

Analysis of the Child Protection System in Albania

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EXECUTIVE SUMMARY

Article 19 of the UN Convention on the Rights of the Child forms the cornerstone for the concept of 'protection' for children. The conceptual framework developed by UNICEF for the protection of children from violence, exploitation, abuse and neglect foresees a 'protective environment', in which everyone lives up to their responsibilities to ensure that children are protected from abuse and exploitation.

States, communities and families can prevent and address violence, exploitation and abuse through effective national child protection systems, suitable social practices, oversight and monitoring of both systems and practice, and the empowerment of children. Under the framework developed by UNICEF CEE/CIS Region, a functioning protection system should therefore involve all key sectors (social services, education, health, police and justice) in a coordinated effort to (i) identify, (ii) record, (iii) assess, (iv) refer, (v) provide specialised support to and (vi) reintegration follow up to children and families affected by violence, abuse, exploitation and neglect.

Over seven chapters, this report provides an analysis of the child protection *system* in Albania, covering primarily the legal and regulatory system and the social welfare system in Albania, which considered broadly, constitute the existing Albanian child protection system. Societal behaviour has not been examined in its widest sense. However, attitudes and knowledge have been considered in the context of professionals working within either of the discussed systems.

Chapters One (Introduction) and Three (Child Protection and International Standards) place the child protection concerns in Albania in a conceptual framework, taking into account the child's immediate surroundings, together with the broader socio-economic, political and cultural country context. Chapter Two describes the methodology adopted in the course of research.

Chapter Three's examination of the international standards relevant to a child protection system includes the identification of benchmarks for assessing the system under UN Convention on the Rights of the Child 1989 (the "UNCRC"), ratified by Albania on 27 February 1992 and the European Convention on Human Rights and Fundamental Freedoms (the "ECHR"), ratified in 1996. The Committee on the Rights of the Child has provided further guidance for States on the implementation of their obligations under the UNCRC in its concluding observations and General Comments. These and other documents resulting from the Committee's discussion days on the Role of the Family in the Promotion of the Rights of the Child and Children Without Parental Care are used to analyse laws, policies and practices for each sector of the child protection system in Albania.

Chapter Four on the Child Protection Situation provides a brief quantitative overview of the extent of the child protection situation in Albania. It describes the issues that give rise to child protection concerns, including children deprived of primary caregiver; children in conflict with the law and child victims and witnesses; child victims of trafficking; children subject to child labour; and children subjected to violence in different settings, including the home, school and institutions.

Chapter Five conducts an analysis of the different sectors that make up the Albanian child protection system. The legal and regulatory system and social welfare system in Albania have been broken down into different sectors, all of which have the potential to play an important role in the protective system as a whole – (i) the social services sector, (ii) the police and interior sector, (iii) the justice sector, (iv) the education sector and (v) the health sector. In each instance, the institutional structure is diagrammed and sectoral laws and polices, institutions, mandates, coverage, reporting and referral mechanisms, and, where appropriate,

quality control and sector financial flows are examined. The aim is to clarify and scrutinize how these sectors – together as a system – can function to protect children from harm.

In addition to a sectoral-based mapping of the child protection system, this report aims to provide a child-centred analysis of the child protection system. Chapter Six thus considers the possible routes that a child may take through the child protection system and examines child protection in practice in Albania. The chapter explores the capacity of the existing child protection system to identify, refer, assess and provide appropriate services to children in need of protection and the extent to which it meets international standards and modern concepts of good practice.

Chapter Seven offers conclusions and recommendations for future reform. The conclusion identifies key areas where the Albanian child protection system could be strengthened and improved in order to more effectively prevent and respond to violence, abuse, exploitation and neglect suffered by children.

These conclusions are grouped according to sector, with additional conclusions and recommendations for the overarching legal framework. The conclusions for each area are accompanied by specific recommendations, the primary aim of which is the closer alignment of the child protection system in Albania with international norms and standards.

Generally, the research for this report found that Albanian legislation fails to address three key overall issues that apply to any child protection situation: an overall legal definition of a 'child at risk'; a legal basis for child protection referrals; and a legal framework for addressing emergency child protection situations. This deficiency leaves bodies and agencies involved in child protection unable to offer children at risk the services which meet their best interests and needs. The report thus recommends that consideration be given to drafting a new Child Law or Children's Code, which consolidates all aspects of child protection into one law.

In conjunction with a new Child Law or Children's Code, the provisions of the Albanian Family Code should be reviewed and amended as needed, with particular attention to guardianship, abandonment, and adoption. Legislation should also be considered to enable judicial review of residential care placement and judicial control over emergency admission to residential care without parental consent where strictly necessary.

The protection in practice is equally important to the content of laws. Consideration should be given to the creation of a guardianship service to support and train individuals acting as temporary or permanent guardians; national training of judges, police and prosecutors on the legal provisions on guardianship and the procedure for removal of parental rights in emergency cases.

In the social services sector, improvement of the legal and policy framework is required to address vital issues in child protection, such as a legal definition of 'children at risk', the legal basis for child protection referrals and the legal framework for addressing emergency child protection situations. New legislation is needed to set out clearly the institutions and bodies responsible for child protection and the nature of that responsibility. Specifically, as the process of decentralizing social care services is at various stages throughout the country, the interrelationship between structures at the regional and municipal/communal level is still unclear. This report therefore recommends that a review be conducted of the decentralization, with a view to establishing clear responsibilities for service assessment, planning, management and funding—at both the regional and commune/municipality levels. Clear reporting lines should also be developed between regional offices of State Social Services and regional and municipal/communal social care structures in respect of the monitoring and quality assurance of public and private social care providers.

The role of communal/municipal Social Administrators in identifying child protection concerns, proposing an appropriate response and admissions to residential care are not clear, particularly to the Social Administrators themselves. It is important that a clear job description be agreed for Social Administrators, with a clear role in referrals to social care services. The responsibilities of Social Administrators and social care departments should be set out in conjunction with a new Child Law or Children's Code. These responsibilities should include the coordination of multi-disciplinary assessments of children at risk and the referral to appropriate public and private community-based or residential care services. Comprehensive training and recruitment of qualified Social Administrators is also recommended. Consideration should also be given to integrating existing child protection projects, such as Child Protection Units and municipal Child Labour Monitoring Committees into a single child protection referral mechanism under the auspices of the municipal Social Administrator or social care structure.

The recommendations in this report for residential care include continuation of the process of deinstitutionalisation and retraining of staff for community-based work. A range of community-based services to support families and to provide alternative family care where the child cannot be cared for by the parents or extended family should be developed, including a national foster care system and guardianship service.

Institutionalisation should be used only as a temporary measure and for the shortest time possible. Whilst the new Residential Care Standards represent a good attempt at reflecting international standards, the legal and policy framework for residential care still fails to enshrine these principles. Where institutionalisation is necessary, admissions should be directed through municipal/communal Social Administrators, the categories of children who may be admitted under DCM 209 reviewed, and provision made for the emergency admission to residential care without the need for parental consent. Further, all public and private residential care institutions should develop and implement a specific policy for monitoring and reporting of violent incidents within the institution and for dealing with complaints made by children.

Community-based social care services are a crucial component to a child protection system insofar as they are able to address root causes of risk to children or to respond to children at risk within their own community or environment. However, uniform application of specific standards for community based services and further research on the quality and effectiveness of services are crucial. Whilst NGOs offering community-based social work should be supported and encouraged by regional and municipal/communal social care structures, sanctions should be provided for operating a social care service without a valid licence from the Ministry of Labour and Social Affairs or for not meeting required minimum standards of operation. State Social Service NGO inspection reports should be made public and follow up visits carried out. Overall, mechanisms should be established to ensure that NGO service care providers are integrated into a unified referral and care planning mechanism.

The police sector is also in need of improved guidance and training. This report makes recommendations on the development and dissemination of a national protocol for support and assistance to child victims and witnesses of crime and powers for police to take emergency protective action. The report further recommends that police officers dealing with child victims and witnesses of crime receive comprehensive training in child-sensitive interviewing techniques, the principles of child protection, the role and responsibilities of the Social Administrator, and the availability of local social care services. Referral mechanisms between the police and social services, and the work of Regional Anti-Trafficking Committees, Responsible Authority, and National Referral Mechanism should be reviewed in order to ensure that it is fully integrated with regional and municipal/communal social care coordination structures and that functions are not duplicated.

Albanian law does not criminalise child exploitation and abuse, such as violence against children, cruelty and neglect, child pornography and the exploitation of children in labour or criminal activities. The report recommends that the Criminal Code be amended to provide adequate criminal sanctions for sexual exploitation of children (including the production, distribution, dissemination, importing, exporting, offering, selling or possession of child pornography); the use, procuring or offering of a child for the worst forms of child labour; inducing, encouraging, procuring or offering any child for the commission of a criminal offence by an adult. Other proposed legislative amendments criminalizing the exploitation of children should be passed as soon as possible and the Albanian Criminal Procedure Code should be reviewed to ensure that the prosecutor is free to commence prosecution where sufficient evidence is available and prosecution is in the best interests of a child victim.

The education and health sectors also have an important role to play in the identification of and response to child protection cases encountered. Recommendations in this report include the development of a standard protocol for the identification, recording, coordination and referral of cases of violence, abuse, exploitation or neglect encountered by school or health care staff; formal reporting and referral lines to Social Administrators/municipal social care structures; comprehensive training in the identification of suspected cases of violence, abuse, exploitation or neglect as well as the roles and responsibilities of Social Administrators and availability of community-based social care services operating in their local area.

The report's recommendations, developed in consultation with the Government of Albania, are an important step towards reform of the child protection system in Albania. However, improvement in the situation of children and their protection from exploitation, abuse and neglect requires the continued commitment of all stakeholders.

Chapter ONE

Introduction

Article 19 of the UN Convention on the Rights of the Child forms the cornerstone for the concept of 'protection' for children. It both sets out those categories of harm from which children should be protected – “*all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse*” – and specifies the concrete steps that states should take to ensure such protection – “*all appropriate legislative, administrative, social and educational measures... to provide necessary support for the child... as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment*”.

This protection of children – or 'child protection' – forms one of the United Nation's Children's Fund's ("UNICEF") five core focus areas for the period 2006 to 2009¹. To UNICEF, child protection programming is defined as “*strengthening of country environments, capacities, and responses to prevent and protect children from violence, exploitation, abuse, neglect and the effects of conflict*”². This definition contains a number of extremely important variables that, where strengthened or weakened, may impact upon the extent to which children actually experience protection from harm: the country '*environment*', '*capacities*', and '*responses*'.

The term 'country environment' includes the child's immediate family and the community in which he or she lives, in addition to the broader socio-economic, political and cultural country context. Any threats to the child's integrity and security must, by definition, be produced by this world – whether the threat is violence from a close family member, or a person little known to the child who seeks to exploit him or her through trafficking or sexual abuse.

However, the definition speaks not only of the child's environment and wider context, but also – through the use of the terms “*capacities*” and “*response*” – of specific formal and informal *systems* that work to protect the child. These systems are the child's armour against harm. They consist of concrete structures and institutions created by the state, of relevant non-public actors, and also of informal networks, attitudes and patterns of behaviour. If working effectively, they should meet the requirements laid down in Article 19 of the UN Convention on the Rights of the Child – providing support, prevention, identification, report, referral, investigation, treatment and follow-up to the child at risk of harm and the child victim.

The conceptual framework for child protection developed by UNICEF foresees a 'protective environment', in which everyone lives up to their responsibilities to ensure that children are protected from abuse and exploitation. This environment focuses on eight key elements:

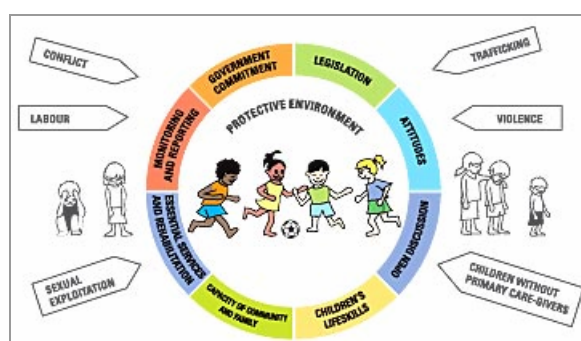
1. Attitudes, traditions, customs, behaviour and practices;
2. Governmental commitment to fulfilling protection rights;
3. Open discussion and engagement with child protection issues;
4. Protective legislation and enforcement;
5. The capacity to protect among those around children;
6. Children's life skills, knowledge and participation;
7. Monitoring and reporting of child protection issues; and
8. Services for recovery and reintegration.³

¹ The UNICEF medium-term strategic plan, 2006-2009. Investing in children: the UNICEF contribution to poverty reduction and the Millennium Summit agenda. UNICEF. UN Doc. E/ICEF/2005/11.

² *Ibid.* p. 7.

³ Information from UNICEF, 'Child Protection', <http://www.unicef.org/protection/index.html>, accessed 7 Mar. 2007.

Diagram 1: The UNICEF Protective Environment Concept



Thus, states, communities and families can prevent and address violence, exploitation and abuse through effective national child protection systems, suitable social practices, oversight and monitoring of both systems and practice, and the empowerment of children.⁴ A functioning protection system should therefore involve all key sectors (social services, education, health, police and justice) in a coordinated effort to (i) identify, (ii) record, (iii) assess, (iv) refer, (v) provide specialised support to and (vi) reintegration follow up to children and families affected by violence, abuse, exploitation and neglect.⁵

According to the framework developed by UNICEF CEE/CIS Region, the three pillars of a protective environment are:

- the ability, knowledge, practices and resources of the *parents, family or other immediate caregiver* who is responsible for the child;
- the norms, practices, values and support of the *community and society* where the child lives; and
- specific elements of the *governance system* such as the legal and policy framework, standards and mandates that guide social services, as well as the competency, behaviour and accountability of professionals in contact with children.⁶

This report provides an analysis of the child protection *system* in Albania. The analysis covers primarily the legal and regulatory system, and the social welfare system in Albania. Societal behaviour has not been examined in its widest sense. However, attitudes and knowledge have been considered in the context of professionals working within either of the discussed systems.

The legal and regulatory system and social welfare system in Albania have been broken down into different sectors, all of which have the potential to play an important role in the protective system as a whole – (i) the social services sector, (ii) the police and interior sector, (iii) the justice sector, (iv) the education sector and (v) the health sector. In each instance, the sectoral laws and policies, institutions, mandates, coverage, reporting and referral mechanisms, and, where appropriate, quality control and sector financial flows have been examined. The aim is to clarify and scrutinize how these sectors – together as a system – can function to protect children from harm.

The benchmark for our assessment consists of international standards on child protection. These are numerous and are considered in detail in Chapter Three of this report. Suffice to note that for each sector in Albania, laws, policies and practices have been analysed in the light of relevant binding and non-binding international standards.

⁴ See the UNICEF Protective Environment Concept. 2003; UNICEF, 'Child Protection', <http://www.unicef.org/protection/index.html>, accessed 7 March 2007.

⁵ See UNICEF CEE/CIS, 'Child Protection Framework'.

⁶ UNICEF CEE/CIS, 'Child Protection Resource Package', http://ceecis.org/child_protection/prot-environment.htm, accessed 7 March 2007.

In addition to a sectoral-based analysis, however, this report also aims to carry out a child-centred analysis. To this aim, Chapter Six of the report examines the possible routes that a child may take through the child protection system as a whole in practice, as the system tries to respond and protect in response to a variety of possible harms that the child may face.

In its conclusion, the report endeavours to identify key areas where the Albanian child protection system could be strengthened and improved in order to more effectively prevent and respond to violence, abuse, exploitation and neglect suffered by children. The report's recommendations, developed in consultation with the Government of Albania, suggest practical ways in which this might be brought about.

This report contains seven chapters. This introduction is Chapter One. Chapter Two describes the methodology adopted in the course of research. Chapter Three examines the international standards relevant to a child protection system. Chapter Four provides a brief quantitative overview of the extent of the child protection situation in Albania. Chapter Five conducts an analysis of the different sectors that make up the Albanian child protection system. It is divided into five sections – (i) social services, (ii) police and interior, (iii) justice, (iv) education, and (v) health. Chapter Six looks at possible routes for the child route through the child protection system. Chapter Seven offers conclusions and recommendations for future reform.

Chapter TWO

Methodology

The methodology used in the preparation of this report can be broken down into five different approaches. These are: (i) the consolidation of international standards relevant to child protection, (ii) desk review of materials, (iii) interviews with key informants, (iv) standardised practice assessment, and (v) focus group discussion using a case study tool. Each of these is discussed in turn.

Consolidation of International Standards. The research team commenced the child protection system analysis by seeking first to identify and consolidate all existing international standards relevant to a child protection system. The search process included identification of both binding and non-binding international standards, being primarily those promulgated under the auspices of the United Nations system. As of the date of this report, whilst a large number of standards do exist, there remain areas in which no standards have been promulgated. It should be noted that the research team adopted a relatively wide view of the term 'international standards' and, where appropriate, also sought to include widely used norms at the international level, including those set out in tools adopted by UNICEF, such as the global violence indicators, and global indicators for children in formal care. Such tools have been arrived at through a wide consultative process and – in the absence of binding standards – were considered appropriate as benchmarks against which the system could be measured.

International standards or norms were identified in respect of family preservation and community based services, the prevention of violence, abuse, exploitation and neglect, identification and referral of such cases, prevention and response to child trafficking, children at risk of child labour, the treatment of child victims and witnesses of crime, determination of the most appropriate form of care for children at risk, guardianship, the alternative care system, adoption, and national monitoring mechanisms.

These standards were then consolidated and analysed by topic area using five of the eight elements contained in the UNICEF protective environment concept referred to in Chapter One: (i) government commitment (policy), (ii) legislation, (iii) services and rehabilitation (practice), (iv) attitudes, and (v) monitoring and reporting. A table was produced that clustered individual articles by topic area and most relevant protective environment concept. This table was then used throughout the systems analysis process in order to assess consistency of the Albanian child protection system with international standards.

Desk Review of Materials. In cooperation with the national consultants, relevant sectoral laws and policies were identified, translated and analysed against the international standards table. Typically, for any one sector, primary legislation, secondary legislation (such as decisions of the Council of Ministers), strategies, standards, draft laws, and line ministry directives or circulars were all identified and considered. In addition, existing reports, both by UN entities and NGOs, relevant to the child protection system in Albania were located and included in the desk review.

Interviews with Key Informants. The team of international consultants conducted three field visits to Albania between 1 October 2006 and 31 December 2006 and spent a total of 37 person working days carrying out interviews, practice assessment visits and focus groups (discussed below). The international consultants were assisted during all field visits by two national consultants – one lawyer and one social worker.

The four regions of Tirana, Kukes, Vlore and Korca were chosen for analysis. Given the time constraints for the research, these regions were chosen in order to provide as representative and wide geographic and socio-economic range as possible. Interviews with key informants were carried out in the major municipality of each of these regions and also in the smaller municipality of Orikum (Vlore region). As discussed below, additional focus group discussions were also held in the smaller municipalities of Lushnja (Fier region) and Puka (Shkodra region).

In Tirana, Kukes, Vlore and Korca municipalities, interviews were typically held with the following key informants:

Regional Office of State Social Services (Director and/or Inspector)
Regional Educational Directorate (Director and/or Inspector)
Regional Public Health Directorate (Director and/or Section Head)
Social Administrator
Family Judge and/or District Prosecutor
Representative of Regional Anti-Trafficking Committee (Prefect, Deputy Prefect or Secretary of Technical Table)
Representatives of municipal Child Labour Monitoring Committee (where applicable)
Representatives of municipal Child Protection Unit (where applicable)
Representatives of municipal Police (Police Chief and Police Officer)
Primary Health Centre Staff (Doctor and/or Nurse)
Hospital (Paediatrics, Maternity and Emergency Section Chiefs) (where applicable)
Primary School and Secondary School Staff (Director, Teacher and School Psychologist)
Public Children's Homes (Director and Specialists) (where applicable)
Public Homes for Persons with Disabilities (Director and Specialists) (where applicable)
NGO Residential and Community-based Social Service Care Providers (Director and/or Staff)

In addition, in Tirana, representatives of the following central line ministries were interviewed:

Ministry of Labour and Social Affairs (Director of Social Services)
State Social Services (Vice Director)
General Directorate of State Police (Child Protection Sector)
Ministry of Interior (Deputy Minister/National Coordinator for Anti-Trafficking)
Ministry of Justice (Directorate of Juvenile Justice)
Ministry of Education (Specialist)
Ministry of Health (Director of Public Health)
INSTAT (Coordinator of Social Research)
People's Advocate (Deputy People's Advocate)

Appendix One to this report contains a complete list of key informants interviewed.

Standardised Practice Assessment. In addition to interviews, the consultancy team made use of site visit protocols for detailed practice assessment at service providers. Protocols were devised based on the consolidated table of international child protection standards and drafted for use with visits to:

- police stations;
- healthcare service providers;
- NGO service providers;
- public residential care; and
- social administrators.

In addition, a specialised protocol for practice assessment of the central level Commission on Admission to Residential Care was devised and employed. During a practice assessment visit, a member of the consultancy team typically spent a longer period of time with the service provider than during interviews. The protocols were used to guide the service provider through detailed discussion that revealed working practices as compared with international norms. The consultancy

team also observed the work of the service provider in practice and, where possible, viewed written records and files.

Service providers in each region who were subject to practice assessment are marked in the table at Appendix One.

The practice assessment protocols employed in the course of research are provided at Appendix Two to this report.

Focus Group Discussion using a Case Study Tool. In order to examine the knowledge and attitudes of child protection actors, and also to explore possible referral lines between the different sectors, the consultancy team made use of focus group discussion using a case study tool. An international member of the consultancy team trained as a social worker drafted an example child protection case study. The example case study – which described a hypothetical situation involving risk of neglect and trafficking – was translated into Albanian and presented at focus groups held in five municipalities: Tirana, Kukes, Lushnje, Puka, and Vlore.

Each focus group typically consisted of: representatives of the municipality, the Social Administrator, a representative of the regional office of State Social Services, a prosecutor, a police officer, primary and/or secondary school teachers, a school director, a primary health care worker or hospital doctor, and representatives of NGO local social care providers. The exact membership of each focus group varied. However, in each case, the membership was cross-sectoral and consisted of both public and non-public employees.

The national legal consultant led each focus group in discussion concerning the case study. Discussion was translated and assessed by the international consultants. Participants typically described how they would respond to the hypothetical situation, referring to reporting mechanisms, local difficulties encountered and resource constraints. The discussion transcripts were used in the construction of Chapter Six of this report (The Child's Route Through the System).

The case study tool used in the five focus groups is reproduced at Appendix Three to this report.

Drafting of this final report was completed throughout Spring 2007 by the international consultancy team at the Children's Legal Centre.

Chapter THREE

The International Legal Framework for Child Protection

This Chapter provides an overview of the international laws and guidelines governing the development and implementation of child protection systems.

The primary international instrument on children's rights, are the UN Convention on the Rights of the Child 1989, ratified by Albania on 27 February 1992 and the European Convention on Human Rights and Fundamental Freedoms (the European Convention), ratified in 1996. The UN Convention on the Rights of the Child refers directly to the right of the child to protection, while Articles 3 and 8 of the European Convention provide that children have a right to be protected against inhuman and degrading treatment or punishment and a right to family and private life. The right to private life includes the right to physical integrity.

Article 122 of the Constitution of Albania provides that where there is a conflict between a provision in an international treaty which Albania has ratified and national law, the international treaty takes precedence. Although the UN Convention on the Rights of the Child is part of Albanian law, there have as yet been no judicial decisions on the provisions or interpretation of the Convention. Four cases have been taken to the European Court of Human Rights against Albania, but none of these concerned issues of child protection. Although cases concerning children have been taken against other member states of the Council of Europe, there have been few decisions relating to the child protection system a state should have in place. Rather the decisions focus on the child's right to protection from physical punishment⁷ and the right of the state to remove a child from the family where there is abuse. The jurisprudence of the European Court is persuasive and helpful in determining what constitutes compliance with the Convention and current notions of good practice.

The Committee on the Rights of the Child has provided further guidance for States on the implementation of their obligations⁸ under the Convention in its concluding observations and General Comments. General Comment 8 concerns the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment⁹. Other helpful documents have resulted from the Committee's discussion days on the Role of the Family in the Promotion of the Rights of the Child¹⁰ and Children Without Parental Care¹¹.

During the General Day of Discussion on Children without Parental Care, the Committee concluded that the standards provided in the UN Convention on the Rights of the Child are not sufficiently detailed to provide adequate guidance for States in the development of alternatives for children without parental care nor do they sufficiently protect the rights of these children. In its concluding recommendations, the Committee called for the international community to prepare a set of international standards for the protection and alternative care of children without parental care. In response to this recommendation the NGO community, in collaboration with UNICEF, developed the Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care (henceforth the Draft UN Guidelines). It is expected that these Guidelines will be adopted by the General Assembly at the end of 2007. Therefore, this Chapter also references these standards.

⁷ See for instance, *A v United Kingdom* XXX where the European Court found that the father's 'reasonable chastisement' of the child amounted to a breach of the child's Article 3 rights. See also, *Costello-Roberts v UK* XXX.

⁸ The *Implementation Handbook for the Convention on the Rights of the Child* (Hodgkin, R., & Newell, P., UNICEF, 2002) brings together all child related international standards and guidance, in addition to the standards set by the Committee on the Rights of the Child, in order to determine the obligations of the State under the UN Convention on the Rights of the Child. This chapter incorporates the discussions contained in the Implementation Handbook.

⁹ General Comment No 8 (2006), CRC/C/GC/8, 21/08/2006.

¹⁰ CRC/C/24, 7th Session.

¹¹ CRC/C/153, 40th Session.

Role and Responsibilities of the Parents and Family

Article 3(2) of the UN Convention on the Rights of the Child obliges States to undertake measures to ensure the protection and care of the child as is necessary for his or her well being. However, the Convention is clear that it is the parents that have the primary responsibility for bringing up and caring for their children¹². States are obliged to respect the rights and duties of parents in any actions that they take for the care and protection of children¹³. Children have a corresponding right to know and be cared for by their parents (Article 7) and the right to be protected from unlawful or arbitrary interference in their family life (Article 16).

Supporting Parents and the Family Unit

To ensure that parents can fully assume their responsibilities, States are under an obligation to provide protection and assistance to the family unit. This duty is echoed in the International Covenant on Economic, Social and Cultural Rights 1966, which obliges States to provide: “[t]he widest possible protection and assistance ... to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children”¹⁴.

General policies should promote family preservation, including *inter alia* addressing poverty, inadequate housing, the lack of access to basic health, education and social welfare services, discrimination, marginalisation and stigmatisation, as well as violence and substance abuse.

Article 18(2) explicitly provides that “[f]or the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children”¹⁵.

Although the Convention does not specify the types of institutions, facilities and services that the State needs to develop under this Article, it is presumed that this would include day care, such as nurseries and pre school services, mother and baby groups, play groups, youth clubs, home help, psychological support and counselling, including parenting classes/parental education and health education – maternity classes¹⁶. Respite care should also be offered to parents, especially to parents of children with severe disabilities, to assist them in better coping with their overall responsibilities towards their family¹⁷. Parents need to be aware of and referred to these services, where appropriate.

Article 18 does not specifically target parents who are poor, marginalised or dysfunctional. Article 18 encourages States to support all parents in the performance of their child rearing responsibilities. However, clearly the phrase ‘appropriate assistance’ also obliges States to target support to families in need. This includes providing parents with practical assistance and psychosocial assistance when either they are struggling to meet their parenting responsibilities or they are faced with a particular challenge – i.e. bringing up children with disabilities.

The Draft UN Guidelines also emphasise the need to empower youth to positively face the challenges of everyday life.¹⁸

¹² Art. 18. Art. 27 provides that it is the parents who have the primary responsibility for securing conditions of living necessary for the child’s development.

¹³ Art. 3(2). Art. 5 further obliges States to respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention.

¹⁴ ICESCR, Art. 10.

¹⁵ Art. 34, Draft UN Guidelines.

¹⁶ Hodgkin, R., & Newell, P., *Implementation Handbook for the Convention on the Rights of the Child* (UNICEF, 2002) at pgs. 252-253.

¹⁷ Art. 39, Draft UN Guidelines.

¹⁸ Art. 35, Draft UN Guidelines.

Financial and Practical Support

Articles 26 and 27 of the UN Convention on the Rights of the Child strengthen the obligation of the State to support parents in the implementation of their roles and responsibilities.

Article 26 of the UN Convention on the Rights of the Child enshrines the right of every child to benefit from social security and social insurance. When the adults who have responsibility for the child are unable to provide for them, often because their circumstances (illness, disability, child bearing, old age etc) prevent them from working, then the State has an obligation to ensure that the child has some form of financial support. States are under an obligation to ensure that social security benefits are claimed where appropriate for or on behalf of children. This obligation entails the development of a system that is accessible and not prohibitively complicated.

Article 27 enshrines the right of the child to a standard of living adequate for their physical, mental, spiritual, moral and social development. Article 27(2) specifies that it is the child's parents and care givers who have the primary responsibility to secure "*conditions of living necessary for the child's development*". However, they are only expected do this within their abilities and financial capacities.

Where parents and caregivers are not able to provide such conditions, Article 27(3) places an obligation on the State to "*take appropriate measures to assist parents and others responsible for the child to implement this right*" and if needed "*provide material assistance and support programmes, particularly with regard nutrition, clothing and housing*".

The fact that the State is obliged to support the parents, rather than the child directly, reinforces the role of the parents to bring up their children and the State to support rather than to interfere in the family.

The Committee on the Rights of the Child has also urged States to consider and make provision to meet the specific needs and hardships faced by many single parent families.

The Convention considers that both parents have a common financial responsibility for bringing up their children (Article 27(4)). When couples split up, the parent left to take care of the child can often struggle to provide for the child on one or no income. While the State has an obligation to assist the parent, the State is also obliged to "*to take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child*".

The State is not only expected to recover maintenance from the other parent while they are residing in that country. States are also under a duty to take measures to recover maintenance from the absent parent even if he/she is abroad.

Support for Working Parents

The Convention also recognises that parents may want to or need to go out to work and therefore obliges States to "*take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible*" (Article 18(3)).

The drafters of the Convention recognised that modern day realities meant that many parents had to work, especially single mothers. The erosion of extended family networks meant that parents are often severely limited in their child care choices. Consequently, the UN Convention on the Rights of the Child places States under an obligation to provide high quality child day care services for parents of younger and older children, which is low cost or free.

There is a danger that without these services, children will either be left at home unattended or parents, especially single mothers, will feel unable to work and obtain an income, consequently increasing the chances of family breakdown.

The Committee on the Rights of the Child has also promoted the introduction of mandatory maternity and paternity leave for employers.

Duty to Intervene to Safeguard Children

The UN Convention on the Rights of the Child also recognises that there are situations in which the parents and/or extended family cannot or will not adequately meet the needs of the child and, specifically, where the child is being subject to or is at significant risk of harm, whether that be physical, mental or sexual. In such situations, the Convention places a positive duty on the State to intervene to safeguard the well being of that child.

This duty is derived from the State's general obligation: to protect the child's right to life and ensure his survival and development (Article 6); and to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, legal guardians or any other person who has the care of the child. (Article 19). The Committee includes *all* forms of corporal punishment in the definition of violence against the child.

Article 19 requires States to take "*all appropriate legislative, administrative, social and education measures*" to protect children from violence, neglect and maltreatment.

Article 19(2) provides that these measures should include "*effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment... and, as appropriate, for judicial involvement*".

Violence and neglect within the family is often linked to social problems suffered by the family. Consequently, in addition to the practical assistance that States must provide under Article 18, 26 and 27, there should be social programmes in place which allow psycho-social support to be provided to the family, including support provided by social workers (e.g. assessment, advice, support and referral to other services), development of psycho-social support networks and provision of family group conferencing, etc.

In order to provide this assistance, there needs to be a system of identification and monitoring of 'at risk' families. Such measures aim to prevent the breakdown of families and the escalation of violence and maltreatment. Awareness campaigns on violence against children should also be launched in order to prevent family violence.

States must ensure that there is an effective child protection system in place to ensure that where abuse is suspected, there is an appropriate and timely response. An effective child protection system is one which is able to identify abuse and violence and have clear avenues for reporting regardless of the agency or professional that suspects the abuse.

The Committee on the Rights of the Child has proposed that all professionals connected with child protection, including the police, health care workers and teachers, should receive training on recognising when a child is suffering from abuse and be provided with clear guidance on how to respond.

Once abuse is suspected or known there should be a formal investigation by dedicated agencies. Under Article 39 of the UN Convention on the Rights of the Child, States are also obliged to take all appropriate measures to promote the physical and psychological recovery and social reintegration of the victim.

Judicial Intervention

The final step that States must be able to take to protect children from abuse, neglect and violence, is 'judicial intervention' in order to: prosecute the perpetrator; remove the perpetrator; or remove the child from the parents if this is in the best interests of the child (Article 9 of the UN Convention on the Rights of the Child). This procedure must be enshrined in law.

Article 9(1) governs the separation procedure: *"States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents."*

Any decision to remove the child must be fair. The body making the decision must be authorised to do so and should have the skills to determine what is in the best interests of the child based on the evidence presented. The assessment should be rigorous¹⁹. The Committee has criticised jurisdictions that allow social workers to remove children without a court hearing or judicial review.

Although the Convention does not detail standards to be upheld for the hearing, States are encouraged to apply the *UN Standard Minimum Rules on the Administration of Juvenile Justice*²⁰ to all welfare and care proceedings. This instrument emphasises the need for privacy, an expeditious procedure, a child friendly procedure, and representation for the child.

Any decision to remove the child must be subject to judicial review, a process that must be conducted as speedily as possible to reduce the detrimental effect of unlawful or unnecessary removal. The parents, grandparents or other legal representatives of the child must be able to challenge the placement²¹.

Prosecution of the parents or family members should only proceed where it is regarded as necessary to protect the child from significant harm and it is judged to be in the best interests of the child²².

Provision of Alternative Care

Children temporarily or permanently deprived of family care are entitled to special protection and assistance. The obligation of the State is strengthened by Article 3(2), which places a duty on the State *"to ensure the child such protection and care as is necessary for his or her well being"*.

The phrase 'special protection and assistance' goes beyond the obligation to provide alternative care. States must also ensure that they meet the physical, educational, social and health needs of the children. In particular, it has been recognised that children who have been abandoned, neglected, abused or bereaved will also need emotional support.

It is therefore important that child protection agencies are able to refer children to other state (and non state) services that can meet their needs. In particular, children must be able to access a range of mental health services. To ensure that children can access facilities which can meet their needs, the State is under an obligation to coordinate its children's services.

Article 20(2) places a specific obligation on States to ensure alternative care for children who are deprived of family care and to consider the desirability of continuity in a child's upbringing with regard to the child's ethnic, religious, cultural and linguistic background.

¹⁹ Art. 56, Draft UN Guidelines.

²⁰ UN Res 40/33-Beijing Rules 1985, Annex 2.

²¹ Art. 68, Draft UN Guidelines.

²² Art. 41, General Comment No 8 (2006), CRC/C/GC/8, 21/08/2006.

Article 20(3) provides a non-exhaustive list of alternative care options:

- foster placement;
- *kafalah* (Islamic Law) (a permanent form of foster care that stops short of the child taking the family's name or acquiring inheritance rights. Islamic law does not recognise adoption);
- adoption; and
- placement in an institution

This list is non-prescriptive, meaning that States do not have to provide all these options.

Although not explicitly stated, an implied hierarchy of alternative care options can be derived from Article 20 and principles in the Convention - the importance of children growing up in a family environment and the least possible use of institutionalisation. Preferably children should be placed with extended and close family members²³. Only after the non institutional options are exhausted or they cannot meet the needs of the child, should children be provided with a placement in an appropriate institution. Wherever possible, siblings with existing bonds should not be separated unless this is clearly not in the best interests of either child to keep the siblings together²⁴.

However, it is recognised that some children will not be able to cope in a family environment and may need a short or long term therapeutic institutional placement. In addition, placement in an institution might be suitable for children from large sibling groups who want to stay together, or for older children who are nearing independence.

If children are placed in institutions, then the State must take measures to ensure that they are provided with well-trained staff, that the children's needs are met, and that their quality of life is good. There should be a preference for small(er) residential institutions providing home-type settings are preferable to large children's homes²⁵.

The Draft UN Guidelines provide that children under the age of three years should only be placed in family-based settings²⁶.

Fostering. The Convention on the Rights of the Child does not specifically address standards for fostering. However, the 1986 Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally,²⁷ provides guidance on the provision and development of foster care. All placements should be regulated through law and placements should be monitored and followed up by a competent authority or agency.

All persons responsible for fostering should have received training or be professional qualified foster carers.

The Draft UN Guidelines provide more detailed standards for the development and implementation of fostering schemes.

Adoption. The Committee on the Rights of the Child has not promoted adoption as the solution for children without parental care and there is no international consensus on whether adoption, and therefore the permanent removal of the child from his/her family, is the best option for the child. Instead, the Convention recognises adoption as a legitimate option for children deprived of family care and Article 21 specifically guarantees children going through the adoption process certain rights, which the State is obliged to safeguard.

²³ Art. 8, Draft UN Guidelines.

²⁴ Art. 67, Draft UN Guidelines.

²⁵ Art. 124, Draft UN Guidelines.

²⁶ Art. 19, Draft UN Guidelines.

²⁷ GA Res.41/85.

Importantly, Article 21 states that the best interests of the child shall be the paramount (rather than a primary) consideration within the adoption process. The principles that a family must be found for the child, rather than a child for the family should be stated in law.

Although the best interests principle in Article 21 is intended to protect the child going through the adoption process, consideration should also be given to the best interests of children in the adoptive family.

The Committee on the Rights of the Child expects that adoption be regulated by national law and guidance and that in order to ensure the rights of children are protected, a Central Authority is set up to monitor all adoptions. All decisions taken regarding the adoption must be made by a competent, authorised authority, which is staffed by professional and trained personnel.

Article 21(a-e) of the UN Convention on the Rights of the Child deals with inter country adoption. The Convention does not promote inter country adoption but provides that it *may* be considered as an alternative means of child's care. However, the Convention is explicit that inter country adoption may only be chosen if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin – i.e. inter country adoption should only be used as a last resort. Domestic measures must be given preference over those that may be available outside the country (the principle of subsidiarity).

This principle is reflected in the 1993 *Hague Convention on Protection and Cooperation of Children in respect of Inter country Adoption*, the main international instrument governing inter-country adoptions. The Committee strongly recommends that all States should sign up to this Convention. Albania ratified the Convention and it entered into force on 1st January 2001.

The Hague Convention builds on Article 21 of the UN Convention on the Rights of the Child, providing a set of standards and safeguards for children going through the adoption process. In particular, it reiterates that States should ensure that no person or organisation makes an improper financial gain from the adoption, - this is vital for the eradication of child trafficking.

Ensuring Children's Rights are Protected in Alternative Care Settings

Article 3(3) of the UN Convention on the Rights of the Child provides that "States Parties shall ensure that institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision".

Article 3(3) therefore places a positive obligation on the State to adopt appropriate minimum standards for all institutions, services and facilities involved in child care or protection. Minimum standards must be applied regardless of whether institutions or services are State run or privately run.

Standards should be detailed and cover all aspects of the treatment and care of children. The adoption of such standards requires a comprehensive review by the State of institutions, services and facilities providing care and protection for children. It usually also implies an accreditation scheme for all non-state agencies involved in the care and protection of children. This authorisation should be granted and regularly reviewed by competent authorities²⁸.

In order to ensure that standards are being complied with, monitoring and inspection of bodies/individuals (i.e. foster carers) dealing with the protection and care of children must be regularly carried out. It is important that any inspection service is independent from the institutions and bodies being inspected.

Children and other interested persons must have access to an effective complaints mechanism to enable them to draw attention to any neglect, abuse or ill treatment in the institution or alternative

²⁸ Art. 107, Draft UN Guidelines.

care placement or to any general concerns that they have. This mechanism is distinct from the monitoring and inspection mechanism.

Periodic Review of the Placement. Article 25 of the UN Convention on the Rights of the Child obligates States to “recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement”.

This does not just include placements in institutions and alternative families but in hospitals, health units, boarding schools, detention centres etc and include State and private placements.

In addition to relating to a review of the standards of care that the child is receiving, Article 25 also places an obligation on States to ensure that the treatment that the child is receiving and the progress that the child is making is regularly reviewed. The UN Convention on the Rights of the Child does not set out the time frame for carrying out periodic reviews but it is assumed that the more involuntary the placement and the more extreme the treatment, the more frequent the review should be²⁹.

In addition, there is an obligation to review the circumstances of the placement itself. It is implied that if the placement is unnecessary or unlawful, that the authority would be able to take measures to end the placement and, if appropriate, return the child to the family.

Leaving Care. The Draft UN Guidelines highlight the importance of after care. Each child should have an individualised care plan which focuses on reintegrating the child into society. After-care should be prepared as early as possible in the placement and well before the child leaves the care setting³⁰. Children leaving care should be encouraged to take part in the planning process³¹.

Protection of Children from all Forms of Abuse and Violence

Under the UN Convention on the Rights of the Child, States also have a duty to protect the child from abuse and violence of children outside the family. States have a specific obligation to protect children from: illicit transfer abroad (Article 11); economic exploitation (Article 32); protection from narcotic substances (Article 33); sexual exploitation (Article 34); abduction and trafficking (Article 35); all other forms of exploitation (Article 36); and protection from all forms of torture, inhuman and degrading treatment or punishment (Article 37).

States must ensure that all forms of abuse and exploitation are prohibited in domestic legislation and that the law is enforced in practice. The State must take measures to prevent this exploitation and violence and provide rehabilitation and reintegration services to victims.

States must also enforce the law by prosecuting perpetrators. However, the State must also recognise the vulnerabilities of child victims and child witnesses and seek to take measures to protect children them before, during and after judicial proceedings. The UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime³² should be used as a basis for developing laws, policies and practice standards for dealing appropriately with children in the judicial process.

²⁹ Hodgkin, R., & Newell, P., *Implementation Handbook for the Convention on the Rights of the Child* (UNICEF, 2002) at p. 376.

³⁰ Art. 135, Draft UN Guidelines.

³¹ Art. 133, Draft UN Guidelines.

³² ECOSOC Res 2005/20.

Recommendations

1. Training on the European Convention on Human Rights and the UN Convention on the Rights of the Child should be provided on a regular and on-going basis to judges, lawyers, prosecutors and social workers to familiarise them with the concepts of rights raised by these Conventions and to enable them to recognise when issues of children's rights are raised in a case.
2. The Albanian judges should be encouraged to determine whether an issue of a child's Article 8 right to family and private life is raised by the case before them, and whether any proposed violation is proportionate and justified.

Chapter FOUR

Children in Difficult Circumstances in Albania

This Chapter provides a simple quantitative overview of the child protection situation in Albania. It is not the purpose of this child protection system analysis to provide new research that details the extent to which children suffer from different forms of violence, abuse, exploitation and neglect in Albania. Nonetheless, it is important to provide a situational context to which the child protection system – which is the focus of the report – is required to respond. This Chapter therefore provides a brief survey of the child protection situation data available as at the date of this report.

1. Population Data and Overview

The total population of Albania in 2005, was 3,316,000. Of this number, almost one third were children – some 1,024,000³³. The percentage of children in the population has decreased steadily over the last ten years from 38.4% in 1995 to 32.7% of the population in 2005. In 2005, the average Albanian household contained 4.2 members. Poverty is widespread in Albania. Of the 733,860 households in Albania in 2005, 18.6% were classified as poor, and 3.3% as extremely poor³⁴.

As discussed in Chapter Three, ‘child protection’ is defined in Article 19 of the UN Convention on the Rights of the Child as protection from violence, abuse, exploitation and neglect³⁵. In its global priorities, UNICEF has identified six situations when children are in priority need of protection. These are:

- children deprived of primary caregiver;
- children in conflict with the law and child victims and witnesses;
- child victims of trafficking;
- children subject to child labour;
- violence in different settings, including the home, school and institutions; and
- children in armed conflict.

2. Categories of Particularly Vulnerable Children

Children Deprived of Primary Caregiver

Being without a primary caregiver places a child at high risk of experiencing violence, abuse, exploitation or neglect. In particular, a child placed outside the family setting may easily become subject to neglect through the loss of his or her immediate support and care environment. Typically, children deprived of their primary caregiver are cared for either by their extended family or an alternative family (such as a foster family) or in some form of residential care. Some, mainly younger children may be adopted, gaining a new primary caregiver.

Compared to other countries in the CEE/CIS region, the number of children in residential care in Albania is extremely low. At the end of 2006, the best estimate put the number of children in public and private alternative care at 893 (0.9% of children).³⁶ Of these, the vast majority are in

³³ UNICEF TransMonee 2006.

³⁴ INSTAT, LSMS 2005. See also UNICEF Medium-Term Strategic Plan 2006-2009. Investing in Children: The UNICEF Contribution to Poverty Reduction and the Millennium Agenda. UN Doc. E/ICEF/2005/11.

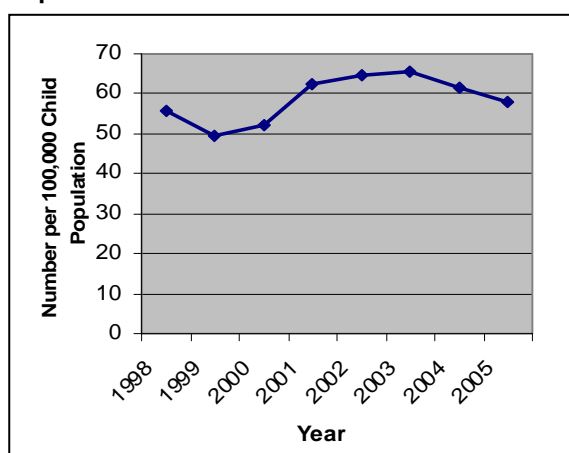
³⁵ See chapter 3 for discussion of the Article..

³⁶ Data from Ministry of Labour and Social Affairs, Budget and Planning Department. November 2006, INSTAT Monee 2006, and Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005. At p.24.

institutional care, with only 19 children cared for by foster families as part of a pilot scheme. If one takes the figures in public residential care, this amounts to approximately 58 per 100,000 children. By way of comparison, for the year 2005, Croatia had around 404 children in public residential care per 100,000 children, and FYR Macedonia had around 176 children per 100,000³⁷. The low proportion of children in residential care in Albania is probably largely due to the traditional strength of extended family networks³⁸. Indeed, it is estimated that around 16,000 children in Albania (1.6% of the entire child population) are cared for by extended family as a result of being orphaned or for other social reasons³⁹.

The proportion of children in public residential care in Albania has stayed reasonably constant over the last eight years, dipping slightly in 1999, before climbing again between 2000 and 2003. Since 2003, the proportion of children in public residential care per 100,000 child population appears to be gradually decreasing⁴⁰. This is shown in Diagram 2 below:

Diagram 2: Proportion of Children in Public Residential Care from 1998 to 2005



Accurate data on reasons for entry to residential care is extremely difficult to obtain. Nonetheless, of all children entering residential care in Albania, it appears that some 33% have been abandoned immediately after birth. Very few are in fact biological orphans. Of the 350 children in public residential care institutions in 2004, only 3% had both parents deceased⁴¹. In addition, it is estimated that around 30% of children are placed in public residential care due to non-nuclear family structures, such as children of single parents, children of divorced or remarried parents, or children of families where one primary caregiver is in prison⁴². Certainly, at least 50% of all children entering residential care are recorded as having living adult family members⁴³. It is difficult to provide accurate reasons for placement of the remaining children in residential care. Often, a placement is recorded as “for social reasons”, without providing specific information as to the child’s circumstances. Indeed, as discussed in Chapter Five, Section One of this report there is reason for concern as to the use of residential care and ‘gate keeping’ in entrance policies.

Whilst 30% of children in residential care come from a background of single parenting or other family disintegration, the percentage of divorce in Albania is relatively low with only 0.2% of all children recorded as having divorced parents⁴⁴. However, this trend is, as in many other countries, on the rise.

³⁷ UNICEF TransMonee 2006.

³⁸ See, for instance, Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005.

³⁹ *Ibid.* At p.25.

⁴⁰ Data from Ministry of Labour and Social Affairs/INSTAT Monee 2006.

⁴¹ *Analytical Report – Albanian System, in support of children without parental care.* UNICEF. October 2006. p. 20.

⁴² *Ibid.*, p. 21.

⁴³ Informal estimate calculated from data provided by Ministry of Labour and Social Affairs, November 2006.

⁴⁴ UNICEF TransMonee 2006, INSTAT.

Public residential care for children in Albania is divided into children's homes for children aged zero to three, for ages three to six, and ages seven to fifteen. In addition, children with disabilities may live in public homes for persons with disabilities. Upon reaching the age of three, some 26% of children in public residential care move to another institution, whilst 56% of children leaving public residential care aged zero to three are adopted. The remaining 18% of children aged zero to three return to their families⁴⁵. Adoption rates for children aged six to fifteen are significantly lower, with just 36% of children in this age bracket leaving residential care being adopted. However, increased numbers – some 27% of children aged six to fifteen leaving residential care – do return to their families⁴⁶. As discussed in Chapter Five of this report, children who remain in public residential care at the age of fifteen, frequently attend public boarding schools.

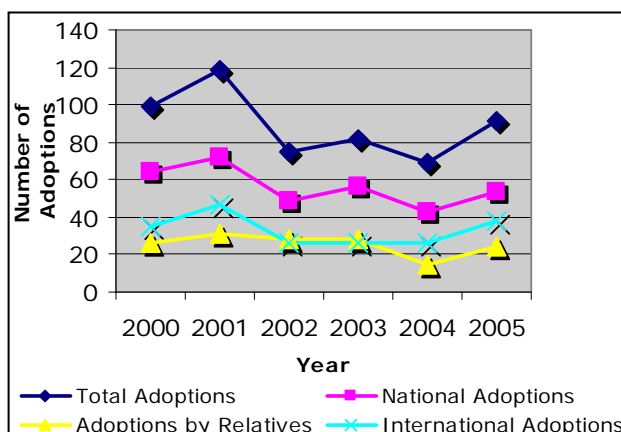
The movement of children out of public homes for persons with disabilities is relatively static, since, as will be discussed, these children are rarely adopted and do not frequently completely reintegrate into their families.

It should be noted that the above data concerns public residential care only. In respect of the non-public residential care sector, at present in Albania it is extremely difficult to locate consolidated information concerning reasons for placement and exit destinations.

The number of adoption cases in Albania is not particularly high. As noted above, just over half of all children leaving public residential care aged zero to three are adopted. According to data provided by the Albanian Adoption Committee, there has recently been a slight decrease in children being adopted since the year 2001. This decrease corresponds to the decreasing number of children placed in residential care (as shown in Diagram 2 above) as well as a decrease in the number of children being registered for adoption⁴⁷. Nonetheless, in the last year, the trend appears to be on the increase again, with the total number of adoptions up from 69 in 2004 to 91 in 2005⁴⁸. 58% of the 91 adoptions in 2005 (or 53 adoptions) were national adoptions and 42% were international adoptions (38 adoptions).

Diagram 3 below shows the trend in the number of adoptions in Albania from 2000 to 2005.

Diagram 3: Number of Adoptions in Albania from 2000 to 2005



⁴⁵ Data from Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005.

⁴⁶ Data from Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005 and Ministry of Labour and Social Affairs, November 2006.

⁴⁷ Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005. p. 26.

⁴⁸ UNICEF TransMonee 2006, INSTAT.

Children in Conflict with the Law and Child Victims and Witnesses of Crime

This report is not primarily concerned with the situation of children in conflict with the law in Albania. Whilst such children may well be at heightened risk of violence, abuse, exploitation or neglect due to their situation, the details of their treatment by the Albanian juvenile justice system has not been included within this child protection systems analysis. Nonetheless, in order to place children in conflict with the law in context, it is worth noting that, in the year 2005, some 245 children aged 14 to 18 were sentenced to deprivation of liberty following the commission of a criminal offence⁴⁹.

In that year, the Albanian police reported a similar number of children –some 273 – as having been victims of crime⁵⁰. Little information is available on the relative percentages of the different types of crime experienced by children. However, the government of Albania's response to the UN Violence Study shows that in 2003 some 40 serious sexual offences against children were recorded, making up around 15% of all recorded crimes against children. By comparison, recent research suggests that 13.3% of *all* children – some 136,200 children in total – report having experienced some form of sexual harassment⁵¹.

Child Victims of Trafficking

In accordance with the definition contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, an accepted definition of 'trafficking in persons' is: *'the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving and receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation'*⁵². The Protocol clarifies that exploitation shall include, at a minimum, *'the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs'*.

It is clear that prior to at least 2001, large numbers of both women and children were routinely trafficked out of Albania in a manner falling within this definition. A seminal report by Save the Children in March 2001 claimed that trafficking through false marriages and job offers, abduction and selling was widespread in the country and that the majority of victims were children. In one district alone, the report estimated that 87 females had been trafficked in the preceding three years, with 80% of them children. The report also noted that, in the year 2001, there were some 1000 mainly Albanian gypsy children in Thessaloniki, Greece, many of whom told stories of systematic violence and exploitation at the hands of their traffickers⁵³. Major trafficking routes at the time included by speedboat to Italy⁵⁴.

Subsequent anti-trafficking action has since resulted in a shift in trafficking patterns. As with child victims and witnesses of crime in general, identifying reliable statistics on the numbers of children subject to human trafficking is extremely difficult. Nonetheless, it is estimated that the numbers of recorded trafficking cases actually prosecuted involving children for the years 2002 to 2006 are: 14, 25, 10, 10, and 1, respectively⁵⁵. These figures would tend to suggest a significant decrease in the number of trafficked children. The picture is clouded, however, by data reported by NGOs offering social care services to trafficking victims. IOM for instance reports 18 child victim referrals

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Human Development Centre/UNICEF. Violence Against Children in Albania. Tirana. 2006. At p. 42.

⁵² Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. GA Resolution 55/25 of 15 November 2000. Ratified by Albania on 21 August 2002. Art 3.

⁵³ Child Trafficking in Albania. Save the Children. March 2001. Executive Summary.

⁵⁴ Ibid. p.11.

⁵⁵ Data from: (i) Joint East West Research Project on Trafficking Children for Sexual Purposes in Europe: The Sending Countries – Albania. January 2004. (ii) UNICEF Research Project, Child Trafficking Europe, Albania Country Information Paper, 2005. (iii) Ministry of Justice, 2005-2006.

in 2004 (compared with 10 recorded cases)⁵⁶. As such, it is clear that figures reporting recorded cases do not represent the whole picture and should be approached with caution. The official number of reported cases represents only those prosecuted and the actual number may be significantly higher. Moreover, the shift in trafficking trends is believed to have included a possible increase in the number of children trafficked internally and the number of children migrating for economic reasons prior to becoming victims of trafficking.

Officially, Albania is no longer designated as a destination country or country of transit for trafficking in humans. As such, trafficking flows are generally now considered to be solely outwards from Albania⁵⁷. Likely destination countries for victims originating from Albania continue to include Italy, Greece, France, UK, Austria, Belgium, Switzerland, Germany, the Netherlands and other Balkans countries. Socio-economic exclusion is a high risk factor for trafficking together with particular geographic areas, including those close to porous border areas (such as the Albania – Kosovo and Albania – FYR Macedonia borders) and areas suffering from higher than average poverty levels. Forms of exploitation of trafficking victims also appear to be shifting. Albanian children exploited in Greece for instance are now more likely to sell flowers, toys or trinkets, rather than to beg or work in car washes⁵⁸.

Children Subject to Child Labour

The extent to which children engage in child labour in Albania is only recently beginning to be understood. Whilst research remains fragmented, the amount of information available is presently increasing rapidly, following the introduction of local child labour monitoring mechanisms. A good starting point is the 2002 Living Standards Measurement Survey carried out by INSTAT. This showed that the majority of working children aged six to fourteen live in rural areas and are engaged in agricultural activities. Overall, 9.8% of children age 6-14 engage in work. Up to 16% of children of this age group in rural areas may carry out such work. The majority of these children continue to attend school, although some 8.9% have dropped out⁵⁹.

In addition to rural agricultural work, a number of children in large municipalities, such as Tirana, work in an informal labour market, selling items on the streets or washing cars. Up to 1.4% of all children in Tirana may be involved in such work⁶⁰. This percentage is significantly higher amongst poorer communities in Tirana, where around 5.4% of children under the age of sixteen years perform paid work⁶¹. It is also estimated that some 0.32% of all children in Tirana beg on the streets⁶². This category of children are the most marginalized, with some 60% of them never having attended school, and 36% only having completed primary education. Beggar children frequently live in households where nobody works and begging is the only means of living. They are prone to high mortality as a result of malnutrition, infectious disease, and a lack of health structures close to where they live⁶³.

Violence in the Home, School and Institutions

In recent years a large number of reports have highlighted the prevalence of violence against children within Albanian society.⁶⁴ This is true both in the home, school, and also when the child is

⁵⁶ UNICEF Research Project, Child Trafficking Europe, Albania Country Information Paper, 2005.

⁵⁷ Government of Albania. Ministry of Interior. Report of Anti-Trafficking Unit 2006.

⁵⁸ UNICEF Research Project, Child Trafficking Europe, Albania Country Information Paper, 2005.

⁵⁹ INSTAT. Living Standards Measurement Survey, 2002. Quoted in People and Work in Albania. INSTAT. 2002.

⁶⁰ Calculated from data contained in Needs for Information and Social Services in the City of Tirana. UNICEF 2002. p.24.

⁶¹ *Ibid.* p.25

⁶² Calculated from data contained in Needs for Information and Social Services in the City of Tirana. UNICEF. 2002. p.24.

⁶³ *Ibid.* p.25. This report does not examine protection of children caught up in armed conflict as this is not an issue in Albania.

⁶⁴ For example, according to the Government of Albania, 306 violent child deaths were reported in 2002. Government of Albania, response to UN Violence Study, 2005. Additionally, Forty sexual offences against children were registered in 2003, and 13.3% of children (136,200) reported having experienced sexual harassment. *Ibid.*; Human Development Centre, *Violence against Children in Albania*, 2006.

in institutional care. Significant difficulties arise however in quantifying this level of violence. This is due, in the most part, to variations in methodology of measurement and definitions of violence.

Violence in the Home. By way of illustration, the 2006 UNICEF/INSTAT Multiple Indicator Cluster Study (“MICS”) of mothers or primary caregivers suggested that 8.3% of children aged two to fourteen years experienced “*severe physical punishment*” in the home⁶⁵. By comparison, a 2006 study by the Human Development Centre shows that 25% of children interviewed reported some form of “*severe physical violence*” in the home⁶⁶. The Human Development Centre report lists a number of actions that it classifies as severe physical violence, including smacking on the head, striking on the head, kicking, grabbing by the throat, biting and forcibly pulling or pushing⁶⁷. The MICS report on the other hand does not specify whether interviewers provided a definition of severe physical punishment to respondents. Interpretation of such results must take into account: (i) the nature of the interviewee (whether the child or primary caregiver); and (ii) understandings and perceptions of what constitutes violence. It is clear from the studies that both have the capacity to significantly affect attempts at quantification of the phenomenon. Furthermore, 49% of all children aged 2-14 and 59% in the poorest households, report experiencing some form of psychological or physical punishment at home⁶⁸.

The MICS report did show expected differences in the use of any physical or psychological punishment of children in the home as against the level of the mother’s education and wealth index: 51% of mothers with either none or primary level education reported use of any psychological or physical punishment against their children, as compared with 44% of mothers with secondary or higher level education. In addition, 59% of mothers in the poorest quintile reported use of such punishment, as compared with 42% of mothers in the richest quintile⁶⁹.

Overall however, the MICS survey found that only 5.6% of mothers believed that a child should be subjected to physical punishment⁷⁰. On balance, it is probably fair to adopt one of the conclusions of the Human Development Centre report that “*even though it is commonly held that violence should only be used where necessary, in day-to-day practice physical and psychological violence are the chief means of ensuring discipline... at home*”⁷¹. Moreover, the Human Development Centre report presents good evidence that the main perpetrator of violence against children in the home is the mother, followed by the father, and then other siblings⁷².

Violence at School. In respect of violence at school, research suggests that some 26% of all children have experienced physical violence whilst at school⁷³. This research included pinching, smacking, pulling of hair, forcible pulling and pushing, hitting, kicking, striking, biting, and grabbing by the throat as forms of physical violence. In nearly half of such cases the perpetrator appeared to be another student. However, in 36% of cases the perpetrator was reported to be a teacher. In only 15% of cases was an outsider who had come onto the school premises blamed⁷⁴.

Violence in Institutions. Research shows that levels of physical violence against children in public residential care are significantly higher than that experienced in home or in the school. Some 50% of children in public residential care report having experienced one of the forms of physical violence listed above⁷⁵. No data is available, however, concerning the extent to which such violence is perpetrated by staff of other children in residential care.

⁶⁵ UNICEF/INSTAT. Multiple Indicator Cluster Survey 2006. Preliminary Report. Table CP.4.

⁶⁶ Human Development Centre. Violence Against Children in Albania. Tirana. 2006. At p. 67.

⁶⁷ *Ibid.*

⁶⁸ Human Development Centre/UNICEF. Violence Against Children in Albania. Tirana. 2006.

⁶⁹ UNICEF/INSTAT. Multiple Indicator Cluster Survey 2006. Preliminary Report. Table CP.4.

⁷⁰ *Ibid.*

⁷¹ Human Development Centre/UNICEF. Violence Against Children in Albania. Tirana. 2006. At p. 7.

⁷² *Ibid.* p.62.

⁷³ *Ibid.* p.27. 98.5% of children are enrolled in basic education; the figures for secondary education range from 70% in Tirana to 25% in rural areas. UNICEF, *Facing the Hidden Drop-out Challenge in Albania*, 2006.

⁷⁴ *Ibid.* p.64.

⁷⁵ *Ibid.* p.27.

As concerns the use of violence against children in contact with the criminal justice system, research reports suggest that ill-treatment can occur at the moment of arrest or whilst being held in initial police detention. Detainees do not generally appear to submit written complaints however, and police personnel deny that such cases of violence or ill-treatment of prisoners occur. Prisoners in penitentiary institutions have alleged that prison personnel make use of offensive verbal communication and on occasion apply psychological pressure. Again, however, such allegations have not clearly been substantiated⁷⁶.

In summary, research on the level of violence in Albanian society is sporadic and, at times, contradictory. As at the time of this report, UNICEF is in the process of funding research concerning the measurement of standard violence indicators. The results of this research were not available, however, as at the time of writing.

Nonetheless, overall, it appears that the overwhelming majority of adults maintain that physical and psychological violence can have positive effects on a child's education and development, even though many are also aware of its negative consequences⁷⁷. There is a grave danger that children have absorbed the idea that physical and psychological violence is a necessary part of life, both at home and in school. One out of every two children at home, and one out of nearly three children in schools, for instance, acknowledge that violence exercised against them is necessary⁷⁸.

⁷⁶ See for instance, Observance of Prisoners and Pre-trial Detainees Rights. Albanian Helsinki Committee. 2005. At p. 21 and 33.

⁷⁷ Human Development Centre/UNICEF. Violence Against Children in Albania. Tirana. 2006. At p. 7.

⁷⁸ *Ibid.*

Chapter FIVE

Section One

Social Services Sector

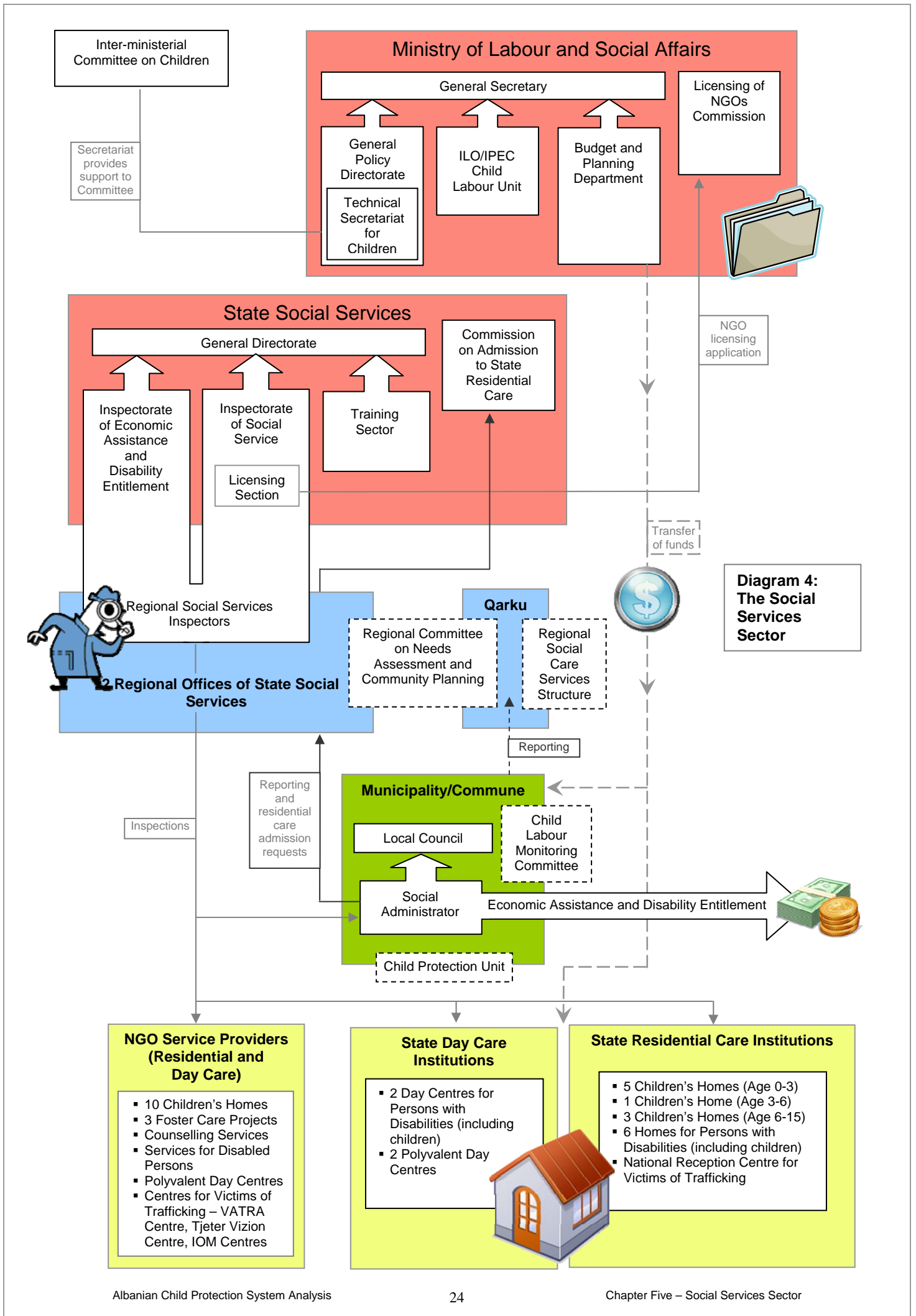
1. Overview

Over the last 14 years there has been significant development as well as reform of the social services sector. This reform process has included the promulgation of a new law on social services, together with the development of a system-wide social services strategy and standards.

In the reformed social services structure, overall responsibility for the development of social services policies, legislation, planning, management of funds, promulgation of standards, and licensing of private service providers lies with the Ministry of Labour and Social Affairs. The Ministry oversees service delivery through its intermediary institution, central State Social Services, and, increasingly, through local government. NGOs also provide a significant level of social services for children. The Ministry of Labour and Social Affairs also oversees the administration of economic support for families with no or insufficient income, as well as economic support for persons with disabilities. Persons assigned as 'Social Administrators' within each municipality and commune distribute such economic support. In addition to these core activities, there are a number of pilot programmes covering the prevention of child labour and the coordination of social services delivered by NGOs.

The social services reform process commenced in 2005, and is planned to take place over a five-year period. As a result, at the date of this report, the social services sector is in a state of flux. At present, social services do not provide what, in Western Europe, would be regarded as a proactive child protection system. In other words social services do not focus on the identification of child protection concerns, assessing children and the provision of resources for assisting and promoting the preservation of family units, and formal referral mechanisms for responding to cases of violence, abuse, exploitation or neglect. Rather, at present, social services sector concentrate on the delivery of economic assistance and residential care.

Diagram 4 below sets out the institutional structure of the Albanian social services sector. Colour coding is used in the diagram to signify red for central level, blue for regional level, green for municipality/commune level, and yellow for service provider level. Thick arrows within the diagram signify institutional structural relationships, and hence primary reporting lines. Thin arrows between institutions or persons are 'flagged' in order to mark their significance, such as 'transfer of funds', 'inspections', 'residential care admission requests', or 'licensing applications'. The diagram is not exhaustive in showing all directorates or sections within the Ministry of Labour and Social Affairs or State Social Services. Rather, it seeks to identify the primary actors relevant to the social services sector as a component within the child protection system. Moreover, the size of boxes does not necessarily correspond to the staffing or resource allocation of directorates, sections or other institutions. Boxes with dotted lines around them signify structures that exist, as at the date of this report, only in a pilot or project form.



2. Applicable Law and Policy

The Social Services Law

There is no specific legislation in Albania covering child protection. Development and operation of the Albanian social services sector is governed by primary legislation in the form of Law 9355 on Social Assistance and Services of 10 March 2005 (the “Social Services Law”). Law 9355 states that its purposes are to:

“define social assistance and services for individuals and groups in need who are unable to provide for their basic life necessities or to develop... due to limited economic, physical, psychological and social circumstances”; and to:

*“mitigate poverty and social exclusion for individuals and families... through ensuring an intervention and service system aimed at improving their living conditions”.*⁷⁹

Whilst it is unlikely that the drafters of the Social Services Law specifically had child protection concerns in mind, these broad purposes nonetheless do encompass the provision of services for the protection of children from violence, abuse, exploitation and neglect. Children subject to such ill-treatment clearly fall within the definition of “*individuals and groups in need*” who are “*unable... to develop*” due to their “*physical, psychological and social circumstances*”. As such, this places the social services sector as a key component within the Albanian child protection system.

The Social Services Law envisages that the State’s social assistance and services response to such individuals and groups in need will consist of: (i) economic assistance⁸⁰, (ii) disability entitlement⁸¹, (iii) social care services (residential care and community care)⁸², and (iv) socio-medical care services⁸³. The Law specifies that social care services consist of both publicly and privately funded services.⁸⁴ The Law also sets out the responsibilities of the Ministry of Labour and Social Affairs⁸⁵, the State Social Service⁸⁶, Social Administrators in municipalities and communes⁸⁷, and the municipal/communal councils in matters of social services⁸⁸. In addition, the Social Services Law addresses financing of social assistance and care services⁸⁹.

The Social Services Strategy

The means of implementation of the Social Services Law is set out in the Albanian Strategy on Social Services 2005 – 2010 (the “Social Services Strategy”). This Social Services Strategy has seven key objectives: (i) the decentralisation of social services through the transfer of their administration to local government units, (ii) the de-institutionalisation of residential services and their transformation into community-based services, (iii) the establishment of new social services at local level, (iv) ensuring the sustainability and continuity of public and private social services, (v) the involvement of civil society and business in the provision of social services, (vi) an increase in the quality of social services, and (vii) capacity building, strengthening and policy assessment⁹⁰. An Action Plan that sets out concrete actions, deadlines, implementing institutions, and financial

⁷⁹ Law 9355 on Social Assistance and Services of 10 March 2005, Art. 1.

⁸⁰ *Ibid.* Arts. 5, 19 and 20.

⁸¹ *Ibid.* Art. 11.

⁸² *Ibid.* Arts. 12(1), 13(1) and 17.

⁸³ *Ibid.* Arts 12(2) and 13(2).

⁸⁴ *Ibid.* Art. 17.

⁸⁵ *Ibid.* Art. 27.

⁸⁶ *Ibid.* Art. 26.

⁸⁷ *Ibid.* Art. 31.

⁸⁸ *Ibid.* Art. 29.

⁸⁹ *Ibid.* Chapter VI.

⁹⁰ The Strategy of Social Services 2005 – 2010. Ministry of Labour and Social Affairs, Department of Social Services. Tirana, 2005. At Para. 3.

planning for each of the seven objectives accompanies the Social Services Strategy (the “Action Plan”)⁹¹.

In addition to the Social Services Strategy itself, the Ministry of Labour and Social Affairs was also responsible for chairing the Inter-ministerial Working Group on Disability Issues, leading to the promulgation of a National Strategy on Persons with Disabilities (the “Disability Strategy”). The Disability Strategy includes the objectives of (i) ensuring rights for persons with disabilities, (ii) providing the best education for persons with disabilities, and (iii) supporting quality living in the community for persons with disabilities⁹².

Social Services Standards

In line with the sixth objective of increasing the quality of social services, the Ministry of Labour and Social Affairs has produced general standards for social services in Albania (the “Social Services Standards”)⁹³ and standards for children in residential care (the “Residential Care Standards”)⁹⁴. As of January 2007, the Ministry has also created draft social services standards for victims of trafficking (the “Draft Trafficking Standards”)⁹⁵ and draft standards of social services for persons with disabilities (the “Draft Disability Standards”)⁹⁶. The Social Services Standards were drafted in a participatory process using multi-disciplinary, multi-agency working groups in four pilot regions. A multi-disciplinary group within the Ministry produced the Residential Care Standards. Both sets of standards have been published in the Official Gazette resulting in their distribution to regional authorities.

Secondary Legislation

Implementation of the Social Services Law and Strategy is highly dependent upon secondary legislation in the form of Decisions of the Council of Ministers (“DCMs”). The Action Plan specifically envisages DCMs dealing, amongst others, with:

- the responsibilities of social services structures at regional, municipal and communal level, criteria for economic assistance and disability entitlement;
- the transfer of social services to the administration of local government units;
- prevention of the institutionalisation of children;
- the establishment of a social fund;
- the licensing of public and private social services providers; and
- procedures related to the inspection of social services.

A number of these DCMs have already been drafted. As will be seen, a number of DCMs do contain specific provisions that are relevant to the Albanian child protection system.

It is worth noting at this stage, however, the existence of a number of *high-level* provisions in the primary legislation and policy that provide a broad mandate for the social services sector to engage in child protection work:

- The Social Services Strategy includes a “*Protection Principle*” as a basis for a social policies and the provision of services. The Strategy states that: “*Certain groups including children should enjoy special protection in conformity with their rights and needs.*”

⁹¹ Action Plan on the Strategy of Social Services. Ministry of Labour and Social Affairs.

⁹² Albanian National Strategy on Persons with Disabilities. Inter-Ministerial Working Group on Disability Issues. p.8.

⁹³ Standards for Social Services in Albania. Ministry of Labour and Social Affairs. Tirana, June 2005.

⁹⁴ Social Services Standards for Children in Residential Institutions. Ministry of Labour and Social Affairs. Tirana, August 2005.

⁹⁵ Draft Social Services Standards for Victims of Trafficking. Ministry of Labour and Social Affairs. 2006.

⁹⁶ Draft Standards of Social Services for Persons with Disabilities. Ministry of Labour and Social Affairs. 2006.

*Children are entitled to be protected from violence, exploitation, abuse and neglect wherever they are*⁹⁷.

- Implementation of this principle is further envisaged in the Action Plan, which proposes the concrete action of *“Completing and increasing the capacities of structures at local level for the protection of children”*⁹⁸.
- The Social Services Standards moreover incorporate the fundamental UN Convention on the Rights of the Child principle of the provision of all necessary protection and assistance for the family unit: *“Social service providers [shall] work in partnership with families, and communities... The well-being of persons in need should be seen as part of the well-being of families and the community”*⁹⁹.

Such provisions provide a clear mandate for social services to undertake child protection work. Notwithstanding this mandate however, the guiding legal and policy framework (consisting of the Social Services Law, Strategy and Standards) fails to address a number of areas vital to child protection. The legislation does not contain a legal definition of ‘children at risk’, a legal basis for child protection referrals or a legal framework for addressing emergency child protection situations, contrary to the requirements of Article 19 of the UN Convention on the Rights of the Child.

Labour Law

Some additional protection is provided by the legal framework relating to child labour. The first protection is found in Article 54 of the Albanian Constitution. This provides that *“Every child has the right to be protected from violence, ill treatment, exploitation and their use for work, particularly when under the minimum age for work, which could damage their health or morals, or endanger life or normal development”*¹⁰⁰.

After the Constitution, the primary piece of governing legislation in the field of labour is the 1995 Labour Code¹⁰¹. The key features of the Labour Code are:

- all forms of compulsory labour are prohibited¹⁰²;
- a minimum age of employment of sixteen years. However, children aged from fourteen to sixteen years of age may be employed during school holidays, provided that this employment does not harm their health or development¹⁰³;
- children between the ages of sixteen and eighteen years of age may engage in “easy jobs” that do not harm their health or development¹⁰⁴;
- persons under eighteen years may not be employed for more than six hours a day or carry out night work¹⁰⁵;
- only persons over the age of eighteen years may be employed to carry out “difficult jobs” that pose a danger to health or development¹⁰⁶;

⁹⁷ The Strategy of Social Services 2005 – 2010. Para 1.

⁹⁸ Action Plan on the Strategy of Social Services. Para 2.3.4.

⁹⁹ Standards for Social Services in Albania. Para 2(f).

¹⁰⁰ Albanian Constitution 1998. Art. 54(3).

¹⁰¹ Law 7961 on the Code of Labour of the Republic of Albania dated 12 July 1995, as amended by Law 8085 of 13 March 1996 and Law 9125 of 29 July 2003.

¹⁰² *Ibid.* Art 8(1). “Compulsory labour” is defined as “any job or service imposed on an individual against his or her will, threatening him or her through any punishment”.

¹⁰³ *Ibid.* Art. 98(1).

¹⁰⁴ *Ibid.* Art. 99(1).

¹⁰⁵ *Ibid.* Arts. 78(2) and 101.

¹⁰⁶ *Ibid.* Art 100.

- the Labour Code does not apply to “*family jobs*” that are carried out by family members for as long as they share the same household, although an employee working at his or her home does enjoy the same rights as an employee working at a private enterprise¹⁰⁷; and
- international conventions ratified by Albania are directly applicable to the employment sector¹⁰⁸.

The minimum employment ages of sixteen (for ‘easy’ work) and eighteen (for ‘difficult’ work) specified by the Labour Code are consistent with the ILO Minimum Age Convention and Minimum Age Recommendation 146¹⁰⁹. In addition, the minimum employment age is consistent with the Albanian age of compulsory education of sixteen years¹¹⁰.

However, the Labour Code’s use of the terms “*easy*” and “*difficult*” jobs, is not consistent with the ILO Worst Forms of Child Labour Convention and Recommendation 190¹¹¹. The Worst Forms of Child Labour Convention obliges States Parties to determine by national laws or regulations, those types of work which are likely to harm the health, safety or morals of children¹¹². Unfortunately, whilst the Labour Code provides that “*easy jobs*” and “*difficult jobs*” shall be specified by DCM, this has not yet occurred in practice¹¹³. As such, there is currently no clear definition in Albanian labour law of the types of work which may be considered to harm the health, safety or morals of children.

Some additional procedural safeguards are provided by DCM 384 on the Protection of Children at Work. This DCM provides that employers must inform the labour inspectorate concerning the recruitment of any child between the ages of sixteen and eighteen years, including details as to the nature of the work and the hours of work¹¹⁴. The DCM states that the labour inspectorate shall prevent such recruitment wherever the work: (i) exceeds the physical or psychological capacity of the child; (ii) may expose the child to harmful physical, biological or chemical agents; (iii) presents a risk of accident concerning which the child may lack the experience or knowledge to identify or prevent; or (iv) presents a danger to health due to high or low temperatures or noise or strong vibrations¹¹⁵. An additional DCM then provides a further list of jobs that may expose children to physical, biological and chemical agents¹¹⁶.

However, the combined effect of both of these DCMs is still insufficient to cover the worst forms of child labour as set out in the ILO Worst Forms of Child Labour Convention. In particular, nowhere in the Labour Code or additional DCMs is there a definition of work, which is likely to harm the “*morals*” of children¹¹⁷.

Overall, the Albanian labour legislation suffers from a lack of concrete definition of the worst forms of child labour, a lack of legal regulation for household and self-employed labour, and a failure to provide for an appropriate response in cases where children are engaged in forced labour¹¹⁸.

¹⁰⁷ *Ibid.* Art 5(c) and 15(2).

¹⁰⁸ *Ibid.* Art 11(1).

¹⁰⁹ ILO C138 Minimum Age Convention, 1973, ratified by Albania by Law 8086 of 13 March 1996, and ILO Minimum Age Recommendation, 1973, (No. 146).

¹¹⁰ Law 7952 on the Pre-University Educational System of 21 June 1995. Art. 8.

¹¹¹ ILO C182 on the Worst Forms of Child Labour, 1999, ratified by Albania by Law 8774 of 23 April 2001, and ILO Recommendation, 1999, (No. 190).

¹¹² ILO C182 on the Worst Forms of Child Labour, Art. 4(1).

¹¹³ DCM 207 of 9 May 2002 does specify a “*difficult job*” as “*one that endangers life and health*” (and imposes a concomitant obligation on the employer to ensure working conditions that protect the employee’s health). However, this definition adds little to that already present in the Labour Code itself.

¹¹⁴ DCM 384 on the Protection of Minors at Work of 20 May 1996. Art 4.

¹¹⁵ *Ibid.* Art 5(a)-(d). Unofficial translation.

¹¹⁶ DCM 205 of 9 May 2002.

¹¹⁷ ILO C182 on the Worst Forms of Child Labour, Art. 3(d).

¹¹⁸ See also Child Labour and the Albanian Legal Framework. Ministry of Labour and Social Affairs, ILO/IPEC, UNICEF. Tirana, July 2004.

3. Institutions, Mandates and Coverage

The Ministry of Labour and Social Affairs

Article 27 of the Social Services Law provides that the Ministry of Labour and Social Affairs is the primary authority responsible for formulating policies, legislation, and programming for the social services sector. It is also responsible for the planning of economic assistance, disability entitlement and social services, for the development of norms and standards of services, and for monitoring their implementation at both central and local level in the public and non-public sector.

As depicted in the sector institutional Diagram 4, the Ministry is home to a central Commission responsible for the licensing of NGO social services providers (the “NGO Licensing Commission”), the technical secretariat to the Inter-Ministerial Committee on Children, and the ILO/IPEC-supported Child Labour Unit; all of which will be examined below. In addition, the Ministry Budget and Planning Department presently retains direct financial control of the public residential and day care centres.

The Ministry’s policy function is provided by the General Policy Directorate, which contains a Directorate of Social Policies and Services. Within this Directorate, one specialist staff member is responsible for policy issues relating to children, human trafficking, and Roma and Egyptian communities. This specialist is tasked with evaluating the social situation of, and services provided to these groups.

The General Policy Directorate also houses the Technical Secretariat for Children, which provides support to the Inter-ministerial Committee on Children. The primary objective of the Technical Secretariat is to monitor the progress of implementation of the National Child Strategy. It aims to achieve this by: (i) the identification of concrete objectives for children to be achieved by different line ministries; (ii) the creation of focal points for monitoring the National Child Strategy within line ministries; (iii) the periodical collection of information from focal points; and (iv) collating statistics and compiling progress reports for the Inter-Ministerial Committee.

State Social Services

State Social Services operates as an intermediary institution between the policy making level of the Ministry of Labour and Social Affairs and the service provision level. Under Article 26 of the Social Services Law, State Social Services is responsible for the implementation of the policies of the Ministry in the areas of social assistance and care services. In practice, State Social Services has two primary functions:

- monitoring and inspection of the use of funds and service provision; and
- training for staff and service providers.

As shown in Diagram 4, the inspection function is divided into two inspectorates: one concerned with economic assistance and disability entitlement, and the second concerned with service provision.

In addition, State Social Services houses the central level Commission on Admission to State Residential Care. The role of this Commission is discussed in detail in Part Four below.

In addition to its headquarters in Tirana, State Social Services operates through a regional office situated in each of the twelve regions of Albania. Each regional office consists of a Regional Director of State Social Services together with a staff of social services inspectors. As will be discussed below, the role of regional offices of State Social Services is to inspect and control all social services institutions within their respective region. As such, regional offices of State Social Services play only a limited role in specific case referrals and, not holding their own budgets, are unable to make substantial service provision level decisions having financial implications.

Regional/Qarku Authorities

In accordance with the Law on the Organization and Functioning of Local Government, the representative organ of the region is the Regional Council¹¹⁹. Under this Law, central government institutions are empowered to authorize local government units – including regions – to exercise delegated functions. In such cases, the central government institution agrees to ensure the necessary financial support for the exercise of the delegated function¹²⁰.

In August 2005, the Ministry of Labour and Social Affairs, by DCM, delegated social service functions to four pilot regions – Tirana, Shkodra, Durrës and Vlorë. This is to be followed by eight further regions between 2007 and 2008¹²¹. The delegation of functions creates “*social care service structures*” at the Regional Council level of these four pilot regions, together with a regional Committee for the Assessment of Needs and Planning of Services (the “Regional Needs Assessment Committee”).

The regional social care service structure is responsible for identifying the needs of social care institutions managed by the Regional Council, and may submit proposals to the Regional Needs Assessment Committee for the introduction or closedown of social services within the region¹²². This is to be achieved with any of funds from the region’s own resources, from the state budget or from third party donors.

It appears that the activities of the regional social care service structure are to be coordinated with the regional office of State Social Services primarily at the level of the Regional Needs Assessment Committee. A draft directive of the Ministry of Labour and Social Affairs provides that membership of the Regional Needs Assessment Committee is to include a representative from the regional State Social Service¹²³. In addition, this directive states that individuals hired by the regional social service sector will be trained alongside inspectors of the regional office of State Social Services by the Training Sector within central State Social Services¹²⁴.

One practical difficulty with this scheme is the fact that regions are not at present responsible for funding or managing any social service providers. Decentralization of public social services has focused to date on the transfer of ownership and management competence for social services to *municipalities and communes* rather than regions. In response to this problem, the draft directive contains a power for the region to assume management of public residential or day social care institutions already transferred to municipalities or communes.

In theory, this framework sets the stage for regional level assessment and response to the needs of particularly vulnerable groups. The draft directive, for instance, specifically mentions the role of the region in establishing services for abandoned children, mentally disabled individuals, and individuals addicted to drugs or alcohol¹²⁵. Moreover, the draft directive refers to periodic reporting by municipality and commune social administrators to the regional social care service structure, with the production of a “*map of social care services*” at regional level¹²⁶.

As of January 2007, however, the proposed structure does not yet appear to be operative. Whilst at least one region – Kukes – appears to have carried out a basic regional needs assessment (through the Kukes Regional Needs Assessment Committee), all public residential care institutions in Albania nonetheless continue to be financed directly by, and report to, the Budget and Planning Department within the Ministry of Labour and Social Affairs. In addition, a budget stream planned by the Ministry of Labour and Social Affairs for the support of new social care services – the

¹¹⁹ Law 8652 on the Organization and Functioning of Local Government dated 31 July 2000. Art. 6.

¹²⁰ *Ibid.* Art 12.

¹²¹ DCM 563 on Identifying the Responsibilities of the Region for the Distribution of Social Care Services of 12 August 2005. Art 1(3).

¹²² *Ibid.* Art 2.

¹²³ Draft Directive on the Implementation of the Decision of the Council of Ministers No. 563, dated 12 August 2005. Ministry of Labour and Social Affairs and Ministry of Interior. 2006. Art 17.

¹²⁴ *Ibid.* Art 5.

¹²⁵ *Ibid.* Art 8.

¹²⁶ *Ibid.* Art 22.

“Social Fund”¹²⁷ – is not yet available for use by local government units. Moreover, the regional office of State Social Services in at least one of the pilot regions had no knowledge, when interviewed, of the existence or role of the Regional Needs Assessment Committee or regional level social care service structure.

The Municipality/Commune

Article 6 of the Law on the Organization and Functioning of Local Government specifies that the representative organ of the commune or municipality is the communal or municipal council. The executive organ of the commune or municipality is the Mayor (Kryetar).

The Social Services Law, in Articles 29, sets out specific responsibilities for the municipal/communal council. These responsibilities include¹²⁸:

- approving the amount of economic assistance and disability entitlement distributed within the municipality/commune;
- taking decisions on individuals, families and types of services to be provided on the basis of an assessment of the needs of such person carried out by the Social Administrator;
- contracting with licensed providers of private services where such services are not provided by public providers;
- through their own funds, supporting families in need with economic assistance or other forms of immediate assistance; and
- drafting a social services development plan based on local resources, needs and priorities and approving and supporting social care services on the basis of the local priority needs assessment.

The Social Services Law envisages that the municipality/commune will play a key role in both: (i) the delivery of economic assistance and disability entitlement to qualifying individuals and families; and (ii) the planning and management of local social care services. This key role is also entrenched in the Social Services Strategy, which has, as its first objective, the “*Decentralisation of social services and an increase in the role of local government in their delivery*”. As discussed below, it is apparent that the municipality/commune is presently active in the delivery of economic assistance, but is still in the process of receiving responsibility for the administration of local social care services.

The Social Administrator

The post of Social Administrator is located within the municipality or commune local government structure. Each municipality and commune has at least one Social Administrator, whilst Tirana municipality has some forty Social Administrators, divided between the mini-municipalities. A large municipality may have up to six staff in the Social Administrator’s office. The Social Services Law provides for a wide range of social functions for the Social Administrator, including the coordination and delivery of social care services. However, practice assessment reveals that the Social Administrator’s role, in practice, is usually limited to the administration of economic assistance and disability entitlement.

In addition to the post of Social Administrator at the municipal/commune level, two additional structures relevant to the child protection system presently exist in a pilot capacity in a number of municipalities. The first such structure consists of UNICEF-supported municipal **Child Protection Units**, whilst the second is the ILO/IPEC-supported municipal **Child Labour Monitoring Committees** structure. Both of these effectively function as referral mechanisms. As such, they are discussed in Part Four of this Section, below.

¹²⁷ Law 9355 on Social Assistance and Services of 10 March 2005, Art 39.

¹²⁸ *Ibid.* Art 29.

Economic Assistance (Ndhime Ekonomike). The basis for economic assistance is found in Articles 10, 19 and 20 of the Social Services Law, together with DCM 787 of 14 December 2005¹²⁹. Economic assistance may be granted either in full or in part. Full economic assistance is granted to families or persons who do not generate any income, whilst partial economic assistance is available where a claiming family generates insufficient income from land, livestock, horticulture, pensions or other source¹³⁰. In addition, unemployed orphans above the age of 25 years, orphans aged 18 to 26 (who are not in residential care), and parents of triplets or more siblings may claim economic assistance¹³¹.

Procedurally, the individual or family head applying for economic assistance must submit documentation to the Social Administrator responsible for the municipality/commune in his place of residence. This documentation must include a statement on the household's social and economic situation, a family certificate, any land ownership certificate, and confirmation from the local labour office that all the able-bodied household members applying for economic assistance are unemployed job-seekers¹³². Households may be disqualified from benefiting from economic assistance in the event that, amongst others, one member is the owner of capital (excluding the dwelling and farm land), is an employer, employed or self-employed, is abroad, is not registered as an unemployed job-seeker, has declined any job offered by the labour office, or has abandoned or failed to use property or other resources¹³³.

Neither the Social Services Law nor DCM 787 directly require the Social Administrator to actually visit an individual or family applying for economic assistance in his or her home. However, Article 31(2) of the Social Services Law does state that a responsibility of the Social Administrator is to "verify the social and economic situation of families in need, when they first enter into the scheme, as well as, twice a year, the social and economic situation of all families benefiting from economic assistance". In interviews, some Social Administrators took the view that this provision did oblige them to visit families and claimed that they carried out an assessment visit to each family prior to the granting of any economic assistance. On the other hand, many Social Administrators reported being too busy to carry out family visits. In general, those who did carry out family visits tended to be from municipalities and communes situated in the regions, whilst those in Tirana were prevented from doing so by a prohibitively large workload.

Following the application for economic assistance, the Social Administrator is obliged to confirm the validity of the information through the labour office, tax office, social insurance office, land registration office, car registration office, and labour inspectorate¹³⁴. Once the Social Administrator has decided that an applicant is eligible for economic assistance, he proposes the family in need to the municipal/communal council, which approves the grant of assistance¹³⁵. In practice it appears that the municipal/communal council approves around ninety percent of such proposals.

According to DCM 787, full monthly economic assistance amounts to: 2,600 Lekë per month for the household head plus an additional 2,600 Lekë per month for household members at or above working age, plus 600 Lekë per month for every other household member at working age, plus 700 Lekë for every other household member below eighteen years of age. However, the full amount of economic assistance, irrespective of the household composition, cannot be higher than 7,000 Lekë per month. Partial economic assistance is calculated as the difference between the maximum level and the actual household monthly income¹³⁶.

A family with two eligible adults need only have three children before reaching the maximum economic assistance threshold of 7,000 Lekë per month. In practice, the average amount of

¹²⁹ DCM 787 on the Establishment of the Criteria, Procedures and the Amount of Financial Assistance of 14 December 2005.

¹³⁰ Law 9355 on Social Assistance and Services of 10 March 2005, Art 19.

¹³¹ DCM 787 of 14 December 2005. Art 1.

¹³² *Ibid.* Art 2.

¹³³ *Ibid.* Art 10.

¹³⁴ *Ibid.* Art 14.

¹³⁵ Law 9355 on Social Assistance and Services of 10 March 2005, Article 31(3) and 29(6).

¹³⁶ DCM 787 on the Establishment of the Criteria, Procedures and the Amount of Financial Assistance of 14 December 2005. Arts 18 and 22.

economic assistance received per family is only 2,000 Lekë per month. This is insufficient to support a family in Albania. By way of comparison, the average public and private sector monthly wage was 21,872 Lekë in 2004, with the statutory minimum wage set at 12,000 Lekë in 2005¹³⁷. The INSTAT Living Standards Measurement Survey concluded, in 2001, that households with an income of less than 14,000 Lekë per month could not meet their basic expenditure¹³⁸. Not only is economic assistance insufficient to support poor families, but being poor does not guarantee its receipt. Nationally, 69% of households in severe poverty and 75% of all poor households do not receive the benefit¹³⁹. Land ownership is frequently the major obstacle in the qualification of such families for economic assistance. Applicants who are refused economic assistance by a decision of the municipal/communal council do, however, have a right of appeal to the court¹⁴⁰.

Disability Entitlement. Disability entitlement is provided to persons whose ability is temporarily or permanently limited as a result of physical, sensorial, intellectual and psychological impairments, born or acquired due to accident or disease, and to paraplegic or tetraplegic individuals¹⁴¹.

In the same way as for economic assistance, applicants must submit their claim for disability entitlement to the Social Administrator in accordance with the requirements of a procedural DCM; number 618¹⁴². Individuals applying for disability entitlement for the first time must also request a referral to the Medical Commission for Determining Ability to Work of the State Social Insurance Institute (the "Medical Commission"). The Social Administrator transmits the request to the Medical Commission via the applicant's general medical practitioner¹⁴³. The applicant must appear in person before the Medical Commission. Following the Medical Commission's assessment, the Medical Commission delivers its decision to the relevant regional office of State Social Services which, in turn, informs the Social Administrator¹⁴⁴.

Persons qualifying for disability entitlement receive 6,800 Lekë a month. This increases to 14,000 Lekë per month for individuals attending full-time or part-time secondary education or training courses, and to 21,000 Lekë per month (almost equivalent to an average wage) for individuals attending full-time or part-time higher or post-university studies. In addition, a caregiver of a disabled person is eligible to receive 6,800 Lekë per month¹⁴⁵. The amount of disability entitlement received is not dependent upon household income.

Nationally, around 56,000 disabled persons (mental, physical and sensory disability, paraplegic and tetraplegic) and 32,000 with occupational disabilities benefit from disability entitlement¹⁴⁶. Existing research indicates that – at least in Tirana municipality – the disability entitlement programme does satisfactorily cover the population of persons with disabilities. Studies note however that, as will be discussed in this report, the situation is not solved by financial support alone¹⁴⁷. This point is recognised in the Disability Strategy which states that "*the short and middle term focus will be set on providing qualified services always taking into account the needs expressed by the disabled person himself or herself*"¹⁴⁸.

¹³⁷ Albanian Labour Market Assessment. World Bank, Human Development Sector Unit. May 2006.

¹³⁸ Needs for Information and Social Services in the City of Tirana. Tirana Municipality and UNICEF Albania. November 2002.

¹³⁹ Albanian Labour Market Assessment. World Bank, Human Development Sector Unit. p.55.

¹⁴⁰ Law 9355 on Social Assistance and Services of 10 March 2005. Art, 25,

¹⁴¹ DCM 618 on the Establishment of the Criteria, Documentation and Amount of Benefit Paid to Disabled Individuals of 7 September 2006.

¹⁴² *Ibid.*

¹⁴³ *Ibid.* Art 19 and 24.

¹⁴⁴ *Ibid.* Art 24 and 25.

¹⁴⁵ *Ibid.* Arts. 8 to 13.

¹⁴⁶ The Strategy of Social Services 2005 – 2010. Analysis of the Situation. Ministry of Labour and Social Affairs. At Para. 1.2.

¹⁴⁷ Needs for Information and Social Services in the City of Tirana. Tirana Municipality and UNICEF Albania. November 2002.

¹⁴⁸ Albanian National Strategy on Persons with Disabilities. Inter-Ministerial Working Group on Disability Issues. p.22.

State Residential and Day Care Services

Article 14 of the Social Services Law provides that the social care services are classified into: (i) residential care services; and (ii) community day care services. As of January 2007, the public social care services are delivered through twenty-one residential centres and four day care centres. All of these services accept children except for five public residential homes for the elderly. The services are delivered in the main districts of the country, although there are regions that do not have public social care services, including Kukës and Diber. The types, number and location of all public social care services for children in Albania are set out in the table below:

Table 1: Public Social Care Services for Children

Type of Social Care Service	Number	Location
Residential		
Children's Homes (Age 0-3)	5	Durrës, Korçë, Shkodër, Vlorë, Tiranë
Children's Homes (Age 3-6)	1	Shkodër
Children's Homes (Age 6-15)	3	Sarandë, Shkodër, Tiranë
Homes for Persons with Disabilities (including children)	6	Berat, Durrës, Korçë, Shkodër, Tiranë, Vlorë
National Reception Centre for Victims of Trafficking	1	Tiranë
Community Day Care Services		
Day Centres for Persons with Disabilities (including children)	2	Lezhë, Korce
Polyvalent Day Centres	2	Kamëz, Sarandë

The national reception centre for victims of trafficking is under the control of, and funded by, the Ministry of Labour and Social Affairs. This centre fits more easily within the context of the Albanian anti-trafficking framework and this report deals with it under Section Two below on the police and interior sector. The institutional structure, mandate and coverage of the remaining public social care services is discussed below.

Public Social Services and Decentralisation. As Diagram 4 demonstrates, the public social care services have, traditionally, been owned by, financed by and controlled from the central Ministry of Labour and Social Affairs. Under the Social Services Law, Strategy and Action Plan, however, the intent is for both ownership and management of the residential care centres to be transferred to municipalities.

To this end, the Action Plan for social services includes a list of planned DCMs that would effect the transfer of ownership and management competence for individual residential care institutions to specified municipalities. A number of these have already been promulgated. DCM 336 of 31 May 2006, for instance, transfers the title of property in the children's homes (age 0-3) in Shkodra, Durrës, Vlorë, and Korçë, the Polyvalent Day Centre in Saranda, and the Home for Persons with Disabilities in Tiranë, from State Social Services to the respective municipalities¹⁴⁹.

However, while the DCM has been promulgated and is in force, as of January 2007, these institutions are financed directly from the Budget and Planning Department of the Ministry of Labour and Social Affairs, Tiranë. The institutions report every six months directly to the Ministry Budget and Planning Department. The Budget and Planning Department then uses the reported information to prepare the budget for each institution and transfers money directly to each via district treasurers. Notwithstanding the transfer of title in property, it is likely that the municipalities have not yet assumed financial and management competence of transferred social care

¹⁴⁹ DCM 336 on the Transfer to Several Municipalities of the Title of Property which is under the Administrative Responsibility of State Social Services of 31 May 2006.

institutions due to a perceived lack of management and needs assessment capacity at the municipal level.

Deinstitutionalisation. In addition to the present reform in respect of decentralisation, the second objective of the Social Services Strategy is to achieve deinstitutionalisation and the transformation of residential services into community-based services. As of January 2007, a reform process had commenced in institutions in the four municipalities of Tirana, Vlore, Shkoder, and Durres. In Durres, the public Children's Home (Age 0-3) will offer family reintegration services, facilitating the return of children to either their biological family or, potentially, a foster care family. Similarly, the Children's Home (Age 0-3) in Shkoder is in the process of being remodelled as a 'family house' able to facilitate the reintegration of children with social or economic difficulties. Further, at the date of this report, the Ministry of Labour and Social Affairs was in the process of carrying out an assessment in each social care institution in order to identify the number of children who could suitably be deinstitutionalised.

Non-public Social Care Services

In addition to the 'pure' public social care institutions (being, at present, the twenty-one residential centres and four day care centres discussed above), the Social Services Law envisages two further arrangements for social care service delivery:

- (i) the contracting of private service providers by local government units using public funds¹⁵⁰; and
- (ii) the independent delivery of social services by private providers¹⁵¹.

As of January 2007, the delivery of social care services by NGOs has created a substantial sector operating under the latter category. As will be discussed in Part Six below, however, municipalities and communes do not yet appear to have substantial budgetary means – either from central budget allocations or local revenues – to contract private providers within their area for themselves, in accordance with the first category.

One exception to this state of affairs though has been the national creation of forty day care centres through cooperation between the World Bank, municipalities/communes, and NGOs. Under the World Bank scheme, start-up funding from the World Bank for each day care centre has been distributed to municipalities/communes through a competitive bidding process. Decisions in the bidding process were taken by regional councils and State Social Services on the basis of a country poverty map, the proposed degree of local government control over the service, and the ability of the municipality/commune to provide building infrastructure for the service.

In successful bids, the actual service is delivered by a local NGO using a municipality/commune building rehabilitated and equipped by the World Bank funds delivered to the municipality/commune. World Bank funds also cover staff salaries for a period of two years. At the same time, the municipality/commune is required to contribute at least 20% of the running costs from its own funds in the form of utilities and office supplies. In the commune of Orikum (Vlore district), for instance, the communal council used the World Bank funds to rehabilitate and equip a number of rooms in the town hall for use as a day centre for a range of clients, including new mothers and the elderly.

Across all forty centres, services provided include: health services for persons with disabilities, psychological support, counselling, assistance with school reintegration, and citizen's advice services including assistance with applications for economic assistance. As such, the services, whilst including provision for children, are not specifically child-focussed. Referrals to the day centres may be made by the Social Administrator, local NGOs, or on a walk-in basis. In order to

¹⁵⁰ Law 9355 on Social Assistance and Services of 10 March 2005. See Art. 18(2) and (3), and Art. 29(8).

¹⁵¹ *Ibid.* Art. 17(2).

benefit from services provided by a centre, the World Bank states that an individual should be 'a member of a family with social problems'. No definition is provided of this criteria however, and it appears in practice that day centres will have effective local control over those clients to whom services can be provided.

In respect of social care services funded and provided directly by national and international NGOs, these can, as with the public social care services, be divided into residential and day care services. Importantly, the Ministry of Labour and Social Affairs has recently, by DCM, provided for the licensing of both public and private providers of social care services. The mechanism of licensing is addressed below in Part Five of this Section on Monitoring and Quality Assurance.

NGO Community based Services

There are a number of NGOs offering community based services in the social services field. The following NGOs were seen by the authors of this report:

The Kukes 'OSCE Shelter for Women' offers counselling to women and. In practice referrals to this shelter are made by the police, for example, children identified as being at risk of being trafficked. Teachers, medical staff and in one case the Social Administrator have referred cases. Many women refer themselves.

Saures Community. The NGO, 'Saures Community', focuses especially on literacy development to counteract the high volume of school abandonment and accommodation issues in a community where there is a high percentage of Roma. Dependent on donations the organisation renovates houses in the community. No-interest agricultural loans have been given to 10 families fulfilling one of its objectives to promote community participation and self-determination.

Helplife, Tirana. Based in Tirana, 'Helplife' is a parents association set up to lobby for strategic development of services for children and young people with disabilities. Its operation is based on the National Strategy for People with Disabilities and written guidelines and regulations. All children and young adults are assessed and plans are developed and reviewed on this basis.

EveryChild. The NGO, 'EveryChild', operates in Tirana and Shkodra providing services for children and families. The main focus of the organisation is deinstitutionalisation and diversion from the residential care system. Families are supported in the community financially and by giving food parcels along with advice and counselling. There has been a successful foster care pilot project and EveryChild is a lead agency in the promotion of a formal foster care service. The organisation aims to provide a direct alternative to residential care and to raise the awareness of all other actors, especially the State Social Service, about the disadvantages of residential care and the advantages of foster care for children who cannot be cared for by their biological parents. A care plan is produced for each child. EveryChild also works with kindergarten educators towards the integration of children with disabilities

Services for Women and Children. 'Services for Women and Children' is located in a remote undeveloped area of the city of Tirana serving a community that is mainly Roma and Egyptian. The organisation focuses on the reintegration of children into school and life skills training. The aim of the organisation is to protect children at risk, increase the capacity of mothers, women and the community, and raising awareness of the issues of child protection..

Children and Community Fund and children and Community in Need are both based in Kukes. Both organisations work with mothers and children and has a project focusing on minorities. The organisation works on with children at risk of trafficking and provides literacy training and counselling. The Children and Community in Need NGO aims to build the capacity of community groups and to train local people on how to identify and prioritise children's needs.

Service Coverage

Needs for social services do not necessarily overlap exactly with child protection needs. A child belonging to a poor household, for instance, may have needs for community-based social

services, but does not necessarily represent a child protection risk *per se*. The need, for example, may simply be for advice and assistance with claiming economic benefits.

Nonetheless, social care services are a crucial component to a child protection system insofar as they are frequently able to address either: (i) the root cause of a child at risk of violence, abuse, exploitation or neglect – such as counselling for an abusive and angry family member, or, (ii) to respond to children already in such a situation – such as a child suffering from neglect and consequently spending the majority of his or her time on the streets.

Recognising that the number of children requiring social services is not necessarily equivalent to the number of children with child protection concerns, recent data from Kukes region nonetheless estimates that:

- some 4235 children are in need of some form of social services, due to a difficult economic situation, school drop out, or illiteracy¹⁵². This figure represents around 12% of all children in Kukes region;
- around 2900 children in Kukes region may suffer severe violence at home¹⁵³.

Similarly, for Tirana region, it is possible to estimate that:

- over 17,000 children may suffer severe violence at home;
- at least 800 children may beg on the streets, sell small items or wash cars; and
- at least 1900 children are particularly vulnerable to protection concerns due to disability¹⁵⁴.

Moreover, existing research demonstrates that:

- some 16,000 orphans nationally are currently cared for by their wider family¹⁵⁵. If split evenly between the regions, this would represent some further 1,300 children per region who may potential benefit from community-based social assistance.

Community-based Care. As described above, aside from the four public day care centres, community based social care services are almost exclusively delivered by NGOs, (including the forty day care centres financed by the World Bank). However, the large numbers of children and their families who would potentially benefit from social care services have access to a comparatively small number of NGO service providers.

Out of the more than **18,000 children** who may potentially benefit from community-based services in Tirana for instance, research shows that only around **2,200 individuals**, mainly street children, disabled children and orphans, (but also including women subject to violence or abuse), benefit from NGO provided social services¹⁵⁶.

Similarly, in Kukes region, where over **4000 children** are potentially in need of social services, just **eight NGOs** provide social services with a complete absence of public social service providers.

With regard to the public community-based services, as discussed above, only four of these are in existence nationally, in the form of two polyvalent day centres and two centres for persons with disabilities. Whereas, in Tirana region alone, at least **1900 children** are affected by a disability, the

¹⁵² Data from Kukes Regional Anti-trafficking Committee. December 2006.

¹⁵³ Informal estimate calculated from UNICEF MICS Survey. 2006.

¹⁵⁴ Informal estimates calculated from: UNICEF MICS Survey. 2006, and Needs for Information and Social Services in the City of Tirana. UNICEF. 2002.

¹⁵⁵ Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005. At p.25.

¹⁵⁶ Needs for Information and Social Services in the City of Tirana. UNICEF. 2002. p.20.

Ministry of Labour and Social Affairs reports that, nationally, only **60 children** benefited from a public day centre for persons with disabilities in the year 2005¹⁵⁷.

Table 2: Community-based Social Service Providers

Number of NGO Social Service Providers focussing on Children ¹⁵⁸	Tirana	Korca	Kukes	Vlore
Disabled children – day centre	9		1	
Counselling and Citizen's Advice	8	7	6	3
Children's Day Centre	4	1	1	2
Community Social Centre	3	1		
AIDS/Drug Use Information	1			
Repatriation/Reintegration Services	1			
Legal Advice	2	1		
Total	28	10	8	5
Public Community Day Care Services				
2 Day Centres for Persons with Disabilities (including children)	Lezhe, Korce			
2 Polyvalent Day Centres	Kamez, Sarande			

As shown in Table 2, NGO social service providers predominantly focus upon counselling and the provision of advice and information for children. Other commonly provided services are child day centres, and health and training services for disabled children. The data provided in the table covers only NGOs known to the Ministry of Labour and Social Affairs.

NGO social service providers display both strengths and certain weaknesses. On the positive side, NGOs frequently employ young persons who have studied social work at Tirana University. These staff are able to engage with children in schools and families at risk in the local community, providing a basic form of community-based social work. On the other hand, there is a need for uniform application of specific standards for community-based services.

This is particularly true as concerns services such as counselling – an umbrella term used by many NGOs to describe a range of approaches from experience sharing to psychosocial support. NGOs commonly do not have a protocol for 'counselling' services and the number of staff employed with a university level psychology qualification is relatively small. Further research is required in relation to the quality of such services and the effectiveness of different approaches employed. In addition, whilst NGOs often maintain an *ad hoc* network of contacts with other local NGOs, frequently NGOs providing community-based social services operate with a high degree of independence from state structures. However, the municipal Child Protection Units in a number of pilot regions are an attempt to address this difficulty, in line with an important element of the fifth objective of the Social Services Strategy to include public and non-public service providers in the community planning process at local level.

Alternative Care Services. In respect of alternative care services, there is both a sizeable, (although certainly small compared with other countries in the CEE/CIS region) public and NGO service provider sector. As noted previously, every region in the country has some form of public residential care for children except for Kukes and Diber regions.

With respect to residential care provided by NGOs, of the four regions considered above, Tirana has at least four such providers, Korca has two, and Vlore has one. NGO residential care services tend either to be based on a 'family home' model or to consist of small capacity institutions.

Table 3 below sets out the estimated service coverage of the Albanian residential care institutions, both public and private.

¹⁵⁷ Data provided by Ministry of Labour and Social Affairs to UNICEF/INSTAT Monee 2006.

¹⁵⁸ Data provided by Ministry of Labour and Social Affairs. December 2006.

As of November 2006, 144 children were being cared for in children's homes for age zero to three, 42 children in homes for age three to six, and 172 children in homes for age seven to eighteen; a total of 358 children¹⁵⁹. As of December 2005, a further 273 children were cared for in homes for persons with disabilities¹⁶⁰. The majority of these children stay in the centre during the week and return to their families at weekends.

Ministry of Labour and Social Affairs statistics suggest that, as of December 2005, some 243 children were cared for in non-public residential care institutions¹⁶¹.

In total, a good estimate is therefore around 874 children in public and private institutional care. In contrast, only 19 children were being cared for by foster parents as at December 2005 through a private foster care service organised by the NGO, Everychild (there is no public foster care service)¹⁶².

Table 3: Alternative Care Service Coverage

Estimated Service Coverage of Alternative Care ¹⁶³	
Type of Alternative Care	Number of Children
Children's Homes (Age 0-3)	144
Children's Homes (Age 3-6)	42
Children's Homes (Age 7-15)	172
Homes for Persons with Disabilities	273
NGO Homes for Children	243
INSTITUTIONAL TOTAL	874
Foster Care	19
ALTERNATIVE CARE TOTAL	893

It is worth noting that the capacity of the public residential care providers is by no means reached. As of December 2006, the children's homes (age 0-3) were 78% full, the children's home (age 3-6) was 93% full, and the children's homes (age 7-15) were only 69% full¹⁶⁴. Yet, local government units, Social Administrators, and NGOs all pointed, in the course of research, to a lack of appropriate residential care for short term emergency placements in an acute protection situation.

In addition, the lack of alternative care options in a few regions of Albania – notably Kukes – sometimes results in children being sent to residential care in Tirana; some 6 hours drive in the case of Kukes. As discussed above, the unsuitability of public residential care for emergency placements is frequently related to the cumbersome and lengthy admission procedures. At the same time, as previously noted, admissions to residential care may not always reflect the principle that residential care should be used only as a measure of last resort. Existing research demonstrates that up to 30% of residential care placements were found to be due to 'single-parenting'¹⁶⁵. This, in itself, should not be a reason for admission to residential care.

4. Financial Flows

Financial flows within the Albanian social care system are governed both by Chapter VI of the Social Services Law and the Law on the Organization and Functioning of Local Government.

¹⁵⁹ Data from Ministry of Labour and Social Affairs, Budget and Planning Department. December 2006.

¹⁶⁰ Data from UNICEF/INSTAT Monee 2006.

¹⁶¹ *Ibid.*

¹⁶² *Ibid.*

¹⁶³ Data from Ministry of Labour and Social Affairs, Budget and Planning Department. November 2006, INSTAT Monee 2006, and Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005. At p.24.

¹⁶⁴ Data from Ministry of Labour and Social Affairs, Budget and Planning Department, December 2006.

¹⁶⁵ Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005. At p.20.

Under Articles 33 and 34 of the Social Services Law, economic assistance and disability entitlement is financed from both: (i) funds from the central state budget; and (ii) funds generated from local taxes and duties.

Under Article 37 of the Social Services Law, social care services are financed from both: (i) funds from the central state budget; (ii) funds generated from local taxes and duties; (iii) revenues from properties and other activities of the municipality/commune; (iv) contributions of beneficiaries of social care services; and (v) donations, sponsorship and funding from other organizations.

As such, the Social Services Law effectively guarantees public funding for economic assistance and disability entitlement, whilst opening the door to additional non-public funding for social care services.

Economic Assistance and Disability Entitlement

Under Article 29 of the Social Services Law, it is the responsibility of the municipal/communal council to approve the fund amount of economic assistance and disability entitlement, based on the assessment of the Social Administrator for such needs under Article 31 of the Social Services Law.

Following this approval, the municipal/commune council makes a request to the Ministry of Labour and Social Affairs for the approved amount. Subject to the availability of central funds, monies corresponding to the amount requested are then transferred directly to municipalities and communes every two months pursuant to Article 35 of the Social Services Law¹⁶⁶. With the approval of the Ministry, unused funds may be kept by the municipality/commune and used to support programs related to work and services in the community within one year¹⁶⁷.

In 2005, the economic assistance programme totalled some 4 billion Lekë, distributed to some 125,000 families¹⁶⁸. In the same year, the disability entitlement programme totalled 4.7 billion Lekë, distributed to 56,000 disabled persons and 32,000 persons with occupational disabilities¹⁶⁹.

In addition to these central funds, practice assessment revealed that a number of municipalities also maintain small funds from local revenues for distribution in emergency hardship cases. Orikum municipality, for instance, referred to a small municipal fund of 1000 USD that was reserved for emergency economic need cases.

Social Service Providers

At present, the public social care providers are financed directly by the Budget and Planning Department of the Ministry of Labour and Social Affairs. Using data on the number of clients reported by each institution to the Budget and Planning Department, the Department calculates the budgetary assignment for each institution and transfers this amount directly to the institution via a district treasurer.

The regular budgets for public social care services are forecasted by the Ministry Budget and Planning Department on the basis of previous year client numbers. The budgets for each category of service provider is divided into budget line categories including: staff costs, office items, service

¹⁶⁶ Article 35(1) Social Services Law provides that: “The Ministry of Labour and Social Affairs plans the funds for the economic assistance package and for disability benefit in compliance with the assessment of the requests sent by the local government units. The transfer of funds is done every two months to the municipality/commune”.

¹⁶⁷ Article 36(2) states: “The unused funds of economic assistance resulting from better management of the assistance package remain with the local unit, following the approval by the Ministry of Labour and Social Affairs. These funds are used to support programs related to work and services in the community within one year”.

¹⁶⁸ The Strategy of Social Services 2005 – 2010. Analysis of the Situation. Ministry of Labour and Social Affairs. At Para. 1.1.

¹⁶⁹ *Ibid.* At Para. 1.2.

provision expenditure, transport and travel expenses, routine buildings maintenance, lease payments, legal fees, and other operating expenses. In addition, the Budget and Planning Department operates a fabric budget for service provider building reconstruction and the purchasing of new furniture and equipment.

Existing research shows that the monthly cost for maintaining a child in a public residential institution varies from 17,335 to 41,500 Lekë, with costs being highest in the children's homes for age zero to three, on account of the higher staff numbers and specific needs of children in this age group. Administrative expenses typically vary from 50 to 70% of the total monthly expenditure¹⁷⁰. In addition, the Ministry of Labour and Social Affairs spent some 92 million Lekë, in total, on rehabilitation of homes for persons with disabilities, day care centres, the national reception centre for victims of trafficking, and the children's home for ages three to six in the course of the year 2006¹⁷¹. Nonetheless, when looked at in relation to the entire budget of the Ministry of Labour and Social Affairs, social care services spending accounts only for some 3.6% of the Ministry's whole budget, with the majority spent on social insurance and social protection¹⁷².

As concerns line ministry budget planning, the Ministry of Labour and Social Affairs – as a line ministry – is required to prepare its annual budget with the requested amount for each item, including social care services and economic assistance. This is submitted to the Ministry of Finance by 1 September for approval by 20 November in respect of the following year's budget. Once the budget lines are approved by the Ministry of Finance, a line ministry may only reallocate funds between budget lines up to a maximum of 5%.

As discussed previously, under the decentralisation objective of the Social Services Strategy, financial and management competence for the public social care institutions is envisaged to pass to municipalities and communes. Once the decision is taken to allow management by the municipality, the Ministry of Labour and Social Affairs will transfer funds from the central level to the municipality, rather than directly to the institutions as at present. These funds will still be earmarked for a particular social care institution under the municipality¹⁷³. However, the municipality will assume responsible for assessing the demand for the service, monitoring the number of residents, and requesting funds from the Ministry in accordance with this assessment¹⁷⁴. In addition, the municipality/commune will be free to combine or expand social care services within their jurisdiction using their own additional tax revenues.

As concerns the use of local revenue for social care services, practice assessment revealed that whereas the majority of municipalities do not yet have a local social care budget, at least one municipality – Vlore – reported its own budget of 30,000 USD for providing services to persons with social needs. As noted previously, in addition, some forty municipalities/communes currently use local budgets to contribute to World Bank funded day care centres.

Under the Social Services Law, additional support for local social care service budgets is envisaged in the form of the "Social Fund". This Fund is provided for under Article 39 of the Social Services Law¹⁷⁵. The Ministry of Labour and Social Affairs reports that the Social Fund – which has not been established as at the date of this report – will be distributed to local government units that require 'top-up' funding in order to meet local social care needs. At present, the Budget and Planning Department of the Ministry does not have access to municipality and commune budgets. As a result, the Department is presently unable to see the capacity of municipalities and

¹⁷⁰ Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005. At p.65.

¹⁷¹ Data provided by Ministry of Labour and Social Affairs. December 2006.

¹⁷² Data provided by Ministry of Finance. December 2006.

¹⁷³ See Article 38 Social Services Law which provides that: "State budget funds earmarked for the funding of social care services are delegated by the Ministry of Labour and Social Affairs to the municipality/commune at the beginning of the year in compliance with the needs assessment and the possibilities of the state budget".

¹⁷⁴ See Article 37 Social Services Law which provides the: "Funding sources for social care services provided by the public and non-public institutions... at municipality/commune level... consist of: a) funds delegated by the central state budget; b) funds generated by local taxes and duties; c) revenues from properties and other activities of the municipality/commune".

¹⁷⁵ Article 30 Social Services Law provides that "The Ministry of Labour and Social Affairs establishes the Social Fund to support the development of new social care services and social policies".

communes to finance local social care services. Once the fund is established, it will be crucial for the Budget and Planning Department to receive such information, in order to effectively administer the Social Fund.

Recommendations

1. The guiding legal and policy framework (consisting of the Social Services Law, Strategy and Standards) fails to address a number of areas vital to child protection. The legislation does not contain a legal definition of 'children at risk', a legal basis for child protection referrals or a legal framework for addressing emergency child protection situations, contrary to the requirements of Article 19 of the UN Convention on the Rights of the Child. It is recommended that the government give urgent consideration to introducing new legislation which sets out clearly the institutions and bodies responsible for child protection and the nature of that responsibility.
2. There is currently no clear definition in Albanian labour law of the worst forms of child labour. Consideration should be given to amending the Labour Code to include:
 - a) definitions of the worst forms of child labour in line with the ILO Worst Forms of Child Labour Convention and ILO Recommendation 190¹;
 - b) the lack of legal regulation for household and self-employed labour;
 - c) the lack of sanctions on those involved in engaging children in forced labour¹.

Chapter FIVE

Section Two

Police and Interior Sector

1. Overview

The police and interior sector plays an important role in the child protection system. The sector is responsible, along with the justice sector, for the enforcement and implementation of legislation that criminalises violence, abuse, exploitation and neglect against children. In addition, it is also often the first point of contact when children suffer abuse.

In light of this role, it is crucial that the police and interior sector is well able to respond to child victims and witnesses of violence, abuse, exploitation and neglect. International standards on the treatment of child victims and witnesses suggest that the police should play a key role in ensuring that such a child receives referral to appropriate social care services and is dealt with in a child-friendly manner.

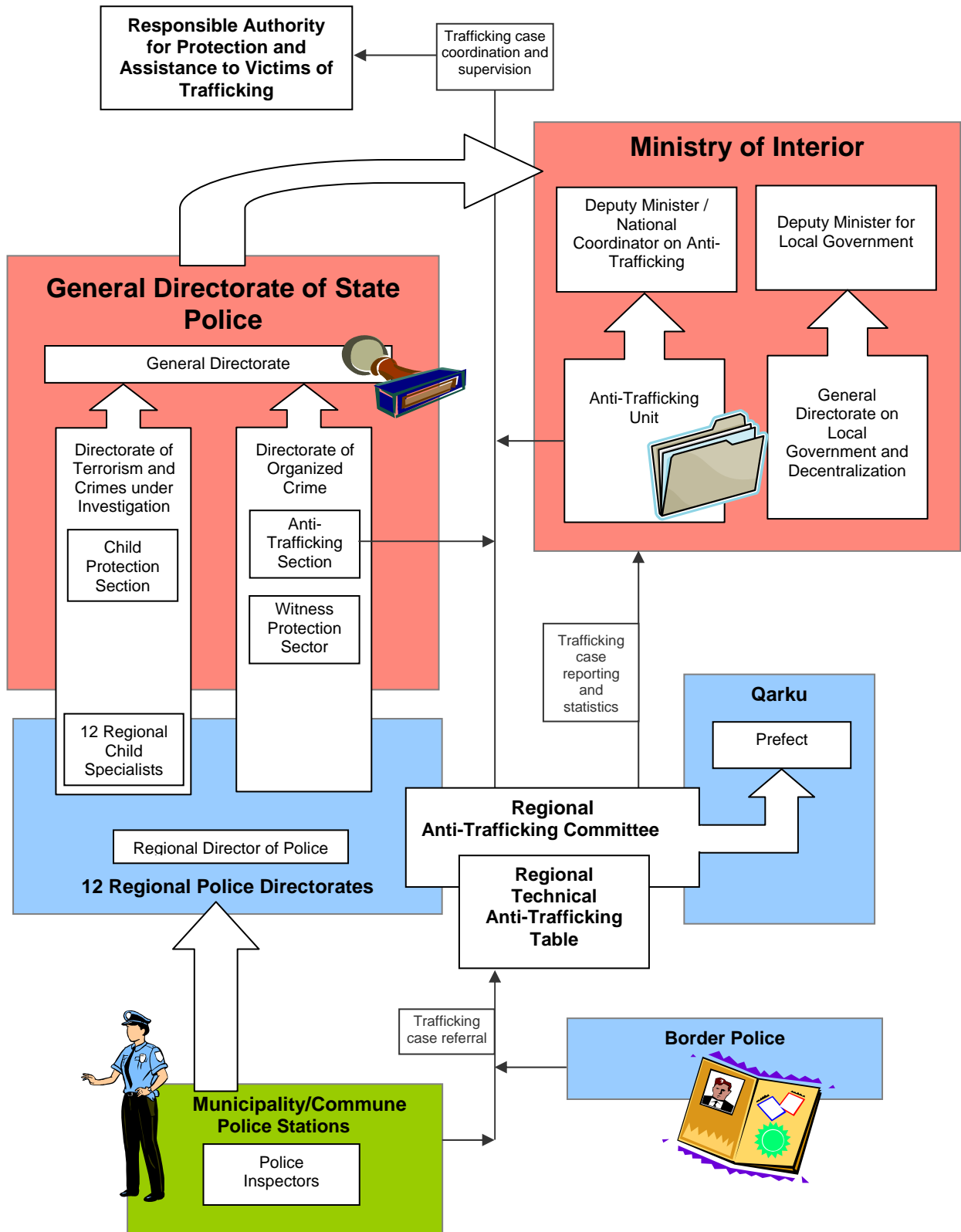
The police and interior sector in Albania has not been subject to such extensive reform as the social services sector and follows a regular structure. Local police stations report to regional police directorates situated in each of the twelve regions of Albania. These in turn report to a central General Directorate of State Police in Tirana, the General Director of which reports directly to the Minister of Interior.

Important policy and legislation governing the sector include the Albanian Criminal Code, the Albanian Criminal Procedure Code, the Law on Police and Judicial Police, and the national Anti-Trafficking Strategy. These are discussed in Part Two on law and policy below.

In line with the national Anti-Trafficking Strategy, the most recent development in the police and interior sector has been the creation of national and regional anti-trafficking structures. As shown on Diagram 5, these exist in the form of a national 'Responsible Authority' for the coordination of trafficking cases and 'Regional Anti-Trafficking Committees'. As discussed below, at the date of this report, the mode of operation of these nascent structures is still not fully determined.

Diagram 5 below sets out the institutional structure of the Albanian police and interior sector. Colour coding is used in the diagram to signify red for central level, blue for regional level, green for municipality/commune level, and yellow for service provider level. Thick arrows within the diagram signify institutional structural relationships, and hence primary reporting lines. Thin arrows between institutions or persons are 'flagged' in order to mark their significance, such as 'trafficking case referrals'. The diagram is not exhaustive in showing all directorates or sections within the Ministry of Interior or the General Directorate of State Police. Rather, it seeks to identify the primary actors relevant to the police and interior sector as a component within the child protection system. Moreover, the size of boxes does not necessarily correspond to the staffing or resource allocation of directorates, sections or other institutions.

Diagram 5: The Police and Interior Sector



2. Applicable Law and Policy

The relevant laws include the Criminal Code, the Criminal Procedure Code, the Laws on Police and Judicial Police, the Anti-trafficking Strategy and relevant Secondary Legislation.

The Criminal Code

The criminalisation of actions against children that constitute violence, abuse, exploitation or neglect, is central to international standards on child protection and a key component of an effective child protection system. In particular, international standards provide that:

- states should take all appropriate legislative... measures to protect the child from all forms of physical violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse¹⁷⁶;
- all disciplinary measures constituting cruel, inhuman or degrading treatment, including corporal punishment, closed or solitary confinement or any other sanction that may compromise the physical or mental health of the child must be strictly prohibited and punishable by law¹⁷⁷;
- states shall prohibit the sale of children, child prostitution and child pornography by criminalizing [(i) *the offering, delivering or accepting of a child for sexual exploitation, transfer of organs, or forced labour, (ii) improperly inducing consent for adoption, (iii), offering, obtaining, procuring or providing a child for prostitution, and (iv) producing, distributing, disseminating, importing, exporting, offering, selling, or possessing child pornography*]¹⁷⁸;
- members should provide that the following worst forms of child labour are criminal offences: [(i) *all forms of slavery or practices similar to slavery, (ii) the use, procuring or offering of a child for prostitution, pornography or pornographic performances, (iii) the use, procuring or offering of a child for illicit activities*]¹⁷⁹; and
- each state party shall adopt such legislative and other measures as may be necessary to establish as criminal offences [*trafficking in persons, including attempting, participating, organizing or directing other persons to commit the offence*]¹⁸⁰.

The main piece of Albanian legislation that defines criminal conduct is the Albanian Criminal Code of 1995¹⁸¹.

Physical Violence in the Criminal Code. The Albanian Criminal Code does not contain particular offences that relate to violence against children specifically in the home, school, or institutional environment. Rather, perpetrators of violence against children are subject to the more general offences against the person contained in Chapter II of the Criminal Code. Nonetheless, the general offences against the person do include specific provisions where the victim is a child. Notably, specific offences exist for intentional homicide against a minor and infanticide. As shown in Table 4

¹⁷⁶ UN Convention on the Rights of the Child. Art. 19.

¹⁷⁷ Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care. June 2006. Art. 93.

¹⁷⁸ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Art. 3. Note that the Optional Protocol has not been signed or ratified by Albania.

¹⁷⁹ ILO Recommendation on the Worst Forms of Child Labour, 1999 (No.190). Art 12.

¹⁸⁰ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. 15 November 2000. Ratified by Albania on 21 August 2002. Note that Article 3 of the Protocol contains a definition of "trafficking in persons".

¹⁸¹ Law 7895 containing the Criminal Code of the Republic of Albania of 27 January 1995, as amended by Law 8204 of 10 April 1997, Law 8279 of 15 February 1998, Law 8733 of 24 January 2001, and Law 9188 of 12 February 2004.

below, violence related offences may be divided into homicide related, intentional harm related, threat related, and deprivation of liberty related.

Table 4: Violence Related Offences in the Criminal Code

Article	Offence	Sentence
Homicide related offences		
78	Homicide committed for interest, retaliation or blood feud	Life imprisonment or not less than twenty five years imprisonment
79(a)	Intentional homicide committed against a minor	Life imprisonment or imprisonment of not less than twenty years
81	Infanticide	A fine or up to two years imprisonment
Intentional harm related offences		
88	Serious intentional injury inflicting handicap, mutilation, any other permanent detriment to the health, interruption of pregnancy, or danger to life	Three to ten years imprisonment
87	Torture, or any other degrading or inhuman treatment where it results in handicap, mutilation or any permanent harm to the well-being of a person	Ten to twenty years imprisonment
86	Torture, as well as any other degrading or inhuman treatment	Five to ten years of imprisonment
89	International injury resulting in loss of capacity to work for less than nine days	Fine or up to two years imprisonment
90	Assault and any other violent act	Fine or up to six months imprisonment where resulting in loss of capacity to work for less than nine days
Threat related offences		
84	Serious threat to cause death or grave personal harm	Fine or up to one year of imprisonment
83a	Serious threat of revenge or blood feud to a person or minor causing isolation	A fine or up to three years imprisonment
Deprivation of liberty related offences		
109	Kidnapping or keeping a child under the age of fourteen years hostage	Not less than fifteen years imprisonment
109	Kidnapping or keeping a child under the age of fourteen years hostage, accompanied with physical or psychological torture, or if committed against several persons or repeatedly	Not less than twenty years imprisonment or life imprisonment if death is caused

It should be noted that the Albanian Criminal Code – in line with international standards¹⁸² - does not contain any provision allowing ‘reasonable’ or ‘moderate’ chastisement of a child in the home, home family, or any other setting. As such, an adult who uses any degree of physical violence against a child in the home, school or other environment may be prosecuted for the crime of assault under Article 90 of the Criminal Code. Unfortunately, as discussed below, the Albanian Criminal Procedure Code presents some difficulties in relation to prosecution for certain more minor offences, including Article 90.

Neglect and Non-intentional Harm in the Criminal Code. In addition to the criminalisation of specific acts intended to cause harm against a person, the Albanian Criminal Code also includes a number of offences that are related to non-intentional harm and neglect. The inclusion of these offences is important in a child protection system insofar as criminalisation can function as a deterrent against the worst forms of chronic neglect of a child. However, the use of such provisions to prosecute parents is also cautioned against by international norms. The Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care, for instance, recommends

¹⁸² See for example, UN Committee on the Rights of the Child. General Comment 8 (2006). The Right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. Art. 31.

that prosecution of parents should only proceed where it is regarded as necessary to protect the child from significant harm and to be in the best interests of the child¹⁸³. Table 5 below sets out the relevant offences from the Criminal Code.

Table 5: Neglect and Non-intentional Harm Offences in the Criminal Code

Article	Offence	Sentence
Neglect related offences		
99	Causing the suicide or attempted suicide of a person dependent upon the perpetrator, by systematic maltreatment or other systematic behaviour which seriously affects the dignity of the victim	Fine or up to five years imprisonment
124	Abandonment of a child under sixteen by a parent or legal caregiver	Fine or up to three years imprisonment or three to ten years imprisonment where serious harm to health or death results
125	Denial of child support ordered by a court	Fine or up to one year imprisonment
Non-intentional Harm related offences		
85	Homicide due to negligence	Fine or up to five years of imprisonment
91	Serious injury due to negligence	Fine or up to one year imprisonment
92	Non-serious injury due to negligence	Fine

As Table 5 shows, whilst a serious case of neglect and maltreatment of a child may well fall under Article 92 or Article 124 of the Criminal Code, the Albanian Criminal Code does not include a specific provision relating to child cruelty or the chronic neglect of a child. The inclusion of such an article would represent an important deterrent against such cases.

Sexual Offences and Exploitation in the Criminal Code. The Albanian Criminal Code contains a large number of provisions relating to sexual conduct including, obscene acts with a child under the age of fourteen years, sexual or homosexual intercourse with a child under the age of fourteen, sexual or homosexual intercourse with a physical, mentally incapable or unconscious victim, and sexual or homosexual intercourse by force with a child. The articles do leave a number of explicit gaps however. Notably, there appears to be no specific offence relating to the inducement or coercion of a child to engage in unlawful sexual activity. Moreover, Albania presently has no legislation at all covering the production, distribution, dissemination, importing, exporting, offering, selling or possession of child pornography¹⁸⁴.

As concerns prostitution, this is currently a criminal offence in Albania, under Article 113 of the Criminal Code. In addition, persons using prostitutes are subject to the particularly high penalty of seven to fifteen years imprisonment where a child is involved. However, the Criminal Code does not specifically criminalise the offering, delivering or accepting of a child for sexual exploitation, or explicitly cover sexual assault not involving intercourse against a child aged over fourteen.

At present, the Criminal Code does not criminalise child sale or the payment of moneys to induce adoption. It should be noted, however, that from January 2007, this safeguard is included within a proposed package of legislative amendments currently before the Albanian Parliament. This package suggests inclusion of a new article within the Criminal Code that would state: *“acceptance, requesting or receiving compensation, gifts or other gains by parents, a legal guardian or any other person, for himself, or for others, in the process of the adoption of a juvenile, is punishable by up to five years of imprisonment”*¹⁸⁵.

¹⁸³ Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care. Art. 41.

¹⁸⁴ See Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Art. 3. Note that the Optional Protocol has not been signed or ratified by Albania.

¹⁸⁵ Bill of 2002 on some additions and changes to Law 7895 containing the Criminal Code of the Republic of Albania.

In light of these current gaps in the Albanian Criminal Code, review of the Code's provisions relating to prostitution, child prostitution, sexual exploitation of children, and child pornography will be required if Albania is to consider ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Table 6 below sets out the relevant articles on sexual offences and prostitution from the Criminal Code.

Table 6: Sexual Offences under the Criminal Code

Article	Offence	Sentence
Sexual offences		
100	Sexual or homosexual intercourse with a child under the age of fourteen or a female child who has not reached sexual maturity	Seven to fifteen years imprisonment or fifteen to twenty years if committed in collusion with others, repeatedly, by force, or causing serious consequences to health
101	Sexual or homosexual intercourse by force with a child between the ages of fourteen and eighteen who has reached sexual maturity	Five to fifteen years imprisonment or ten to twenty years if committed in collusion with others, repeatedly, or with serious consequences to health
103	Sexual or homosexual intercourse, profiting from the physical, mental incapacity, or unconscious state of the victim	Five to ten years imprisonment or seven to fifteen years if committed in collusion with others, repeatedly, or with serious consequences to health
106	Sexual or homosexual intercourse between an parent and child, brother and sister, between brothers, between other extended family members, or with persons who are in custody of adoptive relationships	Up to seven years imprisonment
116	Homosexual intercourse when conducted forcefully with a minor or a person unable to protect themselves	Up to five years imprisonment
108	Obscene acts with a child under the age of fourteen years	Up to five years imprisonment
117	Producing, delivering, advertising, importing, selling or publication of pornographic materials in a minor's premises	Fine or up to two years imprisonment
Offences related to prostitution		
113	Prostitution	Fine or up to three years of imprisonment
114	Soliciting, mediating or gaining from prostitution	Fine or up to five years imprisonment
114a	Aggravated exploitation of prostitution, including involvement of minors, coercion, or compulsion to engage in prostitution outside the jurisdiction	Seven to fifteen years imprisonment

In relation to other forms of exploitation of children, such as the involvement of children in criminal activity or child labour, the Criminal Code could similarly offer a greater degree of protection than at present. For instance, inducing or encouraging a child under the age of fourteen to commit a criminal offence is criminalised under Article 129 of the Criminal Code. However, this protection could be strengthened by widening the provision to cover a child of any age, and also by prohibiting the use, procuring or offering of a child for the commission of a criminal offence.

As concerns child labour, only the breach of health and safety rules is clearly criminalised by the Criminal Code. Greater protection for children could be achieved by criminalising the use, procuring or offering of a child for the worst forms of child labour. As discussed later, this step would first require the clear identification by the government of work likely to harm the health, safety or morals of children. Table 7 below sets out the existing criminal offences related to the involvement of children in criminal activity and child labour.

Table 7: Other Exploitation Offences under the Criminal Code

Article	Offence	Sentence
Other forms of exploitation		
129	Inducing or encouraging a child under the age of fourteen to commit a criminal offence	Up to five years imprisonment
389	Causing death or serious harm to the health of an individual because of intentional disregard of rules related to work, work-related protection, hygiene or fire safety by an individual responsible for respecting and implementing such rules	Fine or up to ten years imprisonment or not less than five years imprisonment where death or serious harm to the health of more than one person is caused

It should be noted that, as of January 2007, proposals are before the Albanian parliament to fill the gap in the Criminal Code concerning criminalisation of the exploitation of children. Proposed Article 128c intends to criminalise the “*exploitation of children for work or other forced services, including begging*”. Under the draft wording, this would be punishable by a fine or imprisonment of less than one year if committed by the child’s parents or legal guardian and up to three years imprisonment if committed by a third party. Where the child suffers severe health consequences or death, a maximum seven years imprisonment is envisaged¹⁸⁶.

Trafficking in the Criminal Code. The Albanian Criminal Code has contained provisions on trafficking of persons since 2001. The specific article of the Criminal Code relating to trafficking in children, however, has recently been amended by Law 9188 of 12 February 2004. Law 9188 amended Article 128b of the Criminal Code in order to create an offence of trafficking in children in line with the definition of trafficking contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children¹⁸⁷. Following this amendment, Article 128b of the Criminal Code now criminalises the recruitment, transportation, harbouring or receipt of minors for the purpose of exploitation and prostitution or other forms of sexual exploitation, work or compelled services, slavery or other forms similar to slavery, making use of or transplanting organs, as well as other forms of exploitation. The core of the offence described by Article 128b is the *transfer or harbouring* of a child for *exploitative purposes*. Notably, the basic offence in Article 128b does not include a requirement that there be a threat or use of force, coercion, abduction, deception, abuse of power, or the giving or receiving of payments to be guilty of trafficking. Rather, the use of physical or psychological force is an aggravating factor, resulting in an increase in the maximum sentence to which the perpetrator may be sentenced. The offences related to trafficking are set out in Table 8 below:

Table 8: Offences related to Trafficking

Article	Offence	Sentence
Offences related to Trafficking		
110a	Recruitment, transportation, harbouring or receipt of persons through threat or use of force or other forms of compulsion or deception or the giving or receipt of payment or other benefits to a person who controls another person, for the purpose of	Five to fifteen years imprisonment or seven to fifteen years imprisonment for the organization, management and financing of trafficking of persons

¹⁸⁶ Proposal for draft Article 128c amendment to the Albanian Criminal Code. Before the Albanian Parliament as of January 2007.

¹⁸⁷ The amendment reflects the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. 15 November 2000. Ratified by Albania on 21 August 2002. Article 3 states: “*Trafficking in persons*” shall mean the *recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs*”.

	exploitation for prostitution or other forms of sexual exploitation, work or compelled services, slavery or other forms similar to slavery, making use of transporting organs, as well as other forms of exploitation	
127	Unlawfully taking a child away from a person exercising parental responsibility or otherwise entrusted with the care of the child	Fine or up to six months imprisonment
128b	Recruitment, transportation, harbouring or receipt of minors for the purpose of exploitation and prostitution or other forms of sexual exploitation, work or compelled services, slavery or other forms similar to slavery, making use of or transplanting organs, as well as other forms of exploitation	Seven to fifteen years imprisonment or not less than fifteen years imprisonment if committed in collusion with others, repeatedly, accompanied by mistreatment, harm to the health of the trafficked child or involving making the child commit any act through the use of physical or psychological force
297	Illegally crossing the state border	Fine or up to two years imprisonment

The Criminal Procedure Code

The Albanian Criminal Procedure Code was promulgated in 1995. The Code governs both the actions of the Albanian police system and the justice system. As such, it is considered in this report both in this Section Two and Section Three on the justice sector.

As previously noted in Chapter Three of this report, the analysis of the child protection system contained in this report does not extend to include a detailed analysis of the juvenile justice system, and so the juvenile justice provisions of the Criminal Procedure Code are not considered here.

However, the Child Procedure Code contains two areas of particular interest to the child protection system. The first relates to the ability to commence prosecution for certain offences under the Criminal Code. The second relates to specific protections for child victims and witnesses of crime.

Commencement of Prosecution in the Criminal Procedure Code. International standards enshrine the principle that states should take effective steps to ensure that perpetrators of violence are prosecuted and held responsible for their actions¹⁸⁸. Key to this is the ability of a victim to press charges against the perpetrator. Article 58 of the Albanian Criminal Procedure Code provides that a victim of a criminal offence has the right to request the prosecution of the person who committed the offence against them. Article 59 of the Criminal Procedure Code presents a list of minor offences whose prosecution can *only* be commenced by the complaint of the victim under Article 58. In relation to child victims the signature of the child's parent is required in order to validate the child's complaint¹⁸⁹.

Importantly, the list of offences for which the complaint of the victim is required to commence prosecution includes: (i) assault and any other violent act under Article 90 of the Criminal Code, and (ii) serious and non-serious injury due to negligence under Articles 91 and 92 of the Criminal Code. This has the result that where a parent commits either of these crimes against their child, or is otherwise unavailable to validate the child's complaint, there is no way, in practice of commencing prosecution. This is a serious deficiency in the Criminal Procedure Code and one that should be addressed in order to ensure the effective protection of children.

Child Victims and Witnesses in the Criminal Procedure Code. The second area of importance to child protection in the Criminal Procedure Code concerns the treatment of child victims and

¹⁸⁸ See UNICEF. Implementation Handbook for the Convention on the Rights of the Child. At p.274.

¹⁸⁹ Article 58(2) states that a victim who does not have legal competence shall exercise this right through his "legal representative".

witnesses of crime. As discussed in Chapter Three of this report, international standards contain a set of extremely detailed guidelines on the treatment of such children, in the form of the UN Guidelines on Justice in Matters involving Child Victims and Witnesses¹⁹⁰. The Albanian Criminal Procedure Code contains very few of the detailed safeguards mentioned in these Guidelines. It makes no reference, for instance, to the environment in which child victims or witnesses should be questioned by police authorities, or to the provision of counselling, health, social, and psychological services for child victims and witnesses. In particular, whereas Article 35 of the Criminal Procedure Code provides that the “*juvenile defendant*” shall be provided with *psychological* assistance at any stage of the proceedings, this provision does not appear to extend to child victims and witnesses of crime. Indeed, in practice, it seems that police officers would very rarely call a psychologist when interviewing a child victim or witness.

As of January 2007, the proposed package of juvenile justice amendments before the Albanian Parliament does not include any amendments relating to the treatment of child victims and witnesses, leaving the Criminal Procedure Code will remain markedly deficient within this area. At a minimum, the Criminal Procedure Code should be amended to include:

- an obligation on all authorities to treat child victims and witnesses in a caring and child-sensitive manner throughout the justice process, taking into account their personal situation and immediate needs, age, gender, disability and level of maturity, and fully respecting their physical, mental and moral integrity; and
- an obligation on all authorities to develop a policy, standard or protocol aimed at assisting child victims and witnesses involved in the justice process.

The Laws on Police and Judicial Police

These laws govern the operations of the police and judicial police of Albania and set out the institutional structure for the police service. Law 8533 on the State Police of Albania (the “Law on State Police”), for instance, describes the institutional duty of the police as, amongst others, to protect order and public security, to protect the exercise of freedom and duties of individuals, and to take measures for the prevention and investigation of crimes¹⁹¹. As depicted in Diagram 5, the Law on State Police also creates the central level General Directorate of Police and regional police directorates. In addition it sets out the proper conduct and powers of a police officer, including in relation to stop and search, the use of arms, and relationship with local government units.

Law 8677 on the Organization and Functioning of the Judicial Police (the “Law on Judicial Police”) contains particular provisions for those police officers responsible for investigating criminal offences¹⁹². Article 6 of the Law on Judicial Police provides that such officers report to the prosecutor of the prosecutorial office who is responsible for directing a particular criminal investigation. Article 12 states, however, that the administrative position and career of officers and agents of the judicial police are regulated in all other respects by the law governing the police of which they are a part – the Law on State Police in the case of regular police officers.

The Anti-Trafficking Strategy

The first Albanian national anti-trafficking strategy was developed and implemented in the years 2001 to 2004. As at the date of this report – January 2007 – the Albanian government is in the midst of implementing a second Strategic Framework and National Action Plan for Combating Trafficking in Human Beings for the years 2005 to 2007 (the “Anti-Trafficking Strategy”). This Anti-

¹⁹⁰ UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime. ECOSOC Resolution 2005/20.

¹⁹¹ Law 8553 on the State Police of Albania of 25 November 1999. Art. 3.

¹⁹² Law 8677 on the Organization and Functioning of the Judicial Police of 2 November 2000. Art. 3.

Trafficking Strategy addresses the issue using both a strategic framework and an operational framework under the following headings¹⁹³:

- **Prosecution** – increasing the number of successful prosecutions, convictions and appropriate sentences for human traffickers;
- **Protection** – implementing a comprehensive approach to victim protection for all trafficked persons and victims of related crimes, regardless of their willingness to testify against their traffickers, and improving the level of official assistance and advice available to all actual or potential Albanian victims of trafficking abroad;
- **Prevention** – improving the targeting, content and effectiveness of public awareness, education and outreach activities, and developing and publicizing viable publicly funded vocational alternatives to trafficking and re-trafficking; and
- **Coordination** – developing cooperation between officials of relevant ministries and institutions, NGOs and the Office of the Minister of State for Coordination.

Within these strategic aims, key activities referred to by the Anti-Trafficking Strategy include¹⁹⁴:

- **Prosecution** - the development of a computerised Total Information Management System (TIMS) for tracking the progress of individual trafficking cases from arrest to conviction, improved community policing, the proper application of Criminal Code provisions against state officials involved in trafficking, and sustained operations against trans-Adriatic fast launch trafficking;
- **Protection** - the establishment of a witness protection program unit, a state compensation scheme for compensation to victims of trafficking, a national referral mechanism for all intercepted and returned trafficking victims, and a nationwide toll-free help line for actual or potential trafficking victims; and
- **Prevention** – the design of government-sponsored media and other public awareness programs relating to the risks and dangers of human trafficking.

In addition to the Anti-Trafficking Strategy itself, the Albanian government has also produced a National Strategy for the Fight against Trafficking in Children and the Protection of Child Victims of Trafficking (the “**Child Anti-Trafficking Strategy**”)¹⁹⁵. The purpose of the Child Anti-Trafficking Strategy is not to duplicate the Anti-Trafficking Strategy but to consider the issue of trafficking in children in a more comprehensive way within the context of the Anti-Trafficking Strategy.

In a manner similar to the Anti-Trafficking Strategy, the Child Anti-Trafficking Strategy contains strategic aims under the headings of: (i) prevention, (ii) protection of victims, (iii) investigation and prosecution of traffickers, (iv) assisted voluntary return of child victims, and (v) coordination.

The Albanian Child Anti-Trafficking Strategy, together with the national Anti-Trafficking Strategy and the trafficking provisions of the Criminal Code discussed above, collectively contain important elements of the anti-trafficking response suggested by international standards. In particular, using the ‘policy’, ‘legislation’, ‘services’, ‘attitudes’, and ‘monitoring and reporting’ framework discussed in Chapter Four of this report, it is notable that the Child Anti-Trafficking Strategy contains numerous activities under all of these child protection system element headings:

¹⁹³ Albanian National Strategy for Combating Trafficking in Human Beings. Strategic Framework and National Action Plan 2005 – 2007. Ministry of Interior, Office of the Deputy Minister of Interior/National Anti-Trafficking Coordinator. July 2005. p. 8-9.

¹⁹⁴ *Ibid.* p.10-30.

¹⁹⁵ Approved by COM Decision 171 of 11 February 2005.

Relevant International Standards	Activities specified in Albanian Child Anti-Trafficking Strategy
<p>Government Commitment (Policy): “States shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”¹⁹⁶.</p>	<ul style="list-style-type: none"> ▪ Training of border control personnel in the detection and prevention of child trafficking. ▪ Negotiation of new cooperation arrangements with neighbouring countries. ▪ Intensification of <i>ad hoc</i> cross-border cooperation with neighbouring border police.
<p>Legislation: “Legal and administrative measures should be adopted to ensure criminalisation of all forms of the sale or trafficking of children”¹⁹⁷.</p>	<ul style="list-style-type: none"> ▪ Improve procedures for the detection and interdiction of child trafficking and the prosecution and punishment of offenders. ▪ Establish a national register of crimes against children to register all persons convicted of offences against children. ▪ Implement a dedicated approach to witness protection for child trafficking victims.
<p>Services and Rehabilitation: “All relevant State agencies, in particular the police and welfare services, should cooperate internationally in identifying and tracing all forms of cross-border trafficking in children. Measures should be taken to ensure that children who are victims of trafficking can return safely and lawfully to their country of origin. Child victims of trafficking should be provided with all appropriate forms of support and assistance”¹⁹⁸.</p>	<ul style="list-style-type: none"> ▪ Establish standards for the initial handling of child victims of trafficking. ▪ Improve the capacity of the National Reception Centre for Victims of Trafficking to receive and accommodate child victims. ▪ Promote foster care services. ▪ Sign agreements between government and NGO structures assisting child victims of trafficking, and establishing child protection structures in communes and municipalities. ▪ Draft procedures for the assisted voluntary return of child victims of trafficking, and establish a structure at central government level with responsibility for overseeing assisted voluntary return.
<p>Attitudes: “Appropriate training and awareness raising should include police, social workers, adoption agency staff, and health personnel”¹⁹⁹.</p>	<ul style="list-style-type: none"> ▪ Organize seminars for police, education, welfare personnel, prosecutors and NGOs at local level on detecting missing and potentially trafficked children. ▪ Selection and training of specialized police officers, prosecutors and judges to deal with child trafficking investigations and prosecutions. ▪ Conduct public awareness campaigns warning of the dangers of child trafficking, and identify children not attending compulsory education.
<p>Monitoring and Reporting: “A national database of missing children and known offenders in child trafficking should be created”²⁰⁰.</p>	<ul style="list-style-type: none"> ▪ Establish a dedicated database at border crossing points and centrally on children entering or leaving the country. ▪ Establish a dedicated national child protection structure operating at central and prefecture level, and create a network of anti-trafficking partnerships at local and municipal level.

Secondary Legislation

A number of pieces of secondary legislation, in the form of DCMs and orders of line ministries, have been promulgated for the purpose of ensuring implementation of the Anti-Trafficking Strategies. These are discussed where relevant throughout the remaining Parts of this Section.

¹⁹⁶ UN Convention on the Rights of the Child. Art. 35.

¹⁹⁷ See UNICEF. Implementation Handbook for the Convention on the Rights of the Child. At p.530

¹⁹⁸ *Ibid.*

¹⁹⁹ *Ibid.*

²⁰⁰ *Ibid.*

3. Institutions, Mandates and Coverage

The relevant sector institutions are the Ministry of Interior, the General Directorate of State Police, the Regional Anti-Trafficking Committee and service providers for victims of trafficking

The Ministry of Interior

As depicted in the sector institutional Diagram 5, two components of the Ministry of Interior are particularly relevant to the Albanian child protection system. These are, first, the General Directorate on Local Government and Decentralization based within the Ministry of Interior, reporting to the Deputy Minister for Local Government. This General Directorate is responsible for coordination of the decentralization process and acts as a secretariat to an Inter-Ministerial Committee for Decentralization, of which sixteen ministers are members. Second, the Deputy Minister of Interior also acts as the National Anti-Trafficking Coordinator and oversees a central anti-trafficking unit located within the Ministry²⁰¹. The main duties of the anti-trafficking unit are to: (i) monitor the activities of the institutions tasked to implement the national Anti-Trafficking Strategy, (ii) coordinate action with these institutions, and (iii) collect information and data about matters relating to the phenomenon²⁰². Up until the end of 2006, the anti-trafficking unit oversaw and coordinated a range of activities envisaged by the Anti-Trafficking Strategies, including legislative reform, the establishment of the Responsible Authority and Regional Anti-Trafficking Committees (discussed below), training of relevant actors, and the conclusion of agreements with NGO service providers for victims of trafficking.

The Responsible Authority. The Ministry of Interior is the lead ministry within the framework of an anti-trafficking coordination structure known as the Responsible Authority. The Responsible Authority was created by a joint order of three line ministries in May 2006 and consists of a committee made up of representatives from the Ministry of Interior, the Ministry of Labour and Social Affairs, and the Ministry of Foreign Affairs²⁰³. Officers of the Responsible Authority will be based within State Social Services in Tirana. The joint order establishing the Responsible Authority provides that its functions are:

- to coordinate and supervise the identification and referral for assistance and reintegration of victims and potential victims of trafficking;
- coordinate with structures in destination countries, the identification and assisted and voluntary return of victims of trafficking with Albanian nationality;
- create and maintain a database for referred victims;
- appoint a multi-disciplinary team to carry out an assessment of the needs and situation of victims and potential victims of trafficking;
- ensure the expedient referral of victims and potential victims of trafficking to service providers; and
- ensure the return of child victims and potential victims of trafficking to their parents or their placement in reception centres, child care residential centres or foster families²⁰⁴.

The joint order envisages that the Responsible Authority will coordinate the referral process for initial assistance, protection and long-term rehabilitation of all victims of trafficking at central level. Although the Responsible Authority is already in existence, as of January 2007, it was not yet fully operational as a national referral mechanism for victims or potential victims of trafficking.

²⁰¹ The Ministry of Interior anti-trafficking unit was established under Prime Minister's Order 203, dated 19 December 2005.

²⁰² Report on the Implementation of the Albanian National Strategy for Combating Trafficking in Human Beings, January – June 2006. Anti-trafficking Unit, Ministry of Interior. July 2006. p. 3.

²⁰³ Joint Order of the Ministry of Interior, Ministry of Foreign Affairs, and Ministry of Labour and Social Affairs on the Establishment of a Responsible Authority for Protection and Assistance to Victims of Trafficking and the Assignment of Duties to the Institutions involved in this Process. May 2005.

²⁰⁴ *Ibid.* Arts. 2 and 3.

General Directorate of State Police

Article 8 of the Law on State Police provides that the General Director of State Police is the highest administrative and technical authority within the Albanian police. The General Director reports directly to the Minister for Interior. The central general directorate of police is located in Tirana, whilst each of the twelve regions in Albania has a regional police directorate²⁰⁵. The regional police directorates are usually located in the regional council buildings.

The operational side of the general directorate is itself divided into five directorates, two of which are depicted in Diagram 5. These are the Directorate of Terrorism and Crimes under Investigation, and the Directorate of Organized Crime. The remaining three directorates consist of the Directorate of Public Order, the Regional Directorates themselves, and the Directorate of Border Police.

Policing at the local level is carried out through police stations within municipalities and communes that report to the regional police directorate²⁰⁶. The regional police director is responsible for determining the police station structure within his region, subject to the approval of the General Director of State Police²⁰⁷.

As concerns the role of the state police in child protection, two structures are of particular significance: state police anti-trafficking structures and police victim and witness structures.

Police anti-trafficking structures. As shown in Diagram 5, the state police central Directorate of Organized Crime includes an Anti-Trafficking Section. This Section is responsible for a number of specialised police officers, based both centrally and in the regions, appointed specifically to deal with the issue of trafficking. These officers cooperate with border police in the identification, referral and provision of assistance to victims of trafficking.

As of January 2007, structures both for the management of offenders and assistance to victims are in the process of being created both within border points, and also municipal police stations close to border areas. Access to the computerised trafficking case management system, TIMS, has been installed at the Ministry of Interior, regional police directorates of Tirana, Durrës and Vlorë, and at the border checkpoints of Rinas Airport, Kapshtice, Kakvije, Port of Durrës, Qafe Thane, Han I Hotit, Morine and the Port of Vlorë²⁰⁸. This system will effectively allow the Responsible Authority – via the Ministry of Interior – to receive the information necessary to enable it to function as a national referral mechanism. In addition, practice assessment revealed that some municipal police stations have developed specialised facilities for the interviewing, and temporary residence, of victims of trafficking. In at least one region, for instance, police make use of an office constructed with the assistance of IOM for interviewing victims of trafficking. Victims may stay in a residential room within the office for a number of days pending identification and return to the region of origin. However, with only one residential room available, the police have been forced to allow child victims of trafficking to stay with adults in the single facility. A reception centre at Rinas Airport for returnees and potential victims of trafficking has also recently been created, staffed by border police²⁰⁹.

Regional Anti-Trafficking Committees

In accordance with the strategic aim of 'coordination' under the Anti-Trafficking Strategy, the Ministry of Interior has recently initiated the creation of structures for the coordination of anti-

²⁰⁵ Law 8553 on the State Police of Albania of 25 November 1999. Art. 11.

²⁰⁶ *Ibid.* Art. 13(3).

²⁰⁷ *Ibid.* Art 14.

²⁰⁸ Report on the Implementation of the Albanian National Strategy for Combating Trafficking in Human Beings, January – June 2006. Anti-trafficking Unit, Ministry of Interior. July 2006. p. 6.

²⁰⁹ See National Coordinator on the Fight against Trafficking in Human Beings. Main objectives for the prevention and fight against traffic in humans for 2006 and some important achievements for this period. 2006.

trafficking activities at the regional level. These structures – created by Order of the Prime Minister in June 2006 – are referred to as Regional Anti-Trafficking Committees²¹⁰.

The Order states that Regional Anti-Trafficking Committees shall “*assess the regional situation and determine needs*” with respect to the prevention and combating of trafficking in humans. The Committees are also charged with “*directing, supervising and assisting the coordination of activities of government and non-government parties at regional level*” in order to achieve “*prevention, criminal prosecution and protection of victims of trafficking*”²¹¹. The Regional Anti-Trafficking Committees have a very wide remit, ranging from the collection and exchange of information to the supervision of the implementation of anti-trafficking duties as well as the referral and resolution of cases. These broad functions provide a mandate for Regional Anti-Trafficking Committees to engage in the wider protection of children from any form of violence, abuse, exploitation or neglect.

The membership of the Regional Anti-Trafficking Committees includes the regional Prefect, the Mayor of the main city in the region, the Director of the regional office of State Social Services, the Director of the regional employment office, the regional Police Director, the Director of the regional national insurance office, the Director of the regional education directorate, and the Director of the regional public health directorate²¹². In addition Committees may include the district prosecutor and representatives of NGOs providing relevant services. As such, Committees benefit from a fully cross-sectoral membership.

As shown on Diagram 5, each Regional Anti-Trafficking Committees is effectively made up of two separate committees: the Regional Committee itself (with membership as described above) and the Regional Technical Anti-Trafficking Table²¹³ (the “Technical Table”). The Technical Table contains representatives from each of the same directorates or organisations as the main Committee, but persons sitting on the Technical Table are operational staff members rather than heads of directorates or organisations. The Technical Table reports to, and implements the work of, the main Regional Anti-Trafficking Committee. Both the Technical Table and the Anti-Trafficking Committee are governed by detailed rules of procedure that set out the different roles for each committee member²¹⁴.

Anti-Trafficking Service Providers

Social care services for victims and potential victims of trafficking are provided by both public and NGO service providers.

The primary public service for such persons is the National Reception Centre for Victims of Trafficking, located at Linza, a village some ten kilometres from Tirana. As shown in Diagram 4, this facility is financed and managed directly by the Budget and Planning Department of the Ministry of Labour and Social Affairs. Similarly, assistance to victims and potential victims of trafficking is provided by a wide range of NGOs that also fit into the category of social care service providers, including the VATRA centre for victims of trafficking in Vlore, Tjeter Vizion, and IOM centres.

The National Reception Centre for Victims of Trafficking (the “National Reception Centre”) is the only public, national service for trafficking victims. It is a residential centre offering accommodation, food, clothing, medical, legal and psycho-social assistance, and referral for return and reunion with family. The National Reception Centre is a secure facility protected by state police. This is because the majority of women placed in the centre are resident for the purposes of protection due to their

²¹⁰ Prime Minister's Order 139 on the Establishment of Regional Committee and Technical Regional Tables for Combating Human Trafficking at a Regional Level of 19 June 2006.

²¹¹ *Ibid.* Art. 2.

²¹² *Ibid.* Art. 1.

²¹³ *Ibid.* Art. 4.

²¹⁴ See for instance Rules of Procedure for the Organization and Operation of the Committee and Technical Table for the Fight against Trafficking in Human Beings. Region of Kukes. 2006.

participation as witnesses in trafficking trials. Children themselves may enter the National Reception Centre either because they are accompanying a mother who is a trafficking victim, or because the child himself or herself is a victim or potential victim of trafficking. As of the date of this report, the rules for admission of children to the Centre are reported to be undergoing improvement. However, practice assessment revealed that many institutions claimed competency to refer cases to the Centre, including the prosecutor's office, police and State Social Services.

In line with its role as a temporary shelter pending the completion of a trial or family identification and reintegration, it is the intention that residents should only remain at the National Reception Centre for a limited period of time. In practice, however, it appears that residents may sometimes stay at the Centre for a period of more than six months, particularly during the lengthy trial of a person accused of trafficking. Although the centre makes arrangements for return and reunion with a resident's family, it does not provide follow up services thereafter.

The number of children resident in the Centre is comparatively small. Throughout 2006, some sixteen children were resident in the centre, with a further six staying only a few days. Information was not available concerning the reasons for placement of these children in the centre. Practice assessment showed that whilst each child received an individual care plan, little education and few activities are organized for children. As at the time of this report however, efforts are underway to improve the quality of care provided for children, within the framework of a UNICEF funded project. Nonetheless, due to its closed nature, contact outside of the Centre remains extremely limited, with children only being allowed out of the Centre grounds for recreational activities once a month.

The lack of development opportunities for children at the Centre, together with its isolated nature, make the Centre somewhat unsuitable for accommodating children for anything longer than a few weeks. The current lack of a formal protocol for referrals and entry to the National Reception Centre – particularly for children considered to be *at risk* of trafficking (rather than identified victims of trafficking) – may also be incompatible with the international recommendation that rigorous screening procedures should be used to ensure that only appropriate admission to residential care facilities are carried out²¹⁵.

As concerns NGO service providers, these include the VATRA (hearth) centre in Vlore, Tjeter Vizion, Different and Equal, International Social Service, Terre des Hommes, Assistance for Children, Community Center of Ballsh, the International Catholic Commission for Migration, Save the Children, Legal Clinic for Juveniles, a counselling line for women and girls, and the umbrella organisation 'Together against Trafficking of Children'²¹⁶. Services provided by these organizations for victims of trafficking include residential care, counselling, and health related services. The coordination of services provided by these NGOs will take place through the Regional Anti-Trafficking Committees. As of the date of this report, these Committees had not yet been in place long enough to assess how this will work in practice. In all of the regions assessed, however, NGOs active in trafficking appeared highly enthusiastic as regards participation in the Regional Anti-Trafficking Committee and its use as a local referral point.

4. Reporting and Referrals

Anti-Trafficking National Referral Mechanism

As of the date of this report – January 2007 – the envisaged national referral mechanism for victims of trafficking, to be coordinated by the Responsible Authority, is not yet operational. As such it is not possible to describe exactly how the mechanism will work in practice. Nonetheless, some details are set out in a cooperation agreement entered into in July 2005 between the Ministry of Labour and Social Affairs, State Social Services, the National Reception Centre, the General Directorate of State Police, the Ministry of Foreign Affairs, the VATRA centre, Tjeter Vizion, and

²¹⁵ Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care. Art. 125.

²¹⁶ Report on the Implementation of the Albanian National Strategy for Combating Trafficking in Human Beings, January – June 2006. Anti-trafficking Unit, Ministry of Interior. July 2006. p. 11.

IOM²¹⁷ (the “Cooperation Agreement”). Under this Cooperation Agreement, the organisations agreed as following:

- the General Directorate of State Police will:
 - report all cases of trafficking victims encountered to the Responsible Authority;
 - where unable to contact the Responsible Authority, refer cases in need of immediate accommodation and assistance to the nearest service provider;
 - in cooperation with the Responsible Authority guarantee the security of transportation of victims from local police directorates to and from their families, the National Reception Centre and other accommodations; and
 - report on a quarterly basis to the National Anti-Trafficking Coordinator on the numbers and status of victims and potential victims
- the Responsible Authority, Ministry of Labour and Social Affairs, the National Reception Centre, the VATRA centre, Tjeter Vizion, and IOM will:
 - ensure that child victims receive services and assistance strictly with the agreement of a parent, legal representative or guardian;
 - make available trained state social workers to participate in the initial reception and interview of actual, presumed or potential victims at all main border crossing points and at police directorates;
 - accommodate victims of trafficking who need to attend judicial proceedings in Tirana at the National Reception Centre;
 - accommodate victims who require longer-term reintegration assistance or wish to be located in other parts of Albania at other centres or organisations;
 - accommodate children who cannot return to their family wherever possible with extended family or in foster homes, or in centres for children if no foster family can be found;
 - promote reintegration of victims through referrals to state agencies and other organizations;
 - communicate with the Anti-Trafficking Sector of the General Directorate of State Police; and
 - report on a quarterly basis to the National Anti-Trafficking Coordinator on the numbers, status and reintegration progress of victims assisted
- State Social Services will additionally:
 - create, staff and fund the Responsible Authority within State Social Services;
 - monitor service delivery for victims of trafficking, including compliance with established standards; and
 - conclude outsourcing agreements to establish, operate and fund a nationwide toll-free SOS help line for trafficking victims and their families.

Diagram 5 demonstrates the majority of the reporting lines envisaged by the Cooperation Agreement. As the system is in the process of implementation however, it is not clear exactly how reporting will function in practice. For instance, it is not clear whether border or local police will be able to report cases of trafficking victims directly to the Responsible Authority or whether they will need to be reported via the Regional Anti-Trafficking Committee.

The Rules of Procedure of the Anti-Trafficking Committees suggests that these Committees can also act as a local referral mechanism, with cases referred onwards to the Responsible Authority. Kukës Regional Anti-Trafficking Committee Rules of Procedure, for instance, states that both the technical secretary to the Committee and the regional directorate of State Social Services can

²¹⁷ Cooperation Agreement to Establish a National Referral Mechanism for the Enhanced Identification of and Assistance to Victims of Human Trafficking between between the Ministry of Labour and Social Affairs, the National Reception Centre, the General Directorate of State Police, the Ministry of Foreign Affairs, the VATRA centre, Tjeter Vizion, and IOM. 18 July 2005.

refer cases to the Responsible Authority²¹⁸. At the same time, however, the Committee can itself identify and propose solutions to individual cases²¹⁹.

Regional Anti-Trafficking Committees assessed during the systems analysis had only held one or two meetings and so practice was not yet well established. Nonetheless, interviews with Committees revealed a number of common activities:

- (1) Regional Anti-Trafficking Committees usually met between once a month to once every three months.
- (2) Regional Anti-Trafficking Committees typically received reports from the regional educational directorate, the regional office of State Social Services and NGOs concerning numbers of children at risk. Categories of children identified by the Committees included children not in school, orphaned children, children begging on the streets, children not registered at birth, and children of families receiving economic assistance. Reports of the Committees frequently contained numbers of children falling into these categories. However, other than references to the offering of financial assistance, Regional Anti-Trafficking Committees did not yet appear to have developed solutions for addressing the social care needs of such children.
- (3) In all instances Technical Tables had discussed a small number of individual cases, including both potential victims and actual victims of trafficking, and made some proposals for action to the main Committee. Having taken a decision as to the course of action, the main Committee would then remit the case back to the Technical Table for action. In one region, for instance, the Committee had agreed, in cooperation with the regional employment office to offer vocational training courses to young women who had been victims of trafficking. In another, the Committee had arranged for the admission of two 'at risk' children to residential care.
- (4) The majority of referrals of individual cases to the Regional Anti-Trafficking Committees came from either the police or local NGOs. In at least one region, the Committee was concerned to identify, and increase participation, of all NGOs providing services to victims of trafficking within the region.

Overall, it appears that, as of January 2007, Regional Anti-Trafficking Committees are still attempting to understand their mandate and their exact place in the national referral mechanism. Nonetheless, their creation offers an excellent opportunity for cross-sectoral cooperation between state and non-state actors. Indeed, this cooperation has the potential to be far wider than in respect of victims of trafficking alone. The inclusion of *potential* victims of trafficking within the remit of Committees opens the door to the identification of and response to wider child protection issues, including any form of violence, abuse, exploitation or neglect.

It is crucial that the Regional Anti-Trafficking Committees are clear about their exact role and mandate. Are they simply there to ensure high-level coordination of services or should they become involved in the referral of concrete cases? A representative of at least one Regional Anti-Trafficking Committee believed that the Committee's Technical Table could play an important role in the identification and referral of wider cases of child violence, abuse, exploitation and neglect. If this is to be the case then Committees must also be careful not to duplicate the work of other expanding pilot projects such as municipal Child Labour Monitoring Committees and municipal Child Protection Units. These projects also effectively claim to offer child protection referral mechanisms, and it is important that the continued expansion of such bodies does not result in increased competition or mechanistic confusion.

²¹⁸ Rules of Procedure for the Organization and Operation of the Committee and Technical Table for the Fight against Trafficking in Human Beings. Region of Kukes. 2006. Arts. 7 and 10.

²¹⁹ *Ibid.* Art. 6

Recommendations

1. Consideration should be given to amending the Criminal Code to include additional criminal offences relating to:
 - Violence against children specifically in the home, school, or institutional environment;
 - Child cruelty and the chronic neglect of a child;
 - The production, distribution, dissemination, importing, exporting, offering, selling or possession of child pornography.
2. The Government of Albania should consider ratifying the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and amend the Criminal Code accordingly.
3. Inducing or encouraging a child under the age of fourteen to commit a criminal offence is an offence under Article 129 Criminal Code. However, this protection could be strengthened by widening the provision to cover a child of any age, and also by prohibiting the use, procuring or offering of a child for the commission of a criminal offence.
4. Whilst a breach of health and safety rules is clearly criminalised by the Criminal Code, greater protection for children could be achieved by criminalising the use, procuring or offering of a child for the worst forms of child labour. This step would first require the clear identification by the government of work likely to harm the health, safety or morals of children.
5. Where a parent commits assault, or causes serious or non-serious injury due to negligence against his or her child, the parent's signature is required in order to validate the child's complaint and initiate the prosecution process. If the parent refuses, or is otherwise unavailable, to validate the child's complaint, then there is no way, in practice, of commencing prosecution. This is a serious deficiency in the Criminal Procedure Code and one that should be remedied in order to ensure the deterrent effect of the crime of assault within the home against a child.
6. The police sector suffers from a lack of guidance in relation to the treatment of child victims and witnesses both at the central and local level. Practice assessment revealed, for example, that local police stations do not have or operate local policies for the interviewing and appropriate treatment of child victims and witnesses, as recommended by international standards. We would recommend that such policies be implemented nationally.
7. Further consideration needs to be given to support of child victims and witnesses:
 - Psychological assistance should be made available child victims of crime and child witnesses;
 - In the case of victims of trafficking, some municipal police offices have developed specialised facilities for the interviewing and temporary residence of victims of trafficking. However, with only one residential room available, the police have been forced to allow child victims to stay with adults in a single facility. Separate facilities for children need to be made available
 - The facilities of the National Reception Centre for women and children who have been trafficked, are unsuitable for children for more than a very few days. Consideration needs to be given to alternative, more suitable provision for children.
 - There should be a formal protocol for referrals and entry to the National Reception Centre – particularly for children considered to be *at risk* of trafficking (rather than identified victims of trafficking) – to ensure compliance with international standards and to ensure that admissions are appropriate.

Chapter FIVE

Section Three

Justice Sector

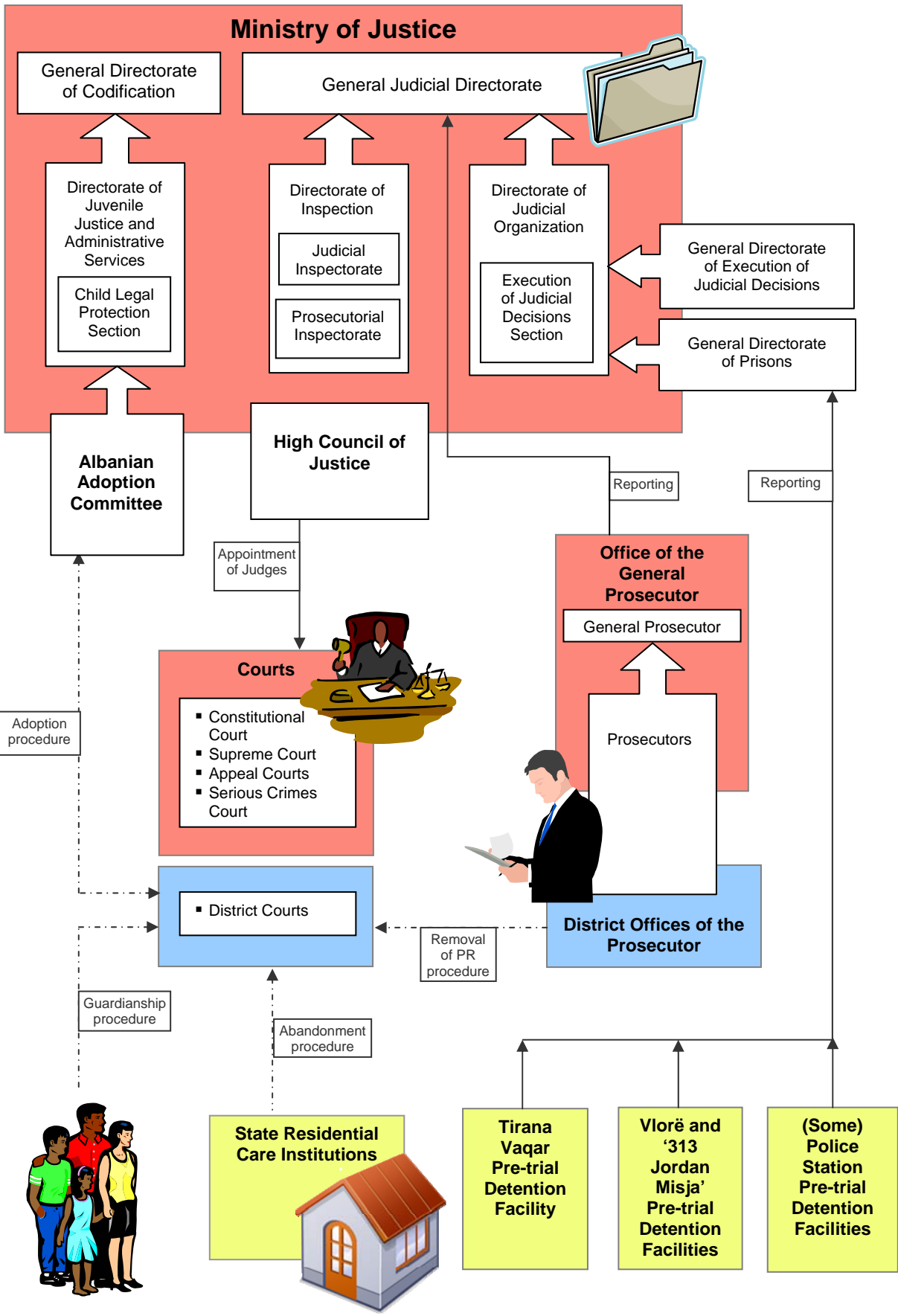
1. Overview

The justice sector plays a valuable role in the child protection system in two respects. Firstly, it provides to child victims and witnesses during the criminal judicial process, and secondly, it determines the legal status of children deprived of their primary caregiver.

The justice sector in Albania includes a Constitutional Court, Supreme Court, Courts of Appeal and District Courts, together with District Offices of the General Prosecutor. The major piece of legislation governing the second role of the justice sector – that concerning children without parental care – is the Family Code of Albania. In addition, however, important protective proposals are contained in a Draft Law on Violence.

In the same way as for the other sectors, Diagram 6 below sets out the institutional structure of the Albanian justice sector. Colour coding is used in the diagram to signify red for central level, blue for regional level, green for municipality/commune level, and yellow for service provider level. Thick arrows within the diagram signify institutional structural relationships, and hence primary reporting lines. Thin arrows between institutions or persons are 'flagged' in order to mark their significance. The diagram is not exhaustive in showing all directorates or sections within the Ministry of Justice. Rather, it seeks to identify the primary actors relevant to the justice sector as a component within the child protection system. Moreover, the size of boxes does not necessarily correspond to the staffing or resource allocation of directorates, sections or other institutions.

Diagram 6: The Justice Sector



2. Applicable Law and Policy

The main laws applicable to child protection are the Law on the Organization of Judicial Power, the Law on the Organization of the Office of the Prosecutor, the Law on the Organization of Serious Crimes Courts, the Criminal Procedure Code, the Family Code, and the Draft Law on Violence.

Law on the Organization of Judicial Power

The operation of the courts in Albania is governed primarily by the 1998 law on the Organization of Judicial Power²²⁰ (the “Judicial Power Law”). Under this Law, the courts of Albania are divided into courts of first instance, courts of appeal and the High Court²²¹. The courts of first instance are located in judicial districts throughout Albania²²². The Judicial Power Law also provides for a High Council of Justice to be responsible both for the appointment of judicial inspectors and the appointment of judges²²³. Under the Law, judges enjoy security of tenure and immunity from civil actions relating to the fulfilment of their professional duties²²⁴.

Law on the Organization of the Office of the Prosecutor

The organization and functioning of the office of the prosecutor in Albania is specified by Law 8737 on the Office of the Prosecutor²²⁵. Law 8737 states that the object of the office of the prosecutor is primarily to carry out criminal prosecution²²⁶. However, under the Family Code, the prosecutor may also exercise additional powers in relation to family proceedings. Under the Law on the Office of the Prosecutor, prosecutors are attached to the High Court, Court of Appeal, and first instance courts²²⁷. Candidates for the post of prosecutor are appointed to office by the President of the Republic on the proposal of the General Prosecutor following open competition²²⁸. The Law also states that the Ministry of Justice is responsible for supervising the legality of the action of prosecutors²²⁹. This is shown in Diagram 6 as a reporting line.

Law on the Organization of Serious Crimes Courts

In line with the new witness protection legislation described in Section Two above, a recent innovation in the Albanian judicial system has been the creation of serious crime courts. Created at both the first instance and appeal level, Law 9110 of July 2003 – the Serious Crimes Law – establishes such serious crime courts for a subset of crimes provided for in Article 75(a) of the Albanian Criminal Procedure Code²³⁰. Significantly, this list of crimes include trafficking in human beings (Article 110a of the Criminal Code) and trafficking of children (Article 128b of the Criminal Code)²³¹. Witnesses in a serious crimes trial are able to benefit from additional witness protection measures during court appearances. These include questioning in the presence of the defendant and the defence lawyer, but without visual contact, and questioning without communicating to the defendant and the defence lawyer the identity of the witness²³². In principle, children may benefit from such measures under the Serious Crimes Law where they are called upon to give evidence in

²²⁰ Law 9436 on the Organization of Judicial Power in the Republic of Albania of 28 December 1998.

²²¹ *Ibid.* Art. 5.

²²² *Ibid.* Art. 11.

²²³ *Ibid.* Arts. 17 and 20.

²²⁴ *Ibid.* Arts. 27 and 37.

²²⁵ Law 8738 on the Organization and Functioning of the Office of the Prosecutor in the Republic of Albania of 12 February 2001.

²²⁶ *Ibid.* Art. 2.

²²⁷ *Ibid.* Arts 13 to 15.

²²⁸ *Ibid.* Art 21.

²²⁹ *Ibid.* Art 56.

²³⁰ Law 9110 on the Organization and Functioning of the Courts for Serious Crime of 24 July 2003. Art. 5(1).

²³¹ See Analysis of the Criminal Justice System of Albania. Report by the Fair Trial Development Project. OSCE. 2006. p. 193-194.

²³² *Ibid.* Art. 8.

court in relation to a crime falling within the remit of the Law. As such, the main category of children benefiting from these provisions is likely to be child victims of trafficking.

The Criminal Procedure Code

The Albanian Criminal Procedure Code has already been discussed within the context of the police and interior sector in Section Two of this Chapter. However, the Code also requires brief consideration within the context of the justice sector, due to its inclusion of provisions that deal with the treatment of child victim or witness by the justice system.

The primary protections that the Criminal Procedure Code offers to child victims and witnesses are contained in Article 361. These protections include the possibility for the questioning of a child witness to be assisted by a member of the child's family or an expert in child education²³³. A child witness may only be questioned directly by the prosecutor or defence lawyer where the court considers that this will not harm his or her psychological condition²³⁴. In addition, a possibility for the witness to provide evidence to the court via an audio-visual link has recently been introduced into the Criminal Procedure Code²³⁵. Finally, the court has the power to order a closed hearing where necessary "*during the questioning of juveniles*". This provision is worded widely enough to permit its application to child victims and witnesses, in addition to children in conflict with the law²³⁶.

The Family Code

The Albanian Family Code is a key piece of legislation for the protection of children deprived of their primary caregiver. It was revised in the year 2003 and remains in force as at the time of this report in the form of Law 9062 of 8 May 2003. As will be discussed in this section, it has both strengths and weaknesses.

The Family Code commences with recognition of the importance of the family as the fundamental group of society and the natural environment for the growth and well-being of children²³⁷. Article 1 states that marriage and family shall enjoy special protection from the state, whilst Article 3 places a duty on parents to ensure the proper care, development, well-being, and education of their children. In addition, under Article 5, the Albanian child has the right to grow up in a family environment of joy, love and understanding. Significantly, in accordance with the UN Convention on the Rights of the Child general principle, Article 6 of the Family Code also protects the child's right to be heard in decisions that effect the child, in accordance with his or her age and capacity to understand.

As concerns the protection of children deprived of their primary caregiver, the Family Code introduces three important concepts:

- parental responsibility and its removal;
- guardianship; and
- adoption.

Parental Responsibility and its Removal. The concept of parental responsibility is dealt with by Section Three, Title III of the Albanian Family Code. According to these provisions, parental

²³³ Law 7905 containing the Criminal Procedure Code of Albania of 21 March 1995. Art. 361(5).

²³⁴ *Ibid.*

²³⁵ *Ibid.* Art. 361(7). Article 361(7) provides: "A witness may be interrogated at another location, in the country or abroad, through an audio-visual connection, in compliance with rules stipulated in international agreements and in the provisions of this Code. A person authorized by the court is to remain at the witness's location, to confirm his/her identity, as well as to ensure proper procedures for interrogation and for the implementation of protective measures. He or she is to report these actions in an official record".

²³⁶ *Ibid.* Art. 340.

²³⁷ See UN Convention on the Rights of the Child. Preamble.

responsibility “includes a set of rights and obligations aimed at assuring the emotional, social and material well being of the child, taking care of him or her, maintaining personal relations with him or her, assuring his or her nurture, education, edification, legal representation, and the administration of his or her wealth”²³⁸. In other words, a person holding parental responsibility for the child is the permanent primary caregiver for that child as far as the law is concerned. When a child is born to parents, they both assume parental responsibility, which continues until that child reaches the age of majority (eighteen years)²³⁹. Where one parent is unable to exercise parental responsibility or is deceased, then full responsibility passes to the remaining parent²⁴⁰. Where the parents of a child become divorced, the court may make an assignment of parental responsibility to one parent alone. If not, parental responsibility continues unaffected²⁴¹.

Notwithstanding this automatic grant of parental responsibility to the parents of a child, the Family Code provides that parental responsibility may be lost where a parent is convicted for committing or collaborating in a “criminal act” towards or with their child, or if they have been convicted of “family abandonment”²⁴². This particular article – Article 223 of the Family Code – fails to specify whether such “loss” of parental responsibility occurs automatically where a parent is committed of such an offence, or whether separate proceedings are necessary. However, in accordance with Article 228 of the Family Code (discussed below), it appears that a separate court decision is necessary.

Article 228 describes further conditions that are so serious that the court may be forced to actively remove parental responsibility from a child’s parent. The Article specifies that where a parent “abuses” their parental responsibility, shows “grave negligence” in its exercise, or “harms the education” of the child, parental responsibility may be removed by a decision of the court. Under Article 228, a request for such removal must be made by: (i) the other parent, (ii) relatives of the child, or (iii) the prosecutor.

In addition to Articles 223 and 228, the Family Code also describes further circumstances relating to the inability to properly exercise parental responsibility. As well as the death of a child’s parents, Article 224 refers to the situation where the parents are incapable of exercising parental responsibility due to: (i) their incapacity, (ii) their absence, or (iii) other particularly “grave causes”. In such circumstances, Article 224 refers not to the removal of parental responsibility but rather to the concept of *guardianship*.

Guardianship is discussed in greater detail below. However, in respect of Article 224, it is worth noting that the appointment of an alternative *guardian* for the child does not negate the continued *legal* vesting of ultimate responsibility for the child in the parent in the form of parental responsibility. In other words, the Family Code recognises that the committal of a criminal offence towards one’s child, abuse or grave negligence (Articles 223 and 228) is sufficiently serious that the parent should no longer be allowed to have legal responsibility for the child, whereas an involuntary incapacity to care for the child merits rather the appointment of an alternative carer (Article 224).

Where parental responsibility has been removed by a decision of the court, it may be restored by a further court decision²⁴³.

Guardianship. The provisions on guardianship in Albanian law are found both in the Family Code and also in the Civil Procedure Code²⁴⁴. Article 263 of the Family Code is the starting point, which provides that a child may be placed under “*guardianship and in the special care of the state*” when his or her parents: (i) are unable to exercise their parental rights (as described in Article 224 of the

²³⁸ Law 9062 containing the Family Code of Albania of 8 May 2003. Art. 215.

²³⁹ *Ibid.* Arts. 220 and 216.

²⁴⁰ *Ibid.* Art 224.

²⁴¹ *Ibid.* Art 155.

²⁴² *Ibid.* Art. 223. Under Article 124 of the Albanian Criminal Code it is an offence for the parent of a child under the age of sixteen years to abandon him or her.

²⁴³ *Ibid.* Art. 230.

²⁴⁴ Law 8116 containing the Civil Procedure Code of the Republic of Albania of 29 March 1996.

Family Code), (ii) are dead or unknown, (iii) have had their parental rights terminated (as described in Articles 223 and 228 of the Family Code), or (iv) for any other reason accepted by the court. The appointment of a guardian does not automatically also result in the loss or removal of parental responsibility where the child has living parents. Rather, the role of the guardian is to “*care for the child, represent him or her in all legal actions and to manage his or her property*”²⁴⁵. Guardianship is terminated when a child reaches the age of eighteen years or becomes married before that age²⁴⁶.

Under Article 263, the assignment of guardianship for a child is a procedure carried out by the district court. This procedure may be initiated by: (i) relatives of the child; (ii) anyone knowing of a child without parents, (iii) a child over the age of fourteen years, (iv) the prosecutor, or (v) a notary²⁴⁷. The court may appoint any natural person or a public or private care institution to act as the child’s guardian²⁴⁸. The consent of a person appointed by the court to act as the child’s guardian is required²⁴⁹. Article 271 of the Family Code is clear that a public or private care institution shall only be appointed to act as the child’s guardian where the child has no relatives “*willing or able to exercise custody*”²⁵⁰.

In addition, the Family Code does appear to envisage that a child could be cared for by a foster family who would, presumably, be appointed as the child’s guardian. Article 266 of the Family Code provides that a foster family “*is an alternative family*” assigned by the court in order to provide children with a family environment, conditions for good up-bringing, physical care and emotional support. The same article assigned the identification of foster families to the social assistance and services department at the municipality or commune. As already discussed in Section One of this Chapter, however, in practice, fostering is extremely limited in Albania. Those services that do exist are provided on a private basis by NGOs.

During a court hearing for the assignment of guardianship, a child who has reached the age of sixteen years has the right to address the court concerning the placement²⁵¹. In addition, the court is obliged to seek the child’s views where he or she has reached the age of ten years²⁵².

The court also has an “*urgent measures*” procedure available to it in the case of guardianship. Under Article 281, *before* a guardian is appointed, the court may, on its own initiative, or at the request of the prosecutor or any “*interested*” person, assign a temporary guardian or take other urgent measures “*necessary for the protection of the child*”. As will be discussed in Part Four below, however, this provision is not used extensively in practice.

Adoption. In addition to parental responsibility and guardianship, the Albanian Family Code also deals with the process of adoption. The section on adoption in the Family Code commences with the proviso that “*adoption is only allowed where it is in the best interests of the child and guarantees respect for their fundamental rights*”²⁵³. Where both parents are alive, their consent for adoption is necessary. Where one parent is deceased, unable to express their will or has had parental rights removed, the consent of the remaining parent is sufficient²⁵⁴.

In the case of children already deprived of their primary caregiver, the adoption process is closely linked to a procedure contained in the Family Code called abandonment. Under the abandonment procedure, the district court has the power to declare as *abandoned*, a child at a public or private

²⁴⁵ Law 9062 containing the Family Code of Albania of 8 May 2003. Art. 272.

²⁴⁶ Law 8116 containing the Civil Procedure Code of the Republic of Albania of 29 March 1996. Art. 356.

²⁴⁷ *Ibid.* Art. 264. See also Civil Procedure Code. Art. 351.

²⁴⁸ *Ibid.* Arts. 270 and 271. Note that certain persons are excluded from acting as guardians including persons who have been sentenced for a criminal offence, have reached 65 years of age, or have lost or had parental rights terminated (Art. 270).

²⁴⁹ *Ibid.* Art. 265.

²⁵⁰ See also Civil Procedure Code Article 354 which states (in relation to parental death) that “*the court appoint as guardian the person designated in the will and in his absence one of the next of kin in direct line and after that in indirect line*”.

²⁵¹ Law 8116 containing the Civil Procedure Code of Albania of 29 March 1996. Art. 352.

²⁵² *Ibid.* Art. 356.

²⁵³ Law 9062 containing the Family Code of Albania of 8 May 2003. Art. 240.

²⁵⁴ *Ibid.* Art. 246.

social care institution or a child in the care of any person when the parents “*in an obvious manner*” have not “*been involved*” with the child for a period of one year immediately prior to the date of the abandonment application to the court²⁵⁵. This period is reduced to three months where the child has resided in a social care institution since birth. In the case where a child is resident in a social care institution, the director of the institution may make the request for a declaration of abandonment to the district court. Under the Family Code, a parent is considered not to have been involved with their child “*in an obvious manner*” when “*they have not maintained a nurturing relationship necessary for the care of the child and have shown severe negligence in the exercise of their parental responsibility*”²⁵⁶. An application for abandonment may be defeated where a family member submits a request to raise the child and this request is considered to be in the child’s best interests.

Where the court makes a declaration of abandonment it must *at the same time* assign a guardian to the child. In accordance with the general provisions on guardianship, this may either be the social care institution or any other person²⁵⁷.

Once a child is declared as abandoned, and has been assigned a guardian, an application for the adoption of the child may be made at the district court²⁵⁸. As noted above, if the child has any living parents then their consent to the application must be obtained. In addition, any person with a lawful interest in the child, such another family member, may intervene in the adoption process²⁵⁹. Where the court is satisfied that all necessary consents have been given, or that no parents or relatives can be found, then the child is added to a list of children who may be adopted held by the central Albanian Adoption Committee. This Committee is shown on Diagram 6.

Requests to adopt a child are submitted to the district court in the case of an Albanian citizen, and directly to the Albanian Adoption Committee in the case of a foreign national²⁶⁰. It is the job of the Albanian Adoption Committee to match adoption requests to children on the adoption list. Once a match has been made, the Committee submits details of the child to be adopted and the adoptive family to the district court. The final decision on the adoption is then made by the court.

Article 257 of the Albanian Family Code prohibits international adoptions of Albanian children where: (i) the adoption is not recognized in the state where the adoptive parents live; (ii) the adoption will have severe consequences for the child; or (iii) the child would not, in the state where the adoptive parents live, enjoy the same rights as recognized in Albania. In addition, a child may not be considered for international adoption unless he or she has been on the Committee’s adoption waiting list for a period of greater than six months and during this period “*all possibilities for adoption within the country have been exhausted*”. Recent changes to the law now also mean that a child who has a disability will not be subject to this rule and may immediately be available for both national and international adoption.

Article 21 of the UN Convention on the Rights of the Child explicitly deals with inter-country adoption. Whilst it recognizes that inter-country adoption may be considered as an alternative means of child care, it specifies that this is only so “*if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child’s country of origin*”. In addition, Article 21(c) of the UN Convention on the Rights of the Child states that a child subject to inter-country adoption must enjoy “*safeguards and standards equivalent to those existing in the case of national adoption*”. In addition, a state must take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in “*improper financial gain*” for those involved. The UN Committee on the Rights of the Child has effectively interpreted these provisions as meaning that inter-country adoption should only be viewed as a measure of last resort²⁶¹.

²⁵⁵ *Ibid.* Art. 250.

²⁵⁶ *Ibid.*

²⁵⁷ *Ibid.* Art. 251.

²⁵⁸ *Ibid.* Art. 247.

²⁵⁹ *Ibid.* Art. 255.

²⁶⁰ *Ibid.* Arts. 253 and 254.

²⁶¹ See Concluding Observations of the Committee on the Rights of the Child. Mexico. (1994). UN Doc. CRC/C/15/Add.13. para. 18.

Albania has ratified the 1993 Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption²⁶². Nonetheless, in its concluding observations on Albania of 2005, the UN Committee on the Rights of the Child noted that it remained concerned at the “occurrence of inter-country adoptions... which are not made through the competent authority or accredited body but through individual channels, including cases of sale of children for adoption”²⁶³. As noted in Section Two of this Chapter on police and interior, the proposed amendment to the Albanian Criminal Code concerning ‘improper induction of consent for adoption’ should help to combat this practice, once in force.

In summary, the Albanian Family Code contains relatively detailed provisions on parental responsibility, guardianship, abandonment, and adoption. In line with international standards, these provisions do aim to ensure that no child should be without the support and protection of a legal guardian or other recognised responsible adult at any time²⁶⁴. Nonetheless, the Code fails somewhat in the area of provision for implementation of these concepts. International standards, for instance, specify that a *guardianship service* should be established by social service authorities or other appropriate organizations. Such a service would be responsible for the acts of an appointed guardian and ensure that legal guardians receive training and professional support²⁶⁵. Whilst Article 276 of the Family Code specifies that after appointing a guardian, the court shall establish the “*limits of authority and duties of the guardian*”, the Code fails to provide for support and follow up thereafter.

In practice, the parental responsibility and guardianship provisions of the family code are used very little and knowledge concerning them is extremely limited, even amongst legal professionals. Many children, for instance, reside in care institutions with no formal acceptance of guardianship by those institutions. It should be noted that these areas of concern are, as at the time of this report, currently under consideration by the Albanian authorities. The Ministry of Labour and Social Affairs, for instance, is preparing standards for a guardianship service, and work is reported to be in progress to introduce a new system of guardianship. The aim of the new system is to institutionalise the relationship between children and care providers by selecting, training, supporting and assessing families and NGOs that, at present, provide *de facto* guardianship for children deprived of their primary caregiver²⁶⁶.

The Draft Law on Violence

As of January 2007, a draft law “*On Measures against Violence in Family Relations*” is before the Albanian Parliament (the “Draft Law on Violence”). The aim of the Draft Law on Violence is to provide protection to persons subject to violence in the home or due to family relations²⁶⁷. As such the Draft Law specifically covers situations where a child is exposed to violence or abuse by any family member²⁶⁸.

The Draft Law does so by placing responsibilities on a number of governmental sectors; the Ministry of Labour and Social Affairs, the social services sector of local government units, police departments under the Ministry of Interior, and health centres under the Ministry of Health. The

²⁶² Ratified by Albania on 12 September 2000.

²⁶³ Concluding Observations of the Committee on the Rights of the Child. Albania. (2005). UN Doc. CRC/C/15/Add.249. para. 46.

²⁶⁴ See for instance Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care. Art. 17.

²⁶⁵ *Ibid.* Art. 104.

²⁶⁶ Report on the Implementation of the Albanian National Strategy for Combating Trafficking in Human Beings, January – June 2006. Anti-trafficking Unit, Ministry of Interior. July 2006. p. 20.

²⁶⁷ See Draft Law on Measures against Violence in Family Relations. Art 4. Article 3 of the Draft Law defines violence as “any act or omission of one person against another, resulting in damage to the physical, moral, psychological, sexual social and economic integrity of the individual who is the target of violence”.

²⁶⁸ Article 3 of the Draft Law defines “members of the family” as “(a) spouses or cohabiting partners; (b) brothers, sisters, relatives of direct blood line, including adoptive parents and children; (c) spouses of persons provided in (b); (d) persons related by direct blood line, including parents and adoptive children of the spouse or cohabiting partner; and (e) brothers and sisters of the spouse if these have been living together during the last three months”.

Draft Law contains two major limbs. The first of these is the creation of structures for preventing and responding to violence – such as rehabilitation centres for victims of domestic violence – across a number of ministries and government authorities. In order to ensure coordination of these structures, the Draft Law specifies the Ministry of Labour and Social Affairs as the lead responsible authority²⁶⁹. It is envisaged that the Ministry will achieve this through the creation of a central department entitled the Department for Prevention and Reduction of Domestic Violence²⁷⁰. In addition to responsibilities for the Ministry of Labour and Social Affairs, the Draft Law also proposes that the Ministry of Interior should set up special anti-violence units at police stations, that the Ministry of Health create specific structures for handling domestic violence cases at emergency units and health centres, and that municipalities and communes install regional 24 hours toll free telephone lines, and establish social and rehabilitation centres for victims and perpetrators²⁷¹. Importantly, the Draft Law emphasizes the obligation on all actors to coordinate efforts to prevent and respond to instances of domestic violence.

The second major limb of the Draft Law on Violence – and the one most relevant to the justice sector – is the introduction of the concept of a “*protection order*”. Under the proposals, this may be issued by the family section of the civil court where there is a sufficient basis to believe that the perpetrator (against whom the order is issued) may commit an act of family violence and issuance of the order is indispensable to protect the victim. In addition, the court may order an “*emergency protection order*” where it finds that there is sufficient basis to believe that the perpetrator has committed or threatened to commit an act of family violence, that the perpetrator presents a direct and inevitable threat, and that issuance of the emergency protection order is indispensable to protect the security, health and welfare of the victim or their family members.

Orders that may be made that are particularly relevant to the protection of a child victim of violence include:

- removing the perpetrator from the residence for a certain period of time, determined in the court order;
- placing the victim and the children or other family members who did not commit violence in temporary shelters, keeping in mind the best interests of the child;
- temporarily removing parental rights for the perpetrator (not available for emergency protection orders); and
- deciding and ordering – depending on the case – the intervention of public or private social services or of a centre of family mediation or of organizations whose objective is to support and shelter subjects of domestic violence (not available for emergency protection orders)²⁷².

In the case of a child, a petition for a protection order may be presented to the court by: (i) the child’s parents or guardian, (ii) the child’s legal representative, (iii) relatives of the child, (iv) representatives of the social services office at the municipality or commune, or (v) domestic violence protection and rehabilitation centres and services recognised/licensed by the Department for Prevention and Reduction of Domestic Violence. In addition, the prosecutor and police are empowered to present a petition in the case of an emergency protection order.

Having received a petition for a protection order, the Draft Law envisages that the court will hold a hearing within 15 days, or 24 hours in the case of a petition for an emergency protection order. At the time of this report, the Draft Law on Violence is not particularly clear on whether the court shall hear the testimony of a minor during the hearing for a protection order²⁷³. The general rule contained in the Albanian Civil Code is that children are not called as witnesses when under

²⁶⁹ *Ibid.* Art. 5.

²⁷⁰ *Ibid.* Art. 6 and 8.

²⁷¹ *Ibid.* Art 9.

²⁷² *Ibid.* Art. 12.

²⁷³ Article 19 of the Draft Law states both that the court may hear the testimony from: (i) the victim and his or her legal representative, and (ii) the representative of the social services department at the municipality or commune when the petitioner is a minor... or when the domestic violence affects a minor.”

fourteen years of age unless “*their evidence is indispensable for the case*”²⁷⁴. In the case of guardianship proceedings, however, the court must seek the child’s views where he or she has reached the age of ten years²⁷⁵. In line with the UN Convention on the Rights of the Child principle that the child who is capable of forming his or her own views should be able to freely express those views in matters affecting him or her, it is recommended that the Draft Law on Violence specifically include the right for the competent child to be heard prior to the issuance of any protection order.

The Draft Law on Violence does contain important proposals for mechanisms that could significantly increase protection for children subject to violence, abuse, exploitation and neglect. In particular, the cross-sectoral creation of anti-violence units within police stations, health centres and emergency units, together with municipality/commune toll free reporting numbers, should result in the establishment of a basic coordinated infrastructure for responding to victims of domestic violence.

That said, however, the protection order scheme envisaged by the Draft Law, whilst it may prove effective and appropriate in some circumstances – such as domestic violence against women – is not at all well suited for the wider protection of children, and certainly should not be considered as sufficient to fulfil the role of a “child protection law”. In particular, the Draft Law:

- does not cover other significant protection situations such as forced marriage, chronic deprivation of education, the committal of a serious criminal offence by a child under the age of criminal responsibility, or the involvement of children in the worst forms of child labour;
- even with respect to violence alone, does not contain a mechanism for emergency or comprehensive multi-disciplinary assessment of the situation of a child at risk in accordance with Article 56 of the Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care²⁷⁶;
- does not contain emergency powers for the immediate removal of a child by a police officer or representative of the social services department of the municipality or commune;
- does not contain the possibility of imposition of a supervision order;
- contains no mechanism for care planning, identification of appropriate community based services, or appropriate review and support during the receipt of such services.

As has been discussed in this report, it is apparent that the Albanian child protection system, as of January 2007, does suffer from a lack of sensitive structures for responding to victims of violence, as well as difficulties in the emergency removal of a child for his or her protection. It is clear that the Draft Law on Violence would go some way towards filling this gap.

However, for the reasons given above, it is important that, were the Draft Law to come into force, it is not seen as the answer to the protection of the child from all violence, abuse, exploitation and neglect in the family home. Indeed, it is probable that the Draft Law has been drafted primarily with the protection of women, rather than children, in mind. As discussed in the conclusions and recommendations of this report, an effective solution would be for parallel, but coordinated, protective action to be taken pursuant to a new child protection law, in any domestic violence case where children are involved or, in any way, affected.

3. Institutions, Mandates and Coverage

²⁷⁴ Code of Civil Procedure of the Republic of Albania. Art. 235.

²⁷⁵ *Ibid.* Art. 356.

²⁷⁶ Article 56 Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care provides that: “*Decision-making in the best interests of the child should be based on rigorous assessment, planning and review, through established structures and mechanisms. It should be carried out on a case-by-case basis, by suitably qualified persons, preferably in a multidisciplinary team*”.

The Ministry of Justice

As depicted in Diagram 6, the Ministry of Justice takes overall responsibility for the courts and judicial system, the Office of the General Prosecutor, and (as discussed below) an increasing number of pre-trial detention facilities. The organization and operation of the Ministry of Justice is governed by Law 8678 on the Ministry of Justice²⁷⁷. Through its two main directorates – the General Directorate of Codification and the General Judicial Directorate – the Ministry carries out both the preparation and drafting of laws, together with the day to day management of the court system. In particular, the judicial and prosecutorial inspectorates carry out inspections of judges of the first instance courts, appeal courts, and district prosecutor offices. As concerns children, the Directorate of Juvenile Justice and Administrative Services contains a section on the legal protection of children. This section is responsible for the coordination of activities relating to children in the field of justice.

In addition, the Ministry of Justice is home to the Albanian Adoption Committee and the High Council of Justice. As noted above, the High Council of Justice is responsible for judicial appointments, whilst the Adoption Committee both maintains a list of children eligible for adoption and oversees the process of matching adoptive families with such children. The Albanian Adoption Committee is made up of representatives from all line ministries but has a permanent executive secretariat located within the Ministry of Justice. This secretariat consists of three social workers, one psychologist, and one lawyer.

Under Article 6 and 16 of the Law on the Ministry of Justice, the Ministry is also responsible for managing the pre-trial detention system via the General Directorate of Prisons – an institution operating under the authority of the Ministry. Pre-trial detention facilities were previously under the authority of the Ministry of Interior, and these institutions are in the process of being transferred to the Ministry of Justice in accordance with a decision of the Council of Ministers²⁷⁸. Most of the larger pre-trial detention facilities have now been transferred to the General Directorate of Prisons. Pre-trial detention facilities located in local police stations remain under the authority of the Ministry of Interior as at the time of this report.

Courts and Prosecutors

Albania has a Constitutional Court as well as a three-tiered regular court system made up of courts of first instances, courts of appeals and the Supreme Court.

The Constitutional Court has jurisdiction over cases involving the compatibility of the law with the Constitution or with international agreements and final adjudication of individuals' complaints regarding the violation of their constitutional rights. It also exercises jurisdiction over issues related to the elections of, and functions of, the President of the Republic, together with the constitutionality of referenda and verification of their results. The Constitutional Court is composed of nine members, appointed by the President with the consent of the Parliament. The Supreme Court is the highest appellate body in Albania with appellate jurisdiction over decisions of the courts of appeals. The Supreme Court is composed of seventeen judges, appointed by the President with the approval of the Parliament.

Courts of appeals sit in six different regions of the country and adjudicate appeals taken from the courts of first instance. These courts sit in three judge panels. The courts of first instance are composed of district courts, of which there are thirty-six throughout Albania. A district court may sit as a criminal, civil, or family court²⁷⁹.

²⁷⁷ Law 8678 on the Organization and Functioning of the Ministry of Justice of 14 May 2001.

²⁷⁸ DCM 327 on the Transfer of the Pre-trial Detention System under the Authority of the Ministry of Justice of 15 March 2003.

²⁷⁹ See for instance judicial reform index for Albania. ABA/CEELI. December 2001.

District offices of the prosecutor are associated with district courts. Under the Law on the Organization of the Office of the Prosecutor, the primary function of the prosecutor is to act on behalf of the state in criminal trials. However, as noted above in Part Two, the prosecutor also has jurisdiction under the family law to commence proceedings for:

- removal of parental responsibility (Article 228 of the Family Code);
- assignment of guardianship (Article 263 of the Family Code); and
- emergency measures (Article 281 of the Family Code).

As discussed below, however, many prosecutors in practice are unaware of their responsibilities under these articles.

Detention Facilities

Detention facilities used for children in conflict with the law may be divided into detention centres and cells in police stations. As noted in Part Two above, all pre-trial detention facilities are in the process of being transferred to the Ministry of Justice. As far as children are concerned, at least three detention centres are used for detaining children prior to trial: Tirana 'Vaqaq' facility, a facility in Vlore, and the '313 Jordan Misja' facility'.

Whilst juvenile justice was not strictly included within the child protection system analysis, a visit was made to the Tirana 'Vaqaq' facility during the course of research. At the time of the visit, 27 children were detained pre-trial. As the facility also houses adults, these children are detained in a clearly separated wing of the facility. The physical condition of the buildings was poor, but children were not confined to their cells at the time of the visit and the research team encountered psychologists from a national NGO – Legal Clinic for Minors - offering psychological assistance to those children detained. Children deprived of their liberty in the facility only receive *ad hoc* education however.

Recommendations

1. It is recommended that the Family Code be revised with respect to:
 - The provisions relating to guardianship in order to clarify the situations in which a guardian should be appointed for the child;
 - Who holds parental responsibility for a child where there is no parent or guardian exercising responsibility;
 - The concept of 'abandonment' before a child can be placed for adoption should itself be abandoned. Decisions on future care of a child should be determined purely on the basis of the assessed needs of the child if the system is to comply with international standards.
2. Although the Draft Law on Violence is welcomed it does not introduce a child protection system. We would recommend that the government give urgent consideration to the drafting of a child protection law, or amends the Family Code to cover the issues of identification of children at risk of abuse, referral, assessment, preventive services and crisis intervention.
3. Consideration should be given to the inclusion of the following issues in the Draft Law on Violence or, alternatively, should be included in the Family Code:
 - A mechanism for emergency or comprehensive multi-disciplinary assessment of a child at risk in accordance with Article 56 of the Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care.
 - Emergency powers for the immediate removal of a child by the police or social services
 - The possibility of imposing a supervision order.
 - A mechanism for assessment, care planning, or appropriate review and support during the receipt of services.
 - The prohibition of forced marriage.

Chapter FIVE

Section Four

Education Sector

1. Overview

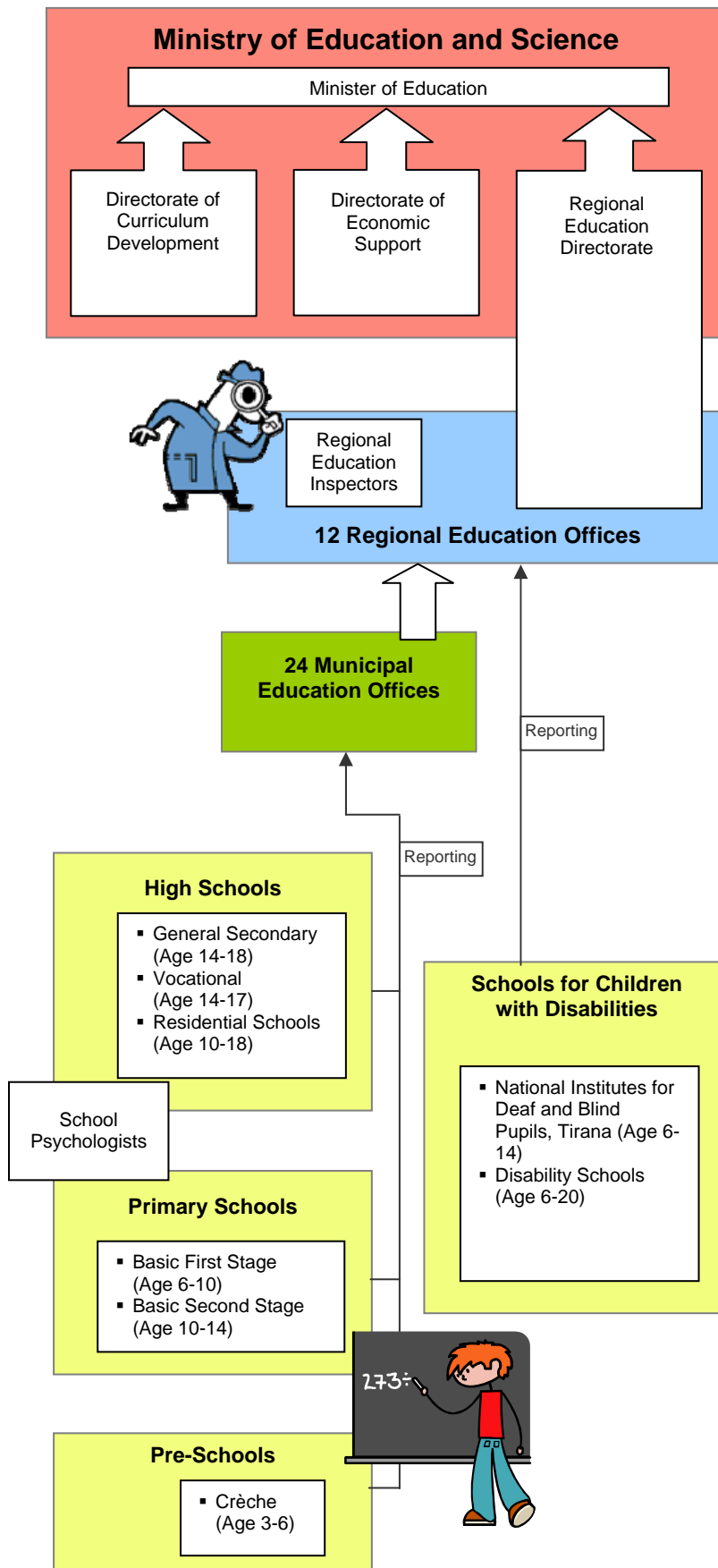
International standards for a child protection system include a large number of provisions in relation to the *identification* and *referral* of cases of violence, abuse, exploitation and neglect. Such standards are applicable to any service provider who has contact with the child; one key providers is the education system. This system has 'front line' contact with children through the child's daily attendance at school.

In particular, international standards recommend that regulations or guidance should exist on the recording and referral of cases of violence encountered by service providers (such as schools). In addition, staff should have knowledge of such regulations and be trained to identify situations of violence, abuse, exploitation or neglect and to refer such situations to competent bodies or services²⁸⁰.

In the same way as for the previous sectors, Diagram 7 below sets out the institutional structure of the Albanian education sector. Colour coding is used in the diagram to signify red for central level, blue for regional level, green for municipality/commune level, and yellow for service provider level. Thick arrows within the diagram signify institutional structural relationships, and hence primary reporting lines. Thin arrows between institutions or persons are 'flagged' in order to mark their significance. The diagram is not exhaustive in showing all directorates or sections within the Ministry of Education and Science. Rather, it seeks to identify the primary actors relevant to the education sector as components within the child protection system. Moreover, the size of boxes does not necessarily correspond to the staffing or resource allocation of directorates, sections or other institutions.

²⁸⁰ See, for example, UNICEF Global Violence Indicators.

Diagram 7:
Education Sector



2. Applicable Law and Policy

Law and Normative Provisions on Pre-University Education

Child education in Albania is governed by the 1995 Law on Pre-University Education²⁸¹. Under this Law, education is compulsory from the age of six years until the age of sixteen²⁸². As depicted in Diagram 7 above the public educational system is made up of public pre-school education, public compulsory education, public secondary education, and public special education²⁸³. In addition, the Law allows for private educational institutions, which may be set up at all levels of pre-university education²⁸⁴.

The Law on Pre-University Education does not specifically prohibit the use of corporal punishment in public and private schools. However, Article 36 of the major piece of secondary legislation under the Law, the Normative Provisions for Pre-University Education, does provide that:

“Individuality and the human dignity of the pre-school child and the student is to be respected. He is to be protected from physical and psychological violence, discrimination and isolation. In the kindergarten and at school, physical punishment or humiliating or degrading treatment of children is absolutely prohibited.”

Further, the Normative Provisions do not allow any degree of ‘reasonable or moderate chastisement or correction’ in schools²⁸⁵. This prohibition is in line with the international standard that requires a clear prohibition on the use of violence in child-related settings²⁸⁶. However, the Normative Provisions instrument takes the form of secondary legislation and breach does not, of itself, give rise to criminal responsibility, although violence may amount to an assault and thus constitute an offence under the Criminal Code.²⁸⁷

Schools Violence Circular

Largely in response to the 2006 Human Development Centre report ‘Violence against Children in Albania’ referred to in Chapter Four of this report, the Ministry of Education and Science, in December 2006 issued a circular on “*Measures to be taken to Improve Educative Work at School and Prevent Violence*”. The Circular notes that the Ministry of Education and Science intends to launch a nationwide activity in the area of education to “*stop violence against children at school*”. In particular, the aim of this activity is stated to be “*that the school creates an environment which is intolerant of violent behaviour against children and in which non-violent behaviour and values are taken on board*”²⁸⁸. The Circular instructs regional Education Directorates, municipal Education Offices, kindergartens and schools (all depicted in Diagram 7) to:

- adopt a code of ethics for all school staff and students with the aim of combating all forms of violence and discrimination;
- scrutinize the manifestations of different forms of violence (physical, emotional, psychological and sexual);
- hold seminars and meetings to share knowledge about the different forms of violence

²⁸¹ Law 7952 on the Pre-University Educational System of 21 June 1995.

²⁸² *Ibid.* Art. 8.

²⁸³ *Ibid.* Art. 16.

²⁸⁴ *Ibid.* Art. 43.

²⁸⁵ *Ibid.*

²⁸⁶ UN Committee on the Rights of the Child. General Comment 8 (2006). The Right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. Arts 31 and 35.

²⁸⁷ See for instance Article 90 Albanian Criminal Code.

²⁸⁸ Ministry of Education and Science. Circular on Measures to be taken to Improve Educative Work at School and Prevent Violence. p. 2.

- against children, and the long-term consequences for their development;
- ensure that school psychologists incorporate activities to identify, tackle and prevent different forms of violence at school into their work plans;
- draw up a teaching plan [related to violence in schools] for inclusion in the one hour slot designated for extracurricular pursuits in grades one to twelve;
- adopt approaches in the teaching and learning process and in disciplining and managing the class that are not built on the fear, threat or use of physical force or humiliation;
- monitor teachers' behaviour towards students during the teaching process and identify cases of inappropriate behaviour;
- report cases of inappropriate behaviour to the teachers' council;
- initiate large-scale debate on the range of behaviours and relations between teachers and students which generate violence and should be condemned; and
- develop programmes at all levels to address the whole school environment and encourage peaceful behaviour in settling conflict, and advocating and promoting respect for all school and community members.

The Schools Violence Circular finishes by instructing all recipients to provide action plans and notification of measures to be taken to the Ministry of Education and Science by 23 December 2006. As of the date of this report, it had not been possible to view such responses.

The Education Strategy

In the same way as reform of the social services sector is guided by the Social Services Strategy, so the education sector benefits from the National Education Strategy for the period 2004 to 2015. The Education Strategy enshrines both the principle of decentralisation in respect of the management of schools and the principle of school autonomy²⁸⁹. It also deals with the development of an educational management information system, reporting and quality assurance, curriculum, teacher and textbook development, the financing of the pre-university education system, and education inspectors²⁹⁰.

3. Institutions, Mandates and Coverage

The Ministry of Education and Science and Regional Directorates

As shown in Diagram 7 above, the Ministry of Education and Science is divided into three main directorates; the Directorate of Curricula and Development, the Directorate of Economic Support, and regional Education Directorates. Municipal Education Offices located in major municipalities report to regional Education Directorates. Such Education Offices are responsible for managing the financial resources, investment and operational expenditure at local level. The regional Directorates on the other hand are charged with implementation of the Education Strategy at the regional level and also for the appointment and transfer of teachers at public schools within the region.

In addition, regional Education Directorates are responsible for inspection and training functions. As concerns training, at least one regional Education Directorate reported that such training did not effectively cover issues relating to child protection, and that there was, at present, no real policy or criteria on the identification of violence or abuse in schools that could be used in the course of teacher training.

²⁸⁹ National Education Strategy 2004 to 2015. Ministry of Education and Service. p. 32.

²⁹⁰ *Ibid.* p. 33-41.

This lack of policy concerning child protection issues at the regional level was also commonly reflected within the inspectorate function. One regional school inspector noted, for instance, that it was difficult to address issues of violence within the context of a school inspection. Indeed, practice assessment suggested that inspection reports do not contain a section on protection from violence or abuse in the school inspected. Nonetheless, all regional Education Directorates assessed did appear to prepare a yearly inspection plan for schools within their region. There was, however, a tendency to focus upon schools in municipalities to the detriment of schools in smaller communes.

Schools

As depicted in Diagram 7, the Albanian public school system is divided into: (i) pre-schools (kindergartens) for children aged three to six, (ii) primary schools for children aged six to fourteen, and (iii) high schools for children aged fourteen to eighteen. The high schools are divided into general secondary schools, vocational schools and residential schools.

School Psychologists. From a child protection viewpoint, the most important initiative is the recent introduction into schools of 'school psychologists'. Introduced around two years ago, the school psychology service is an initiative of the Ministry of Education and Science. At present, this service exists only in municipal schools. One school psychologist is typically assigned to around three or four schools within a municipality and hence visits each school around once per week. The role of the school psychologist is to identify and respond to social problems in cooperation with teachers and the school director.

The role of the school psychologist in the prevention and response to violence, abuse, exploitation and neglect is considered further in Part Four below. However, two problems should be noted. First, as at the time of this report, no clear job description exists either at the central, regional, or local level for the school psychologist. Second, very few school psychologists actually have degree level training in psychology. The majority are ex-school teachers with no additional training.

In addition to the Ministry of Education and Science's school psychologist scheme, a number of project activities exist. In Korca region, for instance, one local NGO has worked in cooperation with the regional Education Directorate to introduce 'social teachers' into local schools. These posts are filled by existing teachers who undertake additional training in social work and agree to spend extra time assisting children in addition to their usual teaching tasks.

Recommendations

1. The introduction of school psychologists is welcome, but it is recommended that consideration be given to the relevant qualifications and training needed for such a post. School psychologists should be provided with a job description and have access to regular updating training and supervision.
2. Schools need to develop inter-disciplinary and inter-departmental links with other professionals and bodies working with children.
3. The local municipal education offices should ensure that all schools have in place a child protection policy and that teachers are trained on this policy.
4. School inspectors should inspect a school's child protection policy and the training provided to staff.
5. The Schools Violence Circular is a first step towards increasing awareness amongst school staff in respect of their role as child protection actors and it is crucial that schools implement a uniform identification, recording, and coordination and referral procedure if they are to comply with current international standards. The Ministry of Education should draft a national protocol on the identification and referral for child protection concerns.
6. Whilst the Normative Provisions for Pre-University Education prohibit the use of violence in schools, research shows that school staff still represent the source of over one third of all physical violence experienced by children in schools. The prohibition on violence in schools should be contained in primary legislation and the use of violence in schools should be made a specific criminal offence.
7. Teachers should receive continuing education and training in communication skills and non-violent approaches to maintenance of discipline.
8. Teacher training courses should include a module on child protection.

Chapter FIVE

Section Five

Health Sector

1. Overview

As noted above, international standards for a child protection system include a large number of provisions in relation to the *identification* and *referral* of cases of violence, abuse, exploitation and neglect. Such standards are applicable to any service provider who has contact with the child. In addition to education service providers, this includes providers in the health system, which has 'front line' contact with children, through the child's presentation at primary health facilities or the hospital in cases of injury or illness.

In particular, international standards recommend that regulations or guidance should exist on the recording and referral of cases of violence encountered by service providers such as primary health centres. In addition, staff should have knowledge of such regulations and be trained to identify situations of violence, abuse, exploitation or neglect and to refer such situations to competent bodies or services²⁹¹. At present, the Albanian health system does not keep specific, accurate data on non-accidental injury or suspected non-accidental child deaths.²⁹² The only helpful information is to be found in an Instat publication on the Causes of Death 2002²⁹³ Neither, would it appear that medical personnel receive training on the identification of non-accidental injury.

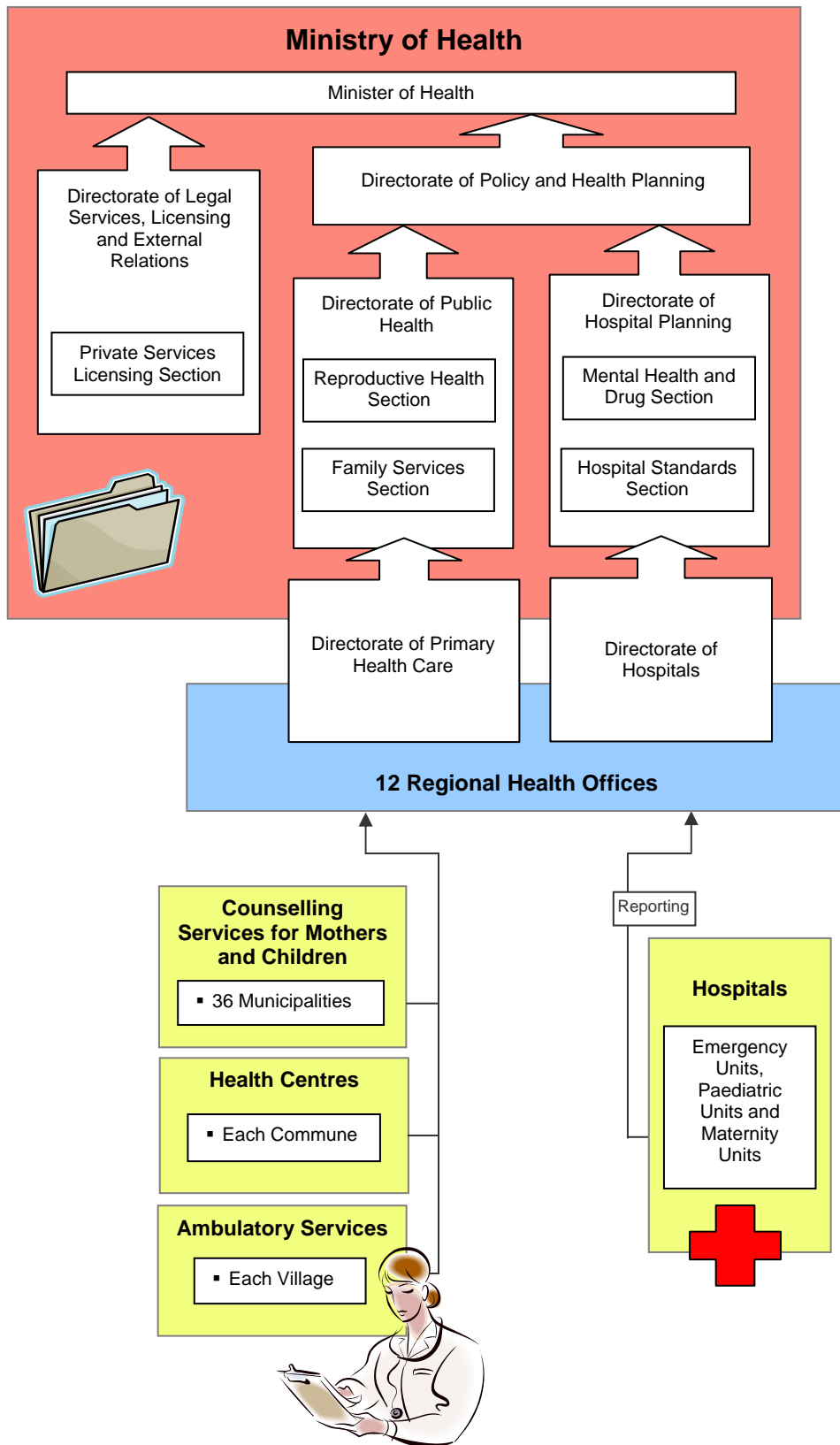
In the same way as for the previous sectors, Diagram 8 below sets out the institutional structure of the Albanian health sector. Colour coding is used in the diagram to signify red for central level, blue for regional level, green for municipality/commune level, and yellow for service provider level. Thick arrows within the diagram signify institutional structural relationships, and hence primary reporting lines. Thin arrows between institutions or persons are 'flagged' in order to mark their significance. The diagram is not exhaustive in showing all directorates or sections within the Ministry of Health. Rather, it seeks to identify the primary actors relevant to the health sector as components within the child protection system. Moreover, the size of boxes does not necessarily correspond to the staffing or resource allocation of directorates, sections or other institutions.

²⁹¹ See, for example, UNICEF Global Violence Indicators.

²⁹² See Child and Adolescent Health Strategy (Draft) January 2007

²⁹³ Published 2003

Diagram 8: Health Sector



2. Applicable Law and Policy

The Public Health and Health Promotion Strategy

The Ministry of Health's public health and health promotion strategy covers the period 2002 to 2010 (the "Public Health Strategy"). As with social services and education, the Strategy reflects the principle of decentralisation, stating that "*local governments are responsible for the maintenance and provision of equipment to health centres, but the appointment of doctors and other medical staff is done by the directorate of Public Health at the district level. Payment of doctors is provided by the Health Insurance Institution, whilst other staff are paid by regional Public Health directorates*"²⁹⁴.

The Public Health Strategy recognises that whilst serious public violence usually attracts the attention of the police, "*violence at home (almost always against women, children or older people) and the abuse of people in institutions, often goes unreported and uncorrected*"²⁹⁵. In response, the Strategy proposes that a mechanism for data collection and analysis relating to violence should be put in place, and that the Ministry of Health should assist in facilitating school education programs and programs oriented towards groups at risk for violence prevention²⁹⁶.

Such a data recording mechanism would go some way towards meeting the obligations of the health sector as a child protection actor. Indeed, international standards recommend that regulations or guidance should exist on the recording of cases of violence encountered by service providers such as schools, primary health centres and social services²⁹⁷. As will be discussed below, however, the mere collection and analysis of data relating to – for instance – injuries sustained as a result of violence does not go far enough in respect of the important preventative role that the health sector is able to play in respect of child protection. Rather, the sector should also have in place laws or policies that address the duty upon health care professionals to make appropriate *referrals* where cases of abuse, violence, exploitation or neglect are encountered.

3. Institutions, Mandates and Coverage

Ministry of Health and Regional Directorates

As shown in Diagram 8 above the Ministry of Health is responsible both for the operation of the primary health care system and hospital services. In addition, it plays a strategic role in the planning, development and introduction of health related legislation. The Ministry's Directorate of Legal Services, Licensing and External Relations is responsible for the licensing of private sector service providers. As concerns children in particular, the Directorate of Public Health at the central level has one staff specialist post who acts as the focal point for the technical secretariat for children within the Ministry of Labour and Social Affairs.

The Ministry of Health operates at the regional level through regional Primary Health Directorates and regional Hospital Directorates. Hospitals, primary health care centres and clinics report to their respective Directorates at regional level. Medical case records are reported to the regional Directorate and the regional Directorates also have power to issue operational guidelines to health care services within their region.

²⁹⁴ Ministry of Health. Public Health and Health Promotion Strategy 2002. p. 6.

²⁹⁵ *Ibid.* p. 51.

²⁹⁶ *Ibid.* p. 28.

²⁹⁷ See for example UNICEF Violence Indicators.

Health Care Infrastructure

Health care infrastructure in Albania is organized along the standards lines of primary, secondary and tertiary health care – each service with its own territory-based catchments population²⁹⁸. Following the unrest in the 1990s – when a quarter of city health centres and two-thirds of health posts in small villages were destroyed – Albania has since slowly begun to improve its primary health care system through a series of reforms²⁹⁹. At the time of this report, the Ministry of Health reports that, in addition to hospitals in major municipalities, every commune has a primary health care centre or polyclinic. In principle, each village should also have a clinic or emergency quarters. In addition, specialist counselling services for mothers and children are reported to be available in 36 municipalities in Albania.

In one region assessed – Korca – for instance, there is presently one hospital with a paediatrics department and 110 health centres; 11 in Korca municipality and 99 in rural areas. By comparison, Kukës region reported just 9 family doctors in Kukës municipality (one of which is a paediatrician) and 14 health centres in communes in the region, each of which is staffed by one doctor. Indeed, a number of resource problems remain. The Public Health Strategy, for instance, reports that allocation of human resources results in an uneven distribution of both physicians and other providers. Some of the larger polyclinics have too many, whilst individual doctors in rural areas are expected to cover multiple villages, often without adequate transport infrastructure.

Primary health care services and hospitals have an important role in the identification of and response to child protection cases encountered. However, practice assessment suggests that health care staff tend to see child protection concerns either as medical cases to be treated, or social cases that were largely irrelevant to their work. Neither primary health care staff nor hospital doctors have written criteria to assist them in the identification or classification of child protection issues. Doctors said they would use their own medical judgment to identify cases of physical violence or abuse. However, they generally felt less qualified assessing cases of psychological or emotional violence and some doubted whether such cases even fell within their remit. It is therefore, not surprising that almost no internal coordination mechanisms for responding to child protection cases were identified. Overall, both hospitals and primary health care centers demonstrated that their referral mechanisms were highly dependent upon the personal initiative of the individual medical professional involved. This finding is in agreement with existing related research, which found that there in 87% of medical institutions assessed; no referral mechanism existed for cases of gender-based violence.

²⁹⁸ Government of Albania/United Nations. Albania Common Country Assessment. p. 28.

²⁹⁹ Ministry of Health. Public Health and Health Promotion Strategy 2002. p. 62.

Chapter SIX

Child Protection in Practice

The previous chapters have mapped the child protection system in Albania. This Chapter examines child protection in practice and the extent to which it meets international standards and modern concepts of good practice. The relevant international law and standards are to be found in the UN Convention on the Rights of the Child, especially Article 19 and the Conceptual Framework on Child Protection developed by UNICEF, together with the UN Draft Standards on Residential Care.

This Chapter explores the capacity of the existing child protection system to identify, refer, assess and provide appropriate services to children in need of protection. It also examines the extent to which preventive, support and crisis services are available for such children.

1. Identification and Referral of Child Protection Cases

Background

The first and third objectives of the Albanian Social Services Strategy are ‘to establish a system for the identification of cases at local level’ and ‘to develop an inter-sectoral referral mechanism at local, regional and national level in order to ensure the identification of groups in need, their referral and to ensure the sustainability of services’³⁰⁰. Some moves have been made towards implementation of this strategy, but there is still much to be done to achieve full implementation.

As in the majority of States with an undeveloped child protection system, most children who come to the attention of the child protection system in Albania do so as a result of referral by their parents. While there is evidence of some pro-active child protection work, with children being referred for child protection services from schools, police and hospitals, referral rates are low and often dependent upon local relationships and practice. The low number of referrals from bodies working with children, such as education, health and the police, is largely due to their lack of knowledge about child abuse generally, a consequent failure to identify children at risk of abuse and a lack of clear administrative responsibility at municipal and commune level. Albania does not, as yet, have clear primary legislation on child protection. It is not possible to find a legal definition of ‘children at risk’, the legal basis for child protection referrals or a legal framework for addressing a ‘crisis’ in child protection terms. In addition, there are no formal referral policies for professionals or bodies working with children on when and how to refer child protection cases. Those working with children are not clear to whom they should make a referral, which body has responsibility for child protection or in what circumstances a referral should be made.

Bodies and organisations working with children, whether statutory or non-statutory, have the potential to play a key role in the child protection system. UNICEF standards identify four key means by which bodies can be child protection actors³⁰¹:

- the effective identification of situations of abuse, exploitation or neglect;
- the systematic recording of such cases;
- the use of an internal coordination mechanism to ensure an appropriate response; and
- the referral or reporting of such cases to other authorities or service providers for intervention where necessary.

³⁰⁰ The Strategy of Social Services 2005 – 2010, Objective 1(4) and 3 (5). This is consistent with current notions of good practice. See for instance, Draft UN Guidelines on the Protection and Alternative Care of Children without Parental Care, Article 34.

³⁰¹ See for example UNICEF Violence Indicators.

Duties of Statutory Bodies in Identification of Children at Risk of Abuse and Referral or Reporting

Health Care Professionals

Health care professionals are under a legal duty to report serious offences to the police, but this does not apply to 'assault or any other violent act' under Article 90 of the Criminal Code, or serious and non-serious injury due to negligence under Articles 91 and 92 of the Criminal Code. In addition, there is no statutory duty to report concerns relating to child abuse.

Health care workers do not work in accordance with a formal child protection policy or referral protocol and are not trained on the identification of child protection cases. Generally, health workers show poor knowledge of the role of the social services sector, the need to refer children at risk of abuse or who have suffered abuse, and the role and function of the Social Administrator. While a number of primary health care staff noted that they had come across children at serious risk or deprived of parental care, very few knew how to refer such a child for further services or admission to residential care, other than by telephoning State Social Services in Tirana. Regional Health Directorates were aware of the work of regional Anti-Trafficking Committees, Child Protection Units and Child Labour Monitoring Committees where present in an area, but could describe very few cases where referrals had been made. Knowledge of the work of these bodies has not percolated down to health care centres, resulting in a low level of referral.

However, health workers do show a reasonable level of awareness of the social context of violence cases. For example, research evidence on gender-based violence³⁰², indicated that 98% were aware of such violence and that it could include physical, sexual and psychological violence. Health care staff have the capacity to identify child protection cases, and primary health care staff widely acknowledge the existence of child protection issues, such as neglect, but stated that taking some form of action, such as referral for assessment was not within their job description. A number of doctors also observed that identification of child protection issues that did not involve clear physical trauma was made particularly difficult by parents trying to hide such problems.

Referring cases: experiences in Albania

In Kukës region, the Director of the hospital and the Head of Paediatrics explained that there was no culture of reporting incidents of violence to the police, and no reporting guidance available to the hospital. The hospital staff indicated that they did not have access to a social worker or psychologist and did not know of any NGOs to whom they could refer cases.

In Vlorë region, doctors stated that they could make referrals to NGO service providers, but that this would be done on a purely personal basis. Where a child was abandoned, the hospital would call the police and/or the municipality, or the orphanage in Vlorë. Doctors had no knowledge of the process for admission and staff generally had no information about NGO services in the community. Hospital staff did not know about the role and function of the Social Administrator. There is no regular contact or coordination between the hospital in Vlorë and other services working with children.

In general, primary health care staff showed awareness of the type of cases that might represent child protection concerns, but had little knowledge of what to do once such concerns were identified, other than from a purely medical point of view. Community paediatricians in Korçë had received training on child abuse, but this focused on psychomotor development. Hospital doctors felt ill equipped to identify and respond to child protection cases, including cases of sexual abuse. Whilst some doctors had received particular training in relation to child nutrition and neglect, many reported that they had received no training in identifying violence or abuse against children.

³⁰² Assessment of health care workers capacities to address gender based violence problems, UNICEF, Tirana, 2006 p.40.

Education Staff

Notwithstanding the recently issued Schools Violence Circular, in interviews with the Ministry of Education and Science, the research team were informed that it was not the direct *duty* of public schools to identify cases of violence, abuse or neglect suffered by children. Nonetheless, the Ministry noted that such cases were addressed in an indirect way, with primary responsibility resting on the class teacher.

However, as with health staff, schools have not, as a general rule agreed child protection policies, nor are there specific criteria for the identification of such cases. Teachers do not receive training on child protection as part of their in-service training and there is little general understanding on child protection in general or how to identify children who are at risk of abuse or who have suffered abuse or neglect, although school staff did see the identification of such abuse as part of their role.³⁰³ The staff in the disability school in Korca had not received any child protection training, though research evidence indicates that disabled children are particularly at risk of abuse.

Schools identified the main child protection issues as truancy, street children, child labour, abandoned children, children at risk of being trafficked or abused or ex-victims of trafficking and the use of physical violence in the home. In all the schools visited, except the school for children with disabilities, staff knew of the Schools Violence Circular issued by the Ministry of Education and Science. Schools also indicated there had been some training on implementation of the Violence Circular. However, some secondary school staff took the view that teachers were not obliged to follow the guidelines contained in the Circular due to their non-binding nature.

When a teacher or school psychologist does identify a child who is suffering or at risk of suffering abuse, the view on the appropriate action to be taken varies. Some stated that they would seek to deal with issues internally within the school. They would report the matter to the school director or make a home visit, although it was stressed that this was not within their job description and would be a matter of personal initiative. A number of school staff said that they would refer the child to the Social Administrator (but generally this was where the teacher took the view that the problem was economic), the regional office of the State Social Services, or perhaps to an NGO in the area, but the closest relationship was with the police. Other teachers would refer to the school psychologist and would expect that person to possibly visit the family and monitor the situation. This approach is likely to place a significant burden on school psychologists who generally have a background in teaching and education rather than psychology, with little experience of child protection work.

Although still relatively weak, the closest link between schools and other child protection actors probably exists between schools and local police. A number of municipal schools interviewed claimed that police telephone numbers were made easily available to staff and pupils, and that persons were encouraged to call the police even where they had relatively minor concerns. In contrast, other schools indicated a reluctance to involve the police, preferring to deal with suspected cases of violence or abuse on an internal basis. None of the teachers interviewed considered they were under a legal duty to report child protection cases to the police. In sum, whether a referral was made from a school, and to whom, appears to depend heavily upon personal relationships and the degree to which co-operation between the different professional bodies has been fostered. Overall, schools showed no uniform approach and no internal co-ordination, and there were varying attitudes and levels of willingness to ensure the protection of a child.

NGOs also, on occasion, work closely with schools. This, however, is usually in the context of a particular project, such as in the case of the 'social teachers' project in one region of Albania. School psychologist noted that they also made limited referrals to NGO services, including

³⁰³ There are a few examples of good practice, including a project in Korca, where a multi-disciplinary team, managed from Tirana, comprising psychologists, teachers, doctors and police offer training for all teachers in school.

counselling and health services. There was a willingness on the part of school psychologists to refer children for services but typically, the school psychologists suffered from a lack of information concerning locally available NGO services.

The Schools Violence Circular is a first step towards increasing awareness amongst school staff in respect of their role as child protection actors. However, it is crucial that schools implement a uniform identification, recording, coordination and referral procedure if they are to comply with current international standards.

Police and Interior Sector

Children who may present with protection issues, street children or children below the age of criminal responsibility who have committed a criminal act, are not considered by the police to be their responsibility. Police stations in three different regions of Albania stated that there were no measures taken in practice to identify or refer such children to social care services. Indeed, none of the police stations in the three regions visited were able to describe the procedure for referring cases to state social services, although this did appear to happen on occasion at the personal initiative of a police officer. However, in Korca, the authors were told that street children are picked up by the police and taken to the police station where attempts are made to verify whether the child has parents. Where parents cannot be found a referral is made to the regional office of State Social Services.

Police officers asked about their role in child protection stated that if information was provided to them that a child was at *immediate* risk of abuse, they would visit the family to investigate the allegations. However, the police tended to see their role largely in terms of the investigation and prosecution of crime, rather than protection of the victim.

In municipalities where a Child Labour Monitoring Committee exists, however, the police appeared to participate with the Committee but did not use the Committee as a referral mechanism for cases where vulnerable children came to their attention.

This analysis of the Albanian child protection system excludes detailed analysis of the juvenile justice system. Nonetheless, one exception that does fall within the scope of this report is the treatment of child victims and witnesses of crime by the State. Such children are particularly vulnerable to protection concerns.

As noted in Chapter Five, the Albanian Criminal Procedure Code is markedly deficient in this respect, containing few provisions relating to the treatment of child victims and witnesses. Aside from the Criminal Procedure Code, one further recent level of protection should also be noted, in the form of Law 9205 on the Protection of Witnesses and Collaborators of Justice (the "Witness Protection Law"). This Law was introduced in 2004 within the context of anti-mafia and serious crime-related legislation. As such, it has limited applicability to child witnesses. Nonetheless, the Law does provide for additional protections for any witness involved in a case concerning a "*serious crime*" who is in "*real, concrete and serious danger*"³⁰⁴. Such witnesses may benefit from amongst others, a change of identity, relocation within or outside of the country, temporary protection of identity or a change of work or temporary employment under the provisions of the Witness Protection Law³⁰⁵.

The lack of guidance in relation to the treatment of child victims and witnesses at central level is also apparent at local level. Practice assessment revealed, for example, that local police stations do not have or operate local policies for the interviewing and appropriate treatment of child victims and witnesses, as recommended by international standards³⁰⁶.

³⁰⁴ Law 9205 on the Protection of Witnesses and Collaborators of Justice of 15 March 2004. Arts. 8 and 9.

³⁰⁵ *Ibid.* Art. 10.

³⁰⁶ UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime. ECOSOC Resolution 2005/20.

Notwithstanding the lack of specific provisions for the treatment of child victims and witnesses, it is nonetheless notable that the issue of the implementation of child protection measures has been taken up in 2006 by the Child Protection Section within the Directorate of Terrorism and Crimes Under Investigation of the General Directorate of State Police. This Section consists of an analysis and coordination office based within the General Directorate in Tirana, together with one expert assigned with responsibility for, amongst others, child protection issues within each regional police directorate. The Section counts the treatment of both children in conflict with the law and the treatment of child victims and witnesses within its remit.

In June 2006, the Child Protection Section issued a “*Work Programme*” for “*Intensifying the Measures for the Protection of the Rights of Children*” (the “*Work Programme*”). This was circulated to all regional police directorates. The Work Programme included a wide-ranging set of tasks for police directorates. These included tasks both: (i) in respect of the direct treatment of child victims and witnesses with whom the police have contact, and (ii) also in respect of the identification of children at risk of violence, abuse, exploitation or neglect within the wider community. The Work Programme provides, for instance, for³⁰⁷:

- improvement of standard procedures both in cases where children commit criminal offences and where they are the object of a criminal offence;
- training for police officers on handling cases involving children, including social and psychological aspects;
- identification of all missing children;
- identification of all street children, child beggars, children engaged in exploitative labour, and children involved in prostitution;
- identification of the number of children leading a secluded life on account of revenge or blood feuds;
- establishment of contact between regional police directorates and NGOs dealing with the protection of children;
- cooperation between police structures and the Ministry of Labour and Social Affairs for addressing the needs of children with social problems; and
- cooperation with the Ministry of Education and Science in order to provide accurate data on the number of children who have dropped out of school.

As is apparent from the above list, the Work Programme reasonably comprehensively sets out a strong role for police structures within the child protection system. Most importantly, it envisages the drafting of standard procedures for cases where children are victims of a criminal offence. It also refers to active cooperation between police structures and the Ministry of Labour and Social Affairs and the Ministry of Education and Science in relation to identification and assistance to children with social needs and children who have dropped out of school. However, whilst the Work Programme contains detailed provisions on the collection of data and information, it contains little guidance as to how this information will be used in practice to ensure the prevention of and appropriate response to violence, abuse, exploitation and neglect.

In addition, while the Work Programme provides that regional directorates should have supplied information to the central Child Protection Unit during 2006, as of the date of this report, no such information was available. Further details of the treatment of child victims and witnesses by police stations and officers, together with the extent of child protection referrals made in practice, is contained in Part Four below.

One final initiative of the state police to improve the protection of children must be noted. By way of an internal directive in October 2005, the Director General of State Police created an initiative to improve the protection of children in school. Under this directive, police officers are specifically

³⁰⁷ Ministry of Interior. General Directorate of State Police. Work Programme for Intensifying the Measures for the Protection of the Rights of Children. 13 June 2006.

assigned to schools. In particular, they provide a physical presence outside the school during key times, such as the start and end of the day, and break times. In addition, the directive encourages closer cooperation between the school director and the local police station, through meetings, and the dissemination of police telephone numbers within the school³⁰⁸.

Recommendations:

- The Ministry of the Interior should draft and provide guidance in relation to the treatment of child victims and witnesses;
- All police involved in cases concerning children should receive training on best practice; and
- Local police should agree a referral protocol with the municipal body responsible for child protection.

Record Keeping and Internal Co-ordination

Staff at primary health care centres and hospitals, as well as Public Health Directorates, do not have a formal recording system for child protection cases. Indeed, the only related information that appears to be held at the Ministry of Health concerns statistics on the number of persons treated in hospitals for injuries consistent with violence. As at the date of this report, there is no collation of statistics or systematic reporting of numbers of such cases treated by primary health care centres. There are almost no internal co-ordination mechanisms for reporting child protection cases in the health system. There are no fixed criteria for reporting cases from primary health care centres or hospitals, although cases of abandonment of children in maternity hospitals are reported to the Ministry of Health and State Social Services.

At present, there is also no mechanism for schools to keep systematic records of child protection issues. Although many school directors claimed that assessment of children at risk is undertaken from first grade, this is generally on an *ad hoc* basis and there is usually no formal way of recording child protection concerns. School psychologists do keep basic details of children on file, but do not appear to do so in a uniform manner. Moreover, staff claimed that they were under no obligation to report child protection related situations of concern to other state authorities.

Police stations assessed stated that they record a full range of case information on criminal files. This includes details of statements made by victims and witnesses. Such records are submitted to the Prosecutor's office where there is enough evidence to commence criminal prosecution. Where this does not occur, documentation remains with the police commissariat. If an investigation relates to a suspected trafficking crime then information collected is also sent to the regional Police Directorate. In accordance with the Anti-trafficking National Referral Mechanism, such information should also be presented at the Regional Anti-Trafficking Committee, although it was clear that this reporting line was not yet well established.

However, the police do not appear to have a systematic reporting system for child protection cases. There does not appear to be any means of collating data on child victims of violence, abuse, exploitation and neglect. In general, case data is reported only to the district office of the prosecutor (where a criminal case is to be commenced) and to the regional police directorate in all other cases. Nonetheless, initiatives such as the collection of information requested by the Work Programme of the General Directorate of the Child Protection Section, and the national reporting of child trafficking cases to the Responsible Authority (which is planned to be operational in 2007) is to be welcomed.

Files kept by Social Administrators contain standard forms with tick boxes and very little narrative and no narrative assessment. The basic essentials for building up a file on a child: the recording of concerns, visits made and the action that needs to be taken and has been taken, do not at present

³⁰⁸ Directive 614 of the Director General of State Police on Intensifying Police Measures for the Prevention of Criminal Offences and Guaranteeing Public Order in the Educational Institutions of 29 October 2005.

exist. The lack of a formal recording system contributes to a lack of systemic protection for children at risk of abuse or neglect.

Recommendation

A uniform policy on record keeping for children at risk of abuse and neglect should be developed and implemented for all bodies working with children. Training should be provided to ensure that staff and professionals working with children fully understand the need for accurate and up-to-date record keeping.

Child Protection Referrals

There is, at present, no identified single body at municipal level responsible for child protection. Rather, responsibility appears to be fragmented, due partly to piecemeal rather than systemic reform of child protection services. Decentralisation has also played its role, leading to confusion and lack of understanding and clarity with respect to responsibility for the delivery of child protection services. There are a number of bodies that may both identify and receive referrals for child protection purposes, including the maternity units of hospitals, Social Administrators, the Child Protection Unit and the Child Labour Monitoring Committee (all at municipal level), and the regional office of State Social Services at regional level. Not all municipalities and communes have a Child Protection Unit or a Child Labour Monitoring Committee. Indeed, some will have only a Social Administrator. NGOs also play a role in the identification of children at risk of abuse, and may assess and offer services themselves, rather than referring the case to one of the state bodies at municipal or regional level. Where a child has been trafficked or is at risk of trafficking yet more, different bodies, such as the Anti-Trafficking Unites are involved.

The body to which a child protection referral is likely to be made differs according to whether or not a particular municipality or commune has a Child Protection Unit, or Child Labour Monitoring Committee, and the nature of the referral. Where a local authority does not have a Child Protection Unit, referrals can be made to the Social Administrator or the regional office of State Social Services.

Maternity Hospitals

The procedure in cases of abandonment of a child in a hospital varies somewhat in the different regions of Albania. In one more remote region, the hospital stated that in such cases they would inform the Ministry of Health and refer the case to State Social Services in Tirana. They expected that the regional office of State Social Services would then come to collect the child. In Tirana, on the other hand, a collaboration between the maternity hospital and a local NGO enables children to be assigned a social worker prior to transfer of the child to a public children's home for ages zero to three.

Referral by Local Police

As discussed in Chapter Three of this report, the treatment of child victims and witnesses is covered by international standards. Under these standards, States should set laws, policies or protocols aimed at assisting child victims and witnesses, that child victims and witnesses should be cared for in a sensitive manner, that a child's private life should be limited to the minimum extent necessary, and the child should have access to professional assistance and support services such as financial, legal, counselling, health, social and psychological recovery services³⁰⁹. The Albanian legal and policy framework enshrines very few such protections for child victims and

³⁰⁹ See for instance, UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime. ECOSOC Resolution 2005/20. Arts. 45, 10, 12 to 14, and 22.

witnesses. Above and beyond the legal and policy framework, however, implementation of such standards requires:

- knowledge on the part of local police officers concerning the particular needs of children who are victims of violence, abuse, exploitation or neglect;
- skills on the part of local police officers for dealing with such children in a child-friendly manner; and
- effective linkages and referral mechanisms between local police stations and social care service providers.

Practice assessment within the regions examined for the purposes of this report, revealed that local police stations generally have no policies, standards or protocols for assisting child victims and witnesses with whom they come into contact. While some police officers have received training on, for example, child-friendly interviewing techniques,³¹⁰ they frequently have no set procedure to follow for different child protection cases – such as a child exposed to sexual abuse, or a child who had suffered physical violence in the home. One notable exception is the case of trafficking. In this instance, police officers were aware of the possibility of accommodating a child victim of trafficking in the National Reception Centre, or a centre such as the VATRA centre, pending identification of the child’s family and formal interviewing. Worryingly, at least one police station did not have any female officers at all able to carry out an interview with a female child victim or witness.

However, neither police station knew a great deal about the nature of support services that might be suitable and made available for child victims/witnesses.

Legislative deficiencies result in children at risk of violence, abuse, exploitation or neglect receiving a varied response to needs. In particular, responses are not child-centred, but rather are dictated by the perceived generic risk – such as trafficking or exploitative child labour. The lack of emergency powers and weak linkages with the court system mean that the system finds it difficult, in practice, to respond where parents do not give their consent to the emergency removal of the child from an environment where he or she is at risk.

Indeed, the social services sector operates no clear mechanism for emergency or comprehensive multi-disciplinary assessment of a child at risk in accordance with Article 56 of the Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care. Nor are there emergency powers for the immediate removal of a child by the police or social services departments in the municipality or commune. There is no possibility of imposing a supervision order and no mechanism for assessment, care planning, or appropriate review and support.

Social Administrators

Article 31(1) of the Social Services Law requires that the Social Administrator “*identify the families in need of economic assistance, disabled persons and the needs of persons for social care services*”; Article 31(2) includes an important reference to verifying the ‘*social*’, as well as economic, situation of families; and Article 31(9) obliges the Social Administrator to “*assess the needs of individuals or families who request the receipt of social services*”.

In other words, the Social Services Law clearly envisages a role for the Social Administrator beyond that of mere assessment and delivery of financial aid. By requiring Social Administrators to identify persons ‘in need of social care services,’ Article 31 imposes a legal duty to identify child protection concerns and to propose an appropriate response under Articles 31(8) and (9).

³¹⁰ Most police interviewed said they had received training in child sensitive interviewing. One station had received training in the special needs of child victims of sexual abuse and trafficking and one had received training on indications of crimes against children and recognizing and preventing intimidation, threats or harm to child victims/witnesses.

In practice, however, many Social Administrators see their role as being confined to the administration of economic assistance and disability entitlement. Few appear to have a good understanding of the contents of Article 31 of the Social Services Law or of child protection concepts, and most have a limited understanding of the protection principle that is a core element of the Social Services Strategy. Thus, even where a Social Administrator accepts that the role goes beyond assessing eligibility for financial assistance, few have a clear understanding of their responsibility

The authors found distinct regional variations in the way that Social Administrators understood their responsibilities. In one Tirana region, the role was described as *“not just assessing numbers of children and families in need of financial assistance, but also assessment of children at risk and onward referral to the local Child Protection Unit”*. Although Article 31 of the Law on Social Assistance and Services gives a clear responsibility to Social Administrators to assess the need for social care services, in practice many Social Administrators did not have the time to add this function to their daily routine or simply did not regard assessing children at risk as being within their job description. A number of Social Administrators were asked at interview what action they would take if an allegation of abuse was referred or evidence presented to them that abuse of a child had taken place. One Social Administrator said, personally, she would contact the police if she thought the situation was ‘bad enough’. Some Social Administrators do become involved with families beyond the assessment for financial assistance but it was stated this was on a purely personal basis. One Social Administrator had worked to return children to school after a period on the street and continued to follow up the cases. She admitted, however, that this was not within her job description.

The confusion about remit is evident at all levels of administration. This is partly due to a lack of guidance, and partly due to the failure to provide Social Administrators with a job description detailing their responsibilities. In addition, Social Administrators are not provided with adequate and sufficient training on child protection issues. The referral process to and from the Social Administrator, and understanding of the remit and function of the Social Administrator’s role, is at present weak, with most contact deriving from self referral or referral from the health sector in relation to disability. Social Administrators indicated that referrals are rarely received from the police or schools, with virtually no referrals concerning street children.

Social Administrators were not aware of any regulations or guidance on identification, recording or referral of cases of violence, abuse or neglect. In general, they would pass referrals to either their local Child Protection Unit or, where a child clearly needed care, to the regional office of the State Social Services.

Overall, Social Administrators reported that they had identified very few cases raising child protection issues in the course of their work, other than the need for basic food and warmth.

Understanding child protection issues: the experience of Social Administrators

In Tirana, Social Administrators have received training on children’s rights, child protection and the new Family Code. They have knowledge of the admission process for residential care and services offered by NGOs as well as the work of the Child Labour Monitoring Committee, but not the Anti-Trafficking Committee. In other areas, training of Social Administrators has focused on the financial assessment processes.

Social Administrators have a limited understanding of child protection concepts, largely restricted to concerns about physical violence. The majority of Social Administrators interviewed said they needed some experience of identifying and meeting needs and did not feel equipped to do so at this moment. Decentralisation of responsibilities to municipality level would give Social Administrators an important role in the planning and delivery of social services. However, the current lack of capacity amongst Social Administrators risks impeding this process and needs to be addressed in order for such reform to be effective.

Overall, Social Administrators appear to lack the capacity to identify, assess and report on child protection issues, let alone to deliver or play a significant part in child protection services.

Social Administrators do appear to participate in municipal Child Labour Monitoring Committees where these are present. At the regional level, some Social Administrators also participate in regional Anti-Trafficking Technical Tables. If a child has abandoned school the Social Administrator will refer the case to the regional Education Directorate.

In addition to Social Administrators at the municipality/commune level, there are two additional structures relevant to child protection, both of which exist on a pilot basis.

Child Protection Units

At the time of this analysis, there were seven Child Protection Units in the municipalities of Tirana, Kukes, Korca, Elbasan, Fier, Pogradec and Gjirokatra. The Child Protection Units are run by NGOs under a memorandum of understanding with the municipality³¹¹. These Units have a small staff, usually two to four persons and are generally located in the municipality building. The specific objectives of Child Protection Units differ somewhat in accordance with the particular needs of each municipality. Broadly, however, Unit objectives are to increase the capacity of local government units to identify, assess, refer and support children in need of protection from violence, abuse, exploitation, or neglect. Child Protection Units usually aim to achieve this through the establishment of a structure such as a case management team or the development of a network of collaborating NGOs providing social services within the municipality.

The Child Protection Units vary in how they identify a child at risk and receive referrals. Tirana Child Protection Unit, for instance, operates a referral process through which around twenty NGOs have agreed to make individual case referrals to the Unit. The Unit maintains a database of cases referred and organises meetings of social service providers on a monthly basis. The purpose of such meetings is to allow NGO service providers to discuss individual cases and agree upon a joint course of action, including commitment to provide particular services. Other Child Protection Units have carried out family visits and liaised with schools in order to identify children at risk, develop individual intervention plans for such children, monitor unsolved cases, and disseminate information about child protection and positive parenting skills. Child Protection Units to date, however, appear to maintain only weak links with Social Administrators and the public residential care structures, leading to a lack of co-ordination amongst the main child protection service providers.

At present, there is no statutory duty on local authorities to provide a minimum standard of either preventive or crisis (emergency) child protection services. The lack of such services is presently addressed, to an extent, by NGOs and the Child Protection Units. While the Child Protection Units provide a much needed referral body, and to an extent assessment and services, their establishment also raises some concerns. The Child Protection Units receive considerable external funding from NGOs and from UNICEF. This raises a long term concern about their sustainability in the absence of government commitment to fully fund these Units and to replicate such a system nation-wide. A further concern is that the creation of these Units appears to have led to public authorities relinquishing their responsibilities to the Child Protection Unit, rather than the Unit succeeding in their aim of influencing and supporting the public authorities to develop their own practices. It is difficult to see how a coherent child protection policy and practice can be implemented without a clear responsibility placed on a specified state body to provide the services (whether directly or through another body) to ensure that protection. Child protection services can be delivered equally well through a NGO or through a state body. However, in order to ensure effective protection, the state must take responsibility for ensuring that the guaranteed minimum level of child protection service is provided in its area.

³¹¹ See for example, Collaboration Agreement between The Municipality of Korca and Terre des hommes Foundation, Mission in Albania. Nr OUT/06/159. The Units are also supported by UNICEF.

Child Labour Monitoring Committees

Local Child Labour Monitoring Committees have been created on a pilot basis in Tirana, Korca and Berat municipalities, under the guidance of the Ministry of Labour and Social Affairs central Child Labour Unit, supported by ILO-IPEC. The aim of the Child Labour Monitoring Committees is to identify, monitor and refer children at risk of being involved in child labour. Child Labour Monitoring Committees works in cooperation with labour inspectors of regional State Labour Inspectorates,³¹² who are responsible for inspecting all places of formal employment.

Each Child Labour Monitoring Committee consists of two bodies: (i) the local action committee; and (ii) the multi-disciplinary group. The local action committee is made up of the heads of implementing agencies, including the municipality, the municipal education office, the local police inspectorate, local schools, employer organisations, and NGOs. The multi-disciplinary group consists of technical level persons within the same agencies. The Social Administrator is included in the Committee.

The role of the multi-disciplinary group is to carry out visits to sites of formal and informal employment (such as construction sites (formal employment) and local markets (informal employment)) for the purposes of identifying and interviewing children participating in child labour. In particular, the multi-disciplinary groups focus on children working on the street, in agricultural activities, in factory production, within the service sector and in illicit activities.

The multi-disciplinary group refers identified cases to the local action committee, together with a recommendation for finding a solution to each individual case. The local action committee is then responsible for implementing a solution and follow-up to ensure the child's successful disengagement from child labour. Actions carried out may include the offer of employment to the child's parents, or vocational training, formal or non-formal education for the child. In addition, the Child Labour Monitoring Committees aim to identify children at risk of involvement in child labour, prior to actual engagement in labour activities. Committees typically achieve this in cooperation with schools and municipal education offices through the production of lists of children not attending school. The advantage of the Child Labour Monitoring Committees over Social Administrators and Child Protection Units is the multi-disciplinary nature of the body. Their remit in child protection is, however, limited.

Municipal Child Labour Monitoring Committees report directly to the Child Labour Unit within the Ministry of Labour and Social Affairs. As of the date of this report, some three hundred children engaged in or at risk of child labour had benefited from the project in the three pilot regions. Whilst the present pilot project was due to end in February 2007, the Ministry of Labour and Social Affairs plans to extend the scope of the project to further municipalities.

NGO Social Care Providers

There are a number of NGOs who work on identification of children at risk. Many both refer children to Child Protection Units, and act as receivers of referrals themselves. The NGOs seen during the course of the analysis fulfilling these roles included the Kukes 'OSCE Shelter for Women', offering counselling to women and children at risk of trafficking; the Saures Community working mainly with Roma families; Helplife Tirana, working with disabled children; Everychild, operating in Tirana and Shkodra and providing child welfare services; Services for Women and Children in Tirana, working with Roma and Egyptian families; and the Children and Community Fund and Children and Community in Need, both of whom train local people to identify and prioritise children's needs.

³¹² Labour inspectors are governed by Law 7986 on the State Inspectorate of Labour of 13 September 1995, as amended by Law 8394 of 2 September 1998 and Law 8857 of 7 February 2002.

Crisis Child Protection Services

There are no clear protocols or referral mechanisms for emergency cases and no clear mechanism by which emergency protection can be initiated either in law or practice. There is also little understanding of who has responsibility for ensuring that emergency action is taken. In addition, there is no uniform emergency admission procedure to state care. Where there is an emergency, care is often provided on an informal basis, and often by NGOs rather than state bodies. The lack of procedures leaves children at risk of a violation of their Article 8 right to physical integrity and their Article 3 right not to be subjected to inhuman and degrading treatment or punishment.

Crisis child protection services: a case study

BK, a boy aged 10, was taken to the police station after having been found on the streets by police officers. The boy could not tell police where he had come from and who were his parents. The police search for relatives of BK was unsuccessful. After BK had spent 4 hours at the police station, the police contacted the Children's Rights Centre of Albania ("CRCA") (an NGO based in Tirana). A social worker and a lawyer from CRCA were sent to the police station. BK eventually told CRCA that his mother and father were dead and that he had lived with his grandmother. However, she had recently died. BK said that he had been living with cousins during the last months. He said that his uncle did not like him and had put him on a bus the day before, telling him to ask for the orphanage when he arrived in Tirana. He had arrived in Tirana, met two boys who had given him food and shelter and had called the police. He said he wanted to go to the orphanage.

The police decided that it was appropriate to contact State Social Services. However, the police did not know any contact details for the Social Administrator, the regional office of State Social Services or the central office of State Social Services. As a result, CRCA contacted the central office of State Social Services on behalf of the police. Agreement was reached to admit the child to state residential care for a few days pending formal completion of the admission procedure.

CRCA asked the police to prepare the necessary documentation but the police had no knowledge of the documentation required. The police asked CRCA to take responsibility for the admission process and claimed that there was no procedure to guide their actions in such cases. As the child was not in conflict with the law, the police felt that it was not their responsibility to ensure the child's safe admission to residential care. After some discussion, two police officers, two staff members from CRCA, and one representative from State Social Services accompanied the child to the Tirana children's home. At the request of CRCA, the police had prepared a 'hand over' document to be signed by both parties.

The main actors within the child protection and justice system appear unclear about their role in emergency protection cases. In addition, the law does not permit a child to be placed in care without the consent of the parents, unless a court order is obtained. It is possible for the prosecutor to apply to the court for an order removing parental rights, thus allowing placement in care without the consent of the parent under Article 228 of the Family Code. However, such applications are rare and the possibility of obtaining such an order as a means of emergency protection appears not to be well known. Rather, the order is generally used by one parent wishing to deprive the other of parental rights. In addition, the time taken to obtain such an order makes it ineffectual as an emergency measure. This leaves the protection of children very heavily dependent on the ability of the relevant professional to persuade a parent to allow the child to be removed from home.

Removal of parental responsibility: a case study

In one region of Albania, the district prosecutor described a case where a mother had abandoned her child and left for Kosovo. The situation came to the attention of the police and an arrest warrant issued against the woman for abandonment of her child³¹³. At the same time, the prosecutor decided that it was appropriate to request the court to remove parental responsibility on the grounds contained in Article 228 of the Family Code – “*gross negligence*” against the child. The district court agreed to the removal of parental responsibility following the request of the prosecutor. The child was subsequently placed in residential care.

In interviews, very few emergency cases were described to the research team by prosecutors, police or Social Administrators. Where such cases were reported, the response was generally to improvise and provide care for the child on an informal basis. This involved agreement between agencies to place the child in NGO provision or to place a child in a children’s home some distance away from the family, with the paperwork being completed at a later date.

Diagram 9 on the following page summarises the system’s responses, such as they are, to a child in need of emergency protective measures.

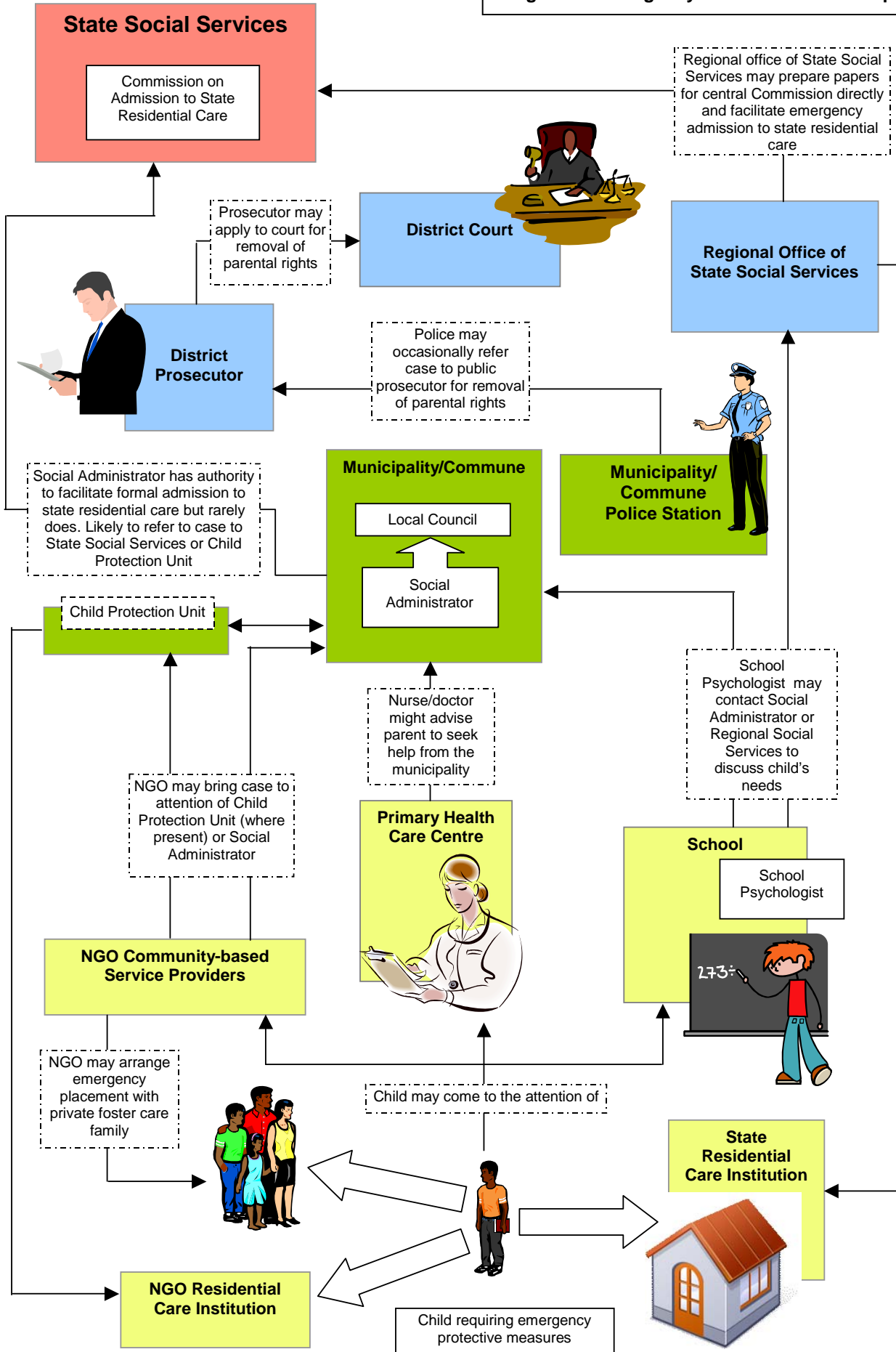
Recommendation

The Family Code should be amended or a new law drafted to cover emergency applications. This new law should permit removal of children from the care of their parents with the consent of the court.

Judges and child protection bodies should be trained on the use of emergency protection measures and Articles 3 and 8 of the European Convention on Human Rights

³¹³ Under Article 124 of the Albanian Criminal Code it is an offence for the parent of a child under the age of sixteen years to abandon him or her.

Diagram 9: Emergency Child Protection Responses



Investigation and Assessment

There is no statutory obligation to assess children at risk who are referred for child protection purposes, other than where a parent or other person seeks admission for the child to residential care. In practice responsibility for assessment is fragmented, falling either on the Child Protection Units, the Social Administrator, the Child Labour Monitoring Committees, the regional office of the State Social Services or, in the case of abandoned babies, sometimes on the baby home itself. Thus, who undertakes the assessment, and the mode of that assessment, depends very much upon local arrangements and upon the working methods of whoever takes on the task. This may be a state body or may be a NGO.

In a small commune, the Mayor's office will often co-ordinate the assessment. In such areas, the Social Administrator generally has a good knowledge of the local population and can alert individual workers in the relevant agencies, and call an inter-disciplinary meeting to discuss possible solutions. In larger and urban areas, this is far more difficult, and is exacerbated by the lack of a formal child protection system.

When a child comes to the attention of the Child Labour Monitoring Committee, multi-disciplinary groups use pro-forma monitoring tools for assessment of the child's needs. These tools include detailed standard questionnaires that cover: (i) a child's personal details, (ii) particulars concerning the sector in which the child is employed, (iii) details of engagement in the worst forms of child labour (in accordance with the definitions used in ILO Convention 182), (iv) the reasons for and consequences of participating in child labour, (v) the child's educational level and record of school attendance, (vi) the socio-economic situation of the child's family, (vii) information concerning benefits and social assistance received, (viii) tools for estimation of the child's age where this is unknown, and (ix) suggested interventions³¹⁴. As of the date of this report, some three hundred children engaged in or at risk of child labour had been assessed in the three pilot regions. Whilst the pilot project was due to end in February 2007, the Ministry of Labour and Social Affairs plans to extend the scope of the project to further municipalities.

Similar assessment tools are not used by other bodies responsible for child protection and their does not appear to be a common understanding of what the assessment framework should contain, or indeed the point at which an assessment should take place. In the case of some children in need of protection, there is no assessment of their individual need, but rather just a consideration of whether they fulfil the admission criteria for entry into a residential home.

Recommendation:

In order to meet current notions of good practice, the government should introduce a common assessment framework to be used by all bodies undertaking an assessment of a child at risk of abuse.

Care Planning

The lack of assessment of referred children makes care planning difficult. The Child Protection Units work with NGOs and professionals concerned with the child, and discuss the appropriate services to be provided to the child, but there is no formal process of care planning and review by either the Child Protection Units or other state bodies involved in child protection. Some care planning is done for children after they are placed in institutions but assessment and planning should be undertaken before placement, other than in the case of emergency placements.

³¹⁴ Manual for Monitors of Child Labour. Annex 2: Basic Monitoring Tools. Child Labour Unit, Ministry of Labour and Social Affairs.

Conclusion and Recommendations

Investigation of allegations of abuse and assessment of the child's needs are integral parts of a child protection system. This is hampered in Albania by the lack of a formal child protection system and clear allocation of responsibility. This is further exacerbated by the lack of qualified social workers. The Social Administrator is the core of the embryonic child protection system, but not one Social Administrator seen by the authors held a formal social work qualification. Virtually all social workers were employed by NGOs. This makes development of child protection problematic. Until there are trained public sector social workers in place, any child protection system that is put in place will be weak. In order to introduce a child protection system that meets international standards and norms and current notions of good practice, the government should consider the introduction of primary legislation setting out which body, at national, regional and local level, has responsibility for a guaranteed minimum level of child protection, the duties of state bodies in relation to child protection, and the procedures to be taken where child abuse is suspected.

This report recommends:

1. The introduction of primary legislation on child protection.
2. The introduction of guidance and formal protocols for staff in health, education and the police on the identification, recording, reporting and referral of child protection cases.
3. The establishment of children's social services at local level with responsibility for ensuring allegations of child abuse are investigated and the child assessed.
4. That children's social services should have adequate trained social work staff.
5. Frontline actors, such as schools, the police and health care facilities need to have policies and criteria for the identification of symptoms of abuse.
6. State, regional and municipal social services, the Child Protection Unit and the Child Labour Monitoring Committees need to collaborate on developing appropriate identification measures.
7. The legislation on child protection should contain a statutory duty for staff in health, education and police to report child abuse to the responsible state body and a duty on all services to co-operate with the responsible state body.
8. Until national legislation has been passed and implemented, the Child Protection Unit and the Child Labour Monitoring Committee should collaborate on developing appropriate identification measures for children at risk of abuse and neglect.
9. Where a child is identified as being at immediate risk of suffering abuse or neglect, the referral process should be streamlined and provision made to allow for an application to be made to court for removal of parental rights on an emergency basis. In addition, the children's social services should develop a uniform emergency admission procedure to state residential care.
10. The introduction of guidance for bodies working with children, whether in education, health, the police or NGO services including the procedure to be followed where child abuse is suspected.
11. Training for frontline staff on identification of child abuse and the procedures to be followed.
12. A statutory duty should be placed on the identified state body responsible for child protection to draft local protocols with health care providers, education, the police and NGOs covering issues such as recording, reporting and referral of child abuse cases.

2. Child Protection Services in Practice

Alternatives to Residential Care

Community Services

Where a child is referred due to child protection concerns, there are only limited community services available, and virtually all are offered by the non-statutory sector. These comprise mainly counselling and family support. The lack of state-funded or run community services is partially due to the fact that there is no body or agency at local or regional level responsible for the planning, commissioning or delivery of child protection services. Local authorities do not review the needs of children in their area for services, nor do they plan and provide community services to meet the needs of children. While many NGOs do valuable work in the services they provide, children would benefit from a more planned delivery. In addition, community services are not, at present, subject to minimum quality standards and are not monitored and inspected. It is, therefore, difficult to ascertain the quality and effectiveness of such services.

Community-based Social Service Providers

Number of NGO Social Service Providers focussing on Children ³¹⁵	Tirana	Korca	Kukes	Vlore
Disabled children – day centre	9		1	
Counselling and Citizen's Advice	8	7	6	3
Children's Day Centre	4	1	1	2
Community Social Centre	3	1		
AIDS/Drug Use Information	1			
Repatriation/Reintegration Services	1			
Total	28	10	8	5
Public Community Day Care Services				
2 Day Centres for Persons with Disabilities (including children)	Lezhe, Korce			
2 Polyvalent Day Centres	Kamez, Sarande			

As can be seen from this table, there are few NGO community services available and these focus upon counselling and the provision of advice and information for children and upon provision of day services for disabled children.³¹⁶ There are also four public community-based services (see chapter 5.1) in the country, two polyvalent day centres and two centres for persons with disabilities. Although in the Tirana region alone, at least **1900 children** are affected by a disability, the Ministry of Labour and Social Affairs reports that, nationally, only **60 children** benefited from a public day centre for persons with disabilities in the year 2005³¹⁷.

Guardianship

A child can be placed under guardianship when his or her parents are unable to exercise their parental rights, because of the death of both parents, because they are unknown, have had their parental rights terminated or have lost their capacity to act.³¹⁸ An application for guardianship may be made by relatives of the child, anyone with an interest in a child whose parents are unknown or who is without parental care, a child over the age of 14 or a prosecutor.³¹⁹ Before appointing an

³¹⁵ Data provided by Ministry of Labour and Social Affairs. December 2006.

³¹⁶ The data provided in the table covers only NGOs known to the Ministry of Labour and Social Affairs.

³¹⁷ Data provided by Ministry of Labour and Social Affairs to UNICEF/INSTAT Monee 2006.

³¹⁸ Article 263 Family Code

³¹⁹ Article 264 Family Code

applicant as guardian of the child, the applicant should appear before the court and a report on the background of the child and suitability of the applicant should be provided to the court.³²⁰

Evidence from practitioners indicates that, in practice, there are not a great number of applications for guardianship. This is perhaps surprising in the light of Article 268 of the Family Code, which requires that an employee of the registry officer who takes notice of the death of one or both of the parents, or of the birth of a child whose parents are unknown must notify the court within 30 days (and any relatives and other interested persons). Within 30 days from receiving such notification, the court must appoint a guardian.³²¹ However, it would appear that this provision is not well implemented. The possibility of applying for guardianship is not well known and is not advertised. This is to be regretted, as in the absence of a fostering service, it is a means by which children could be cared for in a family setting rather than in an institution. The law on guardianship was under review at the time of the writing of this report, and it is to be hoped that consideration is given to the promotion of guardianship for children without parental care by relatives and family friends, subject to safeguards such as an assessment of the suitability of the potential guardian.

In cases where parents fail to exercise their parental rights, an interested person can make a request to the court for guardianship. Most often, such an application is made by the relatives. One judge indicated that neither State Social Services nor the Social Administrator had ever initiated guardianship proceedings in his court.

Where a minor in need of guardianship has no relatives willing or able to exercise custody, the court may grant guardianship to a private or public institution licensed for the care of children. Again, there is little evidence that such applications are made.

Where the court grants a declaration of abandonment it also, in accordance with Article 251 of the Family Code, assigns a guardian to the child according to his or her best interests. In this case, the guardian is most likely to be the director or a member of staff of the residential home in which the child is placed. The court may order entry to residential care either as part of abandonment proceedings or in guardianship proceedings where there is no suitable family member or foster family to take custody.

Guardianship can also be used as a mechanism for protecting a child. The prosecutor may apply for guardianship where he or she considers that the child is at risk of significant harm and would be better placed outside the immediate family. At least one prosecutor interviewed claimed that it was not part of his job description to initiate guardianship proceedings, notwithstanding the fact that Article 264 of the Family Code clearly empowers the prosecutor to do so. It was not possible to find any cases in which guardianship proceedings had been initiated by State Social Services or the Social Administrator. One of the difficulties inherent in using this protection mechanism, according to one judge interviewed, is that the initiation of guardianship proceedings requires the *name* of a particular person willing to take guardianship of the child. The prosecutor or the court cannot commence proceedings without a named guardian.

Article 281 of the Family Code provides however, that, *before* a guardian is appointed, the court may, on its own initiative, or at the request of the prosecutor or any “*interested*” person, assign a temporary guardian or take other urgent measures “*necessary for the protection of the child*”. Whilst this article fails to provide sufficient detail on the mechanism for assignment of a temporary guardian or a description of what “*urgent measures*” may constitute, it nonetheless is an important safeguard, and a mechanism that could be used until an effective child protection law is in place.

³²⁰ Article 267 Family Code requires that such a report should be prepared by the Social Assistance Department
³²¹ Article 268 Family Code

Fostering

Although a definition of a foster family is provided in Article 266 of the Family Code, and the task of identification of foster parents is placed on the municipality or commune, the only fostering services available in Albania are those offered by NGO providers on a very small scale. It is extremely difficult to see how international standards of good practice in child protection and the requirement of the Convention on the Rights of the Child that children should be able to grow up in a family environment³²² are to be met without further development of fostering.

Adoption

An application for abandonment, made to the court by the residential care institution in which the child is placed, is the usual route by which a child deprived of parental care can be placed for adoption. This can occur after 3 months where a child has been in residential care since birth, and after 12 months in all other cases, where the parents have not “*been involved*” with the child “*in an obvious manner*”. One problem reported with this procedure is the criteria used by residential care institutions to determine when parents have not been ‘*involved*’. Research indicated that some institutions interpret a single telephone call, visit or letter from the parent of a child in the course of one year, as sufficient to prevent the commencement of abandonment proceedings,³²³ thus closing down any hope of the child being placed for adoption. Clearly, decisions about a child’s future care should not be made on the basis of whether a visit has been made by a parent, but should be based on an assessment of the child’s needs and best interests. Abandonment should not be the criteria for whether a child should be placed for adoption. Rather, where it is not possible for a child to be re-integrated with the birth parents, or the extended family, a decision should be made on the most appropriate placement for a child, placement in a residential institution being regarded as only appropriate where alternative family care through either fostering or adoption is either not in the child’s best interests or simply not possible.

Judges appeared to have a good basic knowledge of the protection needs of children, including the need for an appropriate caregiver and are, in general, keen to use their powers under the Family Code to provide protection for children. However, many noted that they were restricted in doing so. This is partially due to a lack of knowledge on the part of prosecutors and State Social Services of relevant Family Code procedure, and partially due to the fact that the Family Code only provides a limited number of routes for resolving child protection issues. As a result, decisions are generally made at administrative level. This may, in some cases disadvantage a child, as the issues are not placed before the court, and the child does not have representation to ensure that his or her best interests are considered, and that any intervention in the child’s right to family life is proportionate, in accordance with Article 8 of the European Convention on Human Rights.

The lack of connection between the justice sector and the procedure for placement in residential care is also a cause for concern. Article 68 of the Draft UN Guidelines on the Protection and Alternative Care of Children without Parental Care, for instance, provides that States should ensure that the parents, grandparents or other legal representative of any child who has been placed in alternative care may challenge the placement decision before a court. While the consent of the parents is of course required for placement in public residential care in Albania, there would seem to be no clear procedure in the Family Code for other relatives, such as grandparents or siblings, to challenge such placements other than, presumably, by initiating separate guardianship proceedings. Such issues highlight the need for a new child protection law or amendment to the Family Code that provides for effective assessment, management and coordination of the range of protective responses.

³²² See preamble UN Convention on the Rights of the Child

³²³ Assessment of Child Care Services and Institutions for Children without Parental Care. UNICEF. October 2005. At p.53.

Recommendations:

We would recommend that urgent consideration be given to the introduction of amendments to the Family Code or to the drafting of a new law to cover child protection that complies with both the UN Convention on the Rights of the Child and the European Convention on Human Rights and both ensures the child's right to family life and the right not to be subjected to inhuman or degrading treatment or punishment

In particular, we strongly suggest that consideration be given to amending the Family Code with respect to:

1. The provisions relating to guardianship in order to clarify the situations in which a guardian should be appointed for the child;
2. Who holds parental responsibility for a child where there is no parent or guardian exercising responsibility;
3. The requirement of 'abandonment' before a child can be placed for adoption (this should itself be abandoned and decisions on future care of a child should be determined purely on the basis of the assessed needs of the child if the system is to comply with international standards;
4. Introduction of a child protection system (Although the Draft Law on Violence is welcomed, it does not introduce a child protection system.) We would recommend that the government give urgent consideration to the drafting of a child protection law, or to amending the Family Code to cover the issues of identification of children at risk of abuse, referral, assessment, preventive services and crisis intervention;
5. The inclusion of the following issues in the Draft Law on Violence or, alternatively, should be included in the Family Code or a new law on child protection:
 - A mechanism for emergency or comprehensive multi-disciplinary assessment of a child at risk in accordance with Article 56 of the Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care.
 - Emergency powers for the immediate removal of a child by the police or social services
 - The possibility of imposing a supervision order.
 - A mechanism for assessment, care planning, or appropriate review and support during the receipt of services.
 - The prohibition of forced marriage.

Residential Care Standards and Practice

Admission to public residential care is governed by Article 20(4) of the Social Services Law and DCM 209 of 12 April 2006. DCM 209 begins by setting out the categories of children who may be admitted to social care institutions³²⁴:

- biological orphans or children temporarily without parental care, who do not have other relatives who may take on their custody or adoption;
- children born out of wedlock and who, on account of specific circumstances, cannot be raised by their mother;
- children from families in which parents, either both or one of them, have been deprived of parental rights, and children whose parents are in prison;
- children declared abandoned;
- children subject to any court decision placing them in a social care institution;
- children whose parents do not have sufficient financial resources to maintain the child;
- children whose families are living through a serious social crisis because the parents have either divorced or remarried; and
- children whose parents are hospitalised, or abroad for the purposes of medical treatment.

The DCM also states that the child's parent or guardian must consent to the placement of the child in the residential care institution³²⁵.

The categories of children who may be admitted to residential care set out in the legislation are a matter of concern. First, that a child should only be separated from his or her parents in accordance with applicable law and procedures and where such separation is necessary for the best interests of the child.³²⁶ Second, in line with the UN Convention on the Rights of the Child and current notions of good practice, children's social services should only place a child in residential care, such as a children's home, where this is in the child's best interests. An assessment should be undertaken to ascertain whether the child could be reintegrated into the family or with the extended family. If that is not possible, an alternative family setting should be found for the child, or a small family-type home if the latter option is not available. Placement in a children's home should be seen as a last resort, especially for younger children.

Third, the categories of children who may be admitted to public residential care appear to be too wide to be consistent with international standards. In particular, the possibility of admission because "*parents have either divorced or remarried*" or because "*parents do not have sufficient financial resources to maintain the child*" may breach the following international standards³²⁷:

- Article 8, Draft UN Alternative Care Guidelines: "*The state shall direct efforts primarily to enabling the child to remain in the care of his or her parents, or when appropriate, other close family members*"; and
- Article 14, Draft UN Alternative Care Guidelines: "*A child shall not be admitted to alternative care on the grounds of financial and material poverty alone*".

In essence, the categories contained in DCM 209 open the door to the admission of children to residential care for whom the serious possibility of care with one of the parents or other family members may still exist. In doing so, they risk incompatibility with the principle that residential care

³²⁴ DCM 209 on Establishing the Criteria and Necessary Documentation for Admission of Persons into Public and Private Residential Social Care Institutions of 12 April 2006. Chapter I, Art. 1(1). Whilst DCM 209 prohibits the admission of children with disabilities to the public children's homes³²⁴, in practice the Budget and Planning Department of the Ministry of Labour and Social Affairs reports that, as of November 2006, some 38 children with mild disabilities were nonetheless present in the three categories of children's homes.

³²⁵ *Ibid.* Art 2(n).

³²⁶ UN Convention on the Rights of the Child. Art. 9.

³²⁷ Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care. June 2006.

should be used only as a measure of last resort³²⁸. Moreover, strict 'gate-keeping' of admissions to residential care will be crucial to the success of deinstitutionalisation in accordance with the second objective of the Social Services Strategy. It is important that careful review of admissions policy accompanies any current or future process of deinstitutionalisation.

A further concern is the requirement for a statement of consent to the placement from the child's parent or guardian. This places a serious obstacle in the way of residential care for a child subject to serious violence, abuse, exploitation, or neglect committed by his or her parents or guardian. It would not present such a difficulty if the court process for guardianship or removal of parental responsibility were well developed, or if other emergency procedures for temporary care existed. However, this is not the case in Albania. Article 9 of the UN Convention on the Rights of the Child provides that a child may be separated from his parents, even against his or her will, when "*competent authorities subject to judicial review [so] determine*" and where this is in the best interests of the child and is necessary to protect the child from significant harm.³²⁹ At present, it is not clear that the competent authorities are able to protect a child in the way envisaged by the UN Convention on the Rights of the Child.

Under Article 3 of the DCM, the procedure may be initiated by any of: (i) the child's parents or guardian, (ii) the police, (iii) the Social Administrator, or (iv) the child's previous social care institution. DCM 209 Article 2 specifies the necessary documentation that must be submitted to the Social Administrator. The list includes the child's birth certificate, transfer orders in relation to any previous stays in residential care, (as noted above) a statement of the parent or guardian's consent to the placement, and data from the local police station. In addition, the Social Administrator is required to provide authentication concerning the child's social and economic situation. DCM 209 does not actually specify who shall take the decision on admission to residential care. This is probably due to the ongoing social care system reform process. DCM 209 replaced (and repealed) an older DCM of 1997, which also dealt with the criteria for placement in residential social care institutions³³⁰. The old DCM provided that all decisions on applications for admission to residential care must be taken by the central Commission on Admission to Residential Care, located at the Ministry of Labour and Social Affairs in Tirana³³¹.

In practice, it appears that this procedure is still being followed, notwithstanding the fact that the old DCM is no longer in force and that DCM 209 makes no reference to the central level Commission on Admission. At present, upon receipt of the documents, the Social Administrator passes the admission application to the regional office of State Social Services. The regional office of State Social Services then verifies that the documents are in order, before issuing a recommendation for admission to residential care. This recommendation is sent to the central level Commission on Admission to State Residential Care located in State Social Services in Tirana. The Commission is composed of senior employees of State Social Services. It meets twice a month to consider admission requests, although State Social Services reports that the Commission is also able to convene as needed in order to consider emergency requests. In practice public residential care institutions still effectively refuse admissions that do not have the approval of the central Commission. All Social Administrators, NGOs and regional offices of State Social Services stated that, in practice, the centralised procedure is extremely slow and unsuitable to meet the needs of many children, especially those needing crisis or emergency placement.

Once the Commission on Admission to State Residential Care has made a decision on the admission of a child to public residential care, competency concerning the child's continued stay in residential care effectively passes to the institution itself.

³²⁸ See for example UNICEF Manual for the Measurement of Formal Care Indicators. (2006). Policy Analysis Tools.

³²⁹ UN Committee on the Rights of the Child. General Comment 8 (2006). The Right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. Article 41.

³³⁰ DCM 510 on the Criteria of Accommodation in Residential Social Care Institutions and the Necessary Documentation for Admission of 24 November 1997. As amended by DCM 196 of 9 May 2002.

³³¹ *Ibid.* Art. 7.

DCM 209 Chapter IV provides that the Social Administrator and municipal/communal council shall review the social and economic situation of the child's family five years after initial placement³³². This period is an extremely long period of time, far too long for children whose placement is intended to be temporary. It is unlikely to ensure a meaningful review of the child's needs. Hence, in practice, responsibility for permanency planning and the exit of the child from institutional care is exercised, almost exclusively, by the residential care institution in which the child is placed. This leads to a lack of planning in relation to movement between types of children's home (specialised for different ages) and exit from the residential care system by adoption or reintegration into the family environment.

Non-public (NGO and private) Residential Care

Admission to private or NGO-run residential care has, until recently, generally been at the sole discretion of the provider, without any involvement of the Central Commission on Admission to Residential Care or local government units. Some exceptions do exist however, such as SOS Villages, Tirana, whose admissions are endorsed by the Ministry's Commission on Admission to Residential Care under a specific agreement between SOS Villages and the Ministry of Labour and Social Affairs.

However, a recent initiative of the Ministry of Labour and Social Affairs does now apply a degree of regulation to those NGOs providing residential services. As discussed above, admission to public residential care institutions is clearly regulated by DCM 209. However, DCM 209 in fact expresses itself to apply to admission of persons into both public "*and private*" residential social care institutions³³³.

As DCM 209 in fact makes no reference to who should take the decision as to admission to residential care, its application to private residential institutions may amount to little more than the list of documentation that the private institution should require prior to admission. However, this list importantly includes an "*authentication of the family's social and economic situation, issued by the Social Administrator*"³³⁴. This provision effectively has the result that the Social Administrator must be involved in *any* admission to residential care, whether public or private. In practice, this certainly does not occur, with some NGOs taking unilateral action to protect children without any involvement of the state social care system. Nonetheless, the provision does represent a first step towards a unified standard process for the referral or admission of a child to a childcare setting, as required by international standards³³⁵.

NGO residential services tend to be small family-type group home in keeping with Article 124 of the Draft UN Guidelines. Two services visited both had a Code of Conduct containing guidance, tasks and concrete work plans as well as the legal basis of the operation, aims, operational practices, admission and exit strategies, individual development programmes, discipline, family visits, education, health, etc. In both homes, corporal punishment and all other disciplinary measures are prohibited by the policy regulations.³³⁶ Although reintegration into families is a high priority for the NGO services visited they also have the capacity to offer a long stay provision.

In both establishments visited, consultation with parents and encouragement of links between parents and their children are seen as priorities. On admission, a comprehensive multi-disciplinary assessment is undertaken, covering social background, health and education. Every child has an individual file containing the assessment and working plan and this is implemented by the social worker. Children attend the local schools in the community. Reintegration is sought as far as possible and, when achieved, the staff remain in contact with the child. Where reintegration is not possible and the family has no interest in maintaining contact, the child is prepared for adoption.

³³² DCM 209 on Establishing the Criteria and Necessary Documentation for Admission of Persons into Public and Private Residential Social Care Institutions of 12 April 2006. Chapter IV, Art. 3.

³³³ DCM 209 on Establishing the Criteria and Necessary Documentation for Admission of Persons into Public and Private Residential Social Care Institutions of 12 April 2006. Preamble.

³³⁴ *Ibid.* Art 2(o).

³³⁵ See Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care. Art. 75.

³³⁶ This is in accordance with Articles 35, 43 and 132 of the Draft UN Guidelines.

Existing care standards apply to the operation of the NGO services although there is a tendency for the NGOs to have a more detailed, specific standards prepared by their own organisation.

NGO residential services tend to take the Article 12 of the UN Convention on the Rights of the Child 'right to participate in decisions affecting their lives' seriously. One of the organisations visited had a village council and each family (house) votes on a child representative. From ages 10-12, children are involved in their own care planning process and each child is involved in the decisions made in the family house.

Training in the NGO sector is generally of a higher standard and is provided on a more regular basis than in the state residential homes. Training is usually organised internally with the Directors operating as trainers along with international professionals. Staff have received training on assessment and care planning; record keeping; identifying and working with abused children; awareness of children's rights; minimum standards for residential care; and delivering life skills training to children. More co-operation between the NGO sector and state residential homes would enable staff in the latter to benefit from the training courses provided to NGO staff and would, in turn, assist them to raise their standards. Municipalities and communes should consider how to encourage such co-operation.

Child Protection Practice within Residential Homes

The public residential care institutions are subject to the general social services standards and, in particular, to the residential care standards, which include:

- the home has a written statement of purpose which accurately describes the services it provides;
- the care plan for each child sets out clearly the assessed needs of the child, the objectives of care, and how these are to be met on a day to day basis;
- the home adopts a plan for the exit of children from social care and their move into other forms of care, reintegration, or independent or semi-independent living;
- children are provided with adequate quantities of suitably prepared food and drink;
- children's clothing and personal requisite needs are fully met;
- the physical, emotional and health needs of each child are identified and appropriate action taken to secure the services needed to meet them;
- the home has an education policy;
- there are ample opportunities for children to participate in a range of appropriate leisure activities;
- children know how and feel able to complain if they are unhappy with any aspect of living in the home and any complaint is addressed seriously and without delay;
- there are systems in place to promote the safety and welfare of children and to ensure that children are protected from abuse;
- the home provides adequate and good quality domestic style facilities and is maintained in good order throughout; and
- there is a document defining the staffing structure, number of employees, selection, recruitment and training, and the home is staffed appropriately to meet the needs of its residents.

These standards represent a good attempt at reflecting international standards on alternative care with respect to what is realistic and achievable within the Albanian context. Significantly, Residential Care Standard 10, on the safety and welfare of children, includes criteria such as: (i) criminal record checks for all staff working with children, (ii) the existence of a clear definition of abuse, (iii) the existence of reporting procedures for abuse, (iv) the introduction of a therapeutic programme for children who have experienced abuse, and (v) the existence of a code of conduct

and good practice in working with children³³⁷. Nonetheless, the residential care standards do fail to explicitly enshrine important principles, such as the use of institutionalisation as a temporary measure and for the shortest time possible³³⁸, and due regard for continuity of the child's upbringing and cultural, linguistic and religious background³³⁹.

In practice, implementation of the residential care standards is limited and in some residential homes practice falls below both national and international standards and current notions of good practice. It should be noted, however, that some local authorities and homes clearly demonstrate good practice.

Practice assessment indicated that most staff have operational knowledge of the residential care standards, but practice remains largely unchanged following the introduction of the standards. The standards should be viewed as a positive step forward, but further work needs to be done on implementation. However, although an improvement, it is debatable whether the changes are significant enough to impact on the child's experience of being separated from his community, family and friends.

Current practice within public residential care services indicated a number of practice problems, but also some good practice. These included:

- **Separation on the basis of age:** Although the Children's Homes are divided into age categories these age banding are not always adhered to. For example, in the homes for zero to three year olds, there were a number of children aged three to six. Staff are not equipped to provide for this latter age group and the homes do not contain the necessary facilities for such children.
- **Family reintegration:** As a general rule, there is a failure to promote contact and family reintegration. Rather than ensuring that children are placed in homes nearest to their normal place of residence, children are often placed a considerable distance from home. The lack of transport and the costs associated with transport make it difficult both for families to visit their children and for social work staff to visit and engage the family. In addition, although guidelines on care planning are provided by the Ministry and some NGOs, most local authorities and homes fail to take a pro-active approach to care planning. This leads to delay in making a decision on the future of the child. This is particularly important as research evidence indicates that successful reintegration can be extremely difficult to achieve once the child has been away from home for 6 months or more.
- **Record Keeping:** Files were examined on visits. Most files included records of an initial assessment and care plan and various progress reports from different professionals. One establishment in Tirana also produces life story books, organised by social workers, that contain information about the child's birth, weight, a photograph and considerable information in three monthly progress reports with entries such as, 'when I got my first tooth'; 'when I first crawled'; 'the day I took my first steps'; and so on. There were also photographs and stories about parties and visitors, including relatives. The life storybook goes with the child when she is adopted or is reintegrated into her family. This approach was refreshing and consistent with good practice. We would recommend that all children's homes should be encouraged to produce life story books for their children in this way.
- **Key workers:** In the home for six to fourteen year olds there is a key worker system, where educators prepare progress reports and highlight key milestones in the child's development. Reintegration is considered from the date of admission and meetings are planned with the family to achieve this. However, there is no planning for aftercare

³³⁷ Ministry of Labour and Social Affairs. Social Services Standards for Children in Residential Institutions. p.20.

³³⁸ See for example UNICEF Manual for the Measurement of Formal Care Indicators. (2006). Policy Analysis Tools.

³³⁹ UN Convention on the Rights of the Child. Article 20.

contrary to the residential care standard concerning preparation for returning home or moving into an independent or semi-independent life.

- **Violence:** Although corporal punishment and psychological violence is prohibited in the children's homes, it was not always clear that this prohibition was adhered to. Staff would benefit from behaviour management training enabling them to utilize alternative strategies to violence when dealing with a child.
- **Complaints policy:** There is no written policy for complaints in either the 0-3 or 6-14 year old residential homes, though in the latter children do make complaints, mostly to the Director. Social care standards require that any complaints should be resolved as soon as possible. This standard is not met, and consideration needs to be given to how children could make their views known in a manner where they would be respected and due weight given to them.
- **Co-ordination with other child protection bodies:** There is a general lack of coordination with other child protection bodies, although staff do cooperate with school teachers, health staff and psychologists where they are involved with a child. Staff work with the mothers of the children where this is possible, referring them to NGOs and other agencies that can assist them.
- **Awareness and training:** There is little awareness of the risk of incidents of abuse within the institutions visited, and of the impact of abuse on children generally. Indeed, staff are not generally comfortable discussing such issues. In the 0 -3 year old homes, staff were aware of regulations, policies and processes for children, but such knowledge appeared to be lacking amongst the staff of residential homes for the older children. The residential homes appear to have few qualified staff and there is a lack of essential training including training on child protection issues. While there have been some training courses on violence and early childhood development in the Korca region, knowledge and skill levels are still low. Staff have had no input on delivering life skills training to children, nor have they had any training on handling complaints. The exception to this is the home for children aged 0–3 in Tirana which, with the assistance of the NGO, Bethany, has sufficient numbers of suitably qualified staff and a good training programme available to staff.
- **Record keeping and monitoring:** The public residential homes are required to submit reports to State Social Services and the Ministry of Labour and Social Affairs. However, the information requested tends to focus on numbers of beds in use, financial records, progress reports, and numbers of adoptions. There is no requirement to inform State Social Services or the municipality of any cases of violence or abuse occurring in the institution or complaints and outcomes and, indeed, this does not occur in practice. State Social Services undertake unannounced inspections, and do make recommendations for change. However, in many institutions visited, there had been no changes subsequent to these inspections, and no follow-up inspections. Staff performance evaluation is usually left to the Director of the institution. While the Director of the Tirana 0–3 baby home has regular sessions with staff groups and individuals concerning the regulations and standards expected in their practice, in compliance with Article 109 of the Draft UN Guidelines, there is little evidence that this occurs in other homes.

Conclusion and recommendations:

Reform of the residential homes has recently commenced, and the new Residential Care Standards represent a good attempt at reflecting international standards. However, the legal and policy framework for residential care still fails to enshrine important international principles, such as the use of residential care as a temporary measure and for the shortest time possible. In addition, the criteria for admission to residential care is not based on an individual assessment of the needs or the best interests of the child, but rather purely economic reasons, or that parents have divorced or remarried. Consideration should be given to changing the criteria for entry to residential homes to meet the international standards.

Residential care is the only emergency or crisis child protection measure available, but cannot fulfil this role due to cumbersome admissions procedures and the requirement for a statement of consent to a placement from the child's parent or guardian. The Family Code should be amended to permit the removal of a child who is at risk of suffering or at risk of suffering significant harm without the consent of a parent by court order. In addition, court procedures should be amended to allow for emergency applications.

The system for finding a permanent alternative family is also cumbersome, with a process of declaration of abandonment, freeing for adoption and matching taking a considerable amount of time to complete. Consideration should be given to amending the Family Code doing away with the concept of abandonment as a basis for making decisions about a child. Following assessment a care plan should be prepared for a child. Where it is not possible for the child to be reintegrated with the birth family or with the extended family, the alternative provision should depend upon the needs and best interests of the child and not on whether the child has been abandoned.

A fostering service should be developed, particularly for younger children.

Care Standards and Practices for Persons with Disabilities

Public Homes for Persons with Disabilities

The procedure for admission to public homes for persons with disabilities is similar to that for the residential social care institutions, and is also governed by DCM 209. Chapter II, Article 1(1) of DCM 209 provides that homes for persons with disabilities accept mentally, physically, and sensorial disabled persons. In the same way as eligibility of disability entitlement, the existence of such a disability must be confirmed by a decision of the Medical Commission³⁴⁰. The decision of the Medical Commission is then submitted to the Social Administrator along with the applicant's birth certificate, medical report, and other supporting documentation. As with admission to residential care, the final decision is then taken, in practice, by the central Commission on Admission to Residential Care.

DCM 209 states that homes for persons with disabilities may admit qualifying persons aged zero to twenty-five years³⁴¹. In practice, once admitted, very few children return home and many remain in the home beyond the DCM age limit. This is mainly due to a lack of services providing social support, care and appropriate employment for persons with disabilities within the family and community.

The situation is eased slightly, however, by the fact that most homes for persons with disabilities have both residential clients and clients who attend on a daily basis. Children at the Tirana home for persons with disabilities, for instance, reside in the centre from Monday to Friday and return to their families at the weekend. Homes for persons with disabilities will be subject to the disability standards once they have been issued. As at the time of this report, these are still in draft form, and include the following:

- disabled persons shall be included in partnerships involved in local decision-making concerning disability-related issues;
- multi-disciplinary assessment involving the client or his or her relatives or representatives shall be carried out by relevant professionals;
- social care services for persons with disabilities should help tackle diverse aspects of vital functional needs, should be of good quality, should be offered at the right time, and should adequately satisfy the client's need to receive support to lead as independent a life as possible;

³⁴⁰ *Ibid.* Chapter II, Art 1(2).

³⁴¹ DCM 209 on Establishing the Criteria and Necessary Documentation for Admission of Persons into Public and Private Residential Social Care Institutions of 12 April 2006. Chapter II, Article 1(3).

- services offered to disabled persons should abide by clear and regular procedures regulating every stage of the services offered and procedures should be built on multi-disciplinary team work; and
- clear criteria governing legitimacy of entitlement to receive services and procedures for monitoring implementation of the services should be in place.

Practice in the disability homes was observed by the research team

Codes of practice: In all the homes and units visited, a written code of practice provided a foundation for the work undertaken and contained a staff disciplinary procedure. Regulations issued by State Social Services give children the right to education, to speak freely, and to be involved in decision-making about their care. There was however, a lack of clarity on child protection and, in particular, of the steps to be taken where there were allegations of abuse or violence against children. One Director said she was obliged to report all incidents of violence or abuse to the local social services office, while two other directors believed that there was no such obligation. None of the homes visited had a formal system for reporting violent or abusive incidents. This is an issue which needs to be addressed as a matter of urgency.

Age range: In the same way as other public sector homes, the age range varies from the stated norm. However, in the disability homes, the age range is far wider. For example, one disability home caters for twelve to sixty-five year olds. Another home takes children from the age of seven, up to twenty plus. Caring for a large group of children and adults with mental and physical disabilities in one unit is not conducive to developing the care environment needed for a child's development as outlined in Articles 81 to 97 and 124 of the Draft UN Guidelines, and presents some very real child protection concerns.

Parental involvement and reintegration: Parents and guardians are generally encouraged to get involved in the decision-making processes concerning their child. They are invited to meetings and to celebrations, such as birthdays, and those who have relatively easy access to the units are encouraged to spend time with their children. Meetings are organised where parents can learn how to handle some of the more challenging aspects of their children's care, and some homes seek to help the child spend some time at home with the parents, in accordance with the Draft Disability Standards. This is particularly true of the Tirana home, where some resident children return to parents at the weekend. Parents who live some distance from the unit are encouraged to keep in touch with their children via telephone.³⁴² The aim is to support the return of the child to the family or relatives and for the child to be socially involved in the community. This aim is, however, rarely achieved. In two of the units visited, a few children have been fully reintegrated back home, but this is seen as a rare event. Many parents do not visit children, partly because of practical problems such as transport and partly due an inability or unwillingness to look after their disabled children. Adoption has never been considered for children in any of the units visited, and there are limited alternative services in the community for children with a disability.

Assessment: A comprehensive assessment is undertaken for all children and a file is opened that includes formal admission documents, assessment, care plan, medical, educational and social development records. In Tirana there is also a work plan for parents. One unit visited monitors the child's development working on indicators according to the objectives within the care plan. Formal reviews are held every six months. The content of files varied in quality and content, with the units catering for fewer children generally meeting good standards of recording as set out in Articles 110 and 111 of the Draft UN Guidelines.

Violence: In two units it was highlighted that there was a time when corporal punishment was acceptable. Now, violence and the use of psychological punishment are totally prohibited. There have been no recent reported cases of abuse in any of the homes.

Complaints: There is no formal system for complaints, and no complaints policy available in the homes, although the authors were told that children are free to complain to the Director, teachers, or State Social Services. This is unsatisfactory. In one unit visited, it was reported that there had been no complaints from children in the last 12 months. This was stated with some pride by the

³⁴² In accordance with Article 79 Draft UN Guidelines

Director, but should rather be regarded as a matter of concern. Children in residential homes, and particularly disabled children, are particularly isolated and prone to be subjects of abuse. It is all the more important to have a well understood complaints policy which allows children to complain about their treatment, as well as parents, visitors and staff members.

Awareness of standards: Most staff appeared to be aware of the draft disability standards, and are already implementing them on an informal basis, though this is seen to be hard where a child is severely disabled. Staff showed awareness of the rights of the child to good food, health services and educational opportunities, however limited, as well as the right of the child to privacy. One Director commented that indicators are needed to enable staff to ascertain whether standards were being fully achieved. It would be helpful for training purposes for such indicators to be developed.

Training: A number of the residential staff in disability homes are qualified and indeed some have trained abroad. There is still a need, however, to provide more training, a view supported by the staff. Training in the disability field is, however, difficult to find. Staff have received awareness raising training on corporal punishment and psychological abuse, and have reasonable up-to-date knowledge of the policies and regulations for providing care in the units. Staff were reported by Directors as being very professional and committed to improving the standard of care and implementing the national strategy on disabled children. There is a real need for continuous training and development of practice techniques, covering the implementation of care standards and systems such as a complaints process.

In general, the disability residential services appear to be the 'poor relation' of the residential sector. There is little opportunity for reintegration and rehabilitation and no after care services for those who are able to return home. Facilities can become overcrowded, and there the housing of adults and children in the same building raises child protection issues. More and better care planning needs to take place to ensure that institutionalisation of disabled children is kept to a minimum and, where it is necessary, that homes take the form of small family type homes, rather than large residential homes.

Recommendations:

1. More parents should be assisted to keep disabled children within the family, as once children are admitted to a residential home, few are likely to leave.
2. To this end we would recommend further development of community services to enable children to be supported in their families in accordance with the UN Convention on the Rights of Persons with Disabilities, in particular:
 - The development of home care and after care services
 - The development of respite care, to be offered either in small family type homes or by the existing disability homes to give parents and families short, but regular, breaks from caring for their disabled child where necessary
 - The introduction of a national vocational training scheme for staff in disability homes and services that recognizes their specialization and experience.

3. Reporting, Monitoring and Quality Assurance

Reporting by Social Care Services

As discussed in Chapter Five, both the financing and reporting lines for public social care services remain wholly centralised.

The Social Administrator usually reports every one to three months to the regional office of State Social Services. This report typically includes information on the numbers of: (i) biological orphans, (ii) street children, (iii) one parent families, (iv) children who have dropped out of school, (v) households receiving economic assistance, and (vi) persons receiving disability entitlement. This information consists of numbers only (for example – “43 children not in school”) and does not contain identifying information for individual children or proposed interventions. It is not clear how the Social Administrator collates these figures. Thus, for instance, there is a lack of clarity on whether the number of street children is estimated, or is the number to whom services were offered, or who were referred for services. Further, it is not clear how often this information is updated and on what basis.

Tirana regional office of State Social Services stated that the purpose of reporting by Social Administrators to regional offices is in order to assess the priorities for each municipality and commune. In principle, the regional office of State Social Services observed that having received the information, they then ask the Social Administrator to cooperate with local NGOs in order to address the needs of priority groups identified by the reported information. However, in practice, Tirana regional State Social Services admitted that cooperation between the Social Administrators and NGOs was not particularly good. Other regional offices stated that the quality of information reported by Social Administrators was poor and that there were many reporting defaults. Reporting in Kukës region, in particular, is made difficult by the challenging terrain and the fact that Social Administrators must travel in person to the municipality of Kukës (where the regional office of State Social Services is located) in order to deliver reports.

Whereas in all regions visited, Social Administrators regularly reported to the regional office of State Social Services, in no instance did Social Administrators – or, indeed, the regional office of State Social Services – appear to report to any Qarku social care services structure established pursuant to DCM 563. In order to meet their social services planning obligations under DCM 563, Qarku social care service structures will require statistics from Social Administrators³⁴³. This missing link in the reporting line will need to be filled in order for decentralisation of social services to proceed as currently planned.

Public social care institutions report every six months on the number of new children entering the institution, the current number of children, the institution’s maximum capacity, where each child has come from, and whether each child has a family or not. This information is given not to State Social Services, but to the Budget and Planning Department of the Ministry of Labour and Social Affairs in Tirana. The Budget and Planning Department has plans to expand the reporting procedure, to include information on local school attendance and services received by children. However, such expanded reporting has not yet been implemented in practice.

The information received is used both for planning of the financial budget assigned to the institution and passed to the General Policy Directorate of the Ministry. As noted previously, within this Directorate, one specialist staff member is responsible for policy issues relating to children.

In addition, as of October 2006, the Ministry Budget and Planning Department has started to request equivalent information from NGO residential care institutions through municipal and communal local government units. No data was yet available, however, as of the date of this report. Other than this initiative, there is no formal reporting structure for NGO social care service providers. Practice assessment revealed that NGO service providers frequently supplied information to municipal or communal authorities when requested, but that there was no systematic reporting of figures such as number of clients or services offered to local government units.

³⁴³ Article 11 of the Draft Directive on the Implementation of the Decision of the Council of Ministers No. 563, dated 12 August 2005 envisages that: “*the social service sector at regional level shall receive information concerning the needs and number of beneficiaries for specific services that the social administrators report to the municipality/commune*”.

The lack of consistent reporting, and the different lines of reporting, makes the planning of children's services at both the national and local level problematic. It is essential that accurate information covering all children's social care services is provided to a central body, to ensure the services necessary to meet the needs of children can be planned. The way in which data is collated and provided to national bodies and the Qarku social care services needs to be reviewed.

Monitoring and Quality Assurance

The sixth objective of the Social Services Strategy aims for an: *"increase in the quality of social services in conformity with contemporary standards"*. While the Social Services Standards, Residential Care Standards, Draft Disability Standards and Draft Trafficking Standards are valuable tools in meeting this objective, their implementation requires a monitoring and quality assurance system if child protection is to be effective. A basic system for achieving this aim is provided for by the Social Services Law. In particular, Article 18(1) of the Social Services Law envisages a system of licensing for both public and private providers of social care services³⁴⁴. In addition, Article 27(2) creates an inspectorate responsible for monitoring and implementation of the relevant legislation³⁴⁵. Inspectorates for both the monetary assistance scheme and the social care service providers are to be found within State Social Services.

Licensing of Service Providers

A detailed framework for the licensing scheme is contained in DCM 564 on the Licensing of Providers of Social Care Services. DCM 564 specifies that: *"public and private legal persons, who offer social care services, shall be issued with a special licence by the Ministry of Labour and Social Affairs"*³⁴⁶.

As the Albanian law on non-profit organisations requires all non-profit organisations to be registered with the court, the requirement on social care providers to be licensed by the Ministry of Labour and Social Affairs represents an additional level of regulation³⁴⁷.

DCM 563 specifies that social care providers who qualify for a licence must:

*"have or shall open up centres in which services shall be offered to groups in need, including residential care centres, day care centres, rehabilitation centres for persons with disabilities, settlement and reintegration centres for victims of violence and trafficking, in-home services, psychosocial consultation centres and consultation lines"*³⁴⁸.

Under DCM 564, NGOs offering such services must submit their application for a licence to the Inspectorate of Social Services³⁴⁹. The Inspectorate is then obliged to carry out an assessment of the capacity, quality and level of service provided by the applicant³⁵⁰. In practice, inspectors of the relevant regional office of State Social Services may carry out this inspection. Notably, DCM 564 makes reference to the fact that social care service providers must have *"professionally trained staff, in compliance with the standards for the realisation of these services"*³⁵¹.

Pursuant to this provision, regional offices of the State Social Services reported that they do try to make use of the Social Services Standards and, where relevant to the provider, the Residential

³⁴⁴ Article 18(1) Social Services Law states: *"The Ministry of Labour and Social Affairs licenses all the public and private legal persons providing social care services"*.

³⁴⁵ Article 27(2) Social Services Law states: *"The Ministry of Labour and Social Affairs creates the Economic Assistance and Disability Entitlement Inspectorate which monitors the activity and implementation of legislation in its dependent structures and institutions"*.

³⁴⁶ DCM 564 on the Licensing of Providers of Social Care Services of 12 August 2005. Art (1).

³⁴⁷ See Law 8788 on Non-Profit Organisations of 7 May 2001. Art. 13.

³⁴⁸ DCM 564 on the Licensing of Providers of Social Care Services of 12 August 2005. Art 5(b).

³⁴⁹ *Ibid.* Art. 6.

³⁵⁰ *Ibid.* Art. 4(k).

³⁵¹ *Ibid.* Art 5(d).

Care Standards, as a benchmark when carrying out the on-site inspection. Tirana regional office of State Social Services, in particular, make use of a checklist based on the Social Services Standards including assessment of the legal statutes of the NGO, projects undertaken, the education and qualification levels of staff, facilities, degree of cooperation with local government, and the impact of the NGO's activities. The report of the Inspectorate of Social Services is then forwarded to the central Licensing Commission for NGOs, located in the Ministry of Labour and Social Affairs. The Licensing Commission convenes once a month and, under DCM 564, is able to grant licences for a period of up to three years, subject to a maximum initial period of one year for new providers³⁵². Upon granting a licence, the Licensing Commission should provide written notification to all of the State Social Service, the relevant Regional Council and municipality/commune³⁵³.

The licensing system and use of applicable standards under DCM 564 represents a strong move towards compliance with the international standard that:

“authorities should develop criteria for assessing the professional and ethical fitness of care providers and for their authorisation. National legislation should stipulate that all agencies and facilities organising or providing foster care services or residential care for children must be registered and authorised to operate”³⁵⁴.

One current weakness, however, is the lack of sanctions where an NGO continues to operate a social care service without the necessary licence. Article 107 of the Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care, for instance, recommends that the failure of an alternative care service provider to register and be authorised to operate should be a criminal offence. As at the time of this report, this is not the case in Albania in respect of the licensing scheme provided for by DCM 564. In the course of interviews, regional offices of State Social Services did not appear to have any enforcement mechanism available to them in the event that an NGO providing social services did not apply for a licence.

Recommendations:

1. Operating a social care service without a licence should become a criminal offence.
2. Enforcement mechanisms should be given to State Social Services with respect to social care providers operating without a licence and should include the power to serve notice on an NGO requiring them to obtain a licence within a specified time, and the power to close down a non-licensed service.
3. There is a need for uniform application of specific standards for community-based services.

Inspection of Service Providers

The inspectorates of economic assistance and disability entitlement, and of social services, have recently been created within central State Social Services. The existing six members of central inspectorate staff is planned to increase to thirteen members of staff.

In addition to social services inspectors based both within the inspectorates in Tirana, inspectors are also located within the regional offices of State Social Services. In practice, it seems that a social service provider may receive inspections from inspectors based either in Tirana, or the regional office, depending upon the geographical location of the provider. Inspections, in all regions visited, were reported to cover Social Administrators, public residential and day care

³⁵² *Ibid.* Art 10.

³⁵³ *Ibid.* Art 15.

³⁵⁴ See Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care. Arts. 54 and 107.

institutions, and licensed NGO social service providers. Regional offices of State Social Services claimed that, in principle, each of these would be inspected between two to three times per year. In addition to planned inspections, residential care providers may also be subject to unannounced inspections.

The capacity of regional officers to carry out inspections clearly differed between the regions of Albania. Tirana regional office of State Social Services reported the use of a 'control plan' for inspections of all of Social Administrators, public residential care institutions, and licensed NGO social service providers. The office noted that the Social Services Standards and, where applicable, Residential Care Standards, were used as the basis for assessment in inspections. More remote regional offices of State Social Services, on the other hand, reported substantial difficulties in visiting persons and institutions to be inspected due to a lack of travel budget and human resources. In addition, regional offices noted that, whereas standards such as the Residential Care Standards were a useful tool in inspections, they suffered from a lack of indicators that would assist inspectors in assessing whether the standards had been met.

With respect to child protection concerns, whilst Residential Care Standard Ten includes specific criteria related to criminal record checks for staff, definitions of abuse, reporting procedures for abuse, and therapeutic programmes for child victims of abuse, State Social Services inspectors made no reference to these provisions in discussions concerning protection from violence, abuse, exploitation or neglect in residential care. Moreover, State Social Services inspectors generally do not appear to meet with children in residential care during the course of an inspection. Whilst inspectors do make recommendations following an inspection, these do not seem to specifically cover quality of care and appear to be more concerned with financial reporting and administrative matters. As such, inspections need to specifically focus on quality of care and, specifically, measures taken to protect children from violence, abuse, exploitation and neglect.

In addition to the power to make recommendations following an inspection, State Social Services inspectors may also propose penalty measures to the General Director of State Social Services. These may include the dismissal of the centre's director or members of staff where appropriate.

Overall, the inspection system is a good step towards fulfilment of relevant international standards, including the requirement for accountability to a specific public authority through frequent inspections, comprised of both foreseen and unannounced visits³⁵⁵. As noted, above, however, the system could benefit from harmonisation of quality across the regions and a more pronounced focus on child protection concerns.

Recommendations:

1. Inspections need to specifically focus on quality of care and, specifically, measures taken to protect children from violence, abuse, exploitation and neglect.
2. Child users of services should always be seen and, where old enough, should be asked for their views on the services provided.
3. There should be a specific requirement to report and review any violent incidents, in accordance with international norms. As at January 2007, the Ministry of Labour and Social Affairs reporting structures do not include such a provision.

³⁵⁵ See Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care. Art. 129.

Chapter SEVEN

Conclusions and Recommendations

This Chapter sets out the major conclusions of this analysis of the Child Protection System in Albania. The conclusions are grouped according to twelve key areas that include both law and policy, and institutions and practice in those sectors examined. Conclusions presented for each area are followed by recommendations specific to that area. The primary aim of the recommendations is the alignment of the child protection system in Albania more closely with that envisaged by international norms and standards.

The recommendations contained in this Chapter were produced in draft form by the international consultancy team and were considered by the Government of Albania in a cross-sectoral consultative process held in early 2007.

Chapter Four of this report (The Child Protection Situation) describes the issues that give rise to child protection concerns, including violence against children in schools, homes and institutions, neglect and abuse and a low, but nonetheless persistent rate of exploitative child labour and child trafficking. In addition, as Chapter Five of this report has demonstrated, responses to children without parental care are not always made with the child's best interests or needs as the primary consideration.

Chapters One (Introduction) and Three (Child Protection and International Standards) of this report seek to place the child protection concerns in Albania in a conceptual framework, taking into account the child's immediate surroundings, together with the broader socio-economic, political and cultural country context. The conceptual framework consists of a number of formal and informal systems, which can be viewed as providing the child with 'armour' against harm. These include: (i) the legal and regulatory system, (ii) the social welfare system, and (iii) the societal behaviour change system. As noted in Chapter One, this report has primarily covered the Albanian legal and regulatory system and the social welfare system. Together, these two elements may be considered broadly to constitute the existing Albanian child protection system.

In the light of this conceptual framework, the vital question is: are children being adequately protected from violence, abuse, exploitation and neglect and if not, is that because the child protection system fails to safeguard and promote the welfare of such children adequately? Such a question can be considered both from the point of view of the child's immediate environment, the broader socio-political context, and of course, *vis-à-vis* the legal, regulatory and social welfare systems themselves.

In light of the conclusions reached in Chapter Four of this report in relation to violence, abuse, exploitation and neglect, and the systems analysis conducted in Chapters Five and Six, this Chapter starts from the premise that Albania lacks the integrated child protection system necessary to safeguard children in the manner sought by international standards. Diagram 13 sets out the basic problems and then considers a number of immediate, underlying and root causes that may contribute to the manifestations of violence, abuse, exploitation and neglect that are observed in practice in Albania.

The fundamental problem for the Albanian child protection system is the lack of an Albanian child protection law, and lack of a local body with specific responsibility for child protection. Without such a law, the duties and obligations of the various bodies and agencies working in the field of child protection are uncoordinated and unclear, leading to a failure to safeguard children in an appropriate way. This key missing component is discussed in greater depth below and is the central theme of this final Chapter.

1. Overall Legal Framework

Lack of Consolidated Child Protection Legislation

The Albanian legislation included in this analysis (in particular the Social Services Law, the Family Code and the Draft Law on Violence), whilst enshrining a number of important protections for children, nonetheless fail to address three key overall issues that apply to any child protection situation:

- an overall legal definition of a 'child at risk';
- a legal basis for child protection referrals; and
- a legal framework for addressing emergency child protection situations.

In practice, these legislative deficiencies mean that the bodies and agencies involved in child protection are unable to offer children at risk of suffering harm from violence, abuse, exploitation or neglect a service which meets their best interests and needs. In particular, the current system of response appears to be dictated by the classification of risk – for instance, trafficking or exploitative child labour, rather than by the particular needs of the individual child. Moreover, the lack of emergency powers and weak linkages between child protection bodies and the courts mean that the system finds it difficult to respond in practice when parents do not give their consent to the emergency removal of a child at risk of suffering harm from abuse etc.

Whilst the Draft Law on Violence may go some way towards filling this gap, it should be noted that the Draft Law does not cover significant protection situations such as forced marriage, chronic deprivation of education, the committal of a serious criminal offence by a child under the age of criminal responsibility, or the involvement of children in the worst forms of child labour. It does not contain a mechanism for emergency or comprehensive multi-disciplinary assessment of the situation of a child at risk in accordance with Article 56 of the Draft UN Guidelines for the Protection and Alternative Care of Children without Parental Care, and nor does it contain emergency powers for the immediate removal of a child by a police officer or representative of the social services department of the municipality or commune. It does not contain the possibility of imposition of a supervision order and it contains no mechanism for care planning, identification of appropriate community based services, or appropriate review and support during the receipt of such services.

It is recommended that consideration be given to drafting a new Child Law or Children's Code. Consolidation of all aspects of child protection into one law would have the benefit of providing a single unified process for responding to any child protection concern. In particular, a child protection chapter of a consolidated law should include:

- (i) a clear **definition** of those situations in which the child protection system is engaged;
- (ii) a process for both multi-disciplinary emergency and comprehensive **assessment**;
- (iii) a clear mandate for **emergency protection** (including removal of the child from his or her immediate environment where necessary);
- (iv) clear linkages with the removal of parental responsibility and the assignment of guardianship by the **court**;
- (v) **care planning** and **referral** to appropriate community based social care services, or, as a matter of last resort, residential care; and

Albanian Family Code

The Albanian Family Code is a key piece of legislation for the protection of children deprived of their primary caregiver and contains relatively detailed provisions on parental responsibility,

guardianship, abandonment, and adoption. Nonetheless, the Code does show a number of deficiencies both in its provisions and implementation in practice.

Guardianship and Removal of Parental Rights. The guardianship provisions of the Albanian Family Code are used very little in practice and knowledge concerning them is extremely limited, even amongst legal professionals. Whilst the prosecutor has jurisdiction under the Family Code to commence proceedings for removal of parental responsibility (Article 228 of the Family Code), assignment of guardianship (Article 263 of the Family Code), and emergency measures (Article 281 of the Family Code), many prosecutors in practice are unaware of their responsibilities under these articles. This has the result that many children reside in care institutions or are informally cared for by wider family with no formal acceptance of guardianship by the institution or such persons.

Indeed, a lack of connection between the justice sector and the procedure for placement in residential care is a particular cause for concern. International standards specify, for instance, that a clear procedure for judicial review of residential care placements should be easily accessible. Such a procedure does not, at present, appear to exist in the Albanian Family Code, other than, presumably, via the initiation of separate guardianship proceedings.

In addition, international standards provide that social service authorities or other appropriate organizations should establish a guardianship service. Such a service would be responsible for the acts of an appointed guardian and ensure that legal guardians receive training and professional support. Such a service is not envisaged in the Family Code and does not exist in practice in Albania as at the date of this report.

As concerns the removal of parental rights, practice assessment revealed that the removal of parental rights is used very little in practice, with many judges reporting never having dealt with a case of removal of parental responsibility.

Abandonment. The Family Code's use of the concept of 'abandonment' as a prerequisite to adoption also presents some difficulties. International standards provide that decisions about a child's future care should be based on an assessment of the individual child's best interests and needs. As such, the making of adoption decisions on the basis of whether or not a parent has phoned or visited the child within a particular period of time is not in compliance with this principle.

It is recommended that, in conjunction with the promulgation of a consolidated new Child Law, consideration be given to:

- (i) review of the law on guardianship as contained in the Family Code and the Civil Procedure Code with a view to enabling its more extensive and consistent use, particularly as appropriate on entry to residential care;
- (ii) the creation of a guardianship service to support and train individuals acting as temporary or permanent guardians;
- (iii) national training of judges and prosecutors on the legal provisions on guardianship;
- (iv) national training of judges, police and prosecutors on the procedure for removal of parental rights in emergency cases;
- (v) legislative amendments – either to the Family Code or within the context of a new Child Law – to enable judicial review of residential care placement and judicial control over emergency admission **to residential care without parental consent where** strictly necessary; and
- (vi) repeal of the provisions of the Family Code on abandonment, and amendment of the provisions on adoption to ensure that decisions concerning adoption are taken on the basis of the child's best interests and needs.

2. Social Services Sector

Decentralization and the Organization of Social Services

Regional and Municipal/Communal Responsibilities. As at the date of this report, decentralization of social care services was at various stages in different regions of the country. Under the Law on Social Services and DCM 563, social care structures have been created at both regional and municipal/communal level. Serious questions remain, however, concerning the interrelationship between these structures and, indeed, with regional offices of State Social Services. Although the proposed regional level social care structure is not yet fully operative, regional offices of State Social Services had no knowledge when interviewed, for instance, of the existence or role of the Regional Needs Assessment Committee or regional level social care service structure in at least one of the pilot regions. In addition, transfer of competence for the management of social care services such as residential care providers has, to date, occurred primarily to municipalities and communes, rather than regional structures. As concerns municipalities and communes, it is apparent that the municipality/commune is presently active in the delivery of economic assistance, but still, in practice, takes little responsibility for the administration of local social care services.

It is recommended that:

- (i) the **decentralisation** of responsibility for the organization and management of social care services be reviewed as between the regions and communes/municipalities, with a view to establishing clear responsibilities for each in respect of service assessment, planning, management and funding; and
- (ii) clear reporting lines be developed between regional offices of State Social Services and regional and municipal/communal social care structures in respect of the **monitoring and quality assurance** of public and private social care providers.

Social Administrators

Role of the Social Administrator. It is strongly arguable that municipal/communal Social Administrators are under a legal obligation under the Social Services Law to identify child protection concerns and to propose an appropriate response. In addition, the provisions of DCM 209 mean in effect that the Social Administrator should be involved in any admission to residential care, whether public or private. However, many Social Administrators do not consider that they have a defined job description and few appear to have a good understanding of the content of the Social Services Law or of concepts of child protection. Rather, they see their role primarily in relation to the financial aid schemes.

In addition, municipal/communal social care structures do not presently have the resources or trained personnel to coordinate multi-disciplinary assessment of children at risk, or to carry out community-based social care work.

It is recommended that:

- (i) in conjunction with the promulgation of a new Child Law, clear responsibilities for the Social Administrator and/or social care department of the municipality/commune be set out, to include: the **coordination of multi-disciplinary assessment** of children at risk and the **referral** to appropriate public and private community-based and – where necessary – residential care services;
- (ii) pending the promulgation of a new Child Law, a clear national **job description** for Social Administrators be agreed, based on provisions of the Social Services Law, to include a clear role in referrals to social care services, in addition to the administration of economic assistance and disability entitlement;
- (iii) Social Administrators should receive **comprehensive training** on the provisions of the Social Services Law and the basic principles of social work, child protection, and multi-disciplinary assessment and referral for services;
- (iv) **recruitment** of new Social Administrators should, wherever possible, be from amongst persons holding a university degree in social work;
- (v) existing projects such as Child Protection Units and municipal Child Labour Monitoring Committees be integrated into a **single child protection referral mechanism** under the auspices of the municipal Social Administrator/social care structure; and
- (vi) consideration be given to the creation of a new post of **community based social worker** within the municipal/communal social care structure.

Residential Care Services

A reform process has recently commenced in residential care institutions, and the new Residential Care Standards do represent a good attempt at reflecting international standards. However, the legal and policy framework for residential care still fails to enshrine important principles such as the use of institutionalisation as a temporary measure and for the shortest time possible.

Admissions. The categories of children who may be admitted to public residential care appear to be inconsistent with international standards. In particular, admission is not subject to the overriding principle of the child's best interests and is not dependent upon an individual assessment of the needs of the child. The inclusion in the criteria for admission that 'parents have either divorced or remarried', or 'parents do not have sufficient financial resources to maintain the child' should be reconsidered. These criteria are too wide and open the door to the admission of children for whom there is a possibility of care with one of the parents with support or other family members. In areas where there is no alternative provision, children can be sent some distance from their homes, thus losing contact with the family.

Residential care is unsuitable for emergency placements due to cumbersome admissions procedures. Not least, the requirement for a statement of consent to a placement from the child's parent or guardian impedes admission to alternative care for a child subject to serious abuse. This would not pose such a difficulty if the court process for the removal of parental responsibility were well developed, or if other emergency procedures for temporary care existed.

A strict 'gate-keeping' of admissions to residential care will be crucial to the success of deinstitutionalisation in accordance with the second objective of the Social Services Strategy. As such, it is important that careful review of admissions policy accompanies any current or future process of deinstitutionalisation.

Permanency Planning. The system for finding a permanent alternative family is cumbersome, with a process of declaration of abandonment, freeing for adoption and matching taking a considerable amount of time to complete. An abandoned baby will spend this time in a Children's Home. A temporary alternative family placement would offer a more conducive setting for babies and very young children. Although there is no formally constituted foster care service there are foster carers recruited via a pilot scheme established by an NGO.

Staff Attitudes and Knowledge. Practice assessment highlighted the fact that staff have operational knowledge of the Residential Care Standards. Although the implementation of these standards can be viewed as an improvement, it is debatable whether the changes are significant enough to impact on the child's experience of being separated from his community, family and friends. Indeed, practice in residential care institutions remains largely unchanged following the introduction of the Residential Care Standards. In addition, there appeared to be a lack of experience and vision of options for alternative care and residential care.

Monitoring and Reporting. In respect of child protection, international norms suggest that for residential care institutions there should be a specific requirement to report and review any violent incidents. As at January 2007, the Ministry of Labour and Social Affairs and State Social Services reporting structures for residential care institutions do not include such a provision.

The capacity of regional officers to carry out inspections clearly differed between the regions of Albania. Social Service Standards and Residential care Standards were used as the basis for assessments and inspections. Whilst inspectors do make recommendations following an inspection, these do not seem to specifically cover quality of care and appear to be more concerned with financial reporting and administrative matters. Inspections need to specifically focus on quality of care and measures taken to protect children from violence, abuse, exploitation and neglect. Overall, the inspection system is a good step towards fulfilment of relevant international standards, including the requirement for accountability.

The system would benefit from harmonisation of quality across the regions and a more pronounced focus on child protection concerns.

It is recommended that:

- (i) a range of community-based services to support families and to provide alternative family care where the child cannot be cared for by the parents or extended family be developed, including a national **foster care system** and **guardianship service**;
- (ii) the process of **deinstitutionalisation** be continued, with homes for the youngest children closed first, once alternative care arrangements are in place. Albania should aim to close all baby homes within three years, and homes for children under thirteen within the next five years;
- (iii) during the process of deinstitutionalisation, staff presently working in institutions should be **retrained** in community-based social work and public money currently used for residential care institutions should be **ring-fenced** for transfer to community-based social care services;
- (iv) a small number of residential care institutions should be maintained and rehabilitated in order to provide short-term care for: (i) **emergency placements** for children at acute risk; and (ii) children with significant **medical or behavioural difficulties**;
- (v) a limited number of residential care homes for **teenagers** be maintained;
- (vi) a mechanism be implemented to ensure that all **admissions** to public and private residential care are directed through municipal/communal Social Administrators in accordance with the provisions of DCM 209;
- (vii) in due course, the central **Commission on Admission to Residential Care** be dissolved, with all admission decisions taken locally through a multi-disciplinary process coordinated by the Social Administrator and/or municipal/communal social care structure;
- (viii) Social Administrators receive **training** in their role in approving admissions to public and private residential care;
- (ix) the **categories of children** who may be admitted to residential care under DCM 209 be reviewed to ensure that residential care is only used as a measure of last resort;
- (x) DCM 209 be amended to ensure that children may be admitted to residential care on an **emergency basis** by order of a competent authority without the need for parental consent, subject to judicial review;
- (xi) the Residential Care Standards are developed to include **specific measurable goals** and that public residential care staff are provided with the opportunity to learn from good practice in the NGO residential sector; and
- (xii) all public and private residential care institutions develop and implement a specific policy for **monitoring and reporting** of violent incidents within the institution and for dealing with **complaints** made by children.

Community-based Social Care Services. In the case of non-public day centres it appears in practice such social care provider NGOs maintain local control over those clients to whom services can be provided. Frequently, NGOs operate with a high degree of independence from state structures. One current weakness is the lack of sanctions where an NGO continues to operate a social care service without the necessary licence. In the course of interviews, regional offices of State Social Services noted that they did not have any enforcement mechanism available to them in the event that an NGO providing social services did not apply for a licence. Nonetheless, social care services are a crucial component to a child protection system insofar as they are able to address root causes of risk to children or to respond to children at risk within their own community or environment.

There is a need for uniform application of specific standards for community based services and further research is required in relation to the quality of such services and the effectiveness of different approaches employed.

It is recommended that:

- (i) further **mapping and research** be carried out in relation to the effectiveness and quality of NGO community-based social care service providers, particularly as concerns counselling services and family-support services;
- (ii) NGOs offering **intensive detached or community-based social work** be supported and encouraged by regional and municipal/communal social care structures in order to assist in the reintegration of children following a period in residential care, or in the rehabilitation of child victims of violence or abuse;
- (iii) sanctions be provided for operating a social care service without a **valid licence** from the Ministry of Labour and Social Affairs;
- (iv) State Social Service NGO **inspection reports be made public** and **follow up visits** carried out by State Social Service inspectors to ensure that recommendations made are carried out;
- (v) sanctions be introduced where NGO social care providers do not meet required **minimum standards of operation**; and
- (vi) in conjunction with the drafting of a Child Law, mechanisms be put in place to ensure that NGO service care providers are **integrated** into a unified referral and care planning mechanism.

3. Police Sector

Child Victims and Witnesses. The police sector suffers from a lack of guidance in relation to the treatment of child victims and witnesses both at the central and local level. Practice assessment revealed, for example, that local police stations do not have or operate local policies for the interviewing and appropriate treatment of child victims and witnesses, as recommended by international standards.

Although a juvenile defendant should be provided with psychological assistance, this provision does not appear to extend to child victims of crime. In practice, it seems that police officers would very rarely call a psychologist when interviewing a child victim or witness. In the case of victims of trafficking, some municipal police offices have developed specialised facilities for the interviewing and temporary residence of victims of trafficking. However, with only one residential room available, the police have been forced to allow child victims to stay with adults in a single facility.

Child Victims of Trafficking. In the case of the National Reception Centre for women and children who have been trafficked, the lack of development opportunities, together with its isolated nature, make the Centre somewhat unsuitable for accommodating children for anything longer than a few weeks. The current lack of a formal protocol for referrals and entry to the National Reception Centre – particularly for children considered to be *at risk* of trafficking (rather than identified victims of trafficking) – may also be incompatible with the international recommendation that rigorous screening procedures should be used to ensure that only appropriate admission to residential care facilities are carried out.

Whilst the work of the Regional Anti-Trafficking Committees, Responsible Authority, and National Referral Mechanism looks promising, as of the date of this report it has not been possible to assess the full operation of the system in practice, due to the fact that it is not yet fully functional. Nonetheless, however referrals are dealt with in practice, it should be noted that, in addition to victims of trafficking, the system does offer the potential to address wider protection concerns.

It is recommended that:

- (i) a **national protocol** for support and assistance to **child victims and witnesses of crime** be developed and disseminated to all police stations, so far as possible in conformity with the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime;
- (ii) police officers dealing with child victims and witnesses of crime receive **comprehensive training** in child-sensitive interviewing techniques, the principles of child protection, the role and responsibilities of the Social Administrator, and the availability of local social care services;
- (iii) standard **referral mechanisms** between the police and the Social Administrator and/or municipal/communal social care structure be created for use in cases where child victims or witnesses are in need of assistance;
- (iv) in conjunction with the drafting of a Child Law, police officers are empowered to take **emergency protective action** to remove a child judged to be at risk from his or her environment for a temporary period, subject to judicial review and immediate emergency multi-disciplinary assessment;
- (v) the use of the **National Reception Centre for Victims of Trafficking** for accommodating children be urgently reviewed and a facility specifically for children be created for those in need of a temporary secure or semi-secure environment;
- (vi) in conjunction with the drafting of a Child Law, the work of the **Regional Anti-Trafficking Committees, Responsible Authority, and National Referral Mechanism** be reviewed in order to ensure that it is fully integrated with regional and municipal/communal social care coordination structures and that functions are not duplicated; and
- (vii) in conjunction with the drafting of a Child Law, the role of the Regional Anti-Trafficking Committees, Responsible Authority and National Referral Mechanism in dealing with the response to **individual cases** be reviewed to ensure that such work may not better be coordinated at the municipal/communal level.

4. Justice Sector

Albanian Criminal Code and Criminal Procedure Code

Criminalisation of Child Abuse and Exploitation. The Criminal Code does not contain particular offences that relate to violence against children specifically in the home, school, or institutional environment. Nor does it, as at the time of this report, include a specific provision relating to child cruelty or the chronic neglect of a child. In addition, Albania presently has no legislation covering the production, distribution, dissemination, importing, exporting, offering, selling or possession of child pornography.

In respect of other forms of exploitation of children, such as the involvement of children in criminal activity or child labour, the Criminal Code could similarly offer a greater degree of protection than at present. For instance, inducing or encouraging a child under the age of fourteen to commit a criminal offence is criminalized under Article 129 of the Criminal Code, but children over the age of fourteen benefit from no such protection. Moreover, there is, at present, no general crime of procuring or offering a child for the commission of a criminal offence.

As concerns child labour, greater protection for children could be achieved by criminalizing the use, procuring or offering of a child for the worst forms of child labour.

Criminal Procedure. Where a parent commits assault or causes serious or non-serious injury due to negligence against his or her child, the parent's signature is required in order to validate the child's complaint and initiate the prosecution process. Hence, if the parent refuses, or is otherwise unavailable, to validate the child's complaint, then there is no way, in practice, of commencing prosecution.

It is recommended that:

- (i) the Criminal Code provisions relating to prostitution and sexual exploitation of children be reviewed, including the criminalisation of sexual assault not involving intercourse against a child over the age of fourteen years, and the inducement or coercion of a child to engage in any unlawful sexual activity;
- (ii) the Criminal Code be amended to provide for criminal sanctions for the production, distribution, dissemination, importing, exporting, offering, selling or possession of child pornography;
- (iii) provisions of the Albanian Criminal Procedure Code be reviewed to ensure that the prosecutor is free to commence prosecution, even in the case of minor offences, where sufficient evidence is available and prosecution is in the best interests of a child victim;
- (iv) proposed legislative amendments criminalizing the exploitation of children be passed as soon as possible;
- (v) the Criminal Code be amended to criminalize the use, procuring or offering of a child for the worst forms of child labour;
- (vi) the Criminal Code be amended to criminalize inducing, encouraging, procuring or offering any child for the commission of a criminal offence by an adult;
- (vii) proposed legislative amendments criminalizing the obtaining of benefit from the process of adoption be passed as soon as possible; and
- (viii) relevant sectoral legislation be reviewed with a view to considering the inclusion of sector specific prohibitions on violence, abuse, exploitation or neglect of a child.

5. The Education Sector

Identification and Referral of Child Protection Cases. The school is able to act as an important early warning system in the identification of, and response to, potential cases of violence, abuse, exploitation or neglect suffered by children. However, there is a lack of guidance or formal protocols on effective case identification. In addition, schools generally showed extremely weak links with other state structures, such as the municipal/communal council or the Social Administrator. The role of school psychologist has recently been introduced, although no clear job description exists and very few are actually trained to degree level in psychology or social work. Indeed, such posts are most usually filled by ex-school teachers with no additional training.

The identification and referral of child protection cases by schools occurs on a highly improvised basis, being almost entirely dependent upon the personal initiative of teachers and school psychologists. The Schools Violence Circular is a first step towards increasing awareness amongst school staff in respect of their role as child protection actors and it is crucial that schools implement a uniform identification, recording, and coordination and referral procedure if they are to comply with current international standards.

Violence in Schools. Whilst the Normative Provisions for Pre-University Education prohibit the use of violence in schools, research shows that school staff still represent the source of over one third of all physical violence experienced by children in schools. There is a need for continued education and training of teachers in communication skills and non-violent approaches to maintenance of discipline.

Training. Regional Education Directorates are responsible for inspection and training functions for schools. However, at least one Directorate reported that such training did not effectively cover issues relating to child protection and that there was no real policy or criteria on the identification of violence or abuse in schools that could be used in the course of teacher training.

Inspection. The lack of policy concerning child protection issues at the regional level was also commonly reflected within the inspectorate function. One regional school inspector noted, for instance, that it was difficult to address issues of violence within the context of a school inspection. Indeed, practice assessment suggested that inspection reports do not contain a section on protection from violence or abuse in the school inspected. Nonetheless, all regional Education Directorates assessed do appear to prepare a yearly inspection plan for schools within their region.

It is recommended that:

- (i) the Ministry of Education, in cooperation with teachers and school Directors, develop a **standard protocol** for the identification, recording, coordination and referral of cases of violence, abuse, exploitation or neglect encountered by school staff;
- (ii) in conjunction with the development of such a protocol and the drafting of a Child Law, all schools establish **formal reporting and referral lines** to Social Administrators/municipal social care structures;
- (iii) teachers, school psychologists, and school Directors receive **comprehensive training** in the identification of suspected cases of violence, abuse, exploitation or neglect;
- (iv) communication skills and non-violent methods of maintaining class discipline are integrated into periodic **teacher training** programmes;
- (v) **monitoring** of levels of violence and abuse in schools be integrated into the regular school inspection programme; and
- (vi) a clear job description and mandate for **school psychologists** be finalized and disseminated nationally.

6. Health Sector

Identification and Referral of Child Protection Cases. In the same way as schools, primary health care services and hospitals have an important role in the identification of and response to child protection cases encountered. Unfortunately, however, practice assessment suggested that health care staff tended to see child protection concerns either as medical cases to be treated, or social cases that were largely irrelevant to their work. Neither primary health care staff nor hospital doctors referred to any written criteria used for the identification or classification of the range of child protection issues of violence, abuse, exploitation and neglect. Doctors said they would use their own medical judgement to identify cases of physical violence or abuse. However, they generally felt less qualified assessing cases of psychological or emotional violence and some doubted whether such cases even fell within their remit. It is therefore, not surprising that almost no internal coordination mechanisms for responding to child protection cases were identified.

Overall, both hospitals and primary health care centres demonstrated that their referral mechanisms were highly dependent upon the personal initiative of the individual medical professional involved. This finding is in agreement with existing related research, which found that there in 87% of medical institutions assessed; no referral mechanism existed for cases of gender-based violence.

It is recommended that:

- (i) child protection issues be integrated into work manuals and procedures governing the operation of primary health care centres and hospitals, including the development of a **protocol** for identification, recording, coordination and referral where violence, abuse, exploitation or neglect is suspected;
- (ii) medical staff receive comprehensive training on the importance of **social aspects of medical phenomenon**, the profession's wider role in protecting children, and the roles and responsibilities of the **Social Administrator**;
- (iii) medical staff receive comprehensive training on the types and availability of **community-based social care services** operating in their local area;
- (iv) awareness raising approaches be considered to challenge the **taboo** of reporting of cases of family or domestic violence to the police or municipal/communal social care structures; and
- (v) clear referral lines between **maternity wards** and the Social Administrator and/or municipal social care structures are established for use in the event of cases of infant abandonment.

Child Labour Legislation. Although labour laws have not been the focus of this analysis, the failure to address economic exploitation contributes to an environment where child protection is not adequate to safeguard and promote the welfare of children. As well as weak criminal sanctions in respect of the worst forms of child labour, the Albanian labour legislation itself suffers from a lack of concrete definition of the worst forms of child labour, a lack of legal regulation for household and self-employed labour, and a failure to provide for an appropriate response in cases where children are engaged in forced labour. In addition, labour legislation fails to provide appropriate mechanisms for ensuring that children are not exploited within the informal labour sector.

It is recommended that the Albanian Labour Code be reviewed in order to provide:

- (i) for clear **definitions** of the worst forms of child labour;
- (ii) legal regulation for **household** and **self-employed labour**;
- (iii) a clear mandate for labour inspectors to assess and inspect the **informal labour sector**; and
- (iv) a framework for assessing the **rehabilitative** needs of children who have been engaged in forced labour.

BIBLIOGRAPHY

- A v United Kingdom (1999) 27 E.H.R.R. 611.
- ABA/CEELI. Judicial Reform Index for Albania. December 2001.
- Albanian Constitution 1998.
- Albanian Helsinki Committee. Observance of Prisoners and Pre-trial Detainees Rights. 2005.
- Collaboration Agreement between The Municipality of Korca and Terre des hommes Foundation, Mission in Albania. Nr OUT/06/159.
- Committee on the Rights of the Child. Concluding Observations: Albania. CRC/C/15/Add.249. 31 March 2005.
- Committee on the Rights of the Child. Concluding Observations: Mexico. CRC/C/15/Add.13. 7 February 1994.
- Committee on the Rights of the Child. General Comment No 8. CRC/C/GC/8. 21 August 2006.
- Committee on the Rights of the Child. Report on the fifth session. CRC/C/24. 8 March 1994.
- Committee on the Rights of the Child. Report on the fortieth session. CRC/C/153.17 March 2006.
- Convention concerning Minimum Age for Admission to Employment (ILO No. 138). 26 June 1973.
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO No. 182). 17 June 1999.
- Convention on the Rights of the Child. A/44/49. November 1989.
- Cooperation Agreement to Establish a National Referral Mechanism for the Enhanced Identification of and Assistance to Victims of Human Trafficking between the Ministry of Labour and Social Affairs, the National Reception Centre, the General Directorate of State Police, the Ministry of Foreign Affairs, the VATRA centre, Tjeter Vizion, and IOM. 18 July 2005.
- Costello-Roberts v UK (1993) 25 E.H.R.R. 112.
- Decision of the Council of Ministers (DCM) 384 on the Protection of Minors at Work. 20 May 1996.
- Decision of the Council of Ministers (DCM) 196 on the amendment of Criteria of Accommodation in Residential Social Care Institutions and the Necessary Documentation for Admission. 9 May 2002.
- Decision of the Council of Ministers (DCM) 205. 9 May 2002.
- Decision of the Council of Ministers (DCM) 207. 9 May 2002.
- Decision of the Council of Ministers (DCM) 209 on Establishing the Criteria and Necessary Documentation for Admission of Persons into Public and Private Residential Social Care Institutions. 12 April 2006.
- Decision of the Council of Ministers (DCM) 327 on the Transfer of the Pre-trial Detention System under the Authority of the Ministry of Justice. 15 March 2003.
- Decision of the Council of Ministers (DCM) 336 on the Transfer to Several Municipalities of the Title of Property which is under the Administrative Responsibility of State Social Services. 31 May 2006.
- Decision of the Council of Ministers (DCM) 510 on the Criteria of Accommodation in Residential Social Care Institutions and the Necessary Documentation for Admission. 24 November 1997.
- Decision of the Council of Ministers (DCM) 563 on Identifying the Responsibilities of the Region for the Distribution of Social Care Services. 12 August 2005.
- Decision of the Council of Ministers (DCM) 564 on the Licensing of Providers of Social Care Services. 12 August 2005.
- Decision of the Council of Ministers (DCM) 618 on the Establishment of the Criteria, Documentation and Amount of Benefit Paid to Disabled Individuals. 7 September 2006.
- Decision of the Council of Ministers (DCM) 787 on the Establishment of the Criteria, Procedures and the Amount of Financial Assistance. 14 December 2005.

- Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally". GA Res. 41/85. December 1986.
- Directive 614 of the Director General of State Police on Intensifying Police Measures for the Prevention of Criminal Offences and Guaranteeing Public Order in the Educational Institutions. 29 October 2005.
- Draft Directive on the Implementation of the Decision of the Council of Ministers No. 563. 12 August 2005.
- Draft Law on Measures against Violence in Family Relations. 2006.
- Draft UN Guidelines for the Protection and Alternative Care of Children Without Parental Care. 12 May 2006.
- Government of Albania. Response to UN Violence Study. 2005.
- Government of Albania/United Nations. Albania Common Country Assessment. June 2002.
- Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. 29 May 1993.
- Hodgkin, R., & Newell, P., Implementation Handbook for the Convention on the Rights of the Child. UNICEF, 2002.
- Human Development Centre/UNICEF. Violence against Children in Albania. 2006.
- INSTAT (Albania Institute of Statistics). Albania Living Standards Measurement Survey 2002. October 2003 (updated October 2005).
- INSTAT (Albania Institute of Statistics). Albania Living Standards Measurement Survey 2005. July 2006.
- INSTAT (Albania Institute of Statistics). People and Work in Albania. 2002.
- INSTAT and UNICEF. Monee 2006.
- Inter-Ministerial Working Group on Disability Issues. Albanian National Strategy on Persons with Disabilities.
- International Covenant on Economic, Social and Cultural Rights. GA Res. 6316. 1966.
- Joint East West Research Project on Trafficking Children for Sexual Purposes in Europe. The Sending Countries – Albania. January 2004.
- Joint Order of the Ministry of Interior, Ministry of Foreign Affairs, and Ministry of Labour and Social Affairs on the Establishment of a Responsible Authority for Protection and Assistance to Victims of Trafficking and the Assignment of Duties to the Institutions involved in this Process. May 2005.
- Law 7895 containing the Criminal Code of the Republic of Albania. 27 January 1995
- Law 7905 containing the Criminal Procedure Code of Albania. 21 March 1995.
- Law 7952 on the Pre-University Educational System. 21 June 1995.
- Law 7961 on the Code of Labour of the Republic of Albania. 12 July 1995.
- Law 7986 on the State Inspectorate of Labour of 13 September 1995.
- Law 8085, amending the Code of Labour of the Republic of Albania. 13 March 1996.
- Law 8116 containing the Civil Procedure Code of the Republic of Albania. 29 March 1996.
- Law 8204, amending the Criminal Code of the Republic of Albania. 10 April 1997.
- Law 8279, amending the Criminal Code of the Republic of Albania. 15 February 1998.
- Law 8394, amending the Law on the State Inspectorate of Labour. 2 September 1998.
- Law 8553 on the State Police of Albania. 25 November 1999.
- Law 8652 on the Organization and Functioning of Local Government. 31 July 2000.
- Law 8677 on the Organization and Functioning of the Judicial Police. 2 November 2000.
- Law 8678 on the Organization and Functioning of the Ministry of Justice. 14 May 2001.

- Law 8733, amending the Criminal Code of the Republic of Albania. 24 January 2001.
- Law 8738 on the Organization and Functioning of the Office of the Prosecutor in the Republic of Albania. 12 February 2001.
- Law 8788 on Non-Profit Organisations. 7 May 2001.
- Law 8857, amending the Law on the State Inspectorate of Labour. 7 February 2002.
- Law 9062 containing the Family Code of Albania. 8 May 2003.
- Law 9110 on the Organization and Functioning of the Courts for Serious Crime. 24 July 2003.
- Law 9125, amending the Code of Labour of the Republic of Albania. 29 July 2003.
- Law 9188, amending the Criminal Code of the Republic of Albania. 12 February 2004.
- Law 9205 on the Protection of Witnesses and Collaborators of Justice. 15 March 2004.
- Law 9355 on Social Assistance and Services. 10 March 2005.
- Law 9436 on the Organization of Judicial Power in the Republic of Albania. 28 December 1998.
- Ministry of Education and Science. Circular on Measures to be taken to Improve Educative Work at School and Prevent Violence.
- Ministry of Education and Service. National Education Strategy 2004 to 2015.
- Ministry of Health. Draft Child and Adolescent Health Strategy. January 2007.
- Ministry of Health. Public Health and Health Promotion Strategy. 2002.
- Ministry of Interior, Anti-trafficking Unit. Report on the Implementation of the Albanian National Strategy for Combating Trafficking in Human Beings, January – June 2006. July 2006.
- Ministry of Interior, General Directorate of State Police. Work Programme for Intensifying the Measures for the Protection of the Rights of Children. 13 June 2006.
- Ministry of Interior, Office of the Deputy Minister of Interior/National Anti-Trafficking Coordinator. Albanian National Strategy for Combating Trafficking in Human Beings: Strategic Framework and National Action Plan 2005 – 2007. July 2005.
- Ministry of Interior. Report of Anti-Trafficking Unit. 2006.
- Ministry of Labour and Social Affairs, Child Labour Unit. Manual for Monitors of Child Labour.
- Ministry of Labour and Social Affairs, Department of Social Services. The Strategy of Social Services 2005 – 2010. 2005.
- Ministry of Labour and Social Affairs, ILO/IPEC and UNICEF. Child Labour and the Albanian Legal Framework. July 2004.
- Ministry of Labour and Social Affairs. Action Plan on the Strategy of Social Services. 2005.
- Ministry of Labour and Social Affairs. Draft Social Services Standards for Victims of Trafficking. 2006.
- Ministry of Labour and Social Affairs. Draft Standards of Social Services for Persons with Disabilities. 2006.
- Ministry of Labour and Social Affairs. Social Services Standards for Children in Residential Institutions. August 2005.
- Ministry of Labour and Social Affairs. Standards for Social Services in Albania. June 2005.
- Normative Provisions for Pre-University Education. 1995.
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. GA Res. 54/263. 25 May 2000.
- OSCE, Fair Trial Development Project. Analysis of the Criminal Justice System of Albania. 2006.
- Prime Minister, Order 139 on the Establishment of Regional Committee and Technical Regional Tables for Combating Human Trafficking at a Regional Level. 19 June 2006.
- Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. GA Res. 55/25. 15 November 2000.

- Recommendation concerning Minimum Age for Admission to Employment (ILO No. 146). 26 June 1973.
- Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour (ILO No.190). 17 June 1999.
- Region of Kukes. Rules of Procedure for the Organization and Operation of the Committee and Technical Table for the Fight against Trafficking in Human Beings. 2006.
- Save the Children. Child Trafficking in Albania. March 2001.
- UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime. ECOSOC Res. 2005/20. 22 July 2005.
- UNICEF CEE/CIS. Child Protection Resource Package. Available at http://ceecis.org/child_protection/home.html.
- UNICEF Innocenti Research Centre. TransMONEE 2006 Database. 2006.
- UNICEF. *Analytical Report – Albanian System: In Support of Children without Parental Care*. October 2006.
- UNICEF. Assessment of Child Care Services and Institutions for Children without Parental Care. October 2005.
- UNICEF. Assessment of Child Care Services and Institutions for Children without Parental Care. October 2005.
- UNICEF. Assessment of Health Care Workers Capacities to Address Gender Based Violence Problems. 2006.
- UNICEF. Child Trafficking Europe Research Project. Albania Country Information Paper, 2005.
- UNICEF. Facing the Hidden Drop-out Challenge in Albania. 2006.
- UNICEF. Global Violence Indicators. 2006.
- UNICEF. Manual for the Measurement of Formal Care Indicators. 2006.
- UNICEF. Needs for Information and Social Services in the City of Tirana. November 2002.
- UNICEF. The UNICEF medium-term strategic plan, 2006-2009. Investing in children: the UNICEF contribution to poverty reduction and the Millennium Summit agenda. E/ICEF/2005/11. 11 July 2005.
- UNICEF. www.unicef.org.
- UNICEF/INSTAT. Multiple Indicator Cluster Survey (MICS). 2006.
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"). A/RES/40/33. 29 November 1985.
- World Bank. Albanian Labour Market Assessment. May 2006.