

# "Through children's eyes"

---



Terre des hommes  
Helping children worldwide.



**PARTICIPATORY RESEARCH ON THE PERCEPTION  
OF CHILDREN IN CONFLICT WITH THE LAW ON  
THE PROBATION SERVICE EFFECTIVENESS AND  
IMPACT ON THEIR REHABILITATION IN ALBANIA**

Terre des hommes Albania  
in partnership with the General Directory of Probation Service

---

*June 2022*

**Researchers:**

Zsuzsanna RUTAI, PhD, International Consultant

Zhaklina PETO, Prof. Dr., Consultant

Klodian GEGA, Consultant

**Fieldwork team:**

Dafina KELMENDI

Dr. Enkeleda SAKO

Elvis MANÇELLARI

Kaltrina HYKA

Mehmet DURISHTI

Nadjuska ÇELA

Sonila MUZHAQI

Valmira GRECA

Special thank you to Mr. Ervin HOXHA, General Director of the Probation Service, and Mrs. Erlinda MURATI-PLYKU, MA, Specialist in DPSHP.

Special thank you and appreciation to all juveniles in conflict with the law who generously shared their thoughts and experience during their journey through the Probation Service.

This publication is prepared in the framework of the project "Reintegration of children in conflict with the law into society"

Published by: Terre des hommes, Mission in Albania

Copyright © Terre des hommes Mission in Albania, 2022

**All rights reserved. The content of this document is the responsibility of the authors and does not necessarily represent the opinion of Terre des hommes and the General Directory of Probation Service.**

<b>1. INTRODUCTION.....</b>	<b>4</b>
1.1.Aims of the research.....	4
1.2.International and national framework of child criminal justice with focus on probation service.....	4
1.3. Institutional framework and staff rules of the Probation Service in Albania.....	9
1.4. Probation service for children in conflict with law in Albania.....	10
1.5. Probation service for children in conflict with law in numbers.....	12
<b>2. METHODOLOGY OF THE RESEARCH.....</b>	<b>14</b>
2.1. Safeguarding children in research.....	14
2.2. Implementation of the research.....	15
2.3. Profile of the participants.....	16
<b>3. PERCEPTION OF CHILDREN IN CONFLICT WITH THE LAW ON THE PROBATION SERVICE EFFECTIVENESS AND IMPACT ON THEIR REHABILITATION.....</b>	<b>19</b>
3.1. Right to participation.....	19
3.2. Best interest of the child and the right to harmonious development.....	22
3.3. Protection from discrimination.....	23
3.4. Respect for dignity and protection of the privacy of the child.....	24
3.5. Prompt examination with preference and without undue delay.....	26
3.6. Elements of due process.....	26
<b>4. CONCLUSIONS AND RECOMMENDATIONS.....</b>	<b>28</b>
Annex 1. Research questions: applying the principles of child friendly justice to the probation services.....	31
Annex 2. Table of session outlines of the focus group discussions.....	33

# 1. INTRODUCTION

## 1.1. Aims of the research

Irrespective of the circumstances, coming into contact with the criminal justice system is a traumatic experience for a child, while those children who break the law often come from a vulnerable background. In order to provide high quality and effective legal services for them, Albania developed an institutional framework and established inter-sectorial cooperation between the structures of the justice system and local governments. The institution that has a significant contribution in this regard is the Probation Service. It started to operate in 2009, then it was assigned to support and supervise the implementation of diversion measures and alternative sentences for children in conflict with the law in 2018. So far, the quality of the services and the performance of the institution have been evaluated using traditional methods, excluding an important group of beneficiaries: children. Lack of child participation in the assessment of the probation services not only prevents the institution from identifying and resolving systematic issues but keep children from being heard and from influencing programs and services that have a significant impact on their life.

Recognizing this gap, in close cooperation with the Probation Service of Albania, Terre des Hommes (Tdh) Albania decided to launch participatory research aiming to understand the perception of children in conflict with the law on the Probation Service effectiveness and impact on their rehabilitation. International standards of child criminal justice, guaranteed by the Albanian Code of Criminal Justice for Children, served as the basis of the research methodology: the right to participation, the best interest of the child and the right to harmonious development, the protection from discrimination, the respect for dignity and protection of the privacy of the child, the prompt examination with preference and without undue delay and the elements of due process. The findings of the research, summarized in this research study and completed with recommendations, can be a useful tool for further reflection for the Probation Service, Tdh Albania and other organizations keen on listening to children.

## 1.2. International and national framework of child criminal justice with focus on probation services

As Albania being State Party to the *Convention on the Rights of the Child* (UN CRC), it is bound to recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society".<sup>1</sup>

The UN CRC mentions probation services as one of the dispositions to be put in place in order to ensure that children in conflict with law are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence committed by them.<sup>2</sup>

In *General Comment No. 24*, the UN Committee on the Rights of the Child recommends that “states parties should have in place a probation service or similar agency with well-trained staff to ensure the maximum and effective use of measures such as guidance and supervision orders, probation, community monitoring or day reporting centres, and the possibility of early release from detention<sup>3</sup>”. It furthermore emphasizes that, specialized services such as probation, counselling or supervision should be established together with specialized facilities, for example day treatment centres and, where necessary, small-scale facilities for residential care and treatment of children referred by the child justice system. Effective inter-agency coordination of the activities of all these specialized units, services and facilities should be continuously promoted.<sup>4</sup>”

The *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (so-called “The Beijing Rules”)<sup>5</sup> calls for consideration of diversion, meaning that the competent authority needs to deal with child offenders without resorting to formal trial including removal from criminal justice processing, temporary supervision and guidance, and redirection to community support services (Rule 11). The Beijing Rules lists probation service as one of the of alternative disposition measures put in place by a competent authority in a flexible manner so as to avoid institutionalization to the greatest extent possible (Rule18). Children in conflict with law should be provided with all necessary assistance to facilitate the rehabilitative process (Rule 24).

The European standards of child justice – covering all fields of justice including criminal procedure -were set by the *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice*. This soft-law document defines child-friendly justice as “systems which guarantee the respect and the effective implementation of all children’s rights at the highest attainable level, bearing in mind the principles listed below and giving due consideration to the child’s level of maturity and understanding and the circumstances of the case.

It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity.<sup>6</sup> With regard to measures and sanctions for children in conflict with the law, the Guidelines emphasize that they should be constructive and individualised responses to the committed acts, considering the principle of proportionality, the child's age, physical and mental well-being and development as well as the circumstances of the case, while guaranteeing the right to rehabilitation and reintegration.<sup>7</sup>

Another recommendation from the Committee of Ministers of the Council of Europe, the *European probation rules* defines probation agencies as bodies designated by law to implement sanctions and measures determined by law and imposed on an offender. It includes a range of activities and interventions, such as supervision, guidance and assistance aiming at the social inclusion of the offender, as well as at contributing to the community safety<sup>8</sup>. Furthermore, the European Probation rules puts forward the general provisions regarding the structure, status and resources of probation agencies, the management of relations with the other competent authorities, the elements of probation work, and the stages of supervision process.

The *Guidelines regarding recruitment, selection, education, training and professional development of probation staff* adopted by the European Committee on Crime Problems emphasizes that "special recruitment and selection procedures for staff working with juveniles should operate, taking into consideration the qualities and the professional qualifications necessary to work with juveniles and their families"<sup>9</sup>. With regard to an efficient and effective probation service for children in conflict with law, the Guidelines recommend that "in recognition of the different needs of children and young people specific training should be provided for probation officers who work with this group. Such training should be informed by children's rights principles including the paramountcy of the child's welfare and the fact that children should be heard in matters that affect them"<sup>10</sup>.

As regard the national framework, the *Constitution of Albania* declares that children and young people have the right to special protection by the state and every child has the right to be protected from violence, ill treatment, exploitation and from performing any work, especially under the minimum age for child labour, which could damage his health and morals or endanger his life or normal development.<sup>11</sup> These constitutional provisions have been taken into consideration during the drafting and review of all legal acts related to children in conflict with law, with special reference to children above the age of criminal responsibility, such as the Law on the Protection of the Rights of Children in the Republic of



Albania, the Code of Criminal Justice for Children, the Criminal Code, the Criminal Procedure Code, the Social Service legislation and the Law on organization and functioning of the Probation Service.

The Law No. 18/2017 on *Protection of the Rights of Children in the Republic of Albania* declares the underlying principles of national policies related to the rights of the child, effective mechanisms and the authorities responsible at central and local level to guarantee the effective exercise, respect and promotion of these rights as well as the special protection of the child. It requires cooperation within the structures and among the responsible authorities, furthermore with organizations operating in the field of protection of the rights of the child.<sup>12</sup> It recognizes the child as a right-holder and every right affirmed to the child corresponds to specific obligation of state authorities. The law provides for an integrated and functional child protection system which prevents and effectively responds to all the forms of violence, abuse, exploitation and negligence against children - including children in conflict with law who are defined as children in need of special protection.

The *Albanian Code of Criminal Justice for Children* (Child Justice Code) guarantees the legal framework on child justice in line with international standards, promotes reintegration of the child in conflict with the law and ensures their re-socialization and rehabilitation.<sup>13</sup> The Code applies to children over the age of criminal responsibility, 14 years, up to 18 years, and in some cases, to young adults between 18 and 21.<sup>14</sup> The provisions of the *Criminal Code and the Criminal Procedure Code of Albania* are applied to the child criminal justice only if the issue is not governed by the Child Justice Code, or if they contain regulations that are more favourable to children.<sup>15</sup> At the same time, children in conflict with the law enjoy all the rights foreseen in the Code of Criminal Procedure and the special rights foreseen in the Child Justice Code.<sup>16</sup>

The guiding principles of the Child Justice Code are the following (Chapter 2):

- Best interest of the child and the right to harmonious development,
- Participation,
- Respect for the dignity and protection of the privacy of the child,
- Protection from discrimination,
- Prompt examination with preference and without undue delay,
- Elements of due process: presumption of innocence, right to fair trial, proportionality, right to appeal and right to access independent and effective complaint mechanisms.

According to the *Law No. 78/2020 on organization and functioning of the probation service* (Law on Probation Services), the mission of the Probation Service is the promotion of social inclusion of persons under supervision – on whom the court has imposed one of the prison alternatives or against whom the court

has imposed one of the prison alternatives or against whom the court has ruled a protection order or on whom any other coercive measure has been imposed by decision of the court – with a view to preventing the commission of criminal offences and developing the feeling of responsibility towards the society and the victim through rules of social interaction and special interventions.<sup>17</sup> Additionally, the Probation Service is supervising the enforcement of judicial decisions of diversion from criminal prosecution and non-custodial sentences of children in conflict with law, including mediation.<sup>18</sup>

Under the Child Justice Code, the Probation Service is identified as a competent body for administering criminal justice for children and therefore subject to its principles.<sup>19</sup> Besides that, the Law on Probation Service stresses that the Probation Service is guided by the principle of the best interest of the child and provides the child with social, educational, psychological, medical and physical assistance in accordance with the individual needs of the child and his/her age, gender and personality, with a view to rehabilitating and reintegrating him/her into social life.<sup>20</sup> Accordingly, this piece of legislation has several provisions setting specific rules for the supervision of children.

<b>Child criminal justice with focus on probation services</b>	
<b>International and European legal instruments</b>	<b>National legal instruments</b>
UN Convention on the Rights of the Child	Constitution of Albania
General comment No. 24 of the UN Committee on the Rights of the Child, (2019) on children’s rights in the child justice system	Law No. 18/2017 on the Protection of the Rights of Children in the Republic of Albania
United Nations Standard Minimum Rules for the Administration of Juvenile Justice	Law No. 37/2017 on the Code of Criminal Justice for Children
Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice	Criminal Code and Criminal Procedure Code
Council of Europe European probation rules	Law No. 78/2020 on organization and functioning of the probation service
European Committee on Crime Problems Guidelines regarding recruitment selection education training and professional development of prison and probation	Law No. 79/2020 on the Execution of Criminal Decisions

### 1.3. Institutional framework and staff rules of the Probation Service in Albania

According to *the Law on Probation Services*, the Probation Service is a public body with headquarter in Tirana and 22 territorial branches on local level. The probation officers are civil servants who completed second cycle of university studies either in psychology, law, social work, or sociology and have at least one year work experience in their profession (Article 12 (2)). They are recruited on a competitive basis in accordance with *the Law No. 152/2013 On Civil Servants*. The probation officers are subject to compulsory professional training<sup>21</sup>. The initial training aims to provide them with “the proper theoretical and practical professional knowledge for the supervision of alternative measures, non-custodial sentences according to the Child Justice Code, the prison alternatives according to the Criminal Code as well as assisting and reintegrating the persons under supervision into society”, while the aim of the continuous training is to update the professional knowledge and skills in order to “to adapt to the developments of the legal framework and international standards”.<sup>22</sup>

The probation officers responsible for the supervision of children in conflict with law need to attend specialised continuous training on child criminal justice in accordance with the Child Justice Code and trained specifically in matters of protection of rights of the child.<sup>23</sup> These topics, among others, cover: methodology of communication with a child, standards and principles guaranteeing the rights of the child, principles and ethical duties of a probation officer, skills and techniques related to critical situations, risk assessment, case referral and guaranteeing of the principle of confidentiality, interview techniques, child psychology and communication with the child in a language that is appropriate for the child.<sup>24</sup> The continuous training programme is prepared by the Ministry of Justice in cooperation with the General Directorate of the Probation Service and defines the training methods, the training schedule, modules and the conditions for issuing the certificate of participation.<sup>25</sup> It is worth to mention that within the framework of the three-year Albanian-Swedish Program on Juvenile Justice,<sup>26</sup> 24 probation officers working with children were trained on cognitive-behavioural and motivational interviewing frameworks and techniques, then received mentoring in order to ensure the proper implementation of the instruments and techniques as well as to address practical difficulties.<sup>27</sup>

Nevertheless, it is reported that the specialised ongoing training is not sufficient to build the capacities of the probation officers.<sup>28</sup> Potential state response can be anticipated thanks to different instruments. First, one of the specific objectives of Cross-Sectorial Strategy of Justice 2021-2025 is to establish an effective and efficient probation service that uses operational standards, supervision methodologies and individualized case management, supports resocialization, reintegration and rehabilitation, and works in accordance with best practices and standards of the European Union and is accepted by the courts and prosecution service as a good alternative to prison custody. To this end, training needs analysis of the probation officers need to be conducted and based on that training plan needs to be prepared and implemented to increase quality of the services provided (initial and ongoing training).<sup>29</sup> Second, *the Action Plan 2022-2024 on the implementation of the strategic objectives of the integrity plan of the Probation Service* prescribes that the institution is obliged to carry out an analysis of the training needs of the staff and assess the impact of the trainings concluded, as well as to design and approve the annual assessment methodology for trainings.<sup>30</sup>

#### **1.4. Probation service for children in conflict with law in Albania**

In 2018, the new Child Justice Code assigned the Probation Service to supervise children in conflict with law subject to diversion measures and alternative sanctions, imposed by the prosecutor or the court. The alternative measures of diversion from criminal prosecution, which might be applied simultaneously, include restorative justice and mediation programmes, advising the child and family, verbal and written warning, mandatory measures, placement in foster care.<sup>31</sup> Within the restorative justice programme, the child can be asked to accept and show understanding of the liability for the criminal offence and the consequences on the victim; compensate the damage caused to the victim, community and/or society; ask forgiveness from the victim; and undertake actions accepted by the victim or/and community.<sup>32</sup>

As mandatory measure, the child might be:

##### **✘ Forbidden to**

- contact or meet a given person,
- go to or visit a certain place,
- change the place of residence,
- leave home during a specific period/time,
- leave a location or a given administrative unit without permission,
- perform other actions which are an obstacle to their re-socialization and rehabilitation.

As mandatory measure, the child might be:

**✗ Obligated to**

- start or resume studies in an educational institution,
- start working in accordance with the provisions of the Labour Code,
- participate in educational, correctional and/or medical treatment programmes,
- fulfil other obligations that facilitate their re-socialization and rehabilitation and prevent them from re-commission of a criminal offence.

At central level the Ministry of Justice, the Ministry of Education and Sports, the Ministry of Finance and Economy, the Ministry of Health and Social Support and the Ministry of Internal Affairs are responsible for the enforcement of the alternative measures, while at local level the municipalities and their administrative units, the regional directorate of state social service, the child protection unit of the municipalities and other institutions<sup>33</sup>. The role of the Probation Service is to supervise the fulfilment of the alternative measures and, as guided by the principle of the best interest of the child, to provide the child in conflict with law with social, educational, psychological, medical and physical assistance in accordance with the individual needs and in accordance with his/her age, gender and personality, with a view to rehabilitating and reintegrating him/her into social life.<sup>34</sup>

The Probation Service closely cooperates with the Child Protection Units of the municipalities where the child lives, based on memorandum of agreement between the Minister of Justice and mayors of the municipalities concerned. If needed, the Probation Service refers the child under supervision to other public institutions or NGOs responsible for the enforcement of alternative measures, such as the local educational unit responsible for pre-university education, compulsory education and professional training, schools, mental health services, health care institutions (health specialists, hospital doctors, family doctor) or the local employment office of the National Employment Service.<sup>35</sup> However, the Probation Service has reported to have difficulties in exercising its duties due to insufficient and unsustainable physio-social services at local level, lack of centres for psychological treatment of domestic violence or centres for the treatment of convicted persons addicted to narcotics, hard drugs or alcohol at local level.<sup>36</sup>

The Probation Service holds the first meeting with the child within 7 days from the date of receipt of the request from the court or the prosecutor, in the presence of his/her defence lawyer, parent or legal guardian and psychologist, and informs them of their rights and obligations during the supervision process.<sup>37</sup>

The Probation Service prepares an individual treatment plan based on the assessment of the behaviour of the child, their personality, family conditions, nature of the criminal offence committed by them and other circumstances.<sup>38</sup> The individual treatment plan is drafted in cooperation with the child, the parents or legal guardians and child protection structures while it is signed by the legal guardian of the child and the defence lawyer.<sup>39</sup> The probation officer maintains regular contact with the child during the period of the supervision.

Several tools used by Probation Service, such as the Individual Assessment Report, the Report of Non-Fulfilment of the Diversion Measures, the Individual Treatment Plan and the Risk Assessment Tool, were developed within the framework of the Albanian-Swedish Program on Juvenile Justice.<sup>40</sup> At the same time, the *Cross-Sectorial Strategy of Justice 2021-2025* predicts to take the necessary measures for the development of new methodologies, guidelines and standards related to supervision (individual case management and electronic supervision) as well as consolidation of monitoring methodologies and protocols and their operation throughout the territory.<sup>41</sup> Therefore, the continuous improvement of the methodological approach of the Probation Service is foreseen by the state.

### **1.5. Probation service for children in conflict with law in numbers**

As of 31 April 2022, according to the numbers provided by the Probation Service, 266 children in conflict with law were under supervision in the whole territory of Albania (the table below shows the geographical distribution of this data). 114 out of 266 children under supervision as of 31 April 2022 were prosecuted for offences related to theft, while 40 children for driving vehicles inappropriately and 18 for the production and sale of narcotics. Few cases of serious intentional injury, forcing through blackmail or violence to give out the property and illegal carrying, purchase or sale of cold weapons also occurred. In 226 cases the alternative sentence was suspension (Article 59 of the Criminal Code), in 28 cases it was community work (Article 63 of the Criminal Code), and in the rest of cases they were home confinement (Article 59/a of the Criminal Code) and open prison (Article 58 of the Criminal Code). Other diversion measures - alternative measures for non-initiation, suspension or dismissal of criminal proceedings against the child in conflict with the law – were applied in 7 cases.

With regard to staff, it is important to mention that the Probation Service does not have a separate structure to supervise children in conflict with law nor a proper rule on the appointment of the probation officer to deal with children. Recently, there has been a consensus within the Probation Service that the Director of the Territorial Branch appoints the same officer to deal with the children under supervision but they still need to deal with cases of adult probationers.<sup>42</sup>

As of May 2022, according to the information provided by the Probation Service, 86 probation officers were employed at the capital and the 22 territorial branches, which means the average caseload of an officer is more than 110 probationers (including both adults and children).<sup>43</sup>

<b>Territorial Branches of the Probation Service</b>	<b>Number of children under supervision (male)</b>	<b>Number of children under supervision (female)</b>	<b>Total number of children under supervision</b>	<b>Number of probation officers</b>
Territorial branch of Probation Service in Tirana	98	6	104	25
Territorial branch of Probation Service in Durrës	40	2	42	5
Territorial branch of Probation Service in Fier	15	2	17	7
Territorial branch of Probation Service in Shkodra	12	0	12	8
Territorial branch of Probation Service in Lezha	1	0	1	6
Territorial branch of Probation Service in Elbasan	9	0	9	4
Territorial branch of Probation Service in Korça	12	2	14	3
Territorial branch of Probation Service in Gjirokastra	2	0	2	2
Territorial branch of Probation Service in Mat	1	0	1	1
Territorial branch of Probation Service in Vlora	15	1	16	4
Territorial branch of Probation Service in Berat	23	2	25	4
Territorial branch of Probation Service in Kukës	4	0	4	2
Territorial branch of Probation Service in Pogradec	1	1	2	1
Territorial branch of Probation Service in Lushnja	5	0	5	4
Territorial branch of Probation Service in Kurbin	0	0	0	1
Territorial branch of Probation Service in Kruja	2	0	2	2
Territorial branch of Probation Service in Puka	1	0	1	1
Territorial branch of Probation Service in Saranda	4	0	4	2
Territorial branch of Probation Service in Kavaja	3	0	3	1
Territorial branch of Probation Service in Dibra	2	0	2	1
Territorial branch of Probation Service in Tropoja	0	0	0	1
Territorial branch of Probation Service in Përmeti	0	0	0	1
<b>Total</b>	<b>250</b>	<b>16</b>	<b>266</b>	<b>86</b>

## 2. METHODOLOGY OF THE RESEARCH

### 2.1. Safeguarding children in research

As a national delegation of Terre des Hommes, Terre des Hommes Albania is guided by the Child Safeguarding Policy of the organisation to ensure that in all its activities children enjoy the benefit of a protective environment and their rights are respected. This Policy aims to regulate the work of the organisation so that the children with which Tdh comes into contact (either directly or indirectly) are safeguarded and have their wellbeing promoted, and the actions of the organisations - while implementing programmes or institutional activities - do not cause any harm to children.<sup>44</sup> Research involving children is one of these activities, therefore the Child Safeguarding Policy of Tdh was applied to this participatory research project.

All professionals involved in this research project read, understood, and signed the Child Safeguarding Policy and Global Code of Conduct of Terre des Hommes and agreed to adhere to it in all their actions. The Child Safeguarding Focal Point of Tdh Albania served as Focal Point for the current research as well. Safeguarding of the children involved at the research was particularly ensured by providing appropriate information about the research methods and safeguarding measures and by seeking consent from the children and their legal representatives, in line with the national child protection regulations of Albania. In case of young adults participating in the research, the national data protection law and other relevant regulations were followed.

It is crucial to mention that children involved in the research were particularly vulnerable in several ways. First, most children who come into conflict with the law, lack the care and attention that they need from their family due to poor parental supervision and discipline, neglect, abuse or abandonment, violence within the family or family members involved in crime or addiction. Sometimes they belong to a national minority and experience prejudice, discrimination, social exclusion, and marginalisation from a young age. These difficulties are often associated with academic under-achievement, school dropout, addictions, poverty or growing up in deprived neighbourhood where there is a high incidence of crime. Second, coming into conflict with law is a traumatic experience for the child: arrest, interrogation, detention, communication with authorities, feeling of loss of power and safety are all stressful events. Therefore, talking about how one come into conflict with law can be triggering and cause re-traumatization.

Nevertheless, vulnerability of children should not determine their inclusion or exclusion from research, but it rather informs how their participation can take place.<sup>45</sup>



As putting into practice this approach, any dilemma arising during the research between the protectionist and participatory approach was carefully considered by the means of dialogue, collaboration, and critical reflection. Children participating in the research were offered access to psychological assistance through a contact person to the organisation shared with the participants at the end of the focus group discussion/interview.

## ***2.2. Implementation of the research***

The research was designed by using participatory approach; therefore, the primary source of information was planned to involve individual interviews and focus group discussion with children and young people who have experience regarding the supervision and services of the Probation Service. The secondary source was information gained through desktop research covering the international and national legal framework, relevant publications, reports, and other documents as well as information provided by the Probation Service upon request.

The Probation Service, and specifically the probation officers, were the contact points between the researchers and the children: they shared an open call for participation in the research and connected the interested children/young adults and their families directly to Tdh Albania. In line with the children's rights approach and safeguarding considerations, the participants got informed of and understood the framework and aims of the research and volunteered to take part in the process. In case of participants under the age of 18 years, the parents or legal guardians were informed and gave their consent in accordance with the national legislation, in a written form. From the moment of the selection of the participants and throughout the whole process, personal data was handled with care and confidentiality, in line with the national data protection regulations.

Although the interested children and young people were offered to choose between the options of participation in an individual interview or in a focus group discussion, eventually all of them preferred the setting of the focus group. Since the number of the applicants seemed to be manageable, all of them were accepted and no further criterium was applied. During the course of conducting this research, focus groups discussion in 8 different locations were implemented by the staff members of Tdh Albania, each of them lasting around 2,5 hours. All discussions followed the same methodology and session order prepared by the international consultant in cooperation with the national experts and Tdh Albania (see Annex 2). The parents of the children participating, and the representatives of the Probation Service were present at the beginning of the focus group, when the facilitators explained the aims and framework of the research. Afterwards, only two staff members stayed in the room - one colleague who facilitated the discussion, another one who took notes - and the participants were ensured that everything discussed at the focus group would be kept confidential.

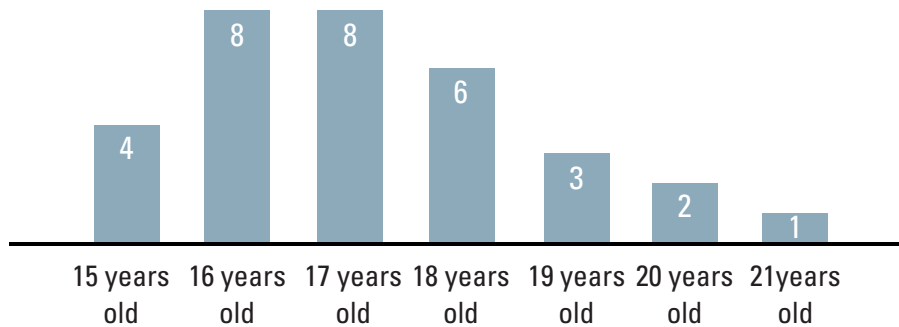
### 2.3. Profile of the participants

The profile of the participants to be involved in the research was determined by the aim of the research: children in conflict with law who benefit from the services of the Probation Office and therefore can share their perception on its effectiveness and impact on their rehabilitation. The Code of Criminal Justice for Children defines “*child in conflict with the law*” as any person who has reached the age of criminal responsibility up to 18 years of age, against whom there is a reasonable doubt to believe that the child has committed a criminal offence, has been summoned as a defendant and/or the child has been sentenced by a final court decision for the commission of a criminal offence (Article (3) 4.) The *minimum age of criminal responsibility* is 14 years of age in case of commission of a felony and 16 years of age in case of commission of misdemeanours, while some provisions of the Child Code apply to young adult defendants (between 18 and 21 years of age) if they committed a criminal offence when they were a child. According to the Law on Probation Services, the child beneficiary of the probation services is a “*supervised juvenile*”, a person under the age of 18 years old, who has reached the age of criminal responsibility and against whom the competent body of the child criminal justice system has ordered an alternative measure or a non-custodial sentence (Article (3) 4.)

Accordingly, the primary target group were children between the age of 14 and 18 who are currently supervised by the Probation Service. Taking into consideration that transition to adulthood is a process, young adults, between 18 and 21 years of age, whose supervision by the Probation Services started when they were still under 18, were invited to participate, too. Since one of the aims of the research is to analyse the perception of children on what impact the Probation Service had on their reintegration and rehabilitation, young adults up to the age of 25 who benefited from the probation services as a child, but their supervision had already been completed could also take part in the research.

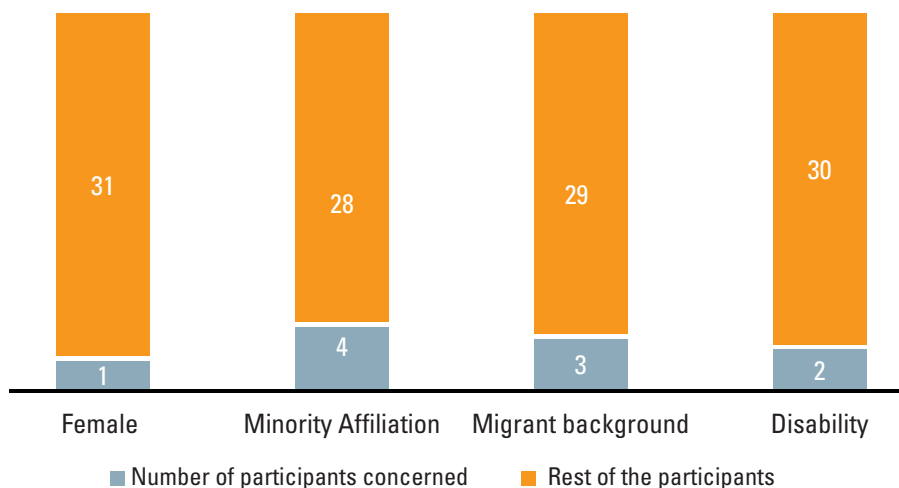
In total, 32 participants took part in the focus group discussions aged between 15-21, whereas most of them were 16-18 years old. The perspective of young adults was particularly interesting because they could share their experience regarding the treatment of both children and adults and reflect on similarities and differences. All participants reported to be living at home with their family, therefore none of them were placed in alternative care. Regarding their occupation, most of them still attend school (18), around one third of them drop out from school (10) and few of them are already working (4). The participants came from 8 different territorial branches of the Probation Service: 8 from Vlore, 5 from Durres and Fier, 4 from Berat and Shkoder, 3 from Tirane, 2 from Korce and 1 from Kukes. Good geographical coverage has been an important condition to identify systematic issues present across the different branch offices of the institution.

### Age of the participants (Total number: 32)



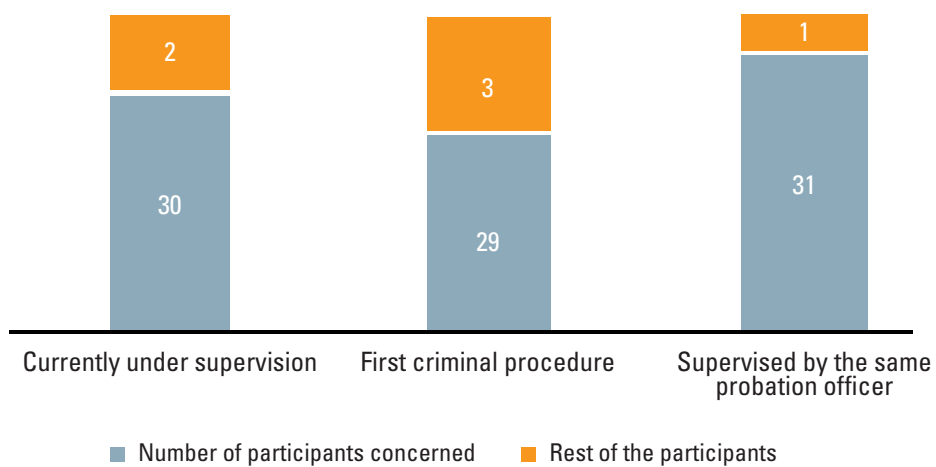
Previous research showed that children in conflict with law are mostly from vulnerable or disadvantaged background, therefore it was assumed that inviting child beneficiaries of the probation services will create a diverse group without setting any further requirement or condition for participation. However, since the research targeted a well-defined group, the sample could not reflect the diversity of the (child) population of Albania. Only 1 out of the 32 participants was female, which is 3% representation in the sample and comparable to the data provided by the Probation Service showing that 6% of the children under supervision are female (see Chapter 1.5.). Furthermore, 4 participants identified as belonging to a national minority, 3 of them as someone having a migrant background and 2 of them declared themselves as having special needs or disability. The low scale of diversity was taken into account during the analysis of data related to relevant research questions, such as the protection from discrimination.

### Diversity of the participants (Total number: 32)



At the time of the implementation of the focus group discussions, 30 out of the 32 participants were still under the supervision of the Probation Service: the period of supervision differs from 3 months up to 36 months. 2 participants were young person whose supervision had already been completed following a period of 18 and 32 months, respectively. 29 participants reported to be supervised for the first time, while 3 of them had already been subject to multiple criminal procedures. Almost all participants had the same probation officer throughout the whole period of supervision (31) and reported to have an overall good relationship with them (30).

### Procedural specificities (Total number: 32)



### **3. PERCEPTION OF CHILDREN IN CONFLICT WITH THE LAW ON THE PROBATION SERVICE EFFECTIVENESS AND IMPACT ON THEIR REHABILITATION**

#### **3.1. Right to participation**

The Child Justice Code declares the child's right to be informed and to participate in any decision-making affecting them at all stages of the criminal procedure in accordance with their age and maturity. Information "means any data which are appropriate to the age and maturity of the child, and which is given to the child to exercise their rights fully, unless the provision of such information is contrary to the best interest of the child." The right to participation includes "the right of the child to be heard and express own views which are given due weight in accordance with the age and maturity of the child. Where a child seeks to be heard, the request shall be accepted, except for important reasons which are reasoned in the respective decision." In case the child is unable to exercise this right, they may do so through their legal representatives, furthermore, if there is a contradiction between the claim of the child and their legal representative, the authorities concerned should consider what is in the best interest of the child.<sup>48</sup>

Being criminally liable requires a certain level of maturity and understanding of the consequences of one's actions. This might explain that the law considers children as an active agent and collaborator in the supervision process. The Probation Service is responsible to inform of the rights and obligations that the child is entitled during the supervision process and involve them in the drafting of the individual treatment plan.<sup>49</sup> The Probation Service furthermore should notify the child about of the consequences of nonfulfillment of the obligations and of the rules of review in such cases.<sup>50</sup> Participation is not obligation; therefore, non-participation should not aggravate the child's position and should not be used at their disadvantage.<sup>51</sup> The requirement of using child-friendly approach applies to the content and format of the information provided to the child as well as to all actions performed by competent authorities in the presence of the child during the criminal procedure, including the supervision of alternative measures.<sup>52</sup>

Being able to influence the decisions concerning the child entails that they furthermore have the right to access appropriate independent and effective complaints mechanisms. According to the Law on Probation Services, the child under supervision has the right to administrative and judicial complaints against the actions of the probation officer assigned for his supervision. The administrative complaint is submitted first to the Director of the Territorial Branch, where the probation officer exercises his/her function and then to the General Director of the Probation Service.

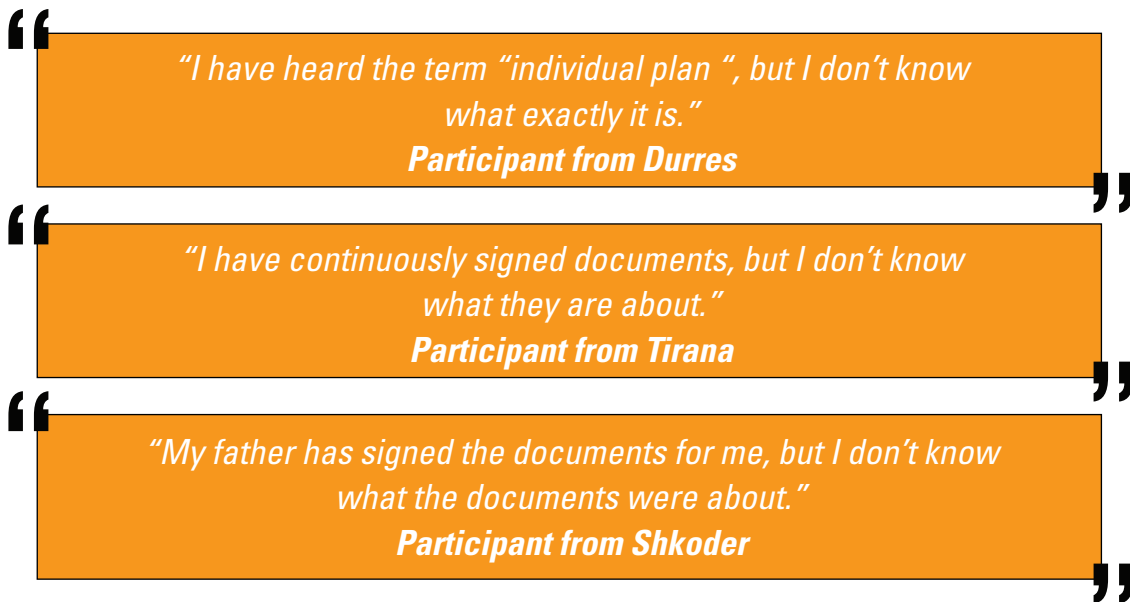
The child has the right to complain against the decision of the General Director of the Probation Service to the prosecutor or the competent court of the location of execution, in compliance with the provisions of the Code of Criminal Procedure and the law in force on the execution of criminal sentences.<sup>53</sup>

At the focus group discussion, the participants demonstrated to have a vague, unclear idea about the role and competency of the Probation Service and the probation officers. In some cases, the participants showed confusion regarding the difference between the Court and the Probation Service. They understood the obligation to attend meetings with the probation officer, but they did not know the whole array of services and assistance they could request or benefit from. Apparently, most of the information about the criminal procedure, the offence and the sentence are provided by the judge sitting in their case. It was a general observation from all focus group discussions that the participants could not recall the rights they are entitled to during the supervision process. Some reported to be informed verbally at the beginning of the process by the probation officer, but none of them mentioned the use of child-friendly materials such as leaflets or guides that can be reviewed anytime later in the process or which are publicly available (for example on the website of the institution). Common practice of using child-friendly language and follow-up questions intended to confirm that the child understood the information were not mentioned neither.

*“I don't remember to have been informed about my rights and obligations.”*  
**Participant from Fier**

*“At the beginning I remember that I had a conversation with the probation officer about the procedures I would follow. Since then I have not received any guideline about this.”*  
**Participant from Berat**

Furthermore, the participants appeared to have serious lack of knowledge with regard to the different stages of the supervision process, the actions and decisions of the Probation Service and the institutional procedures. The terms ‘assessment report’ and ‘individual treatment plan’ were familiar to the participants, but they were not able to define or explain them, moreover, they could not recall the process how these documents were developed and what was the exact content in their own personal cases. Several young adults reported to sign papers without being informed of the content, which seems to be the continuation of the practice when the legal representatives sign on behalf of the children without explanation about the document and consultation regarding the decision contained therein. It seems to be a pattern that children are not being informed about and involved in decision-making concerning them while they are deemed mature enough to be held criminally liable.



Child-friendly environment, in terms of physical environment, is an important condition to ensure meaningful participation of children. In the context of criminal justice, child-friendly spaces are even more significant because they ensure the separation of children in conflict with law from adult defendants as well as guarantee the protection of their privacy. It was a common observation shared by most of the participants that the premises of the Probation Service are not appropriate to conduct child-friendly interviews and sessions. Moreover, none of the participants mentioned specific facilities or rooms dedicated for child beneficiaries within the premises of the Probation Service or any other cooperating agency.

The participants were not aware of their right to lodge a complaint against the actions of the probation officer assigned to their supervision under the Law on Probation Services,<sup>54</sup> furthermore, they had no information about any complaint procedures available within the context of the probation services. In any case, some of the participants expressed scepticism whether such a complaint would be taken seriously by the authorities. Similarly, none of them mentioned participation in a review or evaluation of the services of the Probation Service or being asked for feedback in any form. Apparently, children do not challenge these dynamics, they do not speak up, they do not raise questions or ask for information, and they do not express their views. Children are not considered and treated as full bearers of rights, as active subjects in the planning, delivery and evaluation of the probation services.

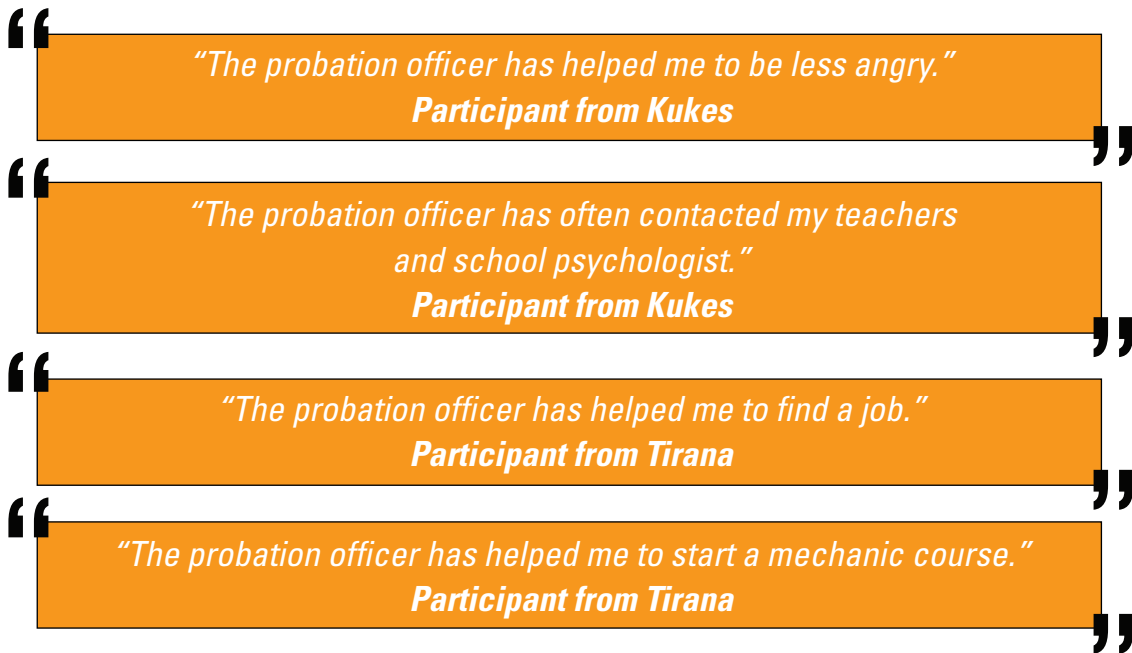
### **3.2. Best interest of the child and the right to harmonious development**

According to the Child Justice Code, best interest of the child means “the right of the child to a healthy physical, mental, moral, spiritual, social development and the right to enjoy family and social life suitable to the child”.<sup>55</sup> Furthermore, it stipulates that the best interest of the child should be primary consideration for all authorities taking decisions in the field of child justice which needs to be explained and reasoned in each decision.<sup>56</sup> In order to identify the best interest of the individual child, the needs of the child in terms of their physical and psychological development, education and health, their views, their personal history and the relationships with the parents need to be particularly considered.<sup>57</sup> The Law on Probation Services affirms by stating that “the Probation Service is guided by the principle of the best interest of the child and provides the juvenile with social, educational, psychological, medical and physical assistance in accordance with the individual needs and in accordance with his/her age, gender and personality, with a view to rehabilitating and reintegrating him/her into social life.”<sup>58</sup>

Despite the best interest of the child is one of the overarching principles of the UN Convention on the Rights of the Child as well as the Child Justice Code, the concept itself appeared to be unfamiliar to the participants of the focus groups. This made it difficult for them to think about the determination of their best interest by the Probation Service. Additionally, since they are not actively involved in the development of the individual treatment plan and the monitoring of its implementation, they could not be in a position to consider if the probation services make decisions thinking about what is best for them. Nevertheless, the participants reported to be satisfied with the supervision as a process and the implementation of alternative measures, mostly referring to good communication and interaction with the probation officer.

Approaching this principle from the perspective of the mission of the Probation Service, majority of the participants acknowledged that the assistance provided by the probation service and particularly by the probation officers has contributed positively to their re-integration process. They shared several examples in this regard: in one case, the probation officer helped the child to manage anger outbursts and improve social interaction skills, in another case, the officer was monitoring the academic performance and behaviour of the child in close contact with their teachers and school psychologists in order to ensure their progress. Moreover, the participants reported success in attending vocational courses and finding a new job thanks to the assistance of their probation officers.





### **3.3. Protection from discrimination**

The Child Justice Code guarantees that the rights of children in contact with law are protected from discrimination on several grounds: “gender, race, colour, ethnic origin, language, gender identity, sexual orientation, political beliefs, religious or philosophical, economic condition, educational or social, pregnancy, parental affiliation, parental responsibility, family or marital status, civil status, residence, health condition, genetic predisposition, disability, belonging to a particular group and any situation of the child, parents or legal representatives of the child.”<sup>59</sup> Children coming into contact with the criminal justice system as a suspect or accused person might already have some characteristics putting them at risk to discrimination or unfair treatment. That being the case, the pre-focus group survey included questions about minority affiliation, migration background and special needs and disabilities to have a clear picture of the diversity of the sample.

Set of questions were raised at the focus group discussions to inquire about the experience of children regarding fair and equal treatment. All participants reported that they have never felt being discriminated by the probation officer due to their gender, ethnicity, or geographical origin. Even though it is a positive finding, it has to be carefully considered because the diversity of the sample was quite limited (see Chapter 2.3.). For the same reason, no conclusion can be derived from the fact that no participants mentioned any special assistance or support that they received from the Probation Service due to their vulnerability. Age can be a potential ground of discrimination as well, but it has to be noted that some of the children believed that they received a bit better treatment from the probation officers than adults.

*“I have been treated with respect by the probation officer.  
I have never felt judged by him.”*  
**Participant from Korce**

### **3.4. Respect for dignity and protection of the privacy of the child**

The Probation Service, while exercising their activities prescribed by law, needs to respect the dignity and integrity of all persons under supervision, including children in conflict law.<sup>60</sup> Work with children, particularly vulnerable children, requires appropriate personality traits and specific set of skill: these can be verified during the selection process of the probation officers and then further improved through initial and continuous training. One aspect of dignity is privacy: as the Child Justice Code stipulates, the privacy of the child has to be respected throughout the whole criminal procedure, therefore no information disclosing the identity of the child, or any personal data can be made public.<sup>61</sup>

Significant majority of the participants of the focus groups reported to have an overall good relationship with their probation officer, they felt like being treated with respect and dignity. None of them shared any instance of being afraid or scared, some of them mentioned that the first session was slightly uncomfortable. The good personal relationship can be partly attributed to the fact that- except one case - the same probation officer accompanied the child or young person throughout the whole process. Professionals can build trusted relationship with children over time; therefore, this practice of the Probation Service is to be further endorsed.

*“I have a very good relationship with the probation officer.”*  
**Participant from Shkoder**

*“The probation officer is patient and communicates very well with me.”*  
**Participant from Vlore**

*“The probation officer is very positive.”*  
**Participant from Berat**

*“I have a very good collaboration with the probation officer.”*  
**Participant from Kukes**

Regarding the protection of privacy, all participants appeared to be confident that no personal information about them or their case had been disclosed to other people- for example in their surroundings, at their school or city - nor shared with the media. However, some of them confessed that during the first interview with the probation officer, there were other people present in the room who were not related to their case or whose identity were unknown to them. Although, they were not aware of any privacy infringement occurring from this, they mentioned it because they did not feel at ease to disclose personal information to the probation officer in the presence of strangers. Nevertheless, the lack of dedicated, private space might constitute a potential threat to privacy of the child under the supervision of the Probation Service, not to mention the impact on their mental health and well-being.

“  
“  
*“I am sure that no one else has read my file.”*  
**Participant from Berat**  
”

“  
“  
*“In the room where I was interviewed there was other people around.”*  
**Participant from Dures**  
”

### **3.5. Prompt examination with preference and without undue delay**

In all legal proceedings involving children, the principle of avoiding undue delay need to be applied in order to ensure that the best interest of the child prevails, while respecting the rule of law. The Child Justice Code applies this principle to the criminal procedure from the beginning of the proceedings until the execution of the court decision: all decisions and actions need to be taken promptly, with preference and without unjustified delay „by making sure that the criminal process, in each stage, does not aggravate the trauma experienced by the child and that the criminal justice system for children provides, where appropriate, proper assistance to the child“.<sup>62</sup>

Children and adolescents have a different perception of time; therefore, their perspective is crucial in this regard. The focus group participants did not express any concern or bad experience in relation to prompt examination and management of their case by the Probation Service. As it was highlighted before, without knowledge about their rights and the supervision process, for example that the first meeting should take place within 7 days, they are not able to consider whether the procedural deadlines were respected. Nevertheless, they did not feel any significant delay that could be detrimental to their mental health or well-being. Some of them mentioned that they felt like the frequency of the sessions with the probation officer was quite high, but they never provided this feedback directly to the Probation Service.

“

*“The probation officer has never delayed  
the procedures with me”  
Participant from Tirana*

”

### **3.6. Elements of due process**

It is of high importance that the elements of due process - such as the principles of legality and proportionality, the presumption of innocence, the right to a fair trial, the right to legal advice, the right to access to courts and the right to appeal - should be guaranteed for children in conflict with the law and under no circumstance they can be minimised or denied. The Child Justice Code declares this approach by stating that children in conflict with the law enjoys the rights foreseen in the Code of Criminal Procedure as well as the special rights foreseen in this Code, among others, the right to be informed immediately in a way that is appropriate to their individual development, the right to appeal against decisions and the right to have their parents or person of trust present, unless the participation of this person is not in the best interest of the child.<sup>63</sup>

Overall, the participants found it difficult to reflect on how much the elements of due process had been respected by the Probation Service due to the lack of knowledge about their rights and the institutional proceedings. As it was discovered during the focus group discussions, collection of information through individual interviews, the potential use of various psychological tests, involvement of family members in the process, opinion on their psychological profile and recommendations for the integration process are all happening to the child without their mindful contribution. When children turn 18 during their supervision, they suddenly become full-fledged adults who can make decisions and sign papers – which they were not prepared to do. This needs to be a fundamental aspect of protecting the rights of children in conflict with the law because transition to adulthood is not that uncommon: some of the participants of the focus groups were under supervision for 32-36 months.

“

*“I don’t know whether there is an integration plan for me.”*

***Participant from Fier***

”

## 4. CONCLUSIONS AND RECOMMENDATIONS

The current research aimed at understanding the perception of children in conflict with the law on the Probation Service effectiveness and impact on their rehabilitation in close cooperation with the Probation Service of Albania. International standards of child criminal justice, guaranteed by the Albanian Code of Criminal Justice for Children, served as the basis of the research methodology: the right to participation, the best interest of the child and the right to harmonious development, the protection from discrimination, the respect for dignity and protection of the privacy of the child, the prompt examination with preference and without undue delay and the elements of due process. The data was collected through focus group discussions with children and young people who were or had been under the supervision of the Probation Service as well as desktop review of relevant legal instruments and related publications. It is important to recall that the conclusions of the research are based on the perception of children who had experience with the Probation Service and the recommendations are formulated in a way making children heard and helping them to influence programs and services that have a significant impact on their life.

Although the right to participation of children in conflict with law is guaranteed by Albanian legal instruments, particularly by the Child Justice Code and the Law on Probation Services, there is a significant gap between the law and the practice. It seems to be a pattern those children are not being informed about and involved in decision-making concerning them while they are deemed mature enough to be held criminally liable. The participants of the focus groups demonstrated to have a vague idea about the role and competency of the Probation Service and the probation officers as well as a serious lack of knowledge of the institutional procedures. They could not recall the rights they are entitled to during the supervision process – neither their obligations. Moreover, they were not aware of their right to lodge a complaint against the actions of the probation officer assigned to their supervision, furthermore, no participants mentioned participation in a review or evaluation of the services of the Probation Service or being asked for feedback in any form. It was a common observation shared by most of the participants that the premises of the Probation Service are not appropriate to conduct child-friendly interviews and sessions and on some occasions the lack of dedicated, private space might constitute a potential threat to privacy of the child.

Despite the legal basis, children are not considered and treated as full bearers of rights and active subjects involved in the planning, delivery and evaluation of the probation services. Apparently, children do not challenge these dynamics, they do not speak up, they do not raise questions or ask for information, and they do not express their views. Even some participants of the focus groups expressed scepticism whether their views or opinions would be taken seriously by the authorities. Unfortunately, this significantly influenced how the participants reflected on the enjoyment and exercise of their other rights monitored by the current research. As an example, since the participants were not familiar with the concept of the best interest of the child and they already talked about not being actively involved in the development of the individual treatment plan and the monitoring of its implementation, they were

not able to assess whether the Probation Service make decisions thinking about what is best for them. Similarly, the participants found it difficult to reflect on how much the principle of urgency or elements of due process had been respected by the Probation Service due to the lack of knowledge about the institutional procedures.

It is noteworthy that the participants reported to be satisfied with the supervision as a process and the implementation of alternative measures, mostly referring to good communication and interaction with the probation officer, furthermore, majority of them acknowledged that the assistance provided by the probation officers has contributed positively to their re-integration process. Even though the diversity of the sample was limited, all participants reported that they have never felt being discriminated by the probation officer due to their gender, ethnicity, or geographical origin. Based on the testimonies of the children and young people who took part in the research, the probation officers appear to carry the personality traits and skills necessary to work with children in conflict with law. This can be attributed to their selection process and training but without further details concerning these procedures, no conclusion can be derived.

The most substantial concern identified by this participatory research involving children with relevant experience is the significant gap between the declaration of children's right to participation in law and its implementation in practice in the context of the probation services. Children are pleased with the interaction of the probation officers, but they are not fully aware of what is going on and they do not mindfully contribute to it. It seems that the probation officers put emphasize on establishing and nurturing a positive relationship with the child under supervision while they fail to achieve the meaningful participation of the child which is supposed to be a crucial component of the reintegration process.

To fill up the gaps, several recommendations can be put forward for decision-makers and the Probation Service:

- The probation officers need guidance on how to support children in the enjoyment and exercise of their right to participation: the development of an internal protocol by the Probation Service would be an appropriate mean of intervention, in cooperation with the beneficiaries, the children. Such protocol could cover all the stages of the supervision process and the different possible scenarios when the supervised child needs to be informed of their rights and obligations as well as details of their case, moreover, when the child needs to be involved in decision-making. In addition, it can include opportunities for children to provide feedback on the services received and ways to be involved in evaluation activities.
- Moreover, the probation officers need to receive continuous training on the right to participation and particularly on the implementation of the internal protocol, which would fit into the policy of the institution to constantly review the training needs of the staff and based on that to improve its capacity-building activities. In addition, the inclusion of the internal protocol in the regular review and evaluation of the institution could ensure proper follow-up.

- Access to information as an integral part of the right to participation can be ensured by the development and wide distribution of child-friendly information materials, which explain the rights and obligation of children under supervision, the institutional procedures and the available complaint mechanisms. The use of such materials would contribute to the successful implementation of the internal protocol on child participation described above.
- Parallel to the organisational development and the capacity-building of the staff, it would be crucial to provide the probation officers with the necessary financial support, equipment and infrastructure and particularly improve the physical environment and create dedicated child-friendly spaces within the premises of the Probation Service or set up cooperation with other authorities which can provide access to their own facilities. At the same time, the capacities of local institution need to be strengthened to ensure better coordination and communication with Probation Service.
- Although the Probation Service developed a practice to appoint the same colleagues for the supervision of children and keep them on the case, the establishment of a separate department assigned to deal exclusively with children and equipped with appropriate means could further increase the quality of the probation services provided for children. Considering the potential increase in the number of children under supervision due to the higher number of diversion cases – meaning that more and more children are diverted from the criminal procedure - the structure of institution probably needs to go through some reorganisation soon.



**Annex 1. Research questions: applying the principles of child friendly justice to the probation services**

Principles of child-friendly justice	Application to the probation services
<p><i>Best interest of the child and the right to harmonious development</i></p>	<p><i>How was the best interest of the child determined by the Probation Service at the different stages? How did it happen according to the perception of the child? Was the child involved?</i></p> <p><i>Did the determination of the best interest of the child influence the drafting and execution of the individual treatment plan?</i></p> <p><i>Had the determination of the best interest of the child positive impact on the reintegration and rehabilitation of the child?</i></p> <p><i>Was there any dilemma regarding the determination of the best interest of the child? If so, how it was resolved?</i></p>
<p><i>Participation (the right to information and the right to be heard)</i></p>	<p><i>Was the child informed about and understood the role and competency of the Probation Service as well as the procedure followed in a child-friendly language?</i></p> <p><i>Was the child informed about and understood their rights and obligations with regards to the probation services in a child-friendly language?</i></p> <p><i>Is child-friendly information publicly available about the probation services (online or in the premises)?</i></p> <p><i>Did the child ask for information from the probation officer anytime during the supervision? Were they satisfied with the answer?</i></p> <p><i>Depending on their age, was the child made aware of the moments when they can and are expected to make a decision to influence the services they receive? Did the child make that decision? Were they guided or supported by their parents or legal guardians?</i></p> <p><i>Were the children heard by the Probation Service/officer during the process when they shared their opinion or concern?</i></p> <p><i>Is evaluation available for children whose supervision is terminated by the Probation Service? If so, in what form (e.g. questionnaire, anonymous feedback)?</i></p>

<p><i>Respect for the dignity and protection of the privacy of the child</i></p>	<p><i>Was the child treated with respect by the Probation Service? Did the child feel like treated with respect by the probation services?</i></p> <p><i>Was any special need communicated by the child considered by the Probation Service?</i></p> <p><i>Did the child feel safe and comfortable at the premises?</i></p> <p><i>Was the privacy of the child protected throughout the process? (Including the handling of personal data by the probation services as an office as well as the confidentiality followed by the probation officers in their official position and outside of office hours.)</i></p>
<p><i>Protection from discrimination</i></p>	<p><i>Is a group of children identified who can be particularly vulnerable to discrimination?</i></p> <p><i>What measures are taken to prevent and tackle discrimination arising while children benefit from the probation services?</i></p> <p><i>Where can children turn to with their complaint regarding alleged discrimination?</i></p> <p><i>What measures are taken to provide special support and assistance for vulnerable children?</i></p>
<p><i>Prompt examination with preference and without undue delay</i></p>	<p><i>Was the case of the child handled promptly and without undue delay (in line with the deadlines set by the relevant legislation)?</i></p> <p><i>According to the perception of the child, was their case handled promptly and without delay?</i></p> <p><i>Was any request of the child heard and considered promptly by the probation services?</i></p> <p><i>How the timing of the probation services provided for the child affected their reintegration and rehabilitation?</i></p>
<p><i>Elements of due process</i></p>	<p><i>Were the due process rights of the child respected by the probation services/officer?</i></p> <p><i>Was the development and implementation of the treatment plan in accordance with the principles of due process?</i></p> <p><i>Were the children aware of appeal and complaint mechanisms in relation to the probation services? Did they use them?</i></p>

**Annex 2. Table of session outlines of the focus group discussions**

<b>TABLE OF SESSIONS</b>			
<b>NO.</b>	<b>TITLE OF THE SESSION</b>	<b>AIM OF THE SESSION</b>	<b>DURATION</b>
<b>SESSION 1</b>	Introduction to the research	<ul style="list-style-type: none"> <li>• To introduce the aim and framework of the research and inform the participants about their role and potential impact</li> <li>• To get to know each other (facilitator/participants)</li> <li>• To set the house keeping rules</li> </ul>	30 minutes
<b>SESSION 2</b>	Children’s perspective about the probation services 1.	<ul style="list-style-type: none"> <li>• To discuss the right to participation (the right to information and the right to be heard) in relation to the probation services</li> </ul>	45 minutes
<b>SESSION 3</b>	Children’s perspective about the probation services 2.	<ul style="list-style-type: none"> <li>• To discuss how the best interest of the child, respect for dignity, privacy and the right to protection from discrimination were observed by the probation services</li> </ul>	45 minutes
<b>SESSION 4</b>	Children’s perspective about the probation services 3.	<ul style="list-style-type: none"> <li>• To discuss the principles related to due process and the prompt examination of the case</li> <li>• To draw the profile of the “ideal probation officer”</li> </ul>	45 minutes
<b>SESSION 5</b>	Closing session	<ul style="list-style-type: none"> <li>• To evaluate the focus group discussion as a process with the participants</li> <li>• To close the discussion and say goodbye to the group</li> </ul>	15 minutes

## REFERENCES

- <sup>1</sup> *United Nation Convention on the Rights of the Child, Article 40 (1).*
- <sup>2</sup> *Ibid. Article 40 (4).*
- <sup>3</sup> *UN Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, CRC/C/GC/24, 18 September 2019, para. 19, available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f24&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f24&Lang=en)*
- <sup>4</sup> *Ibid. para. 108.*
- <sup>5</sup> *United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), Adopted by General Assembly resolution 40/33 of 29 November 1985, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile>*
- <sup>6</sup> *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice. II. Definitions.*
- <sup>7</sup> *Ibid. Para. 82.*
- <sup>8</sup> *Committee of Ministers, Recommendation CM/Rec(2010)1 on Council of Europe Probation rules, Adopted by the Committee of Ministers on 20 January 2010 at the 1075th meeting of the Ministers' Deputies)Definitions, available at <https://www.cep-probation.org/wp-content/uploads/2018/10/CoE-probation-rules-recommendation.pdf>*
- <sup>9</sup> *Guidelines regarding recruitment, selection, education, training and professional development of prison and probation staff, adapted by European Committee on Crime Problems(CDPC) 2019, para. 4(c). available at: <https://rm.coe.int/guidelines-training-staff/1680943aad>*
- <sup>10</sup> *Ibid. Appendix ii: Education and training matrix probation agencies.*
- <sup>11</sup> *Constitution of Albania, Article 54 (1)-(3).*
- <sup>12</sup> *Law No. 18/2017 on the Protection of the Rights of Children in the Republic of Albania, Article 2.*
- <sup>13</sup> *Albanian Code of Criminal Justice for Children (Child Justice Code), Article 2.*
- <sup>14</sup> *Ibid. Article 4 (1)-(2).*
- <sup>15</sup> *Ibid. Article 5.*
- <sup>16</sup> *Ibid. Article 19.*
- <sup>17</sup> *Law on Probation Services, Article 5.*
- <sup>18</sup> *Ibid. Article 25 (1).*
- <sup>19</sup> *Ibid. Article 3, point 15*
- <sup>20</sup> *Ibid. Article 25 (2).*
- <sup>21</sup> *The current training programme was published by the Order of Minister of Justice no. 80, date 22.02.2022 "On basic and ongoing training programmes". Appendix, 1, 2*
- <sup>22</sup> *Article 15-17.*
- <sup>23</sup> *Child Justice Code, Article 25- 26.*
- <sup>24</sup> *Ibid.*
- <sup>25</sup> *Ibid, Article 17.*
- <sup>26</sup> *"Strengthening the capacities of Albanian law enforcement agencies to meet human rights standards in juvenile justice - an approach inclusive of the justice chain". See Monitoring Report of the Juvenil Justice Strategy, Ministry of Justice, January- June 2019, pp. 15.*
- <sup>27</sup> *Almir Xhangolli: Probation in Europe, Albania, CEP, Confederation of European Probation, 2021, pp. 21 available at <https://www.cep-probation.org/wp-content/uploads/2021/11/Chapter-Albania-final-1.pdf>*
- <sup>28</sup> *Information Report of General Directorate of Probation Service, June 2022, pp. 6. available at <https://www.sherbimiproves.gov.al/wp-content/uploads/2022/08/RAPORT-QERSHOR-2022.pdf>*
- <sup>29</sup> *DCM no. 823 dated 24.12.2021 On approval of Inter-Sectorial Strategy of Justice 2021-2025, Specific Objective 3.4, pp. 69.*
- <sup>30</sup> *[https://drejtesia.gov.al/wp-content/uploads/2022/03/Plani-i-Integritetit\\_Sherbimi-i-Proves.pdf](https://drejtesia.gov.al/wp-content/uploads/2022/03/Plani-i-Integritetit_Sherbimi-i-Proves.pdf), pp.10-11.*
- <sup>31</sup> *Child Justice Code, Article 62.*
- <sup>32</sup> *Child Justice Code, Article 63 (4).*
- <sup>33</sup> *DCM nr 207 dated 10.4.2019 "On determination of the competent authorities and procedure to be followed for fulfilment of certain obligations given by court for juvenile offender".*
- <sup>34</sup> *Law on Probation, Article 25.*
- <sup>35</sup> *DCM nr 207 dated 10.4.2019 "On determination of the competent authorities and procedure to be followed for fulfilment of certain obligations given by court for juvenile offender".*
- <sup>36</sup> *Information report of General Directorate of Probation service, June 2022, pp.6 available at <https://www.sherbimiproves.gov.al/wp-content/uploads/2022/08/RAPORT-QERSHOR-2022.pdf>*
- <sup>37</sup> *Ibid.*

- <sup>38</sup> *Child Justice Code, Article 107.*
- <sup>39</sup> *Law on Probation Service, Article 23 (1)-(3).*
- <sup>40</sup> <https://www.sherbimiproves.gov.al/programi-shqiptar-suedez-i-drejtewise-penale-per-te-mitur-2/>
- <sup>41</sup> DCM no. 823 dated 24.12.2021 On approval of Inter-Sectorial Strategy of Justice 2021-2025, Specific Objective No. 3.4, pp. 69.
- <sup>42</sup> Almir Xhangolli: *Probation in Europe, Albania, CEP, Confederation of European Probation, 2021, pp. 24 available at <https://www.cep-probation.org/wp-content/uploads/2021/11/Chapter-Albania-final-1.pdf>*
- <sup>43</sup> *Information Report of General Directorate of Probation Service April-May 2022, pp. 4 available at <https://www.sherbimiproves.gov.al/wp-content/uploads/2022/06/Raport-Prill-Maj-2022.pdf>*
- <sup>44</sup> *The Safeguarding Policy of TdH is available at <https://www.terredeshommes.org/wp-content/uploads/2017/08/TDH-Child-Safeguarding-Policy.pdf>*
- <sup>45</sup> *Graham, A., Powell, M., Taylor, N., Anderson, D. & Fitzgerald, R. (2013). Ethical Research Involving Children. Florence: UNICEF Office of Research - Innocenti. Pp.24.*
- <sup>46</sup> *Child Justice Code, Article 3.*
- <sup>47</sup> *Ibid. Article 16 (1).*
- <sup>48</sup> *Ibid. Article 16 (7).*
- <sup>49</sup> *Law on Probation Services, Article 25 (3.c-d).*
- <sup>50</sup> *Ibid. Article 25 (5).*
- <sup>51</sup> *Child Justice Code, Article 16 (3).*
- <sup>52</sup> *Child Justice Code Article 16 (5) and Article 19 (3.b).*
- <sup>53</sup> *Law on Probation Services, Article 33.*
- <sup>54</sup> *Law on Probation Services, Article 33 (1).*
- <sup>55</sup> *Child Justice Code, Article 3.*
- <sup>56</sup> *Ibid. Article 10 (1), (3), 12 (1) – (2).*
- <sup>57</sup> *Ibid. Article 10 (2).*
- <sup>58</sup> *Law on Probation Services, Article 25 (2).*
- <sup>59</sup> *Child Justice Code, Article 11 (1).*
- <sup>60</sup> *Law on Probation Services, Article 4 (2).*
- <sup>61</sup> *Child Justice Code, Article 21 (1)-(4).*
- <sup>62</sup> *Child Justice Code, Article 17.*
- <sup>63</sup> *Child Justice Code, Article 19 (1)-(3).*



Terre des hommes

Helping children worldwide.