ACE's

First step: the activity begins with an explanation about Adverse Childhood Experiences (Ace's) and their impact on the life of children, especially those in conflict with the law

Second step: The trainer presents in PP the material prepared about Aces. Show the animation video in Albanian about ACES; the video on how toxic stress derails brain development; and the video about the little bear being chased by a puma (stress).

Third step: the trainer explains the use of the Ace list and Resilience list

The trainer asks all participants to fill in their own score of Aces and resilience. They do not have to explain their own list. They can if they want. It helps when the trainer tells the group how many Aces /Resilience factors he or she has filled in.

Fourth step: discussion in pairs/groups about the lists and how you can use them when assessing a child and family

Explanation (via PP) of Family system theory of Minuchin, (individual task: make a drawing of your family) and of Loyalty (theory by Boszormenyi-Nagy) (individual task: what did your parents pass on to you in terms of legacy and tasks, that is still relevant for who you are today – plenary sharing for who feels comfortable to do so)

How to talk to children and their parents – tips and tricks, how to use the the goal-oriented matrix, work in pairs to get experience with this in two rounds, plenary sharing

Training methods:

Presentation in PP, including films/animations, discussion, work in pairs, group work and self assessment. Interactive exchange

Training Tools

Presentation in PP, Lists of ACES and Resilience to be filled in, Flipchart, Marker, Goal-oriented Matrix

- Drawing exercise in pairs, to realize the difficulties in understanding
- Work in groups (3-5) to discuss about 20 theses and to select within each group 7 favourites, share this plenary, also let explain how the group came to their mutual decision
- Sharing views and visions, related to the given literature.

First step: This activity begins with a discussion of the importance of cooperation between actors /identifying key actors in child protection.

Second step: The trainer presents in PP the material prepared about the purpose and importance of cross-sectoral work for protection of children who are in conflict with the law and under the age of criminal responsibility and starts with the video on children about their opinion of justice.

Third step: Discussion in pairs/groups regarding the identification of key actors involved in child protection, with roleplay from real life cases

Fourth step: The trainer writes or lists the actors identified by participants in the work in pairs/groups

Training methods

Presentation in PP, including films/animations, discussion, work in pairs, group work

Training tools

Presentation in PP, Theoretical material, Flipchart, marker, video's to show the importance of having fun to exchange behaviour (video piano stairs, video ants working together).

Activity 2.2

2.2 Key stakeholders in the protection of children in conflict with the law and under the age of criminal responsibility

In the protection of children who are in conflict with the law and under the age of criminal responsibility, various stakeholders are involved, including many institutions and professionals who have specific duties and responsibilities, and at the same time support each other's work in protecting the child as effectively as possible.

2.2.1 Police/Police Officer

In principle, most of the time, the Police is the first institution called upon in cases of suspicion of criminal offence; this also includes cases involving a child under the age of criminal responsibility.

One of the key aspects of police work is to first determine the age of the child in order to take further action according to the age. This can be done by contacting parents, schools, the CSW, who can prove this with a relevant document (birth certificate, or another document).

In the case of detention of a child by the police, the police immediately notify the parent or guardian, and in case of their absence, it should notify the Guardianship Body, respectively the Centre for Social Work.

They inform the suspected child of the reasons for detention by the police through the parent or guardian, in an age-appropriate language.

During detention, the child is treated with care, taking into account the physical, mental and moral integrity as well as well-being of the child. The child should be kept in a place that is separate from those of adults not belonging to the same family.

During the detention of child at the police station, the child is registered, the relevant information is taken (led by the social officer) in the presence of the parent or guardian and the social services officer, after which the child is released accompanied by the parent or guardian, respectively the CSW social officer.

The release notice and the copy of the files containing the designated notes is sent to the relevant CSW.

2.2.2 Centre for Social Work

The CSW provides social care and/or counselling in circumstances where a child is under fourteen (14) years old at the time of the offence, and he/she is deemed to be in need of social and family services.

The CSW keeps a register of children under the age of fourteen (14) who have committed offences, and live within its territory.

The CSW arranges regular visits for families in need that are on the register. These visits are carried out by the case manager, in order to establish the safety and well-being of the child and to provide the family with any service deemed reasonable.

It provides a convenient and friendly environment for the treatment of children who are in conflict with the law and under the age of criminal responsibility within the framework of this centre.

It notifies the Municipal Directorate of Welfare and the relevant Department within the Ministry of the actions taken for an admitted case.

The CSW is obliged to provide the court with any relevant information or advice upon request for a comprehensive assessment or for a protection order.

In cases where the court issues a decision on a child thereby imposing a protection order, the CSW manages and reviews it, and when it deems that the form of defense is no longer necessary or appropriate, the same shall file an application for the termination of the said measure before the court.

2.2.3 Guardianship Body

It is the authority responsible for the protection of the child and for all actions taken in this regard.

The protection of the child is carried out by the Guardianship Body in cooperation with the stakeholders possessing professional expertise in terms of handling this category, which provide special social, educational and health services for the protection of the child's interests.

The responsible Guardianship Body, according to the territorial jurisdiction, after notification by the prosecutor, appoints the Case Manager as the responsible person

It is responsible for a comprehensive professional assessment of the child's needs and drafting the programme for the protection of the child in question.

Addresses the Court for a comprehensive assessment order for the protection and treatment of the child, and ensures the fulfilment of the requirements and conditions of the court decision for the protection and treatment of the child while also supervising all activities under its competence.

Likewise, if the Guardianship Body does not obtain the consent of the parent or guardian in an emergency, the case must be referred to the competent court which ultimately decides on the custody of the child.

It reports to the relevant directorate of the municipality and the relevant department of the ministry with regard to the services provided, in relation to these categories of children.

2.2.4 Municipality

Each municipality, within its territory, is responsible for providing services, prevention and protective measures for the protection of the child within its territory, according to relevant standards and policies.

Municipalities should take steps to identify the nature and extent of the need for the protection of the child within their territory or to cooperate with the relevant municipalities to implement urgent protection.

When appropriate measures for special assistance are taken in order for the child's interest to be the primary consideration, the costs are covered by the respective municipality.

2.2.5 Health institutions

They are part of the comprehensive assessment for protection and treatment of the child, under the leadership of the Guardianship Body.

They are responsible for assessing the child's health, needs and health care, assessing whether there are signs of any physical or other abuse, and reporting on this.

Develop preventive health care ensuring optimal development of children, parental and child counselling, education, and reproductive health services for parents and children, depending on age and ability to comprehend;

They provide health services in the context of child protection, including services provided under the Individual Services Plan. Protect confidentiality during and after the child's medical examination against third parties, except in cases where the health or life of the child is endangered.

In multidisciplinary teams, they present their perspective on the child's health, problems, illnesses, needs and their treatment.

2.2.6 School

The school cooperates with the Case Manager from CSW at all stages of case management. It should make a special contribution to the comprehensive assessment of the child, providing data about the child regarding his/her education, school attendance, behavior and his / her achievements, but also information about the family's capacities for child care and supervision. This contribution continues during the implementation of the child protection program, too.

The school should identify children who show non-social behaviors, which could potentially be in conflict with the law, in order to prevent such behaviors.

When schools have a school psychologist, then psychologists can deal directly with treatment and psycho-social counseling of the child, either in order to prevent behaviors in conflict with the law, or in order to implement the protection program.

In cases where the school does not have psychologist, the school, through the class teacher or other professional within the school, may increase the supervision and care of the child, without prejudice to the dignity of that child.e.

Schools, in cooperation with various different school mechanisms, such as the Governing Council, the Parents 'Council, the Students' Council, can organize various curricular and extra-curricular activities in the school, in order to prevent behaviors and negative phenomena in school.

Schools should pay special attention and care to the child in order to protect the child from being labelled and stigmatized, or even take degrading or punitive measures.

The awareness of teachers and professional teams within the school shall be raised with regard to the child's problems, needs, and perceptions, through educational programs.

The school is responsible for providing the child with specialized education, which is provided in cooperation with various partners such as NGOs. Specialized education has to do with the special educational program based on the needs of the child in conflict with the law, through which it is intended to help its overall adequate development and reduce the possibility of the recidivism.

2.2.7 The Psychologist

The psychologist can be engaged as needed by the Center for social work (case manager), at all stages of working with the child in conflict with the law under the age of criminal responsibility. He / she assists the social worker in obtaining relevant information from the child, may be engaged during the comprehensive assessment, as well as during the implementation of the child protection program, in the providing of planned psychological services.

Psychologist provides psychological assistance to the child at all stages of working with them. He/she helps the child cope with the particular situation the child is in, and also helping to better understand the child's situation, to better analyze the situation and to build the re-socialization of the child within its territory.

Provides services envisaged in the Individual Services Plan for the purpose of treating the child who is in conflict with the law and under the age of criminal responsibility.

Psychologists who may be hired to provide certain psychological services to these children must be licensed psychologists working in the Center for social works, school psychologists, child psychologists, counseling psychologists, or clinical psychologists specializing in treating children. , working in another institution, private practice, or NGO.

2.2.8 The Family/parents or the guardian of the child

The family is responsible for the primary care and socialization of the child, therefore institutions should take care to ensure the child's integration into the family. The family is involved from the beginning, when notified by the police, or the CSW, and the first information must be obtained from the child.

All child protection institutions and professionals should make every effort in order to promote the well-being of their child within their families through the provision of care, protection and social counselling and, in exceptional cases, through material assistance.

The removal of the child from the care of the parent/parents or other caretaker should only be considered in circumstances where there is reason to suspect that a child is being subjected to harm or is at risk of being subjected to harm within his or her family.

The parent or guardian accompanies the child during all stages of obtaining relevant information.

The parent or guardian cooperates with the case manager during the drafting of the protection program as well as during the delivery of services under the individual service plan.

The parent or guardian approves the individual service plan by signing a written statement.

The parent or guardian attends consultation meetings organized by the case manager.

2.2.9 Case manager

The Case manager is a licensed social service officer appointed by the Guardianship Body. The manager is responsible for protecting and treating the child who has committed a criminal offence and is under the age of criminal responsibility. The case manager, in cooperation with relevant stakeholders, assesses the needs of the child under the age of criminal responsibility and drafts the Child Protection Program.

The case manager collects information that includes, but is not limited to, school achievements, behaviour in school and community, family situation, including the history of bad childhood experiences.

The case manager should cooperate with the child, parent or guardian during the preparation of the Child Protection Program.

The case manager establishes partnerships with governmental and non-governmental organizations, including schools, health institutions, police, family and community, in order to create the best opportunities for the protection and treatment of the child.

The case manager drafts, revises and reviews the individual service plan, as appropriate, also including the opinion of professionals.

The case manager presents the child's case at the Multidisciplinary Roundtable for Support in Case Management.

The case manager is responsible for the smooth running of the entire process and each case must be handled with a multidimensional, non-isolated approach.

2.2.10 The child

Any person under the age of 18 is considered a child, while a child in conflict with the law and under the age of criminal responsibility is considered the child under the age of 14 at the time of the commission of the criminal offence which is punishable under the Criminal Code of the Republic of Kosovo.

The age of under 14 is the age of adolescence which is manifested by rapid physical, cognitive, social and personality-related developments and changes affecting the child's behaviour. Specifically, changes in the child's body, as a result of the period of puberty that culminates in sexual maturity, affect the behaviour of the individual. However, sexual maturity does not mean full cognitive maturity of the individual, as the brain of a child at this age is still developing. This is particularly related to the prefrontal cortex which is responsible for high mental operations, i.e. judgment and reasoning. Thus, although they begin to resemble an adult by their physical appearance, they are still not cognitively capable of thinking, judging and reasoning as an adult with regard to consequences that a certain behaviour might bring about.³³

On the other hand, the limbic system which is a special structure regulating emotions, experiences and emotional expressions, is very active during this period, thus causing spontaneous reactions to emotional situations. This often results in a wrong interpretation of others' behaviours, causing more sensitive and exaggerated reactions to the others. In addition, they are continuously looking for experiences that evoke emotional reactions and adventure. The fact that they are in the process of identity formation and crises³⁴ with regard to finding themselves, finding to what they belong to and what paths they will take, makes this a period of rapid development and change.

Therefore, in light of the above, when taking relevant information child should be treated in accordance with their age, maturity and level of cognition, taking into account the special needs as well as communication difficulties they might have.

Likewise, in light of the above, during any procedure, he or she should be informed by the parent or guardian in an age-appropriate manner, to the level that he/she can understand.

In spite of this, the child is guaranteed the right to freely express his/her views on any matter concerning him/her. However, these views must be judged in accordance with his/her age and degree of maturity.

Methodology

Step One: After the stakeholders are identified in the prior activity, the trainer begins by delivering a PP Presentation on the main stakeholders involved in the protection of the child who is in conflict with the law and under the age of criminal responsibility.

Step Two: A case study whereby stakeholders play roles based on their responsibility to protect the child, and actions that they should take in a specific case. Improvisation of the procedure. The group has to define what actions they should take and define who is responsible for which next steps. Who is asking the child's opinion should be explicitly mentioned in the plan.

Step Three: Discussion with the whole group regarding the roles.

Training methods

Presentation, discussion, case study, role play

Training tools

Presentation in PP, Theoretical material, Flipchart, marker

³³Santrock, J.W. (2011). Life-span Development. P. 378

³⁴Ibid.

Case study 2

Jehona is 13 years old. She was born in Switzerland and she is the second child out of four in her family.

They returned to Kosovo as a repatriated family when she was 8 years old. However, her father returned to Switzerland again and now she lives with her mother, her two sisters and brother. Their living conditions are good, thanks to the help of their father.

In her school, she has unsatisfactory achievement, as well as bad behaviour and numerous absences. She has friends many of whom are older than her and are not school students at all. Her hobby is music. Unlike school, she has better behaviours at home.

In recent times, Jehona has had conflicts with the law due to a fight with her peers in which she and some of her friends have beaten one of her peers. The police, prosecution and CSW were also informed in this regard. Despite this, a month later she repeated the same behaviour, causing injury to one of her peers, for which she was detained by the police and taken to a police station.

Activity 2.3

2.3 Procedures in case management

Case management can be defined as: “The process of ensuring that an identified child has his or her needs for care, protection and support met. This is usually the responsibility of an allocated social worker who meets with the child, the family, any other caregivers and with the professionals involved with the child in order to assess, plan, deliver or refer the child and/or family for services and monitor and review progress”.³⁵

When we discuss cases of children who are in conflict with the law and under the age of criminal responsibility, the case management has the same objectives. As such, it is:

- Focused on the needs of an individual child and their families, ensuring that concerns are addressed systematically.
- Provided in accordance with the established case management process, with each case through a series of steps.
- Incorporates children's meaningful participation and family empowerment.
- Involves the coordination of services and supports within an interlinked or referral System, where necessary, in order to holistically meet needs and maximize resources.³⁶
- Ensures accountability through clear lines of responsibility at every stage of the process.

The case management process for children in conflict with the law and under the age of criminal liability has several stages, including multidisciplinary work with various professionals and institutions. These stages are as follows:

2.3.1 Referral and identification

- ✓ The police, after consulting the Juvenile State Prosecutor, notify the Guardianship Body/CSW without delay.
- ✓ Case registration and transfer to CSW.
- ✓ Obtaining relevant information from the child.

2.3.2 Assessment

- ✓ Assignment of the case manager by GB/CSW.
- ✓ Comprehensive professional assessment, which includes assessing the needs and circumstances involving the child.
- ✓ The comprehensive assessment is carried out by the Guardianship Body in cooperation with health institutions, educational institutions, NGOs and other experts.
- ✓ Stakeholders involved in the assessment of the child notify the Guardianship Body in writing with regard to the steps taken for the assessment of the child.

³⁵ Terre Des Hommes. Working Protocol: Inter-Sectorial Collaboration in Child Protection Cases, p.12

³⁶ Ibid, p. 12

2.3.3 Decision-making and planning

- ✓ Preparation of the Child Protection Program, led by the case manager
- ✓ Preparation of individual service plan
- ✓ Establishment of a partnership and a child protection and treatment team
- ✓ In cases of medium and high risk, the case manager presents the case to the Multidisciplinary Roundtable.

2.3.4 Implementation

- ✓ The manager and professionals / institutions perform the actions assigned to them as part of the plan and in compliance with the plan.
- ✓ Professionals and institutions should inform the case manager of the actions undertaken.
- ✓ In case they are unable to act in compliance with the plan, they undertake alternative actions.

2.3.5 Monitoring

- ✓ The case manager follows the individual service plan, monitors service delivery and progress, often through visits, meetings with the child and parents, meetings and contacts with professionals who provide services;
- ✓ Professionals/institutions report to the case manager on their progress in implementing the plan, as required.
- ✓ For high and medium risk cases, all professionals/institutions involved in work with children should also be involved in Multidisciplinary Roundtable meetings to review the progress.
- ✓ Revision and review of the plan, depending on the progress.
- ✓ Monitoring of the protection and treatment of these categories of children is conducted by the relevant Department of the Ministry.

2.3.6 Closing the case

- ✓ The case manager assesses how long the treatment and services for the child lasts, in consultation with the psychologist, parent or guardian, and other professionals, and afterwards, he/she closes the case.

Methodology

Step One: The trainer delivers a PP presentation of the material prepared on the case management procedure for the protection of the child in conflict with the law and under the age of criminal responsibility.

Step Two: Participants analyse in pairs/groups the material related to the case management procedure and whether it should be supplemented, corrected, or any other suggestions.

Step three: Conclusions of discussions in pairs/groups are also discussed in the plenary group.

Training methods

Presentation in PP, discussion, work in pairs, work in groups

Training tools

Presentation in PP, Theoretical material, Flipchart, marker

2.4 The multidisciplinary roundtable for support in case management

The multidisciplinary roundtable for support in case management means a multidisciplinary group that includes professionals from different child protection institutions and other stakeholders representing a variety of disciplines, who have responsibility for child protection, who interact and coordinate their child protection efforts. At the same time, the parent or guardian is included in the roundtables whenever possible and when it is in the best interest of the child, the child will be included as well.

The main responsibility for the functioning of the RCM lies with the relevant director of the Centre for Social Work. The CSW chairs the meeting.

An RCM should be held for any case of medium to high risk. RCM meetings should be held at least once (1) in a 3-month period; however, it may also be held more often.

All work procedures in the Multidisciplinary Roundtable for Support in Case Management, led by the Case Manager, in coordination and interaction with the structures and services responsible for child protection, comply with the relevant legislation in force. ëveprim me strukturat dhe shërbimet përgjegjëse për mbrojtjen e fëmijës, veprojnë në pajtim me legjislacionin përkatës në fuqi.

Methodology

Step one: Brief discussion on whether participants have experience of participating in the multidisciplinary roundtable for support in case management. Exchange of these experiences.

Step two: The trainer delivers a PP presentation prepared in relation to the Multidisciplinary Roundtable.

Step Three: : A case study, in an emergency situation and its treatment within RCM. Groups of professionals/institutions are established depending on the number of participants.

Step Four: Presentation of the work of the RCM groups on handling the case.

Training methods

Presentation in PP, discussion, group work, case study

Training tools

Presentation in PP, Theoretical material, Flipchart, marker

Case study 3

Every day, a 13-year-old boy was seen begging in the city. The child came from Montenegro to Kosovo, together with a person, who presents himself as the father of the child. The child was in poor health and was suspected of being a user of narcotics. Besides that, he was involved in the distribution of narcotics around school premises, although he did not attend school himself.

This case was reported to the Police and forwarded to the Prosecutors' Office. The CSW was also informed in that regard. Upon investigation by the authorities, it was established that the person presenting himself as the father of the child was the biological father of the child; however, he was not the legal father, since he did not appear as such in the documents of the child.

In conclusion, the authorities, after communicating with the country of origin, establish that the child's custody was carried only by the mother and that the child was abducted by the biological father in Montenegro. The child's biological father was detained under procedures and suspected of trafficking of children.

Session 3

3. Assessment of child's needs and drafting of a protection program

Objectives:

- > Analysis of the purpose of a comprehensive assessment of the child's needs
- > Learning the skills needed in communication with the child and his/her parents, and including them in decision making processes, especially regarding the individual service plan.
- > Learning and discussing the protection program for the child in conflict with the law and under the age of criminal responsibility;
- > Learning and discussing services of individual services plan for the child in conflict with the law and under the age of criminal responsibility
- > Learning and understanding the importance of monitoring and reporting on the provision of services to a child in conflict with the law and under the age of criminal responsibility

Expected outcomes:

- > Understanding the importance of a comprehensive assessment of the needs of the child in conflict with the law and under the age of criminal responsibility
- > Improving practical skills in communication with children and parents, including them in decision making processes especially regarding the individual service plan.
- > Ability to prepare and implement a protection program for the child in conflict with the law and under the age of criminal responsibility
- > Ability to prepare and implement an individual services plan for the child in conflict with the law and under the age of criminal responsibility
- > Understanding the importance of monitoring and reporting on the provision of services to the child in conflict with the law and under the age of criminal responsibility.

Duration of the session: One (1) day

Key words:

Comprehensive assessment, protection program, individual services plan

Activity 3.1

3.1 Comprehensive assessment of the child's needs

For the adequate protection and treatment of a child under the age of criminal responsibility and who is the perpetrator of the offense, the Guardianship Body, through the Case Manager and in cooperation with other professionals within the CSW, professionals from health institutions, educational institutions, NGOs, and others, initially conducts a comprehensive professional assessment of the needs of the child and on the basis of that prepares the Child Protection Program.

It is the duty of every institution and professional dealing with the protection of the child, who has been involved in the case, to cooperate and assist during the assessment.

Comprehensive assessment means:

- Full needs of children, in accordance with their age and development, including the child's personality and maturity, economic, social and family situation of the child, including the needs of the child and his living environment;
- Case sensitivity, risks for children for the short, medium and long term;
- Individual characteristics and circumstances that have pushed the child into conflict with the law,
- Protective factors, in particular strengths, capacities and resources of children, family and the community.

The initial assessment of the case is carried out within twenty-four (24) hours after the appointment of the case manager. However, the comprehensive assessment is carried out within 10 days of the initial referral. Throughout the assessment process it is essential to constantly consider the risk of the case and if information emerges indicating that the child is at high or immediate risk, then an urgent action may be needed to keep the child safe until the assessment is made. In these cases, the child should be placed in a safe place (home for child protection), where he is offered care for a certain period, not longer than seventy-two hours (72).

Methodology

Step One: Brief discussion with participants on the importance of assessing the needs of the child in conflict with the law and under the age of criminal responsibility

Step Two: The trainer delivers a presentation of the prepared material related to the comprehensive assessment of the child's needs

Step three: Case study - Participants are divided into groups and role-play an interview with the child for the purpose of assessing the child's needs, as well as gathering additional information about the child.

Step four: Discussion on the case and its needs.

Training methods

Presentation in PP, discussion, group work, role-playing, case study

Training tools

Presentation in PP, Theoretical material, Flipchart, marker

Case study 4:

Gëzim is a child who, at the age of 12 years old, had an accident falling from the second floor and stayed in a coma for a week. However, thanks to adequate medical treatment, he was able to survive and recover from the injuries. However, he occasionally has severe headaches and must constantly have medical examinations, under the supervision of a physician.

He is very temperamental, parents find it difficult to control and manage his behaviour. At school, he is known as a problematic student, either for problems in relation to teachers, or even with peers, as well as irregular attendance, poor achievement, and lack of cooperation of his parents with the school. At school, they attribute these behavioural characteristics to Gëzim, even before the accident.

The school made some efforts so that he could attend classes, even when he was absent for a long time, it returned him to school again. Recently, the school has realized that he has begun to demand "ransom", mainly by forcing and conditioning other children to give him money. The parent has been called for this numerous times but has not had a positive effect on the minor, as the father does not have the capacity to manage and influence the minor.

This behaviour of Gëzim, after complaints of parents of other children, the police and state prosecutor were informed.

Case study 5:

Flamur was under the age of 14 when he was reported to police because of several thefts in which he had participated.

His mother passed away when he was 5. He lived for a while only with his father as his sisters and brother were married and living somewhere else. Moreover, his father is also in prison for some time due to a criminal offence he committed. Now he is alone in his apartment, his brother and the others always tried to take him to live with him in another city, he does not stay long with his brother and returns to live alone in his apartment, with any care, and in a difficult economic condition. His brother tries to take care of him, so he regularly pays his meals in a fast food and cleans his clothes, but this does not have much influence.

At school, he has repeated seventh grade because of the lack of attendance, he has reading difficulties and he is friends with people who stay around school all day but do not enter school.

Alone and without care, he was reported to the police and was detained by the police for committing the criminal offence of theft. He allegedly broke into a food market where he committed the theft.

Activity 3.2

3.2 Child protection program

After a comprehensive assessment of the child's needs and circumstances, the manager began with the preparation of the Child Protection Program, which includes:

- ✓ Providing applied procedures that are tailored to the specific needs of children;
- ✓ Creating files and fulfilling all the necessary professional forms of work regarding the referred case;
- ✓ Establishing a work team, according to the circumstances in CSW, for adequate protection and treatment of the child.
- ✓ Identifying services and programs available for protection of children in conflict with the law
- ✓ Cooperating with the child, parent or guardian during the preparation of the Child Protection Program so as to take into account the family's views on the child and to involve the child in all stages

The principles and standards on which the preparation of the Protection Program is based”

- ✓ the best interests of the child should always be taken into prevailing consideration;
- ✓ protection of the child's personal integrity;
- ✓ protection and respect of the child's freedom of religion;
- ✓ individual assessment of the child's needs

The Child Protection Program, as appropriate, contains:

- ✓ The database regarding the case referred
- ✓ The child interviewing process;
- ✓ Safeguards and necessary interventions that enable the child's access to his or her rights,
- ✓ Social, psychological or any other necessary rehabilitation or reintegration services, as identified during the case assessment (individual service plan)
- ✓ Educational, learning and entertainment activities for the child,
- ✓ Parental revival measures, support and assistance programs for parents, guardians and close family members.
- ✓ Consultation and information process

Methodology

Step One: The trainer presents the prepared material in PowerPoint regarding the preparation of the child protection program for the child in conflict with the law under criminal responsibility

Step Two: The participants divided into groups in the previous activity, on the basis of child's needs assessment from the case study, continue to prepare the Child Protection Program in conflict with the law, under the age of criminal responsibility

Step Three: The groups present the Protection Program prepared for the case study

Training methods

Presentation in PowerPoint, discussions, group work, case study

Training tools

Presentation in PP, Theoretical material, Flipchart, marker

Activity 3.3

3.3 Individual service plan

The individual service plan should address how the needs of children will be met in the short, medium and long term. It should include, where appropriate, the opinions of professionals. The plan should have a unique approach to work in case studies and be specific and contain details of the activities involved in service delivery such as:

- ✓ Identification of the referred case;
- ✓ Acceptance of the referred case;
- ✓ Assessment of the referred case;
- ✓ Planning of the referred case;
- ✓ Special assistance provided;
- ✓ Regular support and supervision;
- ✓ Engagement/relation with the child and family

In relation to the services provided, the plan should also specify:

- ✓ The type of services to be provided to meet the needs of the child/family;
- ✓ Professionals/institutions responsible for service delivery;
- ✓ Service location
- ✓ Time period for service delivery,
- ✓ Child counselling meetings with the parent or guardian
- ✓ Consultation meetings with external professionals, and
- ✓ Deadline for revision and review

Every child who is able to express their wishes and opinion will be offered the opportunity to participate in the development of individual service plans. The Plan should also contain a written statement signed by the parent or guardian and the child, where possible, stating that they are required to cooperate in the process of child protection and treatment measures.

Methodology

Step One: The trainer presents the material prepared in PowerPoint in relation to the Individual Service Plan

Step Two: The trainer presents the material prepared in PowerPoint in relation to the Individual Service Plan

Step Three: The groups present the Individual Service Plan prepared for the case studies

Training methods:

Presentation in PowerPoint, discussion, group work, case study

Training tools

Presentation in PP, Theoretical material, Flipchart, marker

Activity 3.4

3.4 Monitoring of the services provided

The child protection program and services provided under the individual service plan are monitored by the case manager.

The main objective of the monitoring is to ensure that the case is benefiting from the expected service according to the approved plan. It is important to identify how the child is benefiting or what positive change (progress) is taking place in the life of the child and / or family, as a result of receiving the services provided under the plan.

The case manager maintains constant contact with the child, family and the service provider, through occasional visits, meetings with the child and parent, as well as with the professionals who provide services.

3.5 Reporting

Professionals/institutions inform the case manager about the steps taken and the progress made in implementing the plan.

The Guardianship Body is obliged to report to the relevant municipal directorate and the Department of Social and Family Policy, to the relevant ministry, about the services provided, and related to these categories of children, as well as other categories and services.

3.6 Closing the Case

All reports, including legal, medical and other documents concerning the form, content and details of treatment, must be placed in an individual file, which may only be available to authorized persons, such as the case manager, the leader of services, and CSW director.

In all cases, written files must be kept. Files should be kept in a safe environment and accessible only to those who are responsible for the protection of children (the above positions).

A unique ID number should be given to each case to ensure confidentiality when discussing the case with people, other than those directly involved in supporting children and their families.

After the five (5) year period files are destroyed/demolished in the spirit of protecting the best interests of the child.

Metodologjia

Hapi i parë: Trajneri prezanton materialin e përgatitur në PP në lidhje me monitorimin, raportimin dhe mbylljen e dosjes.

Hapi i dytë: Pjesëmarësit të ndarë në grupe në aktivitetin paraprak, diskutojnë në lidhje me monitorimin e progresit në ofrimin e shërbimeve dhe bëjnë një "plan" për monitorimin, mbylljen e rastit dhe raportimin.

Hapi i tretë: Grupet prezantojnë punën e bërë në grupe dhe vazhdojnë diskutimin për programin e mbrojtjes së fëmijës në konflikt me ligjin, nën moshën e përgjegjësisë penale

Metodat

Prezantim në PP, diskutim, punë në grupe.

Mjetet e trajnimit

Prezantimi në PP, Material teorik, Flipçart, marker

Reading materials:

- > Chapter 3 'Juvenile Justice and Adolescent Development'. In: Fair Trials (2018) Advancing the Defence Rights of Children. Manual for Practitioners.
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International conventions and instruments

- Convention on the Rights of the Child, 20 November 1989
- Guidelines on child-friendly justice of the Committee of Ministers of the Council of Europe, 17 November 2010
- Implementation Handbook for the Convention on the Rights of the Child Part 1 of 3
- Implementation Handbook for the Convention on the Rights of the Child Part 2 of 3
- Implementation Handbook for the Convention on the Rights of the Child Part 3 of 3

Constitution and Domestic Legislation

- Constitution of the Republic of Kosovo
- Juvenile Justice Code, no. 06/L-006
- Law on Child Protection, no. 06/L-084
- Law on Social and Family Services, no. 02/L-17
- Draft Administrative Instruction (GRK) -no. xx/2019 on the Protection and Treatment of Children as Offenders of Criminal Offences under the Age of Criminal Responsibility

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- Vasta R., Haith M., Miler S., Child Psychology, 1992

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- Terre Des Hommes. Child Protection Modules
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Delegacioni në Kosovë
"Rrustem Statovci", 11/2, Prishtinë-Kosovë
T & F +381 38 244 574
E-Mail: info@tdhkosovo.org
Web: tdh.ch, childhub.org



Terre des hommes
Ndihmë për fëmijët.