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# IMPLEMENTATION OF DIVERSION

## MEASURES WITHIN THE JUVENILE JUSTICE SYSTEM





The assessment of the implementation of diversion measures within the juvenile justice system was conducted within the framework of the Action *Protecting Vulnerable Children in Kosovo*, financially supported by the European Union in Kosovo and implemented by UNICEF in Kosovo, in cooperation with the Coalition of NGOs for the Protection of Children - KOMF.

**Disclaimer:**

The views expressed in this assessment are those of the author and do not necessarily reflect the official policies or positions of KOMF, UNICEF, and the EU or any other institution involved. Every effort has been made to ensure the accuracy of the information presented, based on the data and materials available at the time of drafting.

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# ABBREVIATIONS

▪ <b>FLAO</b>	Free Legal Aid Agency
▪ <b>EU</b>	European Union
▪ <b>CRC</b>	Convention on the Rights of the Child
▪ <b>UNCRC</b>	United Nations Committee on the Rights of the Child
▪ <b>JJC</b>	Juvenile Justice Code
▪ <b>CC</b>	Criminal Code
▪ <b>CPC</b>	Criminal Procedure Code
▪ <b>KJC</b>	Kosovo Judicial Council
▪ <b>KPC</b>	Kosovo Prosecutorial Council
▪ <b>KOMF</b>	Coalition of NGOs for Child Protection
▪ <b>LCP</b>	Law on Child Protection
▪ <b>MoJ</b>	Ministry of Justice
▪ <b>KBA</b>	Kosovo Bar Association
▪ <b>NGO</b>	Non-Governmental Organization
▪ <b>UN</b>	United Nations
▪ <b>CSW</b>	Center for Social Work
▪ <b>KPS</b>	Kosovo Probation Service
▪ <b>UNICEF</b>	United Nations Children's Fund
▪ <b>OVPA</b>	Office for Victim Protection and Assistance

# CHAPTER I:

## **GENERAL REVIEWS**

## 1.1. Executive Summary

Punishment and especially imprisonment of juveniles has historically been considered harmful to their psychological and physical development, therefore, at the international level and in many countries, efforts have been made to develop alternatives to punishment and imprisonment, in order to resocialize and reintegrate juveniles into the family and society.

In this regard, the Convention on the Rights of the Child (CRC) and international and regional standards have promoted the development of systems that emphasize juvenile justice, which is child friendly and humane in its institutional response to children in conflict with the law. Reflected in the Kosovo's legal framework through the Juvenile Law (2004), the Juvenile Justice Code (2010) and its updated version in force since 2018, this new approach aims to replace punishment with educational, supportive and individualized measures, with diversion measures representing a key formula and solution to avoid formal criminal proceedings and prevent the unnecessary institutionalization of juveniles.

This assessment provides an in-depth analysis of the implementation of diversion measures in juvenile justice practice in Kosovo, through a review of the legal framework, institutional structure, existing practices and key challenges on the ground. The assessment findings highlight a concerning trend of a continued decline in the use of diversion measures, which contradicts the spirit and objectives of the Juvenile Justice Code. Inconsistencies across Basic Prosecution Offices, lack of clarity in the interpretation of legal provisions, and the failure to apply newly introduced measures in the Code demonstrate a fragmented and inconsistent implementation of these measures. Furthermore, there is a significant misunderstanding between mediation and other diversion measures, as well as a lack of referrals for mediation due to a misconception regarding the professional criteria for mediators, even though the JJC does not require formal licensing but only certified training.

These shortcomings not only undermine the effectiveness of juvenile justice and its rehabilitative objectives, but also pose risks to the fundamental rights of juveniles and their protection from harm resulting from involvement in the criminal system. In this context, the report highlights the need for strategic interventions to strengthen institutional capacities, harmonize inter-institutional

approaches, enhance the practical and legal knowledge of justice professionals, and promote a restorative justice culture through training, standard guidelines, and ongoing technical support from development partners. The concrete recommendations derived from the assessment aim to accelerate the fair and effective implementation of diversion measures, contributing to the development of a more just, inclusive, and child-rights-compliant justice system.

## 1.2. Introduction

In Kosovo, around 38% of the population is under the age of 24, while approximately 28% of the population is made up of children under the age of 18. This significant percentage of children and young people directly affects the development of Kosovar society, giving particular importance to the protection of their rights and guaranteeing conditions that enable the full development of their potential. As a result of this demographic dynamism, the attitude and treatment of children and juveniles, especially those in conflict with the law, represents an important priority for the future of Kosovo.

Kosovo has undertaken a continuous commitment to ensure a legal and policy framework that supports and respects the rights of children and juveniles, treating them as bearers of human rights and as active participants in society. In this context, the rights of children and juveniles are recognized as an integral aspect of human rights. Children, as subjects of rights, enjoy not only universal rights that belong to every individual, but also specific rights that are adapted to the specific needs and conditions of their age.

This specific treatment aims not only to protect the life and dignity of children, but also to create opportunities for them to develop and grow like their peers in the world. This entire process is based on the principle of the best interests of children, which provides opportunities for healthy and peaceful development in accordance with the needs and requirements of their age and situation. The adoption of fair policies and practices that include this important group of society is essential to help create conditions that will enable the achievement of such goals.



Given that children and juveniles rely on the care and supervision of parents, guardians and institutions to ensure their well-being and development, any legal and procedural intervention has a profound and direct impact on their lives. This makes it essential to approach any action that may affect them—whether positively or negatively—with utmost care and responsibility. “In this context, to ensure appropriate treatment and continuous protection for children and juveniles who are in conflict with the law, the juvenile justice system has been created.

This system has been built with the aim of providing an integrated, sensitive and age-appropriate approach to children, avoiding their inevitable criminalization and offering opportunities for rehabilitation and social reintegration. Part of this system are diversion measures or (diverting measures) that provide alternative opportunities to treat juveniles outside the formal judicial proceedings and support their return to a path of healthy development.

In recent years, a significant number of new laws have been adopted in Kosovo and institutions have been established, or are in the process of being established, with specific responsibilities for the protection and appropriate treatment of children as perpetrators of criminal offences. Diversion measures also occupy a very essential and important place in these changes. In this context, conducting this assessment is considered essential at this particular time, with the aim of analyzing the current functioning of the system and evaluating the extent to which existing laws and policies are being implemented in practice with regard to diversion measures.

In addition to the numerous legal and institutional developments that have occurred in recent years, this assessment becomes even more important in the context of the changes observed in various international and national reports, which provide a mixed picture of the progress of juvenile justice system in Kosovo. On the one hand, some reports highlight the significant progress achieved over the years. For example, the joint assessment by the EU and UNICEF on the support programs implemented between 2007–2018, states: *“The results achieved during the implementation of the action and the achievements that can already be observed, truly confirm the value of the support provided by the EU for the development of a juvenile justice system in Kosovo and its importance within the overall mechanism of action aimed at promoting the protection of children’s rights.”*

In the same line, the Progress Report of the European Commission for 2016 underlines: *“The Juvenile Justice Code is guided by the principle of ‘the best interest of the child’, as defined in the Convention on the Rights of the Child. The foundations of the juvenile justice system have been laid, and juvenile departments have been established in all Basic Courts and Basic Prosecutions.”*

However, on the other hand, the KOMF reports (Report Card) conducted during 2023 and 2024 respectively assess the juvenile justice system with a grade of 2, which represents a very poor assessment, emphasizing that: *“In Kosovo, services for the prevention and protection of juveniles in conflict with the law without criminal responsibility continue to be almost completely lacking. Social Work Centers continue to have very limited capacities to work with these children, and the non-governmental sector also has a significant lack of capacities in providing these services. The establishment of specialized centers or homes for the treatment and rehabilitation of children in conflict with the law, under the age of criminal responsibility, is extremely necessary. Institutions should consider the possibility of separating two Child Protection Houses for the needs of this category, from the seven houses foreseen within the Law on Child Protection. Diversion measures, which are essential in promoting the rehabilitation and reintegration of juveniles, continue to be implemented minimally, despite the fact that they have been doubled in the Juvenile Justice Code.”*<sup>1</sup>

Regarding the practical implementation of these reforms, KOMF report finds regression in the field of juvenile justice, with particular emphasis on the inadequate use of diversion measures. This report also highlights gaps in the implementation of laws, the lack of institutional capacity and the need to improve inter-institutional coordination.

A comparison of these assessments shows a discrepancy between legal developments and structures established, and their effective implementation in practice. Consequently, it is essential to conduct a comprehensive assessment to identify existing challenges, measure the impact of current mechanisms and guide future actions towards improving the system in line with international standards on children's rights.

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<sup>1</sup>The 2 rating scale is the penultimate grade on the rating scales for the entire Report Card and represents a weak rating, and has the following character: *‘Institutions declare that they are committed to solving problems, however, they do not provide the necessary financial and human resources, and there is a lack of real and sustainable actions. Although institutions have expressed the will to address the issues, the steps taken are minimal, sporadic, and/or inconsistent, without bringing visible results. (This can be attributed to the lack of competence of key state institutions to solve problems.’*

The purpose of this assessment is to analyze and evaluate the effectiveness of the implementation of juvenile justice laws and policies in Kosovo, with particular focus on diversion measures and their application in practice. This assessment aims to identify existing challenges in the use of these measures, which are essential for the rehabilitation and reintegration of juveniles into society, and to examine the need to strengthen existing mechanisms to ensure that diversion measures are implemented in accordance with international standards and the needs of children.

### 1.3. Methodology

Throughout the assessment, a combined approach of qualitative and quantitative methods was used to collect and analyze data and information, including literature review, semi-structured interviews and focus group discussions through workshops.

#### ■ ***Statistical data and trends***

An important part of this assessment was the collection and analysis of statistical data provided by the Kosovo Police, the Probation Service, and the Prosecutor's Offices regarding juveniles in conflict with the law. Special attention was paid to statistics related to the use of diversion measures. Through the analysis of comparative trends over the years, it is intended to assess not only the institutional and legal development in this area, but also their practical impact on the lives and well-being of juveniles facing the justice system. These data serve as a basis for identifying gaps and for guiding recommendations for further improvements in line with international standards on children's rights.

#### ■ ***Literature Review***

Analysis and review of documents has been an important aspect of the development of this assessment. Available documents and literature relevant to the task were consulted and analyzed throughout the process of drafting the assessment. The assessment was developed based on the inception report and the structure approved by stakeholders, as well as on existing legislation, reports and assessments conducted to date.

The literature reviewed includes, but is not limited to:

*Domestic legislation:*

- Constitution of the Republic of Kosovo;
- Juvenile Justice Code (Code no. 06/L-006);
- Law on Child Protection (Law no. 06/L-084);
- Criminal Code of the Republic of Kosovo (Code no. 06/L-074) and Law no. 08/L-188 on supplementing and amending the Criminal Code no. 06/L-074;
- Criminal Procedure Code (Code No. 08/L-032) and Law No. 08/L-187 on supplementing and amending the Criminal Procedure Code No. 08/L-032;
- Law on Prevention and Protection from Domestic Violence, Violence against Women and Gender-Based Violence (Law No. 08/L-185);
- Law on Prevention and Combating Trafficking in Human Beings and Protection of Victims of Trafficking (Law No. 04/L-218);
- Law on Family (Law No. 2004/32);
- Law on Social and Family Services (Law No. 08/L-255).

*International instruments:*

- United Nations Convention on the Rights of the Child;
- European Convention on Human Rights and Fundamental Freedoms (ECHR), ETS No. 5, 1950 and Protocols;
- Council of Europe Convention on Action against Trafficking in Human Beings;
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse;
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
- Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography;
- Directive 2012/29/EU on minimum standards on the rights, support and protection of victims of crime;
- Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting victims;
- Directive 2016/800/EU on procedural safeguards for children who are suspects or accused;
- EU Strategy on the Rights of the Child (2021–2024);
- Council of Europe Guidelines on Child-Friendly Justice (2010);

- Recommendation CM/Rec (2018)7 on children's rights in the digital environment;
- Recommendation CM/Rec (2012)2 on the participation of children under 18 years of age;
- Recommendation CM/Rec (2011)12 on children's rights and child-friendly social services
- Guidelines on child-friendly healthcare (2011);
- Recommendation CM/Rec (2009)10 on integrated strategies for the protection of children from violence;
- Recommendation R (98)8 on the participation of children in family and social life;
- General Comments of the Committee on the Rights of the Child (Nos. 1, 5, 6, 8, 10, 12);
- Resolution 2002/12 on Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters.

#### *Secondary Legislation:*

- Regulation (NRC) No. 18/2024 on establishing effective procedures for identifying, reporting and referring child exploitation, neglect and abuse and protecting children in street situations;
- Administrative Instruction (NRC) No. 03/2024 on cooperation of institutional structures and mechanisms with NGOs for the implementation of rights policies and the provision of child protection services;
- Regulation (NRC) No. 07/2024 on the organization and scope of child protection homes;
- Regulation (NRC) No. 23/2023 on working procedures in multidisciplinary round tables for assistance in case management;
- Administrative Instruction (NRC) No. 06/2023 on establishing preventive and protective measures to prohibit the participation of children in nightclubs and similar spaces;
- Administrative Instruction (QKR) No. 05/2023 on measures for the prevention and protection of children from drug abuse;
- Administrative Instruction (QKR) No. 04/2023 on medical and psychological treatment of child victims of abuse, for rehabilitation and reintegration;
- Administrative Instruction (QKR) No. 08/2022 on the Council for the Rights of the Child;
- Administrative Instruction (QKR) No. 07/2022 on the authorities for the rights of the child;

- Administrative Instruction (QKR) No. 06/2022 on the establishment and functioning of the team for the rights of the child;
- Administrative Instruction (QKR) No. 04/2022 on measures for the protection of children from websites with pornographic content and that harm the health and life of the child;
- Administrative Instruction (QKR) No. 02/2021 on the implementation of child-friendly justice in criminal, civil and administrative proceedings.

*Protocols, Strategies, Reports and Assessments:*

- KOMF Report Cards on childcare (2023, 2024);
- Evaluation of EU Support to Juvenile Justice in Kosovo (Final Report 2018);
- Legal Framework for the Rights of the Child in Kosovo (UNICEF, 2014);
- Child Protection Strategy 2021–2030 (UNICEF);
- Reimagine Justice for Children (UNICEF, 2021);
- Assessment of Administrative Data Systems for Justice for Children (UNICEF, 2021);
- Equal Access of Children to Justice – Central and Eastern Europe (UNICEF, 2015);
- Sectoral Strategy for Labour and Social Welfare (2018–2022);
- Minimum Standards for Social Services (Standards 1, 2, 3, 6 and 13);
- Design and Assessment of the Child Protection System in Kosovo (Office of the Prime Minister, 2012);
- European Commission Reports on Kosovo (2016–2024);
- EULEX Reports on Monitoring the Justice System in Kosovo (2021–2024).

*Annual Reports:*

- Kosovo Police Reports for the years 2023-2024;
- State Prosecution Reports for the years 2023-2024;
- Kosovo Probation Service Reports for the years 2023-2024;
- Annual reports from other stakeholders involved.

■ **Stakeholder engagement through active consultations**

During the drafting process, the expert ensured regular communication with the responsible officials in the Ministry of Justice, KOMF and UNICEF Kosovo. All actions and drafts were shared and coordinated with these officials to obtain their comments and approval before taking further steps.

The process was guided by the principle of trust and ownership of the relevant child protection institutions in Kosovo, with the aim of achieving coherence between them. It is worth noting that throughout the development process, the opinions and needs of the beneficiaries were at the center of the work. It was ensured that their voices and views were heard and taken into consideration.

The first preliminary draft was presented to the Ministry of Justice and other beneficiaries. The expert presented the draft and facilitated the meeting to integrate comments from the stakeholders who were at the workshop and those who had sent comments, suggestions or remarks via email.

Based on these comments, the expert continued with the further drafting of the assessment report. After completing the first draft, and after conducting the necessary reviews, the expert, within the agreed deadlines, submitted the final version of the assessment to the Ministry of Justice, KOMF and UNICEF.

#### **1.4. Limitations and ethical considerations**

During the implementation of this assessment, basic ethical principles were respected, including the voluntary participation, confidentiality, protection of personal data and the right to withdraw from participation at any stage of the process. Particular care was taken when handling information related to practical case examples shared during discussions with professionals in the field, ensuring that no form of risk or stigmatization was posed to the participants involved in the assessment.

However, the assessment faced several limitations that affected the scope and depth of the analysis. These include: limited access to official data and up to date statistics, the lack of detailed reports on the practical implementation of diversion measures at the local level, as well as the limited time for a more in-depth engagement with all relevant stakeholders.

Despite the desire to include the voice of juveniles who have experienced the juvenile justice system, this was not possible due to time constraints.

Due to these time constraints, it was not possible to meet all formal requirements for the direct involvement of children in the assessment process. As a result, the assessment focused on data collection through existing documentation, interviews with professionals and representatives of relevant institutions, and literature review, ensuring that children's needs and interests remained at the center of the entire analytical process.

## 1.5. Juvenile justice or justice for children?

### **What does juvenile justice include?**

The juvenile justice system includes legislation, norms, standards, guidelines, policies, procedures, mechanisms, provisions, institutions and bodies specifically applicable to children in conflict with the law who are above the age of criminal responsibility<sup>2</sup>.

- Narrow, criminal/legal focus.
- Refers to the criminal justice system that deals with juveniles (usually under the age of 18) in conflict with the law, i.e. children who have committed criminal offences.
- Used to describe the procedures, institutions and measures taken against children as suspects, accused or convicted.
- Includes measures such as: detention, trial, sentencing, diversion measures, etc.

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<sup>2</sup>Guidance for legislative reform on juvenile justice. Guidance paper by Carolyn Hamilton. Published by UNICEF and Children's Legal Center, May 2011



### Example:

A 17-year-old who is suspected or faces a charge of theft is dealt with in the juvenile justice system.

&

A 14-year-old who inflicted juvenile bodily harm on his friend is allowed to be treated through diversion measures by the juvenile justice system.

### What does justice for children include?

The aim of justice for children is to ensure that children have better access to and greater protection within the justice system, including the security and social welfare sectors.

This approach specifically seeks the full implementation of international norms and standards for all children who come into contact with the justice system or other related systems, whether as victims, witnesses, or for other matters requiring judicial, administrative, state or non-state intervention, such as care, guardianship or protection.<sup>3</sup>

- Broader, comprehensive and cross-sectoral focus.
- Includes all children who come into contact with the justice system, not only those in conflict with the law, but also: children victims, children witnesses, children seeking protection from the system.
- Takes into account the rights of children in all aspects of the justice system, including treatment with dignity, participation, protection from re-victimization, legal aid, etc.
- It is more in line with many provisions of the Convention on the Rights of the Child.

<sup>3</sup> Guidance Note of the Secretary-General: UN Approach to Justice for Children, 2008

### **Example:**

An 8-year-old who is a victim of domestic violence and seeks protection from the court, enters the field of justice for children.

&

A child, girl or boy, from 0 to 18 years of age, who is a victim of sexual abuse, whether by peers or adults, should be treated according to the principles and norms of justice for children.

### **Which system does Kosovo implement?**

Over the past two decades, Kosovo has developed and adapted a juvenile justice system that treats both children who have reached the age of criminal responsibility and those below that age, in line with international standards.

During this period, a series of laws have been adopted, procedures and standards have been developed, specialized institutions have been established and capacities of professionals in the field have been built, all with the aim of protecting and properly treating juveniles who, due to life circumstances, have fallen into conflict or come into contact with the law.

The reforms to build this system began with the entry into force of the Juvenile Criminal Law in 2004, and were then deepened with the adoption of the Juvenile Justice Code (JJC) in 2010. This Code included the most advanced innovations and standards of that time, aiming for a more functional system focused on the best interests of the child.

The impact of this reform was further deepened with the revision of the Juvenile Justice Code (JJC) in 2018, expanding its scope and scope from the traditional concept of “juvenile criminal justice” to a broader meaning: “justice for children”. This change has been further reinforced with the entry into force of the Law on Child Protection, which has brought significant progress in regulating the protection of children from all forms of violence, further strengthening the legal and institutional framework for their protection.

This change was a necessary response to the need to include not only children as perpetrators of criminal offenses, but also those who are victims or witnesses of criminal offenses, guaranteeing equal protection and treatment for all children who come into contact with the justice system.

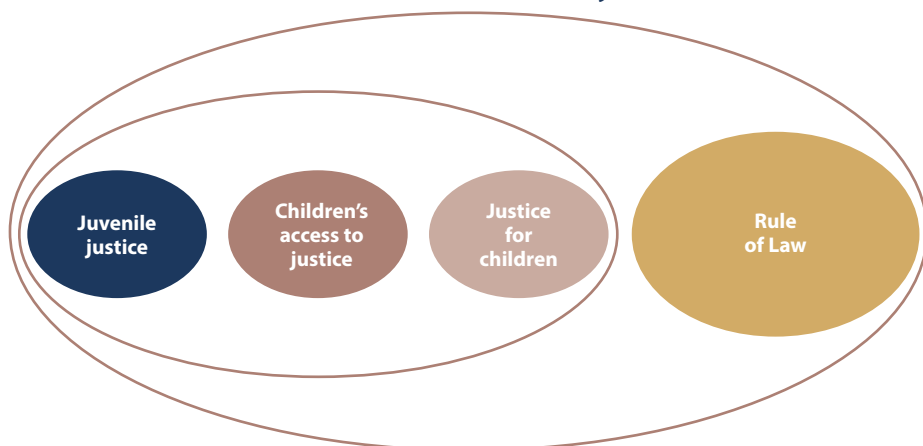
Taking into account all applicable legislation, in Kosovo there are elements of two systems - both juvenile justice and justice for children.

### **What are the international developments?**

According to the UN Secretary-General's Guidelines on the United Nations Approach to Justice for Children (2008), the aim is to establish a comprehensive and sustainable approach to the protection and inclusion of children within the justice system. These strategies include:

- Integrating child justice issues into broader rule of law programmes. This means that child justice should not be seen as an isolated sector, but as an essential part of all institutional efforts to build justice and security institutions. Policies and reforms in the fields of justice, public security and social welfare should include elements that guarantee the rights and protection of children at every stage of their interaction with the legal system, whether as victims, witnesses or suspects.
- Strengthening additional and complementary programs that improve respect for children's rights, with a particular focus on community-based initiatives that promote access to justice for children and the legal empowerment of marginalized groups, such as children from poor communities, children with disabilities, or those living in remote rural or isolated areas. These programs aim to create mechanisms for the protection and legal representation of children in an equitable and accessible manner.

## Illustrative summary



**GRAPH 1:** *Illustration of the position of juvenile justice and justice for children within the rule of law*

UNICEF emphasizes that justice for children is not only about the treatment of children in conflict with the law, but also those who are victims, witnesses or parties to civil and administrative proceedings. The organization promotes justice systems that are child-friendly, ensuring that they are treated with dignity, have equal access to justice and are heard effectively. UNICEF supports alternatives to traditional punishments, such as restorative justice programs and community-based services, to avoid detention and promote the rehabilitation of children, with a particular emphasis on diversion measures.

### 1.6. Number of juveniles in conflict with the law<sup>4</sup>

#### Number of criminal reports and number of juveniles as perpetrators of criminal offenses

During 2023, 1868 new criminal reports were received across all Basic Prosecution Offices with 2756 juveniles as perpetrators of criminal offenses, while in the same year 681 criminal reports were carried over from the previous year with 1167 juveniles as perpetrators of criminal offenses, which in total are 2549 criminal reports and 3923 juveniles as perpetrators of criminal offenses.

<sup>4</sup>The data presented and analyzed in this subchapter are taken from the official report sent by the State Prosecutor's Office for the years 2023 and 2024.

The Juvenile Departments at the Basic Prosecution Offices in 2023 have resolved 1391 criminal reports, with 2124 juveniles as perpetrators of criminal offenses.

Year	New criminal reports	Juveniles as perpetrators of criminal offenses	Criminal re-ports carried over from the previous year	Juveniles as perpetrators of criminal offenses carried over	Total criminal reports	Total juveniles as perpetrators of criminal offenses	Resolved reports	Juveniles in resolved reports
2023	1,868	2,756	681	1,167	2,549	3,923	1,391	2,124

**TABLE 1:** *Comparative data for 2023 on the method of resolving criminal reports and juveniles as perpetrators of criminal offenses.*

During 2024, 1994 new criminal reports were received across all Basic Prosecution Offices with 3073 juveniles as perpetrators of criminal offenses, while in the same year 1157 criminal reports were carried over from the previous year with 1799 juveniles as perpetrators of criminal offenses, which in total are 3151 criminal reports and 4872 juveniles as perpetrators of criminal offenses.

The Juvenile Departments at the Basic Prosecution Offices have resolved 1749 criminal reports, with 2250 juveniles as perpetrators of criminal offenses.

Year	New criminal reports	Juveniles as perpetrators of criminal offenses	Criminal re-ports carried over from the previous year	Juveniles as perpetrators of criminal offenses carried over	Total criminal reports	Total juveniles as perpetrators of criminal offenses	Resolved reports	Juveniles in resolved reports
2024	1,994	3,073	1,157	1,799	3,151	4,872	1,749	2,250

**TABLE 2:** *Comparative data for 20243 on the method of resolving criminal reports and juveniles as perpetrators of criminal offenses.*

As shown, the total number of criminal reports has increased significantly from 2549 in 2023 to 3151 in 2024, marking an increase of about 23.6%. Similarly, the number of juveniles involved as perpetrators of criminal offenses has increased from 3923 in 2023 to 4872 in 2024, representing an increase of about 24.2%. This increase is consistent with the overall increase in criminal reports, suggesting a deterioration in the situation of juveniles' involvement in committing criminal offenses.

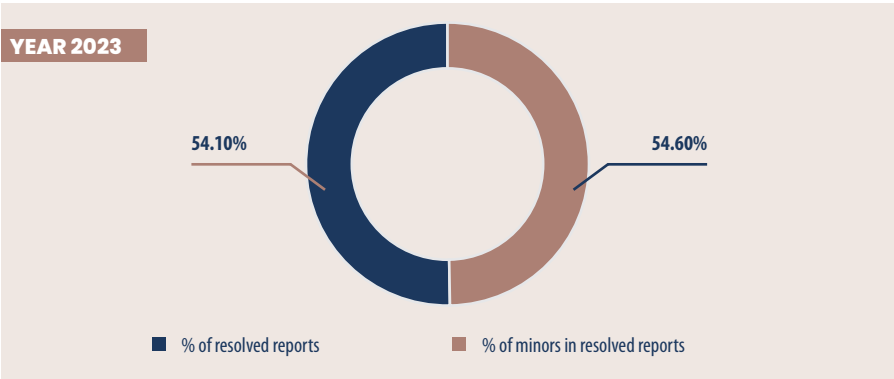
According to the annual work report of the State Prosecutor for 2023, the number of juvenile prosecutors at the juvenile departments in the basic prosecution offices is as follows:

B.P Prishtina	B.P Prizren	B.P Peja	B.P Mitrovica	B.P Gjilan	B.P Ferizaj	B.P Gjakova
3 Juvenile Prosecutors	2 Juvenile Prosecutors	2 Juvenile Prosecutors	2 Juvenile Prose- cutors	1 Juvenile Prosecutor	1 Juvenile Prosecutor	1 Juvenile Prosecu- tor
Total						12 Prosecutors

**TABLE 3.** *Number of juvenile prosecutors at Basic Prosecutor's Offices*

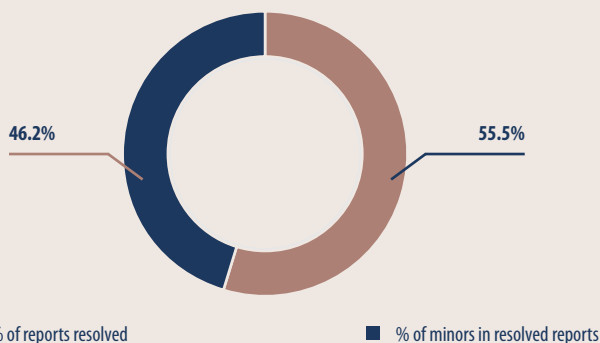
**Percentage of resolution of criminal reports and involvement of juveniles in criminal reports**

The data shows a slight improvement in the percentage of criminal reports resolved from 2023 to 2024. In 2023, 1391 criminal reports were resolved, accounting for 54.6% of the total, while in 2024, 1749 reports or 54.10% were resolved. Although the increase in percentage is modest, only 0.9 percentage points, the increase in absolute value is significant, with 358 more reports resolved.



**TABLE 4:** *Percentage of resolution of reports and involvement of juveniles in criminal reports for 2023*

YEAR 2024



**TABLE 5:** *Percentage of resolution of reports and involvement of juveniles in criminal reports for 2024*

In 2023, 2124 juveniles were involved in the resolved reports, which constitute 54.10% of the cases. While in 2024, 2250 juveniles were involved, or 46.20%. This represents an increase in absolute value, but smaller in relation to the overall increase in the number of juveniles involved, indicating a decrease in their percentage in the overall structure of resolved reports. Despite the efficiency shown in resolving cases by the prosecution, it remains a concern that a very large number of criminal reports that also include a significant number of juveniles continue to be carried over from one year to the next.

Data show that around 50% of cases, both in terms of reports and juveniles involved, are not resolved within the calendar year. This situation raises serious dilemmas regarding the implementation of the fundamental principles of juvenile justice, which requires that these cases be handled urgently and within the shortest possible timeframe, in accordance to the best interest of the child.

Case Resolution Method

In 2023, out of 1391 criminal reports with 2124 juveniles involved, the following were resolved:

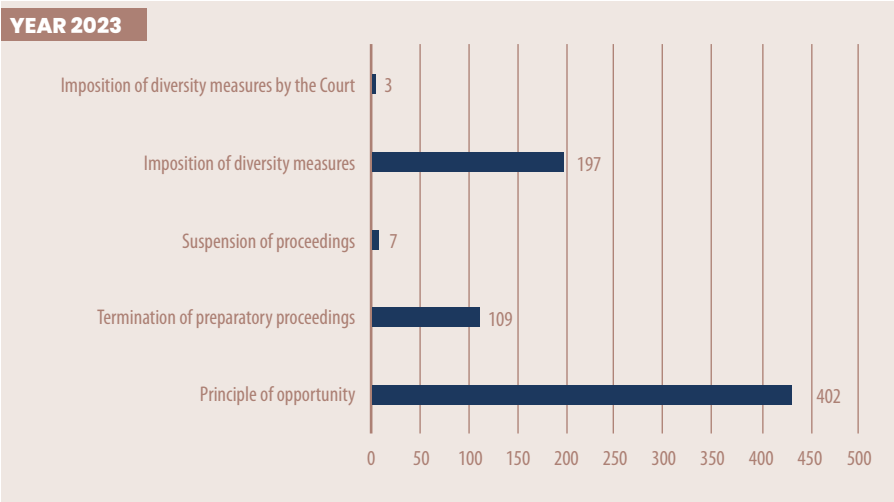


TABLE 6: Case Resolution Method (2023)

The interpretation of the data from Table 6 shows two different approaches to assessing the implementation of diversion measures. If the data is interpreted only in a narrow sense, that is, based only on cases where a diversion measure has been formally imposed, then it results that only 197 cases have been resolved in this way.

However, if the data is interpreted in a broad sense, according to the definitions provided in the provisions of the Juvenile Justice Code, then it is seen that through diversion procedures, that is, cases where the preparatory procedure has not started, or where the procedure has been discontinued or suspended, a total of 718 cases have been resolved.

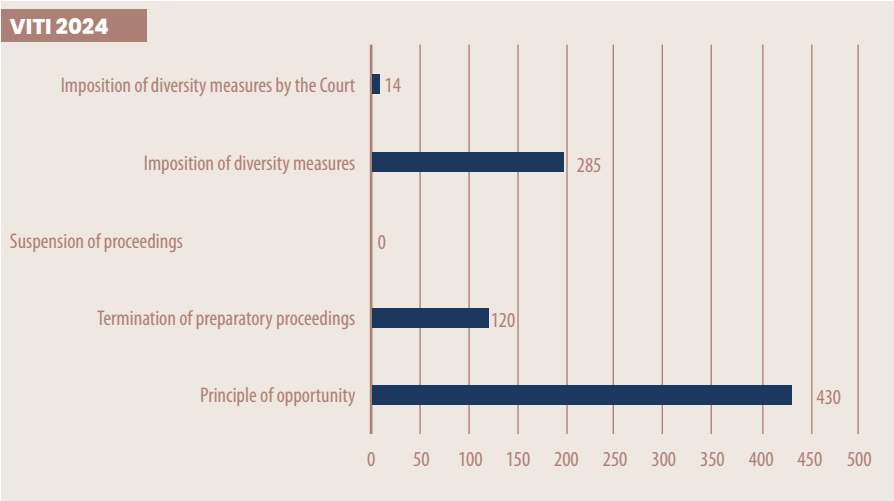
Although the number of cases in which diversion measures have been formally imposed remains low, if we base this on the broad interpretation of the data this represents a positive development. It demonstrates a wider use of alternative forms of intervention by prosecutors, in accordance with the principles



and recommendations of the Juvenile Justice Code, which aim to avoid the unnecessary involvement of juveniles in criminal proceedings.

However, what cannot be determined from these data is whether, in cases where the procedure was not initiated, was discontinued or suspended, the prosecutors imposed any concrete measure against the juvenile, or whether the case was resolved without any such measures. The lack of this information limits the possibility to fully assess how diversion procedures are applied and whether they align with the rehabilitative goals of the juvenile justice system.

While in 2024, out of 1794 criminal reports with 2250 juveniles involved, the following were resolved:



**TABLE 7:** *Case resolution method (2024)*

As above, the data interpretation from Table 7, shows two different approaches to assessing the implementation of diversion measures. If the data is interpreted only in a narrow sense, that is, based only on cases where a diversion measure has been formally imposed, then it results that only 285 cases have been resolved in this way, a significant increase from 2023.

However, if the data is interpreted in a broad sense, according to the definitions provided in the provisions of the Juvenile Justice Code, then it is seen that through avoidance procedures, that is, cases where the preparatory procedure has not started, or where the procedure has been discontinued or suspended, a total of 849 cases have been resolved, here too we have a significant increase.

Although the number of cases in which diversion measures have been formally imposed remains low, if we base ourselves on the broad interpretation of the data this represents a positive development. It demonstrates a wider use of alternative forms of intervention by prosecutors, in line with the principles and recommendations of the Juvenile Justice Code, which aim to avoid the unnecessary involvement of juveniles in criminal proceedings.

However, what cannot be understood from these data is whether, in cases where the procedure has not been initiated, has been discontinued or suspended, prosecutors have determined any concrete measure against the juvenile, or it has been resolved without any concrete measure. The lack of this information limits the possibility of fully assessing the manner in which diversion procedures are implemented and their compatibility with the rehabilitative goals of the juvenile justice system.

However, despite the data from 2023 and 2024, diversion from the criminal justice system, even in cases where a concrete measure is not imposed, remains in the best interest of the juvenile. Ultimately, the decision-making rests with the prosecutor, who, based on the specific circumstances of the case, exercises his discretion to determine the most appropriate procedural path in order to avoid the juvenile from facing formal criminal proceedings.

### **Warning!**

From the data presented in the relevant tables, it is noted that for 3 juveniles in 2023 and for 14 juveniles in 2024 it was recorded that **the diversion measure was imposed by the Court!!!**

This represents a serious concern, since according to the Juvenile Justice Code, which entered into force in 2018, the Court does not have the competence to impose diversion measures. The imposition of diversion measures is within the exclusive competence and discretion of the prosecutor.

From the general interpretation of the tables above, by collecting all the figures in the broad sense, it emerges that a relatively low number of juveniles, respectively **33%**, are avoided from the justice system or from being sent to regular judicial proceedings. This means **that 67% of juveniles** are referred to the Court for placement, which represents a high percentage of juveniles facing judicial proceedings.

And if we interpret the data from the tables above in the narrow sense by calculating only the number of diversion measures, an absolute low number of juveniles, respectively **10%**, are avoided from the justice system or from being sent to regular judicial proceedings. This means that **90% of juveniles** are referred to the Court for placement, which represents a high percentage of juveniles facing judicial proceedings.

However, it is difficult to ascertain with certainty whether all juveniles referred to the Court have completed the procedures in accordance with the principles of avoiding criminal prosecution. This is because the Juvenile Justice Code sets out clear criteria for the application of diversion measures, while giving the prosecutor discretion to decide whether a case will be treated through an alternative measure or referred to court.

In interviews conducted with professionals in the juvenile justice system, it was highlighted that a significant proportion of juveniles are recidivists or involved in serious criminal offenses, which do not meet the criteria for the implementation of diversion measures. This constitutes one of the main factors influencing the high percentage of cases sent to court.

This finding underlines the need for a more in-depth analysis of the decision-making practice of prosecutors, as well as the type of criminal offenses in which juveniles are involved, in order to better understand the real scope for the implementation of alternative mechanisms to criminal prosecution.

## CHAPTER II:

# **DIVERSION MEASURES**

## 1.1. Legal basis and mandated institutions

### National legislation

In Kosovo, there is a broad corpus of legal acts that regulate and protect the rights of children, including juveniles in conflict, starting from the Constitution as the highest legal act, to the secondary legal acts that determine the standards of practical implementation.

Although Kosovo is not formally a signatory to international conventions due to its international status, Article 22 of the Constitution of Kosovo ensures the direct implementation of a number of international human rights agreements and instruments, including the Convention on the Rights of the Child (paragraph 7). The Constitution not only incorporates this Convention into the domestic legal order, but also gives it precedence over the provisions of other laws and acts in the event of conflict, emphasizing that:

*"The rights and freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and have priority, in the event of conflict, over the provisions of other laws and acts of public institutions."*

Taking into account this constitutional basis, as well as the need for special protection of children due to their physical and mental immaturity, Article 50 of the Constitution regulates the fundamental rights of children, stipulating in paragraph 1 that: *"Children enjoy the right to protection and care necessary for their well-being."* While in paragraph 4 of the same article, the principle of the best interest of the child is clearly defined, emphasizing that: *"All actions related to children, whether undertaken by public or private institutions, shall be in the best interest of the child."*

Also, in Article 31, paragraph 7, which deals with the right to a fair and impartial trial, the Constitution stipulates that: *"Judicial proceedings involving juveniles shall be regulated by law, respecting the special rules and procedures for juveniles."*

Based on these constitutional provisions, a broad legal framework has been built that aims to protect and treat juveniles, especially those in conflict with the law. In this context, the foundation of the legal infrastructure for justice for children has been the adoption of:

- ❑ The Juvenile Law in 2004;
- ❑ The Juvenile Justice Code (JJC) in 2010, and subsequently;
- ❑ The Juvenile Justice Code in 2018 (Code No. 06/L-006).

The Juvenile Justice Code of 2018 (Code No. 06/L-006), which is in force, has brought a series of important changes and innovations aimed at advancing the protection and treatment of juveniles as perpetrators of criminal offenses. This Code presents a contemporary approach and harmonized with international and European standards, reinforcing a justice system that is based on principles such as the best interest of the child, the principle of proportionality, rehabilitation, and reintegration of the juvenile into society.

The changes and innovations included in this Code mark a clear turn in the orientation of the justice system for children in Kosovo, giving priority to alternative measures to classic criminal punishment and promoting restorative justice as a more humane and effective form of treatment of juveniles in conflict with the law.

Based on recent global trends, which have brought significant developments in the exploration and implementation of new forms of diversion and educational measures, the Kosovo Juvenile Justice Code has reflected these advances by incorporating new measures and significantly expanding the range of existing diversion measures. Specifically, the number of diversion measures has been doubled, from eight (8) in the previous version of the Code, to sixteen (16), including eight (8) new measures<sup>5</sup>.

This development represents an important step towards building a more comprehensive, flexible and internationally-aligned juvenile justice system, which aims to prevent imprisonment, rehabilitate and re-integrate juveniles through measures that are oriented towards education, personal responsibility and psychosocial support.

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<sup>5</sup> Article 20 Juvenile Justice Code (CODE No. 06/L-006) Published in the Official Gazette 18 October 2018.

## Key regional and international instruments

Diversion measures, as well as alternative measures and punishments, are based on and derive from a number of international instruments that are already recognized and applicable in Kosovo. These instruments constitute the normative basis for the regulation and effective implementation of a criminal justice system that is in line with children's rights and international standards for the treatment of juveniles in contact with the law.

*Key international instruments that serve as legal and regulatory bases include, but are not limited to:*

- *The United Nations Convention on the Rights of the Child (1989)*, guarantees the fundamental rights of children, including the right to protection from harsh punishment and the right to rehabilitation, giving priority to alternative measures (including diversion from the justice system), over imprisonment and other institutional measures;
- *The UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985)*;
- *The Riyadh Rules - The UN Rules for the Prevention of Juvenile Delinquency (1990)*;
- *The Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (Resolution 2002/12)*;
- *Resolution 2005/20 - Guidelines on Justice involving Child Victims and Witnesses of Crime*;
- *United Nations Guidelines on the Treatment of Children in the Criminal Justice System (1997)*;
- *General Comments of the Committee on the Rights of the Child, namely:*
  - *Comment No. 10 (2007)* on the rights of children in juvenile justice;
  - *Comment No. 12 (2009)* on the right of the child to be heard;
  - *Comment No. 24 (2019)* on the right of the child in the criminal justice system;
- *Council of Europe Guidelines on Child-Friendly Justice (2010)*.

These instruments form the basis for building a juvenile justice system that is not only punitive, but also educational, restorative, and child-friendly, promoting the reintegration of the child into society.

## Key mandated institutions

Based on the Juvenile Justice Code and the relevant sub-legal acts, the key institutions for the effective implementation of diversion measures include<sup>6</sup>: the Prosecutor's Office, the Kosovo Police, the Kosovo Probation Service, the Social Work Centers, as well as other public and non-governmental sector actors.

**The Prosecutor's Office:** namely the specialized juvenile prosecutors, is the institution responsible for initiating and deciding on the application of diversion measures. The decision to deviate from criminal proceedings is taken in accordance with the conditions set out in the Code and is based on the principle of the best interest of the juvenile and on the assessment of the specific circumstances of the case. In this context, the prosecutor has an extended competence to assess not only the legal elements, but also the social and educational ones related to the juvenile.

**Kosovo Police:** through the respective units, is involved in the first stages of the procedure and has a mandate to propose the diversion measure-police warning in coordination with the prosecutor of the case. The Police also plays an important role in collecting initial information, in providing conditions for child-friendly interviews and in mediation with other relevant structures.

**Kosovo Probation Service:** is one of the key institutions in the practical aspect of the execution of diversion measures and other alternative measures to imprisonment. This service is responsible for drafting individual supervision plans, providing psychosocial support and periodic reporting on the progress of the implementation of diversion measures. The professionalism and institutional capacities of this service are critical for achieving sustainable results in the reintegration of juveniles.

**Centers for Social Work:** in cooperation and at the request of the Probation Service, play a complementary role in supporting the juvenile during the implementation of the measures, especially in the family, social and welfare aspects. These centers are responsible for identifying the child's needs, assisting in the development of individual rehabilitation plans and undertaking psychosocial interventions. In addition to public

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<sup>6</sup>With the 2018 amendments to the JJC, the Court has no role in the imposition and execution of Diversion Measures.

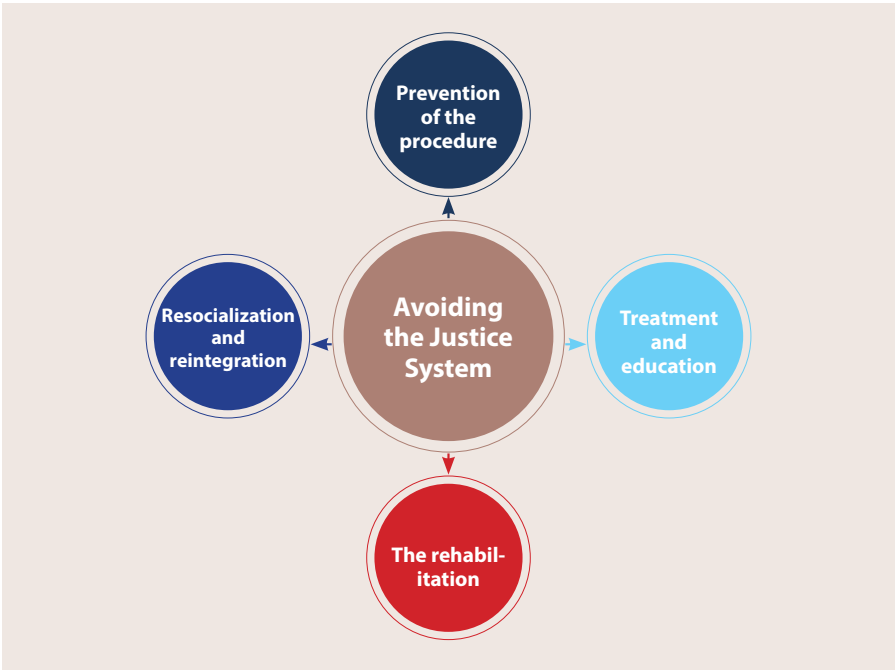


institutions, the process of implementing diversion measures often involves civil society organizations, educational and professional institutions, as well as various professionals who contribute to the implementation of educational programs, training or services that are part of certain measures. The involvement of these actors adds the community dimension to the reintegration process and strengthens the restorative model of juvenile justice.

## 1.2. Purpose, types and innovations

### Purpose

The purpose of diversion measures is to prevent, where possible, the initiation of judicial proceedings against the juvenile offender, to assist in the positive rehabilitation and reintegration of the juvenile into his or her community with the aim of preventing recidivist behavior<sup>7</sup>.



**GRAPH 2:** *Illustration of the purposes of diversion measures*

<sup>7</sup> Article 19 of JJC

## Types and innovations

The new diversion measures included in the Juvenile Justice Code represent a substantial innovation in the treatment of juveniles in conflict with the law. These measures clearly reflect the need for an approach oriented to the best interests of the juvenile and the individual needs in relation to the concrete situations of juveniles, offering new opportunities for effective and tailored intervention.

Furthermore, the innovations brought about by these measures are not only important for juveniles, but also for the professionals involved in the juvenile justice system themselves. They create wider scope for the use of alternative and educational means instead of deprivation of liberty or other institutional forms, directly contributing to the achievement of the objectives of rehabilitation, re-socialization and successful reintegration of juveniles into society.

### Present measure<sup>s8</sup>

- ✓ Reconciliation between the juvenile perpetrator and the injured party, including an apology from the juvenile to the injured party;
- ✓ Reconciliation between the juvenile and his family;
- ✓ Compensation of damage to the injured party based on a mutual agreement between the injured party, the juvenile and his legal representative, in accordance with the financial situation of the juvenile;
- ✓ Regular attendance at school;
- ✓ Acceptance of employment or training in a profession appropriate to his abilities and skills;
- ✓ Performing unpaid work for the general benefit in accordance with the juvenile perpetrator's ability to perform such work. This measure may be imposed with the consent of the juvenile for a duration of ten (10) to sixty (60) hours;
- ✓ Education in traffic rules;
- ✓ Psychological counseling.

$$8 + 8 = 16$$

<sup>8</sup>These measures have been present and implemented since the Juvenile Criminal Law (2004) and then in the Juvenile Justice Code (2010).

### Innovations in JCC during 2018

- ☆ Engagement in charity activities;
- ☆ Payment of a certain amount of money intended for charitable purposes or to the victim compensation program in accordance with the financial situation of the juvenile;
- ☆ Engagement in sports and recreational activities;
- ☆ Counseling between the juvenile's families;
- ☆ Refrain from any contact with certain individuals who may have a negative impact on the juvenile;
- ☆ Not visit certain places or environments that may have a negative impact on the juvenile;
- ☆ Refrain from using drugs and alcohol;
- ☆ Police warning.

Diversion measures play an essential role in the prevention of juvenile delinquency by offering alternatives to traditional criminal procedures, which can often have negative effects on their personal and social development. Through diversion measures, the aim is to avoid the stigmatization that can result from a formal criminal process and to keep the juvenile away from the criminal justice system, enabling him or her to receive more appropriate and rehabilitation-oriented treatment.

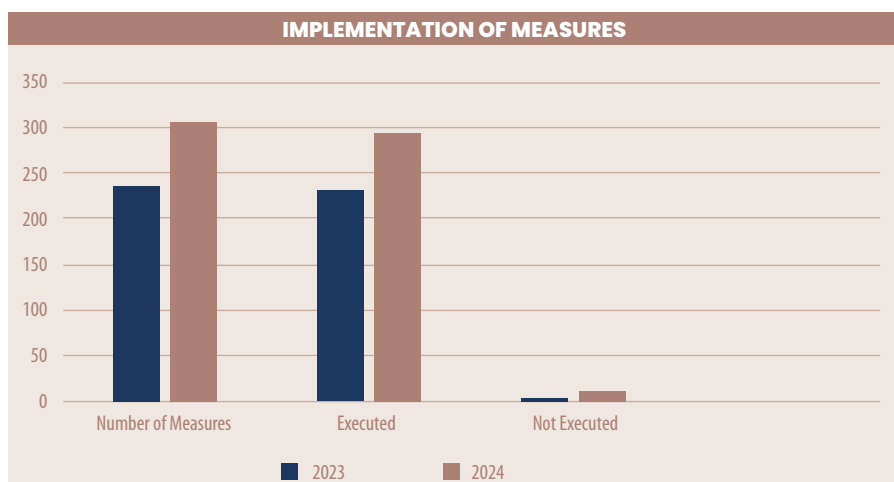
These measures offer the opportunity to promote the juvenile's personal responsibility, encouraging him or her to reflect on the consequences of his or her actions and to improve his or her behavior through involvement in educational programs, vocational training, mediation or community activities. In this way, diversion measures help repair the damage caused and contribute to the reintegration of the juvenile into society.

## 2.3. Imposition of measures

### Implementation of diversion measures during the years 2023 and 2024<sup>9</sup>

During 2023, a total of 237 diversion measures were implemented by the Probation Service, of which 4 were not executed, resulting in an implementation rate of approximately 98.3%.

In 2024, the number of measures implemented by the Probation Service is 305, while 11 of them were not executed, representing an implementation rate of approximately 96.4%.



**TABLE 8:** *The number of pronounced and (un)executed measures*

These data show a significant increase in the use of diversion measures from 2023 to 2024 (respectively an increase of about 28.7%), however, an increase in the number of unexecuted measures is also observed.

<sup>9</sup>The data was extracted and processed from official reports of the Kosovo Probation Service.

### Discrepancy:

In the analysis of statistical data on diversion measures implemented during 2023 and 2024, a discrepancy is observed between the statistics reported by the State Prosecution and those of the Kosovo Probation Service:

Year	State Prosecution	Probation Service
2023	<b>197 measures</b>	<b>237 measures</b>
2024	<b>285 measures</b>	<b>305 measures</b>

### Comparison of measures implemented in the last decade

The data presented in the graph for the 10-year period (2015–2024) present a fluctuating trend in the number of measures implemented by the Probation Service.



**TABLE 9:** *Trend of measures imposed*

The figures in table 9 demonstrate a paradoxical and at the same time worrying trend, instead of the entry into force of the new Juvenile Justice Code being accompanied by an increase in the use of diversion measures, the data show a significant decrease in them compared to the previous period. This is particularly

worrying considering that the legal amendments have aimed to increase the use of these measures, expanding their range from 8 to 16, as well as facilitating the procedures for their imposition.

## 1.4. Forms and methods of imposition

The procedure for imposing diversion measures represents one of the key moments in the practical implementation of juvenile justice. This procedure is particularly important, since the decision of the State Prosecutor determines not only the further course of the criminal case against the juvenile, but also the possibility of directing the case towards an alternative and more favorable treatment for his or her rehabilitation.

The Juvenile Justice Code provides for several ways or procedural paths that the State Prosecutor may follow before imposing a diversion measure. These paths offer flexibility and enable an individualized approach to each case, taking into account the personal and social circumstances of the juvenile, the nature and severity of the criminal offense, as well as the willingness of the juvenile to cooperate and take responsibility.

Therefore, the imposition of a diversion measure **aims to avoid initiating judicial proceedings**, thereby avoiding the possibility of the juvenile being involved in unnecessary judicial proceedings, respectively keeping the juvenile away from procedures that may negatively affect his or her treatment and education.

The Judicial Procedure defined in Article 19 of the Juvenile Justice Code includes all actions taken by juvenile justice institutions and professionals in the light of the truthfulness of the grounded suspicion. Furthermore, this includes all stages of the criminal procedure, as defined in the Juvenile Justice Code and, accordingly, in the Criminal Procedure Code. Therefore, the Code has not defined any stage in an exhaustive manner, but has defined the judicial procedure which includes all stages without exception.

The phrase ***“where possible”*** used in Article 19 of the Juvenile Justice Code, gives the State Prosecutor considerable discretion to assess whether the conditions for

imposing a diversion measure have been met. This wording is not accidental, on the contrary, it underlines the need for an individual assessment of each case, taking into account the specific circumstances of the juvenile, the nature of the criminal offense, as well as the level of cooperation and remorse shown.

In this context, the Juvenile Justice Code has provided for three procedural paths that the State Prosecutor may follow before deciding to impose a diversion measure. These paths, despite differences in the manner of implementation, share a common goal: avoiding the unnecessary involvement of the juvenile in the formal criminal justice system, whenever possible and reasonable.

#### **A) Suitability or as it is known as the principle of opportunity**

*'For criminal offences punishable by imprisonment of less than three (3) years or by a fine, the state prosecutor for juveniles may decide **not to initiate preparatory proceedings** even though there is a reasonable suspicion that the juvenile has committed a criminal offence, if the state prosecutor for juveniles considers that it would not be **appropriate** to apply the procedure to the juvenile due to the nature of the criminal offence, the circumstances in which it was committed, the lack of serious harm or consequences for the injured party, as well as the juvenile's past and personal characteristics.'* (Article 52 par.2 of the JJC)

#### **A) Suspension of prosecution**

*'The state prosecutor for juveniles may **suspend the prosecution of the criminal offence** and impose a diversion measure if the conditions of Article 21 of this Code are met. Before deciding on the diversion measure, the prosecutor shall summon the juvenile, his/her parent, adoptive parents or guardian and the defender.* (Article 49 of the JJC)

## A) Discontinuation of the preparatory procedure

*'The State Prosecutor for Juveniles shall **discontinue the preparatory procedure** whenever it is established from the evidence collected that:*

*1.4. the conditions provided for in **paragraph 2 of Article 52** of this Code are present'. (56 par.1 subparagraph 1.4 of the Code of Criminal Procedure)*

The appropriateness or non-initiation of preparatory proceedings constitutes the main route and form for imposing diversion measures. However, the suspension of criminal prosecution and the termination of preparatory proceedings are also forms through which these measures can be imposed. All three of these options represent important procedural routes that contribute to the realization of the main purpose of diversion measures.

### Benefits and advantages

The successful imposition and execution of diversion measures has many advantages and benefits not only for the juvenile, but also for the family, the community and the justice system itself in general<sup>10</sup>.

#### **Benefits for juveniles:**

- Preventing juveniles from suffering from the negative developmental impact associated with formal judicial proceedings, including the stigmatization of the child (and their family) and from criminal evidence;
- Prevents the negative and long-term impact of imprisonment on the development of the juvenile's physical, mental and emotional health, as well as increasing the likelihood of repeating criminal offenses that result from deprivation of liberty;
- Ensure the speed and bearing of the consequences of the conduct and commission of the criminal offense;
- Aim to discover the reasons that influenced the behavior of the juvenile offender to commit that criminal offense, as well as identify and address the needs of the child and provide effective rehabilitation activities;

<sup>10</sup> Five Advocacy Briefs on Child Justice. Diversion of Children in Conflict with the Law from Formal Judicial Proceedings in Europe and Central Asia. UNICEF Regional Office for Europe and Central Asia. November 2022



- Contribute positively to the development of the juvenile;
- Involve the child and enable him to understand the consequences of the committed offense;
- Encourage the child to take responsibility for the damage caused, in a way that rehabilitates and reintegrates him into society, with special emphasis if diversion is combined with a restorative justice approach.

### ***Benefits to society:***

- The possibility of recidivism is reduced;
- High costs are avoided from processing the case through the formal justice system;
- High costs are avoided from keeping juveniles in detention;
- Damage caused is repaired if diversion is combined with a restorative justice approach;
- Contributes to social development and conflict resolution;
- Influences and contributes to peace-building efforts and places the needs of the victim at the center of the process if avoidance is combined with a restorative justice approach;
- Contributes positively to improving national security by promoting the inclusion rather than exclusion of vulnerable juveniles.

### ***Benefits of the system:***

- Reduces the number of juveniles and juvenile offenses that overwhelm the formal justice system, and allows resources to be focused on recidivists and high-risk offenders;
- Reduces the number of juveniles deprived of their liberty, which can improve the conditions of those juveniles already deprived of their liberty;
- Enables justice officials to deal with cases expeditiously;
- Increases the professionalism, job satisfaction and morale of personnel working in the juvenile justice sector.

## CHAPTER III:

# CONCLUSION

## 1.1. Findings of the assessment

Based on the assessment conducted and the detailed analysis of the implementation of diversion measures in the juvenile justice system in Kosovo, a number of key findings have been identified related to positive experiences, structural challenges and practical obstacles that directly impact their effectiveness and sustainability.

On the one hand, positive practices have been observed that demonstrate institutional commitment to promoting diversion measures and to using them in accordance with the principle of the best interests of the child. On the other hand, the assessment has identified serious challenges in the uniform implementation of these measures across all basic prosecution offices, a lack of standardization in practice, and obstacles of an institutional and administrative nature, which limits the positive impact that these measures can have on juveniles in contact with the law.

The findings of the assessment conducted are categorized into two main groups to provide a clear and structured overview of diversion measures in the juvenile justice system in Kosovo.

### 1.1.1. Findings for each measure separately

The first group of findings focuses on a detailed analysis of each diversion measure individually, identifying the purpose of each measure as defined in the Juvenile Justice Code, as well as assessing whether and to what extent it has been implemented in practice.

The findings are provided in a tabular form for easier understanding of what the JJC aimed for, what the data is for the last two years, and what findings are related to each measure.

(M1<sup>11</sup>) Reconciliation between the juvenile perpetrator and the injured party, including an apology from the juvenile to the injured party

What was intended!	To what extent it was implemented	Current findings
<p>This measure involves the implementation of a reconciliation process between the juvenile who committed the offense and the injured party, with the aim of repairing the damage and restoring social relations. Reconciliation may include a direct apology by the juvenile to the injured party, as well as other actions that contribute to the emotional and moral recovery of the injured party and the rehabilitation of the juvenile. The process is carried out with the consent of both parties and in the presence of a trained mediator.</p> <p>This measure, like measure M2, can be implemented appropriately through mediation procedures, as they contain essential elements of this procedure. The rules and principles that apply to mediation can also be applied to these measures, with the exception of cases where reconciliation occurs immediately at the police or prosecutor's office, where the mediation procedure is not necessary and the reconciliation can be documented directly in official acts.</p>	<p><b>2023</b></p> <p><b>129 Measures</b></p> <p><b>(117-M<sup>12</sup>)</b></p> <p><b>(13-F)</b></p>	<p>Statistics from the last two years show an increase in the implementation of the reconciliation measure, which, surprisingly, turns out to be the most applied measure among the diversion measures provided for by the JJC.</p> <p>From the analysis of the opinions of the professionals involved in the assessment, it appears that this measure is perceived as easier to impose by prosecutors and requires fewer procedural actions compared to other measures. In most cases, its implementation is carried out immediately, upon the fulfillment of the request for forgiveness by the juvenile to the injured party, concluding the process without the need to undertake other preparatory actions.</p> <p>However, professionals emphasize that the real number of these measures would be significantly higher if a portion of the cases did not go through the formal mediation procedure, which is regulated under the Law on Mediation and Chapter II of the JJC. This procedural separation, in some cases, constitutes a practical obstacle to the direct consideration and implementation of the reconciliation measure, affecting the final number of cases included under this diversion measure.</p> <p>There were also opinions that this measure should not be included within the framework of diversion measures, but should be dealt with in the mediation procedure with juveniles.</p>
	<p><b>2024</b></p> <p><b>148 Measures</b></p> <p><b>(135-M)</b></p> <p><b>(13-F)</b></p>	

*"Reconciliation, as a measure of diversion, works best when there is quality mediation and voluntary participation from both parties. But it is not always implemented in practice properly, sometimes the apology is done formally, without a deep process of reflection by the juvenile."* **Probation Service Officer**<sup>13</sup>

<sup>11</sup> M -Number of the measure according to the ranking in the KDM!

<sup>12</sup> **M**- -Male/Boy **F**-Female/Girl

<sup>13</sup> At the end of each measure we selected a quote extracted from the semi-structured interviews or from the focus group workshops

(M2) Reconciliation between the juvenile and his family		
What was intended!	To what extent it was implemented	Current findings
<p>This measure aims to rebuild family relationships through reconciliation between the juvenile who committed the criminal offense and his/her family members. Reconciliation may include mediated communication, an apology, discussion of the impact of the juvenile's behavior on the family, as well as mutual commitment to improving relationships and supporting the juvenile's rehabilitation process. The measure is implemented voluntarily and with the consent of the parties, in the presence of a qualified professional or mediator.</p>	<p><b>2023</b></p> <p><b>4 Measures</b></p> <p><b>(3-M)</b></p> <p><b>(1-F)</b></p>	<p>Statistical data show a significant increase in the implementation of this measure from 2023 (4 measures) to 2024 (17 measures), which represents a fourfold increase. The majority of cases concern male juveniles.</p> <p>According to the professionals interviewed, this measure continues to be implemented in a limited manner for two reasons:</p> <ul style="list-style-type: none"> <li>▪ Due to the type of criminal offenses (there is a small number of criminal offenses committed within the family);</li> <li>▪ Due to the high sensitivity of family relationships, and the reluctance of the families themselves to participate in a genuine reconciliation process. This reluctance is particularly pronounced in cases where there is a lack of trust or communication within the family, making the implementation of the measure more complex and sensitive in practice.</li> </ul>
	<p><b>2024</b></p> <p><b>17 Measures</b></p> <p><b>(15-M)</b></p> <p><b>(2-F)</b></p>	<p>There were also opinions regarding this measure that this measure should not be included within the framework of diversion measures, but should be treated in the mediation procedure with juveniles.</p>

*"Many parents do not understand their role in the rehabilitation of the juvenile. There are cases when they see reconciliation as a formality to close the case, not as a step towards changing family relationships."* **Juvenile Prosecutor**

(M3) Compensation of damage to the injured party based on a mutual agreement between the injured party, the juvenile and his/her legal representative, in accordance with the juvenile's financial situation		
What was intended!	To what extent it was implemented	Current findings
<p>This measure provides that the juvenile compensates the victim for material or non-material damage, through payment or some symbolic action (e.g. repairing a car). The agreement for compensation may also be oral and must include the juvenile's legal representative, who assists in its supervision and implementation. The imposition of this measure depends on the juvenile's financial situation and may also apply to partial or non-monetary compensation.</p>	<p><b>2023</b></p> <p><b>9 Measures</b></p> <p><b>(9-M)</b> <b>(0-F)</b></p>	<p>This measure has been applied in a very limited number of cases, namely in 9 cases in 2023 and 8 cases in 2024. These figures show its low use, without any visible progress.</p> <p>According to the professionals interviewed, the low rate of implementation of this measure is mainly related to the economic difficulties of the juveniles themselves and their families, who often do not have a real opportunity to compensate for material damages. The greatest difficulty, according to them, is the condition that this measure requires "the financial situation of the juvenile", where in most cases the juveniles do not have financial means.</p> <p>Another factor is the lack of recognition and clear interpretation of what constitutes "symbolic compensation" or "non-material", which limits creativity in the application.</p>
	<p><b>2024</b></p> <p><b>8 Measures</b></p> <p><b>(8-M)</b> <b>(0-F)</b></p>	<p>In some cases, reluctance on the part of victims to enter into agreements of this type has also been observed, especially when the compensation does not meet their expectations or is not seen as sufficient to repair the damage.</p> <p>As a result, this measure often remains an unused option, despite its rehabilitative and reconciling potential.</p>

*"This measure often encounters practical difficulties, because many juveniles come from families with difficult economic conditions, and the damage cannot be realistically compensated, despite the willingness to do so."* **Probation Officer**

(M4) Regular school attendance		
What was intended!	To what extent it was implemented	Current findings
<p>This measure aims educational reintegration and prevention of deviant behavior in juveniles who have dropped out of school or do not attend regularly. Although JJC does not specify a precise duration, it typically lasts until the end of the school year or until the prosecutor determines that the intended effect has been achieved. This measure should be imposed in cases where school non-attendance is linked to social risks or problematic behavior. It is assessed in cooperation with the school and is implemented either in the last educational institution attended or in another suitable institution, always respecting confidentiality and the best interests of the juvenile</p>	<p><b>2023</b></p> <p><b>5 Measures</b></p> <p><b>(3-M)</b></p> <p><b>(2-F)</b></p>	<p>The implementation of this measure remains very low compared to the potential that this measure has in terms of rehabilitation and prevention.</p> <p>According to the professionals interviewed, the application of this measure is hindered by several key factors.</p> <ul style="list-style-type: none"> <li>cases where the school is no longer willing to accept the student due to his or her 'deviant past', constitute a practical obstacle;</li> <li>schools do not have sufficient resources to support juveniles with a 'delinquent past', because there is a lack of psychologists, pedagogues or educational personnel specialized in such cases;</li> </ul>
	<p><b>2024</b></p> <p><b>11 Measures</b></p> <p><b>(10-M)</b></p> <p><b>(1-F)</b></p>	<ul style="list-style-type: none"> <li>in some cases, a lack of will has been observed on the part of the juveniles themselves or their families to cooperate in this regard;</li> <li>the juvenile refuses to continue his or her education in any school other than the one where the criminal offense occurred, while returning to the same school is harmful for both the juvenile as a perpetrator and the victim.</li> </ul>

*"For some juveniles, returning to school through this measure may be difficult or even unrealistic, especially if they are excluded, ridiculed by their peers, or have not completed primary education."* **Probation Officer**

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*"There are cases when the school hesitates or does not cooperate sufficiently to return the juvenile to the learning process. These make the implementation of this measure difficult. We have had cases when it was necessary to intervene under the threat of filing a criminal complaint against the school management for non-implementation of the decision to execute the measure. We will not back down from executing and returning juveniles to school despite resistance from educational personnel."* **Juvenile Prosecutor**

**&**

*"This measure has a double effect: the juvenile returns to fulfilling daily obligations, but it also sends a signal that society is giving him a second chance. Educational institutions should pay special attention to achieving the full purpose of this measure."* **Lawyer**

(M5) Acceptance of employment or training in an occupation appropriate to one's abilities and skills

What was intended!	To what extent it was implemented	Current findings
<p>Integration of the juvenile into professional life through an engagement appropriate to his/her abilities. This measure differs from work of general interest because it is paid and can be long-term. It is not mandatory and requires the consent of the juvenile. It can only be implemented in accordance with labor laws and child protection standards. The training includes training, courses or vocational education, while the decision on the type of work or training is made in consultation with the Probation Service and relevant institutions. The duration is not specified, but must be reasonable and monitored by the prosecutor through supervision.</p>	<p><b>2023</b></p> <p><b>0 Measures</b></p> <p><b>(0-M)</b> <b>(0-F)</b></p>	<p>Data for 2023 and 2024 show that this measure has never been imposed. This fact is particularly worrying, given that the measure in question aims at the social and economic rehabilitation of juveniles, especially those who do not attend school or do not have stable family support.</p> <p>According to the professionals interviewed, the non-application of this measure is related to several factors:</p> <ul style="list-style-type: none"> <li>▪ high unemployment in the general population makes it difficult to find employment opportunities for juveniles;</li> <li>▪ the private sector is not aware of nor prepared to engage juveniles with a criminal past;</li> <li>▪ many juveniles come from families with financial and social difficulties, and engaging in vocational training creates expenses such as travel, learning materials or long-term engagement that the family and the SHSK cannot cover.</li> </ul>
	<p><b>2024</b></p> <p><b>0 Measures</b></p> <p><b>(0-M)</b> <b>(0-F)</b></p>	<p>Despite the existing challenges, the current interpretation by professionals is not correct, as the ultimate goal of this measure is not 'employment', but the training of the juvenile for a certain trade or profession, which would influence the development of individual responsibility, the strengthening of the sense of empathy towards the committed act, as well as the acquisition of necessary life skills.</p>

*"Some juveniles are very interested in learning a vocation, but families do not support this direction, they expect the juvenile to work immediately and generate financial income."* **Probation Officer**



(M6) Performing unpaid community service in accordance with the juvenile perpetrator's ability to perform such work. This measure may be imposed with the juvenile's consent for a period of ten (10) to sixty (60) hours

What was intended!	To what extent it was implemented	Current findings
<p>This measure aims to contribute to the re-education of the juvenile and to compensate for the damage to the general interest caused by the criminal offense, without having a punitive character and being imposed only with the consent of the juvenile or his legal representative. The prosecutor determines the duration, while the Probation Service decides on the type of work, the relevant institution and the schedule. The work must be light, appropriate to the age and abilities of the juvenile, and in the public interest. The duration of the measure must be between 10 and 60 hours, with the possibility of modification or interruption in the event of objective obstacles during execution or when the measure has achieved its purpose.</p>	<p><b>2023</b></p> <p><b>15 Measures</b></p> <p><b>(15-M)</b></p> <p><b>(0-F)</b></p>	<p>This measure is considered one of the most widely implemented of all diversion measures. However, despite its frequent imposition and ease of implementation, its imposition still remains modest in relation to the rehabilitative potential it offers.</p> <p>According to the professionals interviewed, especially juvenile prosecutors, this measure is considered efficient in terms of technical implementation, but it presents serious dilemmas regarding the real impact on the education and rehabilitation of the juvenile.</p> <p>Some of the reservations highlighted include:</p> <ul style="list-style-type: none"> <li>the risk of formalization of implementation, i.e. the situation where the juvenile "appears" to have performed the assigned work, but in reality his commitment is minimal, not structured or not properly supervised by the relevant institutions. This undermines the very educational purpose of the measure and reduces it to a formal procedure with no visible effect;</li> <li>the choice of the type of work is not based on individual analysis, but is often done automatically (such as cleaning public spaces), without taking into account the interests, abilities or psychosocial needs of the juvenile.</li> </ul>
	<p><b>19 Measures</b></p> <p><b>(18-M)</b></p> <p><b>(1-F)</b></p>	

*"There are cases when the community or local institutions themselves are initially hesitant and do not want to include juveniles in activities, due to prejudices and fear that he or she is a delinquent. However, after a while they completely change their mind, seeing the abilities and involvement of juveniles in the work and the concrete results"* **Probation Officer**

(M7) Traffic rules education		
What was intended!	To what extent it was implemented	Current findings
<p>This measure aims to train the juvenile in road traffic rules, and is carried out in driving schools or other relevant institutions, including theoretical and practical education. This measure is mainly intended for juveniles who have committed criminal offenses against road traffic safety, but can also be imposed on other juveniles to prevent similar offenses and recidivism. After completing the education, the juvenile is assessed by qualified professionals, and the Probation Service sends a report on his success. The duration of the education is not predetermined and is adapted to the needs of the juvenile, ensuring that his schooling or other activities are not hindered. The agreement between the Probation Service and the institution provides the opportunity for education, on the condition of maintaining confidentiality, and prevents any conflict of interest between the professionals involved.</p>	<p><b>2023</b></p> <p><b>3 Measures</b></p> <p><b>(3-M)</b></p> <p><b>(0-F)</b></p>	<p>The data shows that this measure, like other measures, is very poorly implemented.</p> <p>According to the analysis and opinions of the professionals interviewed, some of the main obstacles to the effective implementation of this measure are:</p> <ul style="list-style-type: none"> <li>▪ the limited number of cases that comply with this measure, as it is typically applied only to offenses related to violations of road traffic rules;</li> <li>▪ the lack of stable institutional agreements with driving schools or traffic education institutions, which would enable the systematic and regular provision of education;</li> <li>▪ in many cases, these collaborations operate on an ad-hoc basis and are dependent on local availability and the willingness of the parties to co-operate;</li> <li>▪ the financial cost and lack of specific budgeting for this measure, especially in cases where it cannot be provided free of charge or where payment is required for practical education. This creates obstacles for juveniles with difficult economic circumstances, who cannot afford such training.</li> </ul>
	<p><b>2024</b></p> <p><b>4 Measures</b></p> <p><b>(4-M)</b></p> <p><b>(0-F)</b></p>	

*“Many juveniles who commit traffic offenses do not have basic knowledge about road safety. Education in this area is necessary for prevention and awareness. Awareness is not only for the juvenile, but also for the parents and the community about the importance of education and inclusion of juveniles in regular traffic education.”*

**Juvenile Prosecutor**

(M8) Psychological Counseling		
What is intended!	To what extent it was implemented	Current findings
<p>This measure obliges the juvenile to visit a psychologist at certain intervals and to consult with him to address his behaviors that may have contributed to the commission of the criminal offense. This measure takes place in a clinic, psychologist's office, or other appropriate place, where the juvenile will receive advice on active participation in conversations and other treatments determined by the psychologist. The measure can be imposed on juveniles who need counseling to prevent further criminal acts and recidivism. The duration of the counseling is not fixed, but is adapted to the needs of the juvenile and is assessed by the psychologist. The Probation Service sends reports on the fulfillment of the measure. The execution of this measure must be carried out without hindering education and other important activities for the juvenile. To implement this measure, the Probation Service must have agreements with licensed psychologists and respect confidentiality and the prevention of conflicts of interest.</p>	<p><b>2023</b></p> <p><b>41 Measures</b></p> <p><b>(36-M)</b></p> <p><b>(5-F)</b></p>	<p>The number of measures imposed is relatively high compared to other diversion measures, indicating a wide acceptance of this measure as important and effective.</p> <p>In practice, the measure is implemented in cooperation with licensed psychologists and is executed at public health institutions, through regular meetings that are determined individually for each juvenile.</p> <p>According to the professionals interviewed, despite the many opportunities that this measure offers, it has not been used to a large extent precisely due to the very high financial cost of covering the fees for sessions for psychologists and the respective services.</p> <p>Delays in the execution of this measure at mental health institutions have also been identified as a challenge.</p>
	<p><b>2024</b></p> <p><b>41 Measures</b></p> <p><b>(37-M)</b></p> <p><b>(4-F)</b></p>	<p>Despite the numerous successes in terms of implementing this measure, in some cases a lack of quality in the implementation of psychological counseling has been highlighted, mainly due to the limited number of sessions offered to the juvenile. This poses a challenge, as in many cases long-term counseling treatment is required, which includes a larger number of sessions.</p>

*"Psychological counseling is often the first step to better understand the reasons that led the juvenile to conflict with the law and to build a plan for change and easier reintegration."* **Probation Officer**

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*"In many cases, juveniles are willing to engage in counseling, but the challenge is to provide support and continuity, because sometimes the program ends too early, so the juvenile needs more counseling hours or sessions that must continue in order to achieve the desired effect."* **Juvenile Prosecutor**

(M9) Engagement in charitable activities		
What is intended!	To what extent it was implemented	Current findings
<p>This measure requires engagement in charitable activities and is a way to encourage awareness and civic responsibility in the juvenile who has committed a criminal offense. This measure is particularly important when the offense has affected individuals, social groups or communities, including those in need of support such as persons with disabilities or the elderly. The juvenile's engagement in charitable activities aims to increase empathy and responsibility for his actions, compensating for the damage caused and promoting values such as mutual aid and humanity. This measure is similar to unpaid work for the general benefit, but differs in that the engagement is voluntary and aims to develop civil responsibility and a sense of remorse. The measure is given mainly in cases where the criminal offense has had elements of antisocial behavior and lack of empathy, despite the juvenile nature of the offense.</p>	<p><b>2023</b></p> <p><b>1 Measure</b></p> <p><b>(0-M)</b> <b>(1-F)</b></p>	<p>Unfortunately, this measure, like other innovative measures in the JJC, has not been imposed almost at all, with the exception of one case in 2023.</p> <p>Prosecutors do not consider this measure a priority, mainly due to the lack of sufficient knowledge about its positive effects on the social and emotional development of juveniles.</p> <p>Some of the professionals interviewed do not see this measure, nor the other new measures included in the JDM, as effective or applicable in practice.</p> <p>The reluctance to impose this measure is also related to the prejudice that it cannot yield results, precisely because of our social mentality regarding involvement in charitable activities.</p>
	<p><b>2024</b></p> <p><b>0 Measures</b></p> <p><b>(0-M)</b> <b>(0-F)</b></p>	<p>Another reason emphasized for the non-implementation of this measure is related to the lack of accurate knowledge about its purpose and other new measures within the JJC. So far, the necessary training for professionals in this regard has not been provided.</p>

*"Although we have never implemented it, we nevertheless consider it positive, especially when juveniles are involved in charity activities, begin to develop empathy, because they see life with a different eye and take on more responsibility. We believe that in the future we will consider imposing this measure more often."* **Juvenile Prosecutor**

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*"As a lawyer, I support this measure because it gives juveniles the opportunity to reflect on their behavior without being severely penalized. Instead of punishment, they are involved in something that teaches them responsibility and sensitivity towards others."* **Lawyer**

(M10) Payment of a certain amount of money destined for charity or to a victim compensation program in accordance with the financial situation of the juvenile

What is intended!	To what extent it was implemented	Current findings
<p>This measure aims to compensate for the damage through payment and to create mechanisms for compensating for the damage caused by the criminal offense of the juvenile, not directly to the victim, but to the community or group of specific victims. The difference with the other measure of compensation for damage is that this measure does not involve direct compensation to the injured individual, but through a payment that goes to charity or to a victim compensation program. The measure can also be applied in cases where the victim agrees that the compensation goes to charity or to victim compensation programs. This compensation is only in the form of monetary payment, without the possibility of substitution with practical work. The measure must be consistent with the financial situation of the juvenile, so as not to further aggravate his economic situation. This measure also aims to raise the awareness of the juvenile about the damage he has caused and to create a sense of responsibility towards society and the community.</p>	<p><b>2023</b></p> <p><b>18 Measures</b></p> <p><b>(14-M)</b> <b>(4-F)</b></p>	<p>In 2023, this measure was imposed a total of 18 times, respectively in 14 cases against males and 4 cases against females. While in 2024, the implementation of this measure has decreased, being applied in only 13 cases, of which 12 against males and only 1 against a female.</p>
	<p><b>2024</b></p> <p><b>13 Measures</b></p> <p><b>(12-M)</b> <b>(1-F)</b></p>	<p>According to the professionals interviewed, the implementation of this measure has been relatively limited and has shown a downward trend from 2023 to 2024. One reason is the difficulty in determining and assessing the real financial situation of the juvenile, which is a key criterion for the appropriateness of this measure. Also, the fact that this measure does not include the possibility of substitution with practical work may limit its use in cases where the payment of a monetary amount is not feasible.</p>

*"It is important that the payment of charity or compensation is not experienced as a financial punishment, but as part of the process of reflection and restorative justice."*  
**Probation Officer**

(M11) Engagement in sports and recreational activities		
What is intended!	To what extent it was implemented	Current findings
<p>This measure aims to complement and fill his daily activities with healthy engagements, preventing gaps that can lead to unwanted behavior and the commission of criminal offenses. This measure aims to reduce negative behaviors and increase responsibility in the juvenile, by offering him the opportunity to develop positive habits and contributing to the modeling of healthy behaviors. Although it may seem like a fun measure, engagement in sports activities requires responsibility and willpower, qualities that can help increase self-control and discipline in juveniles. This measure also has an important role in restorative justice, focusing on repairing relationships and improving the well-being of the juvenile, by offering the opportunity to encourage him to engage in healthy and positive engagement.</p>	<p><b>2023</b></p> <p><b>1 Measure</b></p> <p><b>(0-M)</b></p> <p><b>(1-F)</b></p>	<p>This measure has been implemented only once in 2023 and only once in 2024.</p> <p>According to the professionals interviewed, the use of this measure remains significantly low, with only two cases implemented in the two-year period analyzed.</p> <p>This low level of implementation raises concerns about the recognition and assessment of the rehabilitative potential of this measure by the relevant authorities.</p> <p>The lack of well-organized structures for sports activities or the lack of inter-institutional cooperation with sports and recreation organizations may be factors that limit its practical implementation.</p>
	<p><b>2024</b></p> <p><b>1 Measure</b></p> <p><b>(1-M)</b></p> <p><b>(0-F)</b></p>	<p>As in the case of other new measures, a lack of proper knowledge regarding its purpose has been identified for this measure, which is largely related to the lack of specific training for the relevant professionals.</p>

*“Although unfortunately it has been implemented twice so far, I still consider it one of the most positive measures. It helps to discharge negative energy, social inclusion of the juvenile, getting them off the streets and building relationships with their peers.”*

**Clinical Psychologist**

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*“I would have proposed this primarily as a diversion measure for those cases where the conditions for its imposition were met. Instead of being punished, juveniles need to channel their free time constructively. Sports are an ideal way for this.”* **Lawyer**

(M12) Counseling between families of juveniles		
What is intended!	To what extent it was implemented	Current findings
<p>The diversion measure involving families has a special and broader nature, as it includes not only the committing juvenile, but also other family members, distributing the obligations related to the implementation of the measure. Despite forcing the juvenile to engage in a specific action, its implementation often requires the cooperation and commitment of the family, making this measure go beyond the individual capabilities of the juvenile. In a narrower sense, this measure can be seen as a technique for achieving reconciliation between the families involved, repairing the damaged relationships that may have caused the conflict. This is important because if family relationships are not addressed and repaired, they can serve as a factor leading to the deterioration of the situation and the escalation of the conflict. The involvement of families is especially necessary in cases where family members are indirectly involved in the criminal offense, such as when juveniles have used swearing and insults towards each other, or when they live close to each other and family relationships have influenced the juvenile's behavior. In these cases, the diversion measure aims to create a broader basis for repairing relationships, including the juvenile's families, and enabling them to contribute to resolving the conflict and improving the situation</p>	<p><b>2023</b></p> <p><b>0 Measures</b></p> <p><b>(0-M)</b></p> <p><b>(0-F)</b></p>	<p>The application of this measure in only two cases during 2024 and its total absence in the previous year shows that it is very little used, despite its potential to comprehensively impact the rehabilitation of juveniles.</p> <p>In circumstances where criminal offenses are committed by juveniles, the consequences affect not only the juvenile as the perpetrator and the victim, but often also their families. In this context, the failure to impose this measure, which aims at the long-term treatment and rehabilitation of juveniles, is a serious concern.</p>
	<p><b>2024</b></p> <p><b>2 Measures</b></p> <p><b>(0-M)</b></p> <p><b>(2-F)</b></p>	<p>The argument of lack of knowledge regarding the purpose of the measure is not a sufficient justification for its non-implementation. On the contrary, it highlights the urgent need for systematic interventions in building professional capacities and promoting a rehabilitation approach in juvenile justice.</p>

*"Although I have not had any measures in execution, I consider that this measure is very useful especially when the conflict between the juvenile and the victim has also included tensions between families. Counseling helps to reduce conflict and build understanding."* **Probation Officer**

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*"Involving families in the process not only increases the effectiveness of the measure, but also helps to convey the message of responsibility and reconciliation to the wider social environment."* **Clinical Psychologist**

(M13) Refrain from any contact with specific individuals who may have a negative impact on the juvenile

What is intended!	To what extent it was implemented	Current findings
<p>This measure consists of prohibiting the juvenile from meeting specific individuals, has a clear protective and preventive function. It aims to interrupt the negative influence that another person, often older or with deviant behavior, may have exerted on the juvenile, influencing his involvement in the criminal offense. Through this measure, the juvenile commits to no longer establish contact with one or more specific persons, who are identified as risk factors for his behavior. Its implementation requires that the prosecutor clearly describe in the ruling the identity of the persons that the juvenile is prohibited from meeting, so that the measure has practical effect and can be monitored more clearly by the relevant institutions. However, the success of this measure depends mainly on the awareness of the juvenile and the support he receives to understand the consequences of contact with certain individuals. This is one reason why this measure can be accompanied by other supportive measures, such as psychological counseling or engagement in activities that increase the juvenile's self-control and independence from negative influences.</p>	<p><b>2023</b></p> <p><b>2 Measures</b></p> <p><b>(2-M)</b> <b>(0-F)</b></p>	<p>Significant increase in the implementation of this measure from 2023 to 2024. However, according to professionals, the challenge remains to effectively monitor the ban on contact and ensure that the measure does not remain only formal. Monitoring and control in practice is even more difficult if the juvenile no longer has contact with the individual in question, especially in small communities where contact is inevitable (villages, neighborhoods, the same schools). This challenge becomes even more serious when it is not accompanied by other measures such as psychological counseling, or any other measure that would support the reduction of the influence of certain persons or society on the juvenile. In addition to the above-mentioned challenges, it is also worrying that some of the professionals interviewed do not consider this measure to be particularly effective, not because of its essential rehabilitative purpose, but because of the lack of real opportunities to monitor and follow its implementation in practice. Without a clear and functional system for monitoring and evaluating the progress of the juvenile during the period of implementation of the measure, professionals feel powerless to guarantee that this measure achieves its rehabilitative effect. This limited perception of effectiveness is an additional obstacle to the imposition of the measure, risking that it remains an underused instrument, despite its potential to positively influence the social reintegration of the juvenile.</p>
	<p><b>2024</b></p> <p><b>14 Measures</b></p> <p><b>(11-M)</b> <b>(3-F)</b></p>	

*"In some cases, the influence of society or the wrong circle has been a major factor in the involvement of the juvenile in criminal offenses. Therefore, I have seen fit to influence the juvenile through this measure to cut off contact with certain individuals, as a necessary step towards rehabilitation."* **Juvenile Prosecutor**

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*"Many juveniles do not understand the influence of the social circle on their choices. This measure helps to raise their awareness and encourage them to part ways with those who push them towards negative actions."* **Probation Officer**



(M14) Not to visit certain places or environments that may have a negative impact on the juvenile		
What is intended!	To what extent it was implemented	Current findings
<p>This measure also has a protective and preventive function, aiming to limit the juvenile's exposure to environments with a negative impact that may encourage harmful or illegal behavior. The commitment not to frequent certain places (such as bars, nightclubs, environments where there is substance use, or cinemas with inappropriate content) is a way to protect the juvenile from contact with people or situations that may influence his behavior. The imposition of this measure is often based on the place where the criminal offense was committed, or on other knowledge of the juvenile's habits related to frequenting these environments. This information may emerge during the interview of the juvenile or from his admissions regarding the circumstances of the event. The main challenge in implementing this measure is the lack of practical mechanisms for daily supervision, which may lead the juvenile to believe that the consequences of not being restrained are minimal. Therefore, to be effective, this measure must be accompanied by the commitment of parents, supervisors or social services, and especially by awareness-raising work for the juvenile about the consequences of contact with dangerous environments.</p>	<p><b>2023</b></p> <p><b>0 Measures</b></p> <p><b>(0-M)</b> <b>(0-F)</b></p>	<p>Based on the data, there is a significant increase in its implementation from 0 cases in 2023 to 21 cases in 2024.</p> <p>Interviewed professionals have highlighted the same challenges and the findings are the same as for Measure 13 (see above)</p>
	<p><b>2024</b></p> <p><b>21 Measures</b></p> <p><b>(16-M)</b> <b>(5-F)</b></p>	

*"The interpretation of this measure requires a careful assessment of the reality of the juvenile, you cannot ask that he not go to a place that is part of everyday life, without offering a real solution that fills that gap."* **Lawyer**

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*"This measure makes sense and will only be successfully executed if it is implemented as part of a broader plan for rehabilitation and social inclusion. Otherwise, it risks being seen simply as a ban and not as help. The Probation Service must find alternatives so that the juvenile does not feel the absence of visiting the designated facility or premises negatively"* **Juvenile Prosecutor**

(M15) Refrain from drug and alcohol use

What is intended!	To what extent it was implemented	Current findings
<p>This diversion measure aims to prevent the juvenile from returning to deviant behavior through his commitment not to use drugs or alcohol, especially in cases where these substances have directly influenced the commission of the criminal offense. It is protective in nature and functions as a personal promise, but its effective implementation requires high awareness from the juvenile and is often difficult to monitor. For this reason, it is recommended that this measure be combined with psychological counseling or other supportive measures such as: not contacting negative individuals and not frequenting dangerous places, in order to be effective and have a long-term impact as well as in order to reinforce the positive impact.</p>	<p><b>2023</b></p> <p><b>10 Measures</b></p> <p><b>(9-M)</b> <b>(1-F)</b></p>	<p>The number of measures imposed is commendable, due to the fact that imposing this measure in practical terms is difficult. This is due to the lack of clear evidence that substance use was linked to the criminal offense.</p> <p>The professionals interviewed highlight as a challenge that only a commitment not to use substances is often insufficient, especially for juveniles with a deeper history of use or with social/psychological problems. In the absence of psychological counseling, family support or mentoring, the measure remains formal and with limited impact.</p> <p>An additional serious challenge in the implementation of this measure remains the lack of adequate treatment and rehabilitation programs for Even in cases where such programs exist, they are often limited in capacity, expensive and require long-term commitment and integrated interventions by mental health professionals, which means that the effective implementation of the measure depends on an infrastructure and resources that are currently missing or insufficient.</p> <p>In the absence of these capacities, the measure is often seen by professionals as not realistically applicable, leading to its avoidance, despite its rehabilitative and preventive purpose. This situation makes it particularly dangerous not to impose the measure, as juveniles who use substances often need specialized intervention at an early stage to prevent the escalation of their health and social problems.</p>
	<p><b>2024</b></p> <p><b>6 Measures</b></p> <p><b>(6-M)</b> <b>(0-F)</b></p>	

*"As a lawyer, I support this measure when there are clear indications of the influence of substances. But I would always support and condition it on the need to provide a rehabilitative approach, not just a punitive one. So, for successful implementation, a genuine long-term rehabilitation program would be needed to reduce and remove the influence of substances"* **Lawyer**

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*"Abstinence from substances is the foundation of any rehabilitation effort. But to be effective, the measure must be accompanied by regular psychological support and sometimes even the involvement of treatment centers. Therefore, the Probation Service must work in these two directions to be a successful measure."* **Juvenile Prosecutor**

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*"We have cases where juveniles do not see the use of alcohol or cannabis as a problem. This measure can be a starting point for reflection and awareness. However, we as a service have difficulties in executing this measure, because rehabilitation requires programs and treatment that is long-term and very costly, and unfortunately, we do not have programs and financial opportunities to cover rehabilitation"* **Probation Officer**

(M16) Police warning		
What is intended!	To what extent it was implemented	Current findings
<p>The police warning diversion measure represents one of the most significant innovations of the recent legal reform in juvenile justice in Kosovo, which aims to provide a rapid, proportionate and informal response to cases where a juvenile commits a juvenile crime for the first time. This special measure does not require the initiation of ordinary criminal proceedings and allows for intervention to take place at the earliest stages of the juvenile's contact with the justice system, thus helping to prevent stigma, relapse into delinquent behavior and exposure to criminal justice institutions. The only diversion measure implemented by the police, the police warning is conditional on the prior approval of the prosecutor, who guarantees legal control and respect for the rights of the juvenile. For this measure to be implemented, two conditions must be met: that the offense is juvenile and that it is a first-time offense, thus reflecting the spirit of educational rather than punitive treatment of juveniles, especially those who accidentally engage in criminal behavior. This approach, based on the principle of proportionality and the protection of the best interest of the child, strengthens the principles of restorative justice and aims to give the juvenile a real opportunity for reflection and positive reintegration into society without burdening him with a criminal record</p>	<p><b>2023</b></p> <p><b>0 Measures</b></p> <p><b>(0-M)</b> <b>(0-F)</b></p>	<p>Although the police warning measure was accompanied by high expectations and was considered an important step towards advancing the implementation of diversion measures, offering a quick and direct alternative for the treatment of juvenile cases, its implementation has proven extremely disappointing. This measure, which aimed to provide an early, informal and proportionate intervention in cases where a juvenile is involved in a juvenile criminal offence for the first time, has only been imposed in 4 or 5 cases since 2019. The lack of enforcement in practice represents a significant failure to achieve the goals of the legal reform and highlights a large gap between the objectives of the system and the reality on the ground. According to professionals involved in the field of juvenile justice, there are several key reasons that have hindered the implementation of this measure. These include:</p> <ul style="list-style-type: none"> <li>• fear of public backlash and possible misunderstanding about the non-punitive nature of this measure;</li> <li>• ongoing disagreements and debates between the police and the prosecution regarding the mandate and manner of imposing the measure;</li> <li>• lack of protocols, standard instructions and practical documentation (including letter formats), which would guide police officers in a clear and unified manner;</li> <li>• the lack of inclusion of this measure in the Kosovo Police database, the inability to register it in the system;</li> <li>• the fear of possible misuse in cases where the prosecutor's discretion is delegated to the police.</li> </ul> <p>Over the past year, considerable efforts have been made to overcome this situation. A positive step has been the preparation and approval of standard operating procedures, through which the responsibilities and roles of the police and the prosecution are clearly specified and divided in relation to the imposition and execution of this measure. This development is expected to create more favorable conditions for the implementation of the police warning measure in the near future.</p>
	<p><b>2024</b></p> <p><b>0 Measures</b></p> <p><b>(0-M)</b> <b>(0-F)</b></p>	

*“Even after so many years, this measure is unfortunately not being implemented, although it could often and in many cases have been resolved through this measure. The lack of coordination between the police and the prosecution for police warnings shows that the system is not prepared to seriously handle cases involving juveniles, and this must change urgently.”* **Lawyer**

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*“As a prosecutor, I was ready to impose this measure, but we have been waiting for the State Prosecution to develop a circular or some standard guideline in order to unify work practices in all prosecution offices.”* **Juvenile Prosecutor**

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*“Many cases could have been resolved through a police warning, but we have not had the authority and opportunity to exceed the powers that the KDM has given to the juvenile prosecutor, who has the final say in terms of imposing the measure.”* **Police**

### 3.1.2. Summary findings

The second group of findings provides a summary of the practices, challenges and obstacles that affect the implementation of diversion measures at the general level, identifying factors that may limit the effectiveness and sustainability of this alternative mechanism.

#### Challenges and obstacles

The implementation of diversion measures in practice has highlighted a number of important challenges and obstacles, which directly affect their sustainable, equal and unified functioning in all links of the juvenile justice system institutions:

- **Continuous decline in the number of diversion measures imposed:** The data show a negative trend in the use of diversion measures, which contradicts the spirit and purpose of the Juvenile Justice Code (JJC);
- **Inter-institutional inconsistencies in the implementation of measures:** There are significant differences in the way diversion measures are imposed among Basic Prosecutors’ Offices. The lack of a harmonized and standardized approach has created an uneven and fragmented practice across the country;
- **Involvement of juveniles in serious criminal offenses:** A key reason cited for not imposing diversion measures, is related to the increased involvement of juveniles in serious criminal offenses, which exceed the criteria for the application of these measures. However, this justification cannot be reliably verified due to the lack of data categorized by type of criminal offense;

- **Lack of proper understanding of diversion measures:** Implementers of the JJC, especially at the prosecutorial level, do not have a full understanding of the purpose of diversion measures as defined in the JJC, resulting in a different interpretation and application of the relevant provisions, especially with regard to procedural aspects;
- **Non-implementation of new measures foreseen in the JJC:** The diversion measures newly included in the Juvenile Justice Code are not being implemented in practice, due to lack of knowledge about the purpose of those measures, the reluctance of prosecutors to use them, or even the lack of concrete services to execute them in accordance with the purpose defined in the JJC;
- **Data discrepancies and lack of disaggregated data:** a lack of disaggregated data according to important criteria such as age, gender, type of offense and other status aspects has been identified. Furthermore, in some cases, the existing data, do not match between different sources, making it difficult to analyze and monitor the situation accurately;
- **Lack of involvement in prevention:** The increasing involvement of children under the age of criminal responsibility, especially in the age group of 12 to 14 years, in serious criminal offenses is a serious concern. This phenomenon is one of the reasons why, when these children reach the age of criminal responsibility, they do not meet the criteria for the implementation of diversion measures. In many cases, intervention occurs too late, when the child is already involved in several serious criminal offenses, which limits the possibility of avoiding criminal prosecution and treatment through rehabilitative alternatives;
- **Lack of implementation of the Administrative Instruction on the Protection and Treatment of Children Under the Age of Criminal Responsibility:** Although the Administrative Instruction on the Protection and Treatment of Children Under the Age of Criminal Responsibility entered into force in 2021, its implementation in practice remains deficient. Some professionals involved in the justice and child protection system are either not informed about the existence of this sub-legal act, or do not implement it consistently and fully;
- **Lack of feedback:** The prosecution and, in some cases, even the courts do not provide regular and timely feedback regarding the decisions they make in cases where juveniles are suspected or accused of committing criminal offenses to the probation service, social work centers and the police;

- **Provision of continuous educational programs:** Despite the existence of educational and training programs for the Probation Service, in recent years there has been a stagnation in the provision of regular training at the Academy for Public Safety;
- **Lack of joint training:** the lack of joint training has contributed to the weakening of cooperation and unification of working practices for the police, probation service, prosecution, lawyers and other professionals;
- **Weak inter-sectoral cooperation:** Although cooperation between the Police, Prosecution and Probation Service is often presented as effective, in practice it suffers from a lack of substantial and child-oriented coordination. Cooperation remains largely bureaucratic and formal actions, and not on the essential principle of “child-centeredness” or on the implementation of joint, rapid and coordinated actions, which would enable the diversion of the juvenile from formal justice procedures;
- **Confusion between mediation and diversion measures:** There is a clear misunderstanding regarding the difference between the first three diversion measures, which are based on the mediation procedure, and other alternative procedures;
- **Lack of sufficient staff:** In some prosecutors’ offices, there is only one prosecutor assigned to juvenile cases, and due to the high volume of cases, it is often difficult to properly manage the entire procedure for them. A similar situation is observed in the Probation Service, where a number of probation officers have retired, transferred to other institutions or emigrated abroad, without being replaced by new staff. This lack of human capacity, especially in the Probation Service, has directly affected the quality of implementation of programs for the execution of diversion measures. This has created an institutional vacuum, which has significantly reduced the ability to provide effective support and supervision to juveniles during the referral period or while pursuing alternative programs to criminal prosecution;
- **Inconsistency between the legal framework and the case management system:** There is a clear discrepancy between the procedural provisions governing the imposition of diversion measures and the functionalities of the electronic case management system (CMIS). This creates difficulties in the accurate recording and systematic follow-up of the measures imposed, negatively affecting institutional monitoring and reporting;
- **Lack of conditions and resources for the execution of measures:** The implementation of some of the diversion measures requires specific financial

and logistical resources, which are often lacking. The failure to allocate the necessary budget for the Probation Service seriously jeopardizes the effective implementation of diversion measures, making it impossible to provide support services to juveniles in conflict with the law. This includes measures related to the measures: (psychological counseling, education in traffic rules, community service, inclusion in vocational training programs, rehabilitation from addiction to psychotropic substances and alcohol, etc).

### Good practices and impact

Despite the numerous challenges in implementing and enforcing diversion measures, practice has proven that these measures can have a tangible and long-term positive impact on the lives of juveniles, when they are properly applied and supported by effective rehabilitation programs. In several documented cases:

- Juveniles have **benefited from vocational training** programs, gaining skills that have enabled them to integrate sustainably into the labor market after the end of the measure;
- A specific case involves a juvenile who, after completing the diversion measure and vocational training, has **found regular work** and is involved in economic activity;
- In another case, a juvenile with severe behavioral problems, thanks to the combination of psychological counseling, family support, and involvement in an educational and vocational program, has managed to **complete his education** and achieve successful integration into society and the labor market.

These successful cases prove that diversion measures, when accompanied by well-structured support and coordinated interventions, constitute an effective and humane alternative to criminal prosecution, contributing to the rehabilitation of juveniles and the reduction of recidivism.



**Success Story:**

- Initials of the juvenile: E.K.
- Place of residence: Prishtina
- Age at the time of the measure: 16 years old
- Gender: Male
- School status: 10th grade student
- Criminal offense: Aggravated theft

**Initial Assessment:**

During the social survey conducted by the Probation Service, it was identified that the juvenile was a regular user of marijuana and had committed the acts of theft to obtain this substance. It was also found that there was a lack of emotional support in the family and involvement in a social circle with negative influence

**Recommended measure and purpose:**

The Probation Service recommended to the juvenile prosecutor the measure of diversion of psychological counseling as a form of non-exclusive intervention, with the aim of addressing early addiction, emotional issues and improving the psycho-social functioning of the juvenile.

**Implementation process:**

- The juvenile has been involved in 12 individual sessions with the psychologist.
- The sessions are built on cognitive-behavioral therapy (CBT) techniques and motivational interviewing approaches to increase his awareness of the consequences and to promote sustainable change.
- Initially, E.K. showed a lack of reflection, justification of behaviors and emotional distancing.
- During the sessions, he began to articulate his feelings of abandonment and lack of parental support, which were identified as a root factor in his problematic behavior.
- Work was done on developing skills for managing impulses, rejecting peer pressure and building self-confidence.

**Results and impact:**

- The juvenile reported that he no longer had the desire to use marijuana, feeling "clearer in mind" and more involved in daily activities.
- He began to attend classes regularly and received better grades from teachers.
- Learn to express needs and frustrations without violence or escape by developing new forms of communication with parents.
- There has been no new criminal case and his contact with the Probation Service has been closed positively.

*'This case powerfully illustrates how diversion measures, when combined with professional psychological interventions and coordinated inter-institutional support, can change the course of a juvenile's life. They create real opportunities for rehabilitation and return the juvenile to a sustainable integration into family, school and society.'*

## 3.2. Conclusion

All international and regional instruments, in their core requirements for building an effective juvenile justice system, **emphasize the importance of diversion measures as one of the main ways to address and resolve cases** where juveniles are in conflict with the law. The promotion and implementation of these measures constitutes an imperative that must be integrated into the domestic justice systems of each State.

In line with these instruments, the Committee on the Rights of the Child, in its General Comment No. 10<sup>14</sup>, emphasizes that a juvenile justice system that respects the Convention on the Rights of the Child **should actively promote the use of diversion measures**. Such a system not only protects the best interests of juveniles in conflict with the law, but also contributes to the broader short-term and long-term interests of society as a whole.

Based on the assessment conducted, it can be concluded that the juvenile justice system in Kosovo, **in general and to a considerable extent, is harmonized with international requirements and standards**, providing a solid basis for the practical implementation of the principle of the “best interest of the child” through diversion measures.

The system built on the basis of the Juvenile Justice Code **actively promotes the use of diversion measures as a means of avoiding formal criminal proceedings against juveniles**. The Code provides for a wide range of diversion measures, which can be applied at different stages of the criminal procedure, starting from the moment of the juvenile’s first contact with the police, as well as during the investigation phase led by the prosecution.

However, despite the progress made in building this system, **the assessment has identified that the practical implementation of these measures remains limited and does not fully align** with the legislator’s intentions or international standards.

Addressing these challenges is essential to ensure that the relevant provisions of the Juvenile Justice Code related to diversion measures do not remain only on paper, but are implemented in reality and effectively. **Creating new opportunities, strengthening inter-institutional cooperation and providing services tailored to the needs of professionals and juveniles themselves are key elements** to ensure that the juvenile justice system in Kosovo fully complies with human rights standards and guarantees the protection of children in conflict with the law.

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<sup>14</sup> General Comment No. 10 of the CRC, paragraph 3

To support the implementation of the identified findings, **the assessment contains a series of recommendations**, aimed at assisting justice institutions, and not only them, in strengthening the implementation of the juvenile justice system and ensuring that this system provides the intended protection for children, through an effective implementation of diversion measures.

### 3.3. Recommendations

In order to address the challenges and obstacles identified, it is recommended that the following measures be taken to ensure a more effective, fair and sustainable implementation of diversion measures:

#### **Short-term recommendations:**

- **Increasing human and infrastructural capacities:** The Prosecution Council of Kosovo should take immediate steps to appoint prosecutors for minors within Departments for Juveniles within the Basic Prosecutor's Offices. The Ministry of Justice should take immediate steps to recruit new probation officers and ensure that these officers receive the necessary basic and advanced training on the role and obligations arising from the legislation in force;
- **Drafting a legal circular or legal opinion:** The State Prosecutor's Office should draft a legal circular that clearly addresses the interpretation of the new provisions of the Juvenile Justice Code (JJC), with the aim of unifying practice across all Basic Prosecution Offices. Disseminating this document to all prosecution offices and organizing comprehensive workshops with juvenile prosecutors and professional associates to discuss different interpretations and share practical experiences;
- **Ensuring the conditions for the execution of measures in practice:** The Ministry of Justice should plan and allocate to the KPS the necessary financial and logistical resources to support measures that require direct engagement, such as psychological counseling, education in traffic rules, community service, vocational training or other measures;
- **Unifying practice at the national level:** The Academy of Justice in cooperation with the State Prosecutor should hold trainings and draft standardized guidelines for the imposition and implementation of diversion measures across all Basic Prosecution Offices, with the aim of eliminating the non-unifying approach and increasing coherence in decision-making;

- **Implementation of all measures set out in the Juvenile Justice Code:** The Police in coordination with Juvenile Prosecutors should take steps to promote and issue the “police warning”, strengthening the practical implementation of the Standard Operating Procedure for issuing police warnings and training for police officers who will implement these measures. Juvenile prosecutors should also take on a coordinating role and organize regular meetings with the probation service and the police in order to implement all measures efficiently and quickly;
- **Vocational training and employment programs:** The Ministry of Justice, in cooperation with the Ministry of Finance, Labor and Transfers, should take concrete steps to promote and facilitate the inclusion of juveniles who are subject to diversion measures in existing vocational training programs, offered within the framework of Vocational Training Centers (VTC). These two ministries should also develop a structured dialogue with the Chambers of Commerce and the private sector, in order to identify opportunities for labor market-oriented vocational training and sustainable employment for juveniles, thus reducing stigma and contributing to their full social and economic integration;
- **Ex-post assessment of the Juvenile Justice Code:** The Ministry of Justice should conduct an assessment of the implementation of the Juvenile Justice Code, with particular emphasis on the chapters regulating the protection of children under the age of criminal responsibility, the chapter on diversion measures and the chapter on procedural aspects for the protection of child victims and witnesses. This assessment is essential to better understand whether an amendment to the Juvenile Justice Code is necessary;
- **Provision of specialized prevention services:** Institutions should take urgent steps to provide prevention services and increase the number of professionals in schools, Centers for Social Works for children under the age of criminal responsibility;
- **Organizing a national debate on the age of criminal responsibility and deviant behavior of children:** The Ministry of Justice, in cooperation with all relevant juvenile justice institutions, as well as actors from the academic level, civil society, the media and experts in the field, should organize a structured national debate on the topic: “Involvement of children under the age of criminal responsibility in committing serious criminal offenses.” Within the framework of this debate, other related issues should also be addressed, including: a) The alarming level of involvement of children in deviant behavior, especially in the age group 10–14 years; b) The impact of the current age of criminal

responsibility on the effectiveness of preventive and rehabilitative measures; c) Possible institutional, social and legal interventions to comprehensively address this growing phenomenon;

- **Regular feedback:** regardless of the type of decision, whether it is to discontinue investigations, discontinue proceedings, apply a diversion measure or refer the case to trial, it is essential that these decisions are sent in a timely and structured manner to the institutions involved in the juvenile justice system, such as the Probation Service, the Social Work Centers, and the Police. The lack of this information negatively affects the continuity and coherence of support and monitoring actions, and weakens inter-institutional cooperation, hindering the effective functioning of the child-centered justice system;
- **Harmonization of the SMIL system with legal provisions:** The State Prosecution Office should improve and update the functionality of the electronic case management system (SMIL), so that it is fully compliant with the procedural requirements for registering cases as completed, with special emphasis on those related to the principle of opportunity, termination of the procedure and suspension, and all of these should be recognized in terms of the work norm of the juvenile prosecutor.

#### **Medium and long-term recommendations:**

- **Develop a comprehensive research on juvenile delinquency:** The Ministry of Justice, in partnership with local universities and research institutions, should undertake a comprehensive national study on juvenile delinquency in of Kosovo. This research should aim to: a) the extent and trends of juvenile involvement in criminal offenses; b) the socio-demographic profile of juveniles who commit criminal offenses (age, gender, educational, family, economic status, etc.); c) the most frequent types of criminal offenses committed by juveniles and the ages when they most frequently occur; d) the factors and causes that influence deviant behavior; e) an analysis of the measures taken so far, their effectiveness and the gaps in the current juvenile justice system;
- **Improving the knowledge of juvenile justice actors:** organize a series of individual and joint trainings for prosecutors, police officers, probation officers on the purpose, philosophy and legal provisions governing diversion measures and restorative justice;
- **Ensuring continuous education:** The Probation Service should take concrete steps to start organizing continuous professional education for probation officers in cooperation with the Academy for Public Safety in Vushtrri. This

training program should be mandatory for all probation officers and include in particular aspects related to the implementation of diversion measures, as well as the supervision and support of juveniles during the period of execution of the measures. Likewise, the Academy of Justice should organize regular and structured trainings for prosecutors, other professionals involved in the juvenile justice system, with a special focus on the practical implementation of diversion measures;

- **Strengthening inter-institutional cooperation:** The Ministry of Justice, the State Prosecutor and the Police should cooperate and support the local level in order to strengthen coordination between juvenile prosecutors, probation officers and police officers to support the execution and supervision of diversion measures, so that implementation is comprehensive and in the best interest of the child;
- **Strengthening mediation as a mechanism of restorative justice:** The Ministry of Justice together with the Chamber of Mediators should develop programs to strengthen the capacities of mediators, in accordance with the requirements of the JJC, and address misconceptions regarding the need for specialized licenses, through information campaigns and targeted trainings.

## IV. ANNEXES

### 4.1. Reference sources

#### **International instruments, protocols, strategies, books, studies and reports**

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## **Domestic Legislation**

- Constitution of the Republic of Kosovo
- Law on Child Protection (Law No. 06/L-084)
- Juvenile Justice Code (Code No. 06/L-006)
- Criminal Code of the Republic of Kosovo (Code No. 06/L-074) and Law No. 08/L-188 on Supplementing and Amending the Criminal Code No. 06/L-074
- Criminal Procedure Code (Code No. 08/L-032) and Law No. 08/L-187 on Supplementing and Amending the Criminal Procedure Code No. 08/L-032
- Law on Family (Law No. 2004/32)
- Law on Social and Family Services (Law No. 08/L-255)
- Law on Prevention and Protection from Domestic Violence, Violence against Women and Gender-Based Violence (Law No. 08/L-185)
- Law on Prevention and Combating Trafficking in Human Beings and Protection of Victims of Trafficking (Law No. 04/L-218)
- Regulation (NRC) No. 18/2024 on establishing effective procedures for identifying, reporting and referring child exploitation, neglect and abuse and protecting children in street situations
- Administrative Instruction (NRC) No. 03/2024 on the cooperation of institutional structures and mechanisms with NGOs for the implementation of rights policies and the provision of child protection services



- Regulation (NRC) No. 07/2024 on the organization and scope of activities of child protection homes
- Regulation (NRC) No. 23/2023 on the working procedures of multi-disciplinary round tables for assistance in case management
- Administrative Instruction (NRC) No. 06/2023 on the definition of preventive and protective measures to prohibit the participation of children in nightclubs and similar spaces
- Administrative Instruction (NRC) No. 05/2023 on measures to prevent and protect children from drug abuse
- Administrative Instruction (NRC) No. 04/2023 on medical and psychological treatment of child victims of abuse, for rehabilitation and reintegration
- Administrative Instruction (QKR) No. 08/2022 on the Council for the Rights of the Child
- Administrative Instruction (QKR) No. 07/2022 on the authorities for the rights of the child
- Administrative Instruction (QKR) No. 06/2022 on the establishment and functioning of the team for the rights of the child
- Administrative Instruction (QKR) No. 04/2022 on measures for the protection of children from websites with pornographic content and that harm the health and life of the child
- Administrative Instruction (QKR) No. 02/2021 on the implementation of child-friendly justice in criminal, civil and administrative proceedings.

### **International Instruments:**

- United Nations Convention on the Rights of the Child
- European Convention on Human Rights and Fundamental Freedoms (ECHR), 1950
- Council of Europe Convention on Action against Trafficking in Human Beings
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
- Optional Protocol to the CRC on the sale of children, child prostitution and child pornography
- Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography
- Directive 2012/29/EU on minimum standards on the rights, support and protection of victims of crime

- Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting victims
- Directive 2016/800/EU on procedural safeguards for children suspected or accused of accused
- EU Strategy on the Rights of the Child (2021–2024)
- Council of Europe Guidelines on Child-Friendly Justice (2010)
- Recommendation CM/Rec (2018)7 on children's rights in the digital environment
- Recommendation CM/Rec (2012)2 on the participation of children under 18 years of age
- Recommendation CM/Rec (2011)12 on child-friendly rights and social services
- Guidelines on child-friendly health care (2011)
- Recommendation CM/Rec (2009)10 on integrated strategies for the protection of children from violence
- Recommendation R (98)8 on the participation of children in family and community life
- General Comments of the Committee on the Rights of the Child (Nos. 1, 5, 6, 8, 10, 12)
- Resolution 2002/12 on Basic Principles for the Use of Restorative Justice Programs in Criminal Matters.

## 4.2. List of professionals interviewed, meetings held and focus groups

Name and Surname	Position/Institution
1. Anita Kalanderi	Secretary General Ministry of Justice
2. Blerim Shabani	Director of the Department for Social and Family Policies Ministry of Justice
3. Qëndresa Ibra-Zariqi	Senior Officer for Children's Rights Office of the Prime Minister
4. Adnan Isufi	Basic Court Pristina Juvenile Judge
5. Lumnije Krasniqi	Basic Court Pristina Juvenile Judge
6. Sahit Boroci	Basic Court Gjilan Juvenile Prosecutor
7. Mimoza Shala	Juvenile Judge
8. Rabije Jakupi	Basic Court Gjilan Juvenile Prosecutor
9. Isuf Sadiku	Basic Prosecution Office Gjilan State Prosecutor
10. Ramadan Ahmeti	Community Police Director Kosovo Police
11. Luljeta Limani Sylejmani	Domestic Violence Prevention and Investigation Director Kosovo Police
12. Sami Hajrullahu	Head of the Division of Alternative Measures Probation Service
13. Fusharza Kelmendi	Head of Parole Probation Service

14. Gentiana Pira	Senior Juvenile Probation Officer
15. Hirmize Halimi	Head of the Gjilan Office Probation Service
16. Llukman Mehmeti	Probation Officer Probation Service Gjilan
17. Ebasan Sadiku	Probation Officer Probation Service Gjilan
18. Emine Sadiku	Administrative Assistant Probation Service Gjilan
19. Yll Zekaj	Lawyer based in Prishtina
20. Sherif Sherifi	Lawyer based in Gjilan
21. Abaz Gjigolli	U.D Association of Social Work Centers
22. Mursel Zymberi	Director of the Social Work Center in Gjilan
23. Makfirete Shamolli	Director of the Social Work Center Lipjan
24. Amir Bushi	Director of the Social Work Center Hani i Elezit
25. Arrita Dervishi	Social Services Officer Social Work Center Gjakova
26. Berlina Dushi	Social Services Officer Social Work Center Gjakova
27. Afërdita Kçiku	Clinical Psychologist QKMF Gjilan
29. Dren Rexha	Social Policy Specialist UNICEF
30. Feride Dashi	Child Protection Officer UNICEF

31. Donjeta Kelmendi	Executive Director KOMF
32. Klevis Vaçari	Program Manager KOMF
33. Fjolla Hoxha	Justice Program Manager TDH

### 4.3. Definitions

The definitions used in this assessment shall be interpreted in accordance with the meanings given in the Law on Child Protection, the Juvenile Justice Code, the Convention on the Rights of the Child and other relevant legislation in the Republic of Kosovo.

<b>Child</b>	means any human being under the age of eighteen (18) years, except in cases where majority is attained earlier, in accordance with the legislation to which he/she is subject. In cases where the age of the person is not fully determined, but there are reasons to suggest that the person in question is a child, this person is considered a child and benefits from this law until his/her age is fully determined.
<b>Juvenile</b>	means a child between the ages of fourteen (14) and eighteen (18).
<b>Parent</b>	means the person(s) who gave birth to or adopted the child, both together or alone, married or unmarried, or who have recognized the motherhood or paternity of a child born out of wedlock.
<b>Parental responsibility</b>	means the obligation of the parent to ensure the rights and duties aimed at ensuring the emotional, social and material well-being of the child, by caring for and maintaining relations with the child and the obligation to ensure the child's upbringing, parenting, education, legal representation and administration of the child's property.
<b>Guardian</b>	means the person as defined in the Family Law.
<b>Child protection</b>	means the prevention of and response to violence, maltreatment, abuse, exploitation and neglect, abduction, sexual exploitation, trafficking and child labour in and outside the home.
<b>Victim advocate</b>	means the public official who represents the injured party in judicial and administrative proceedings, including the child. The victim advocate provides support and assistance to victims of crime, represents the victim in court proceedings, informs the victim of his or her rights, represents the interests of the victim before the court and the prosecution, and acts on behalf of the victim when necessary in accordance with applicable laws.
<b>Child-friendly justice</b>	means a justice system that guarantees respect for and effective implementation of the rights of the child at the highest achievable level, the overriding consideration being the best interests of the child, non-discrimination, protection of the dignity and participation of the child, giving due consideration to the child's level of maturity, understanding and circumstances of the case..

<b>A child in need of protection</b>	means a person under the age of eighteen (18) years, regardless of the capacity to act, according to the legislation in force, who may be a victim of abuse, neglect, exploitation, discrimination, violence or any criminal activity, as well as an individual under the age of criminal responsibility, who is suspected of having committed or is accused of having committed a criminal offence and children in conflict with the law.
<b>A child without parental care</b>	means a child whose parents are not alive, whose parents are unknown or have disappeared, whose parents for any reason, temporarily or permanently do not perform their parental duties or parental care.
<b>A family in need means</b>	any family where one or both parents, the guardian and the custodian, need assistance in caring for the child due to their own condition or the condition of the child, in circumstances where the child is suffering serious harm due to neglect, abuse by the parent(s) or guardian, due to the inability of the parent(s) or guardian to care for him/her adequately, or is exposed to the possibility of experiencing such harm.
<b>Legal representative</b>	means the parent or guardian who, within the responsibilities assigned to him/her by the legislation in force or by the court, protects the interests of the child by performing or not performing legal acts, in the name or on behalf of the child.
<b>Violence</b>	means all forms of physical and/or emotional maltreatment, sexual abuse, neglect or negligent treatment, commercial exploitation or any type of exploitation that results in potential or actual harm to the health, survival, development or dignity of the child in the context of a relationship of responsibility, trust or power. Violence includes but is not limited to intentional acts or actions that one person does to another person, such as: the use of physical force, psychological pressure, any action that causes or leads to physical or psychological pain; causing a feeling of fear, personal danger, violation of dignity; physical attack without regard to the consequences; insulting, swearing, calling offensive names and other ways of rude discomfort; continuous repetition of behaviors with the aim of humiliating the other person; putting the other person in a position where he fears for his physical, emotional and economic condition.
<b>Psychological violence</b>	means acts that cause or are likely to cause harm to the health or physical, mental, spiritual, moral or social development of a child. These acts may be under the control of a parent or a person who has responsibility, trust or authority and include restricting movement, mocking, denigrating, blaming, threatening, intimidating, discriminating, ridiculing, or other non-physical forms of hostility or rejection.
<b>Physical violence</b>	means any form of physical abuse including beating with any means, slapping or other means, choking and any other action that causes physical pain.

<b>Abuse</b>	means any act or omission, whether intentional or not, by a parent, guardian, trusted person or other person in a position of trust or authority, that causes or is likely to cause physical, psychological, emotional or social harm to a child.
<b>Maltreatment</b>	Means all forms of physical and/or emotional maltreatment, sexual abuse, neglect or negligent treatment, or commercial exploitation, or any other exploitation that leads to actual or potential harm to the health, survival, development or dignity of the child in the context of a relationship of responsibility, trust or power.
<b>Child prostitution</b>	means the use of a child for sexual activity, where in exchange for the child's involvement in sexual activity, payment in cash or any other form of reward or compensation is offered or promised, regardless of whether that payment, promise or reward is made to the child or to a third party.
<b>Child trafficking</b>	means the recruitment, transportation, transfer, harbouring, receipt of children for the purpose of exploitation or receipt of persons, including the exchange or transfer of control over such 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.
<b>Exploitation</b>	includes, but is not limited to, the exploitation of the prostitution of others, pornography or other forms of sexual exploitation, begging, forced services or labour, slavery or practices similar to slavery, servitude or the removal of organs or tissues.
<b>Child sexual abuse</b>	refers to abuse within the home or family, but does not exclude cases of abuse by persons outside the family using the advantages of position, whether social or official, for sexual gain from the victim of abuse. Sexual activity, which means sexual intercourse and any other form performed by, with, and in front of a child, where the child's presence or participation is for the purpose of sexual gratification of another person.





