

**BRIEF REPORT**  
**ON**  
**MAJOR ISSUES OF CONCERN FOR THE SITUATION OF**  
**CHILDREN’S RIGHTS IN ALBANIA**  
*(January 2012)*

***Introduction***

The Albanian Children Alliance has submitted to the Committee on the Rights of the Child the Alternative Report on the Convention on the Rights of the Child, which analyze in a comprehensive and thorough manner the situation of children and their rights in Albania for the time period 2005 -2009. Taking into consideration that the Committee is examining this report in February 2012, the Children Alliance has drafted also a Brief Report on most concerning issues and challenges affecting currently the Albanian children. This brief report has been drafted by a technical working group with representatives of different NGO’s, who provided their expertise and information to formulate different issues of concern presented in this report, as well as presenting several cases of child rights violations to enlighten the situation of children and young people in practice. This report has considered accordingly also the findings and recommendations set at the Alternative Report. It has to be stressed that The Children Alliance has reviewed and updated its recommendations presented in the Alternative Report and has included a section on achievements made during 2010-2011 showing the progress accomplished.

The Children Alliance states that it recognizes the efforts made and accomplishments realized so far by the Albanian Government, however through this brief report is willing to highlight and bring to the attention of the Committee the major issues of concerns identified by the civil society in Albania.

**1. Child Exploitation and Child Labor**

**1.1 Statement of facts**

The phenomenon of child exploitation continues to be a primary concern for Albanian society. Legal changes did not produce any effects towards the high level of school dropout and prevention of child labor with potentially serious consequences to the health of the children involved<sup>1</sup>. One of the worst forms of exploitation is forcing street children to beg, mainly by their own parents, due to extreme poverty and lack of labor for their families. Street children are exposed to all forms of violence. They suffer not only from social exclusion and high mortality rates due to malnutrition and homelessness, but they are often at the risk of trafficking and sexual exploitation. Governmental structures have been neglecting their welfare, although the Family and the Penal Code both provide for the placement of these children in custody in accordance with the best interests of the child<sup>2</sup>. Forced child begging is explicitly addressed by the Albanian penal legislation, and the exploitation of children for forced begging is a criminal offence<sup>3</sup>. However child begging in general is not prohibited under other laws and therefore is not addressed in terms of providing any type services to prevent it. Despite the changes and amendments of the Albanian legislation, which criminalises trafficking of children for purposes of labor exploitation or other forced activities<sup>4</sup> the sale of children, it is not yet considered as a criminal offence, if this is not made with the purpose of

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<sup>1</sup> Article 124(b), Penal Code, added with Law No. 9859, dated 21.01.2008 ‘On Amendments and additions to Law No. 7895, dated 27.01.1995 ‘Penal Code’, as amended’.

<sup>2</sup> World Vision Survey ‘Street children’s rights and their life conditions’ May-July 2008.

<sup>3</sup> Article 124/b ‘Maltreatment of children’ has been added, in 2008.

<sup>4</sup> Article 128/b, Penal Code

trafficking or exploitation. On the other hand, if the exploitation of children could be foreseen as an aggravating circumstance<sup>5</sup> of a criminal offence that would increase the sentence against the offender.

Furthermore it is still present in Albania the phenomenon of the child labor especially in agriculture works in the rural areas, which is accompanied with school dropout and violations of child rights for development.

## **1.2 Recommendations:**

1. To establish enforcing mechanisms that would assure, the removal of children from exploitation situation guaranteeing that their children rights are respected and protected.
2. To draft by-laws and guidelines that would clearly define the mandate and roles of professionals involved (social workers, police, teachers, doctors, prosecutors, lawyers, NGO workers) when children are identified in an exploitation situation. Standard procedures shall be set up (who is doing what) so that coordinated actions among these professionals and their institutions are guaranteed.
3. To guarantee the application of existing legal provisions for the placement of exploited children in foster care families if they are exploited by their parents and caregivers in accordance with the best interests of the child.
4. To review and amend the Albanian Penal Code in order to foresee the sale of children against profit/price as a criminal offence, even in case this is not made with the purpose of trafficking of exploitation.
5. To strengthen the monitoring mechanisms for school drop-out in rural areas and develop awareness campaigns towards parents and communities in these areas for diminishing the child labor phenomenon.

## **2. Violence against children, child abuse and neglect**

### **2.1 Statement of facts**

Recent assessments<sup>6</sup> indicate that there is a high prevalence of violence and maltreatment against children at home, schools, and residential institutions in Albania. Studies<sup>7</sup> also indicate that the use of violence against children is widely accepted by the society and even deemed to have positive effects on a child's education and development. Research on the issue however has been sporadic and only few studies to date, have mapped out the multitude of child abuse and neglect at a national level. Furthermore, Albania lacks primary legislation that prevents the exercise of any forms of child abuse and neglect. According to an analysis of the Child Protection System in Albania<sup>8</sup> it has been substantiated that: 1) there is a lack of the legal definition of a child at risk; 2) the absence of a legal basis for child protection referrals; and 3) the lack of a legal framework for addressing emergency child protection situations. ) providing appropriate information to facilitate the making of complaints; As a positive aspect can be mentioned that appropriate information is provided to children educators and social workers to facilitate the process of complaints by children;

As it is mention in respective standards, there is a complain mechanism within childcare institutions, schools and detention facilities as well. It is a known fact that recently the Albanian Government, Ministry of Labor Social Affairs and Equal Opportunities, are currently working in drafting by-laws of the Law on children's rights and protection, which would guarantee the law implementation. Moreover, a functioning Child Protection System in Albania is yet weak and fragile.

### **2.2 Recommendations:**

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<sup>5</sup> Article 114/(a), Penal Code.

<sup>6</sup> Violence against Children in Albania, A. Tamo & Dh. Karaj, Unicef 2006

<sup>7</sup> Violence against Children in Albania, A. Tamo & Dh. Karaj, Unicef 2006

<sup>8</sup> Analysis of the Child Protection System in Albania, UNICEF (Hamilton, Malby, & Ross) 2007.

1. Priority shall be given to preventive efforts by investing in the infrastructure, and providing the support, for long-term public policies to systematically prevent violence against children.
2. Supporting parents and caregivers and teachers to understand, embrace and implement good child-rearing, based on knowledge of child rights, child development and techniques for positive discipline in order to support families' capacity to provide children with care in a safe environment;
3. Implementing, through a participatory process, rights-based child protection policies and procedures and professional ethics codes and standards of care;
4. To establish effective mechanism for preventing violence and protecting children from violence in care institutions, schools and detention and pre-trial detention facilities. In more concrete terms: (a) participation in investigations and court proceedings; (b) developing protocols which are appropriate for different circumstances and made widely known to children and the general public; (c) establishing related support services for children and families; and (d) Monitoring and providing ongoing support for personnel to receive, advance and implement the information received through reporting systems.
5. Make a priority the implementation<sup>9</sup> of a comprehensive and reliable national data collection system in order to ensure systematic monitoring and evaluation of systems (impact analyses), services, programmes and outcomes based on indicators aligned with universal standards, and adjusted for and guided by locally established goals and objectives.

### **3. Juvenile Justice**

#### **3.1 Statement of facts**

The Albanian Constitution guarantees the rights of children and human rights in all stages of legal procedures, but difficulties still exist in regard to their adequate implementation by the law enforcement officers, prosecutors and judges, in relation to: 1) human treatment especially during first hours of arrest however also during detention as this was reported also by juveniles in Kavaja Institution<sup>10</sup>; 2) length of pre-trial detention time which is the same as for adults<sup>11</sup>; 3) type of sentenced in terms of proportionality with the offence committed by the juvenile; 4) the communication between juvenile and its family; 5) presence of the lawyer during all procedure and ensuring of qualitative free legal defense; 6) access to education during pending trial; 7) access to social workers and psychologists service during detention, interrogation in police stations, prosecution office and court; 8) access to medical and mental health service during detention due to poor medical services and limited medications; 9) lack of appropriate and effective complaints mechanism<sup>12</sup> in pre-trial detention and detention, i.e. in Kavaja Institution it doesn't exist still a complaint box, including one for the Ombudsman; 10) personal data management of accused or injured children still remains a problem, as they are not kept confidential.

Furthermore, the juveniles under 14 years of age, (defined as the age limit for criminal responsibility), who commit criminal offences are not considered till now as subject of treatment and support by any institution. The positive aspect is that the law foresees sentencing these juveniles with educational measures<sup>13</sup> but in reality these measures are not properly implemented due to lack of facilities and special programs. Many of the juveniles under 14 years of age who commit not only light offenses, are wandering in their communities without any follow-up due to lack of referral system and appropriate assistance. Actually, there is a positive achievement the presence of the psycho-social staff at the premises of police stations, pre-trial detention and detentions in order to assist the needs of juveniles in conflict with the law.

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<sup>9</sup> The Ministry of Labor, Social Affairs and Equal Opportunities has drafted a by-law on " The way to exchange and analyse information about the statistical datas asked by Agency from statual structures in central and local level ", which is aiming to set up a system of data gathering from local government units nationwide.

<sup>10</sup> Kavaja Institution is the newly established detention institution exclusively for juveniles.

<sup>11</sup> Article 263 of the Criminal Procedure Code of the Republic of Albania

<sup>12</sup> Decision no.303, dated 25/03/2009 guarantees the right to file a complaint but is not properly enforced.

<sup>13</sup> Art. 12, Albanian Penal Code.

### **3.2 Recommendations:**

1. Consider establishing educational programs and services for juveniles under 14 years of age who have committed crimes.
2. To establish a Network and evolve partnership between governmental and non-governmental institutions in order to re-integrate juveniles after serving the sentence;
3. To implement complaints mechanisms in all pre-detention and detention facilities holding juveniles.
4. Increase the number of psycho-social staff at the premises of police stations, pre-trial detention and detentions in order to assist the needs of juveniles in conflict with the law;
5. Develop training programs for police, prosecutors and judges on child-friendly and child-rights based interviewing techniques;
6. Develop training program for having in place specialized lawyers who defend children/juveniles, as well as develop a list of specialized lawyers for juveniles that should be engaged in cases of required free legal defense;
7. Extend alternative measures and broaden the legal criteria of their application to juveniles.
8. Amend and review the Criminal Code on lowering the sanctions provided for some specific offenses and making them more proportionate with the offence committed by the juveniles under specific circumstances for example theft of food items etc.
9. To establish a specialized service with professional psychiatrist to children/juveniles with mental health problem.

#### **Case of juvenile in conflict with the law**

The juvenile V.Z was born in Has, Albania on 08.03.1996 and actually is resident in Durres. He is accused and sentenced for the criminal act of “Thief”. He was arrested on 22.07.2011 and has stayed in pretrial facilities for five months, time that he was waiting to be judged by a court. The judge that gave him this security measures did not take in consideration that he has stolen in a shop, and the value of the things stolen resulted to be in an amount of 8800 ALL, according to the expert of prosecution office.

The court sentenced him with jail for 6 months, with decision no. 820 date 20.12.2011. However, since that the time spent in pretrial was longer than the time of the sentence imposed, the court according to Article 261 of the Criminal Procedural Code ordered the release of the defendant.

Thus, taking in consideration also the final decision of the court, it results that the time spent (5 months) in pretrial is not in conformity with the importance of the offence committed.<sup>14</sup>

## **4. Children deprived of family care**

### **4.1 Statement of facts.**

During the last years the Albanian Government has done a lot efforts to establish foster care service for institutionalized children and for children at risk of institutionalization<sup>15</sup>.

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<sup>15</sup> “The Albanian Strategy on Foster Care service for Children at risk”, with the DCM nr. 1104, date 30.07.2008; and the Foster Care Procedures and quality Foster Care Implementation Standards Framework are approved by Council of Minister (DCM 752, date 8.09.2010).

Many children in Albania are at risk of loss of parental care and face significant difficulties in their daily lives which often have long term implications into adulthood. Currently, there is an increased number of children placed in care from families with one parent or from families with difficult social and economic background. Albanian legislation clearly defines the terms and limits of parental responsibility, but it provide no definition of children at risk of losing parental care. Therefore there is a lack of statistics on these children and it isn't possible to draft adequate prevention policies and services. Placement of children in care service is not based on the principles of necessity and appropriateness. When sibling children are placed in institutions, they are mostly separated from each due to the fact that care institutions are organized on different children age. These children change different childcare homes and are usually placed far away from their city of origin. National care standards are characterized by a poor implementation and monitoring and inspection conducted by responsible institutions amounting in poor quality services delivered while the children are in care situation. Lack or few reunification cases of children in alternative care with their origin family are reported. There is a need to strengthen the services for the family of origin to enable them of reunification with the child placed in care. Young people in Albania leave childcare institutions at the age of 15 years, without any further monitoring. Most of them are placed in boarding school, suffering from poor education, lack of financial resources, and lack of mentoring from adults. Despite that Foster Care services are successfully piloted for 80 children in Tirana and Shkodra<sup>16</sup>, this model of intervention shall be legally formalized and extended all over the country. A special emphasis shall be given to the children 0-3 years for whom upbringing in a family environment is crucial.

#### **Case of a juvenile out of care**

B. is 19 years old orphan by both parents, from Tirana. He was placed for the first time in residential alternative care at the age of 6 years. He stayed in public residential care for 8 years. During that period B changed two alternative settings. He completed only the primary education (8 years of education).

B. left care at the age of 14 years, without any concrete leaving care plan or preparation for the future, lacking life skills, psychological, financial and emotional support, with no plans for his further education, and weak relationship with biological family.

B states that the quality of care in the public residential institution was not good and he was not satisfied with professional level of caregivers. B. didn't know how to cook, to make shopping, to manage money, was not informed regarding services, personal and sexual relationships, prevention of alcohol abuse, hygiene, etc.

The decision for leaving care was communicated to him by the director only one week before leaving the setting. When he left care felt bad, empty, scared and confused about his future. He was accommodated for three years in a boarding school where the living condition, nutrition, clothes, education, skills to search employment and hygiene levels were very low.

Actually he works as barman and feels insecure about the future because he hasn't got a proper education or support from the state institutions. There is no other source of income for him and the money he gets is not enough. He is willing to create his own family, says that: "the family is everything for me, is the place where you feel better". His main goal for the future is to finish high school and to have a good job as restaurant manager but he thinks it will be hard to achieve.<sup>17</sup>

<sup>16</sup> Project on "Kinship/Foster care service in Albania" implemented by the organization "Every Child" and "Bethany Social Service" In Albania

<sup>17</sup> Interview with the juvenile was conducted by SOS organization

### **Case of sibling children separated due to placement in institutional care**

**Qoshlli Siblings** - The mother explains that they don't have financial means to provide food for the children and the only alternative left to them to survive is placing the children Care Institutions. One of the children is placed in the Zyber Hallulli orphanage and two others in an orphanage in Shkodra due to child age difference.<sup>18</sup>

#### **4.2 Recommendation:**

1. To take administrative and legal measures for strengthening and supporting of families to encourage upbringing of children in their biological families
2. To implement the National Care Standards for children in alternative care. To strengthen the monitoring and inspection mechanism, ensuring the implementation of these standards.
3. To formalize the "Foster care" service and extend it all over the country.
4. To harmonize the legislation and practice in accordance with the United Nations Guidelines for children in alternative care.
5. To reduce at minimum possible the institutionalization of children of age 0-3 years old, through e adoption and/or family based care services.
6. To provide service that would ensure reunification of children placed in alternative care with their families.
7. To establish mechanism of tracing, evidencing, reporting and monitoring the informal placement of children into care (placement of children at parents' relatives and others)

## **5. Children of divorced parents**

### **5.1 Statement of facts**

A serious concern is the enforcement of alimony court decisions for children of divorced parents<sup>19</sup>. The responsibilities in most cases remain to the parent that executes the parental responsibility, and there is no effective mechanism to ensure that the other parent appropriately contributes to the upbringing of the child, resulting in putting the child life conditioning in real jeopardy. This situation is supported also by the Family Code provisions stating that the enforcements could be requested only for the prior 6 months from the date of submitting the request to court.

### **5.2 Recommendations:**

- Amend the Family Code for adequately providing mechanisms that would ensure the enforcement of alimony court decisions.

## **6. Protection and Services of Children with Disabilities**

### **5.1 Statement of facts**

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<sup>18</sup> Case reported by Center of Integrated Legal services and Practices

<sup>19</sup> Article 215, Family Code.

The Albanian Constitution and legislation do not provide any specific reference to this category of children<sup>20</sup>. In addition, Albania has signed, not yet ratified the UN Convention on the Rights of Disabled People (13 December 2006). Apart the positive fact that the Albanian legislation provides a monthly cash payment for every child with disability, and also the payment to a caretaker for categories of children with serious diagnoses (first group of invalidity),<sup>21</sup> but not for all children with disabilities especially the one suffering mental health conditions. Social financial aid also is not provided to children with hearing and speech disabilities<sup>22</sup>. Even more serious is the situation in families having multiple children with disabilities (in some cases as many as four children). In these cases, the legal framework provides cash assistance for every child but only one (1) caretaker<sup>23</sup>, generally the mother of the disabled child.

As a positive fact can be mentioned some legal measures taken in terms of inclusive education from the Ministry of Education and Science.

The exclusion of children with disabilities from integrated health, rehabilitation, education, leisure and social services continues on a national scale. The lack of early identification and early intervention services has long-term detrimental impact on the lives of all children with disabilities and their participation and inclusion into Albanian society.

### **Case of child with disabilities**

M. a 6 years old boy, was diagnosed with Microcephaly when he was born. He lives with his parents and his grandmother and is the third of four children, two older sisters (12 and 8 years old) and a younger brother (8 months). The neuro-paediatrician in 2010 told M's parents that microcephaly is accompanied with developmental delay, mainly affecting his speech. M's stays at home all day and does not attend a kindergarten or elementary school. He shows destructive behavior and cannot control his bowel, cannot feed himself and needs to be dressed by his mother.

In this case no payment for the caretaker has been provided, as well as any financial aid to cover the costs for the medicines or the therapeutic treatment in order to improve the child's health conditions. Furthermore, it is not clear how the child will be included in the education system and how the school will guarantee to him the necessary facilities in accordance to his needs. The only support provided to him and to his family was from the NGO "Partners for Children" which has helped in improving the relations between the child and his parents and has enable the child to attend the kindergarten for two hours each day<sup>24</sup>.

## **6.2 Recommendations:**

1. To set-up mechanism for early detection by strengthening the pre-school education participation and intervention services for children with disabilities and their families nationwide. These structures should

<sup>20</sup> Constitution of the Republic of Albania, Chapter V 'Social Objectives', Article 59 (1). The state, within its constitutional powers and the means at its disposal, and by supplementing private initiatives seeks: [...] c) the highest possible health, physical and mental standard; ç) the education and qualification according to ability of children and the young, as well as unemployed persons; g) caretaking and aid for the aged, orphans and persons with disabilities; i) the rehabilitation, specialized education and integration in society of disabled people, as well as continual improvement of their living conditions.

<sup>21</sup> Article 8, Law No. 9355, dated 10.03.2005 'On Aid and Social Services' - monthly stipend is 9200 lekë.

<sup>22</sup> Order No. 362, dated 26.02.2007 'On Approval of the Regulation on Medical Criteria for Evaluating Disabilities' – monthly stipend for this category of children is paid until they reach the age of seven years. After reaching this age, if there is no sign of other illness, the child loses the monthly benefit.

<sup>23</sup> Article 8, Law No. 9355. The salary of the caretaker in this case is 150% of the usual salary of caretakers (9200 lekë), regardless of the fact that the family has two, three, or even four disabled children to care for.

<sup>24</sup> Case referred by the NGO "Partners for Children"

be multi-disciplinary and recommend a program that shall be followed by the caretaker for the child's development, education, rehabilitation, leisure and social integration.

2. The Albanian government needs to ensure that all legislation, strategies and policies regarding children, persons with disabilities, social inclusion, education, health or poverty reduction include specific actions regarding children with disabilities.
3. Albanian should prioritize and make more efforts in guaranteeing the access to education for children with disabilities, either through spread of inclusive education and/or special education upon needs of the child.
4. Albania should ratify the UN Convention on the rights of disabled people, which is currently signed but not ratified.
5. Draft an inclusive law for all categories of disabled people/children.
6. Offer financial and practical support to families with more than one disabled child.

## **7. Children of Minorities**

### **7.1 Statement of facts**

Children of minorities, mostly Roma, do represent the most marginalized and discriminated category of children in Albania. Children rights belonging to ethnic minorities although guaranteed by legislation<sup>25</sup>, are not respected and implemented. Birth registration still remains a concern for these minorities groups due to the fact that Roma and Gypsy parents do not deliver their children in hospital and due to the fact that sometimes parents and grandparents are not registered themselves. Both these conditions make it very difficult to conduct the child registration according to the procedures set by law. As a consequence children of these minorities have limited access to their rights and protection<sup>26</sup>. The lack of documents (such as certificate of birth, ID etc.), especially from roma community does not enable them to exercise their right foreseen by law, especially they cannot receive the economic aid guaranteed by the law for vulnerable groups, by being exposed in this way to further poverty. In addition, maltreatment of children from these communities from their peers as well as from their teachers is a factor that contributes to lower achievements levels of minority children in learning process<sup>27</sup>. Likewise, there are no television programs for ethnic minorities in their mother tongue, although guaranteed by law<sup>28</sup>. It has to be mentioned that the Ministry of Education has removed the barrier of requiring a birth certification for children in order to be register in schools, it still remains the problem that, children of these minorities cannot have education certification (grades, transcripts) until they are officially registered.

#### **Case of A. A - birth registration problems in Roma Community**

S. from roma community, was born on 2004, in Elbasan. Her mother was not married at the time she had S, due to the fact that she was not registered and has no identification documents. In this case, in order to register S, it was necessary to start the judicial registration procedure for her mother A.A. this procedure was and complicated, as it was difficult to have witnesses who will testify the birth fact of A.A happened twenty-five years ago. On the other hand, another problem was related to the access to education for S. which actually was attending school but she needed an identification document to be regularly registered to the school.

<sup>25</sup> Article 10, Law No. 7952, dated 21.06.1995 'On Pre-University Education'.

<sup>26</sup> Law No. 8950, dated 10.10.2002 'On the Civil Registry'.

<sup>27</sup> Study on the 'Evaluation of the Needs of Minority Groups in the Regions of Korça and Tirana', November 2006, CCF Albania, with the financial support of the European Union.

<sup>28</sup> Article 37, Law No. 8410, dated 30.09.1998 'On Public and Private Radio and Television in the Republic of Albania'.



## **7.2 Recommendations:**

1. Undertake awareness campaigns and draft special mechanism on child birth registration for these communities.
2. Establish mechanisms for the identification of children/members of the Roma community.
3. Establish special protection mechanism taking into consideration the characteristics and needs of the children of minorities.
4. Establish programs that would help minorities families and children to overcome extreme poverty and lack of life skills and survival means
5. Provide mitigation procedures regarding birth registration, particularly for Roma children

## **8. Education of children including early childhood**

### **8.1 Statement of facts**

The attendance rate of pre-school children remains extremely low at only 48 per cent of registered children due to the shortage of resources and underfunded policies intended to encourage the enrollment of marginalized children in the kindergartens. The attending school children are faced also with many difficulties and challenges such as poor school infrastructure, including provision of basic sanitation, water or electricity, heat and other resources human and material. Furthermore, the school dropout is still a common phenomenon. There is a tendency of school dropout of girls due to mentality of the communities especially in rural areas that not support the continuance of education for girl children after a certain age starting from 12-13 years old because of they have to more in family work and prepare themselves for the marriage. However, there are no statics gathered to measure the school-drop out and to draft upon the adequate actions for reducing it. Pilot projects implemented by NGOs related to the inclusion of Roma children in inclusive schools and reduction of the number of school dropouts have been tried and proved successful, therefore such initiatives should be encouraged and supported. Moreover, despite some improvements in the provision of computers in all schools in Albania, the level of IT instructions remains low due to untrained and unskilled teachers.

### **8.2 Recommendations:**

1. To improve the access and inclusion of children in pre-school education with a priority for children coming from poor families , single mothers, from ethnic minority groups and children with disabilities.
2. To give priority to broadening nationally access to quality pre-school education for 3 – 6 years olds through the allocation of specific funding for these crucial services.
3. To operate an independent monitoring unit at central and regional level to ensure the implementation of high quality standards for pre-school and mandatory education providers; thus ensuring that all children learn in child-focused settings that are staffed by qualified, trained and competent staff using interactive methods and technology. The monitoring unit shall have enforcement and effective procedures and sanctions for any preschool or education provider not meeting the minimum quality standards.

## **9. Appropriate budgeting for children and for respect of children rights standards**

### **9.1 Statement of facts**

Despite the efforts made to improve the budgeting of children needs and their vulnerable families, it is still impossible identifying and analyzing the size of funds that are to be allocated<sup>29</sup> directly to meeting the needs of vulnerable groups, including children in need and/or families with insufficient income. Moreover, there is no appropriate costing of strategies as well as no monitoring of the achievements of the objectives set up in these political documents, resulting that in being only of declarative value. Furthermore, the decentralization of budget and social services has produced confusion and disproportionate distribution of services at the community level. The decentralization of services from the center to the local government, although aiming to be a positive step toward service delivery to communities including children, has not been accompanied by adequate funds transfers<sup>30</sup>. In this situation, certain local government units with insufficient revenues collected by local taxes are unable to cover the social services and support needed for their communities and children. The only funds transferred from the central government are the fund on financial aid, which goes to families without any income, irrespective of the real needs of children within these families<sup>31</sup> and fund for social services of victims of trafficking<sup>32</sup>. Moreover, the local government units are not aware of and are reluctant to take over and act upon their legal responsibilities as defined by law in regard of establishing functional services for children and vulnerable families. Furthermore, they lack capacities to raise funds for the services needed to be delivered in their communities through special projects in partnership with other local governments, NGO and donor agencies. The local government units can request funds from District Councils for specific and/or new services they need to establish. The District Council is responsible for identifying potential funding from the state budget, local budget or donors<sup>33</sup>, however this seems to be not examined by local governments due to also lack of capacities to develop projects. Project initiative could be budgeted under the Districts Councils in accordance with the opportunities and resources of the districts based on statistics related to groups in need, of poor families and individuals in need of support in cash/social services at local unit government level<sup>34</sup> etc. Despite the abovementioned provisions for the coordination of funds for social services by the DC this is not implemented. Furthermore, although the local government units are entitled by law to contract services including the social services<sup>35</sup>, they are not encouraged to do so and only few practices exists in this regard that assure a private-public partnership in delivering the services<sup>36</sup>. Moreover, it has to be mentioned that the sometimes the new legislation is impaired of producing the expected legal and social effects due to lack of appropriate budgeting.

## **9.2 Recommendation:**

1. To review and amend the law No. 9936, dated 26.06.2008 “On the Management of the Budgetary System in the Republic of Albania” in order to improve the budget drafting process guaranteeing disaggregation of funds data allocated for meeting the child rights standards with a special emphasis on needs of vulnerable groups (children in need and/or families with insufficient income and clearly define the portion of funds that are to be utilized for direct services for this groups).
2. To adequately budget the Strategies and establish monitoring mechanism for their implementation as well as for the new legislation.

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<sup>29</sup> Law No. 9936, dated 26.06.2008 ‘Concerning the Management of the Budgetary System in the Republic of Albania’ foresees that the government budget is formulated based on a well-established path which follows the channel of proposals by certain departments in the line ministries.

<sup>30</sup> Law 8652, date 31.08.2000 “On the Organization and Functioning of Local Government”, Art. 6.

<sup>31</sup> Implementation of the Law No. 9355, date 10.03.2005 ‘On Social Aid and Social Services’ amended.

<sup>32</sup> Art. 4, Law 10252, date 11.03.2010 “For some changes and additions to the Law No. 9355, dated 10.03.2005 ‘On Social Aid and Social Services’.

<sup>33</sup> DCM No. 563, date 12.08.2005 “On Identifying the Responsibilities of the Region for the Distribution of Social Care Services”, point 2.

<sup>34</sup> Directive No. 1, date 02.02.2007 “On the implementation of the Decision of the Council of Ministers No. 563, date 12.08.2005 “On Identifying the Responsibilities of the Region for the Distribution of Social Care Services”, point 6/14.

<sup>35</sup> Law No. 8652, Date 31.07.2000 “On the Organization and Functioning of the Local Government”, Art. 8, point 6.

<sup>36</sup> Law No.9643, date 20.11.2006 “On the public procurement”.

3. To review and amend the legal package on decentralization of services from the center to the local level of government, ensuring that funds transfer adequately accompanies it<sup>37</sup>, and incentives and subsidizes are available to most marginalized communities and respectively to local government units with insufficient resources.
4. To encourage and establish legal incentives for the local government authority to contract social services from third entities, including NGOs and/or develop public-private partnership with this entities.

## **10. Establishment of a functional child protection system in Albania**

### **10.1 Statement of facts**

Appart the efforts the Albanian Government has done ,the child protection system is week in Albania. The state institutions that have a mandate and role to play in child protection system do not operate in a systemic, coherent and coordinated manner. The referral mechanisms in place are weak in some local institutions that have attempted to create a referral network mostly through the Child Protection Units. However, the service delivery instutions at local government are not, even from the legal point of view, coordinated with other public institution such as police, prosecution office, courts, childcare homes etc. There is no legal accountability for professionals involved who identify children in need, children victims and/or children in risk of being abused, violated, and neglected, in order to refer and protect those children. Moreover, even when referral happens, there are no standard protocols to be followed by each of the professionals involved. Adequate services to be offered except the economic aid to the family and/or placement of the child in a childcare institution are limited. Recently, based on the law 10347 on Protection of Children Rights there are established 28 offices in Municipalities and Communes for the Child Protection and 9 Child Rights Unites at District level which can be considered a good beginning.

### **10.2 Recommendations:**

1. Draft a legal package to establish an effective and efficient multi-sector child protection system at the central and local level ensuring prevention, protection and reintegration of the children in conflict with the law, children witnesses and in general of all children groups subject of special protection such as: children with special needs, children of ethnic minorities or children without parental care. The legal amendments should address and guarantee the inter-institutional collaboration at central and local level, both in vertical and horizontal aspect, based on agreements or clear legal references, which permits the functioning of a comprehensive system including multidisciplinary case evaluation and treatment.
2. Finalization of the by-laws and related changes in job descriptions of the professionals and the establishment of functioning mechanisms envisioned by the Law on Child Rights Protection (No. 10347) in charge of child protective services.
3. Develop and strengthen the good practice of the Child Protection Units model throughout the country and provide adequate financial support for child-focused social services programs, at local level coordinated with the national level.

**Annex A**List of participating organizations/agencies and their representatives in the technical working group for drafting the Brief Report on Major Issues of Concern for the situation of children's rights in Albania:

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<sup>37</sup> Implementation of Law No. 9355, dated 10.03.2005 'On Social Aid and Social Services' amended. The only budget line transferred from the central government to the local government units earmarked for social purposes is economic aid, which goes to families without any income, irrespective of the real needs of children within these families.

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