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FEASIBILITY STUDY FOR BARNAHUS IN MONTENEGRO

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Council of Europe
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KEY DEFINITIONS

Child	Any person under 18 years of age
Child sexual abuse	Intentional conduct consisting of a. engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities; or b. engaging in sexual activities with a child where: – use is made of coercion, force or threats; or – abuse is made of a recognised position of trust, authority or influence over the child, including within the family; or – abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.
Communication disorder	A neurodevelopmental disorder characterized by impairments in sending, receiving, processing, or comprehending verbal, nonverbal, or graphic language, speech, and/or communication
Disclosure	Act of the victim sharing an account of victimization. Disclosure may be direct or indirect, full or partial, verbal or nonverbal, prompted or unprompted, intentional or accidental.
Interviewer	A duly accredited specialist who conducts the investigative interview of the child using audiovisual equipment, according to the existing procedural requirements, be it at the pretrial stage or, where applicable, when testifying at trial, and assists vulnerable victims, witnesses, suspects and defendants, including child victims and witnesses of crime, to understand questions and communicate their answers more effectively.
Investigative interview of a child	A developmentally sensitive and legally sound method of gathering factual information from a child regarding allegations of a crime
Neurodevelopmental disorder	Behavioral or cognitive disorders that arises during the developmental period that involves significant difficulties in the acquisition and execution of specific intellectual, motor, language, or social functions
Serious crime	For the purposes of this Feasibility Study, an intentional crime involving violence, including, but not limited to, all sexual offenses regardless of the applicable penalty.

Sex crime against a child	See <i>Sexual offense against a child</i>
Sexual offense against a child	Conduct that constitutes child sexual abuse and is criminalized by the Criminal Code of Montenegro

ACRONYMS AND ABBREVIATIONS

ABE	Achieving Best Evidence
CC	Criminal Code
CPC	Criminal Procedure Code
CSA	Child sexual abuse
CSEA	Child sexual exploitation and abuse
LDVP	Law on Domestic Violence Protection
NICHD	National Institute of Child Health and Development
PSEA	Protection against sexual exploitation and abuse
SOP	Standard operating procedure

1. INTRODUCTION

Children’s rights are at the core of both UNICEF and Council of Europe’s activities. UNICEF is mandated to protect the rights of every child, everywhere, especially the most disadvantaged. As the only organization specifically named in the Convention on the Rights of the Child (CRC) as the source of expertise and present in nearly every country in the world, UNICEF is uniquely positioned to make difference in the lives of children and reach children others cannot. At a country level, UNICEF supports governments to implement the CRC through policies and legislation, institutional and capacity development and helping to ensure the voices of children are considered. In Montenegro, work on prevention and ending violence against children, child exploitation and abuse remain one of the key priorities of UNICEF and Government of Montenegro forthcoming joint Programme of Cooperation (2023-2027). Furthermore, strengthening systemic response to most severe cases of violence against children is one of the key priorities of the Council for the Rights of the Child acting as an inter-ministerial coordinating mechanism dealing with child rights.

In an ongoing endeavor to promote and protect the rights of children in its 46 member states, the Council of Europe promotes a holistic and integrated approach to children’s rights and mainstreams children’s rights across all relevant policy areas. The Council of Europe work

on children's rights is guided by the Council of Europe Strategy for the rights of the child (2022-2027) aimed at advancing the protection and promotion of the rights of the child across Europe, in the framework of the programme "Building a Europe for and with Children" operating since 2006. As part of the Organisation's long-standing commitment to putting the child at the centre of its work, the Strategy was developed through a large consultative process involving national governments, international organisations, civil society organisations and, last but not least, 220 children from 10 member states. The support to member states in establishing and operating their Barnahus hubs is an illustrative example of the holistic approach adopted by the Council of Europe. Barnahus (Children's House) is a unique interagency multidisciplinary model of response to child abuse, which brings together all relevant services under one roof to avoid re-victimisation of the child and provide every child with a coordinated and effective response that has a legal standing. The model is a framework for service delivery to children who have been or are suspected to have been sexually abused. The model focuses on co-ordinated service delivery to children and their families, aimed at minimizing the child's trauma during the assessment of suspected abuse and follow up actions. The model requires child protection, police and medical services to minimize the number of interviews and interventions that the child must undergo during an assessment period.

The Barnahus model was recognised in 2015 as a promising practice by the Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), has been replicated in Sweden and Norway, and is currently being adapted in more than a dozen other European countries.

2. INTRODUCTION OF THE BARNAHUS MODEL IN MONTENEGRO: CONTEXT AND RATIONALE

2.1. Rationale and beneficiaries

This Feasibility Study has been commissioned by UNICEF and the Council of Europe to support the Government of Montenegro in its endeavour to strengthen child protection and provide a concrete integrated response mechanism for combating violence against children.

Montenegro has made important strides in the past decade to align its legal and strategic framework with international standards. In 2017 it became one of the pathfinding countries in the Global Partnership to End Violence against Children. Montenegro's commitment is reflected in the country's ratification of the Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) in 2010 and of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in 2013. Protection of children from violence is guaranteed by Montenegro's Constitution and is an integral part of country's strategies and action plans for EU accession (Action Plan for Chapter 23), as well as for achieving the 2030 Agenda for Sustainable Development (Goal 16.3).

As an EU accession country, Montenegro will follow the priorities of the new EU Strategy on the Rights of the Child 2021-2024 and the EU Strategy for a more effective fight against child

sexual abuse 2020-2025 - a policy initiatives put forward by the European Commission to better protect children, help them fulfil their rights and place them right at the centre of EU policy making. One of the thematic areas of the EU Strategy focuses on the promotion of integrated child protection systems that are key to ensuring prevention and protection from violence and exploitation. The EU also gives special attention to multi-sectoral, child and family-focused support measures, including family support services that help prevent violence while also supporting response mechanisms such as the establishment of Children's Houses (Barnahus) that ensure integrated, support to child victims of severe violence and exploitation.

The Government of Montenegro has committed to implement the Barnahus model. The establishment of the first Children's House / Barnahus model was envisaged by the Strategy on Prevention and Protection of Children from Violence (2017-2021) under its Specific Objective 2: Improvement of the institutional framework for professional, quality and efficient childcare and protection to improve the state response towards violence against children. The new Strategy to be developed by the Government with UNICEF technical assistance for the period 2023-2027 is expected to include establishing the Children's House/Barnahus model as one of the measures enhancing child protection.

Montenegro has achieved a number of important milestones, undertaking a number of legislative and policy interventions and adjusting the justice system for children victims and witnesses of crimes including the appointment of the Directorate for Social and Child Protection of the Ministry of Labour and Social Welfare as the governing body for ending violence against children, establishing the Council for the Rights of the Child as the lead coordinating body, and adopting the first National Strategy for the Prevention and Protection of Children from Violence with the Action Plan 2017-2021 (expired).

2.2. Purpose, objectives and expected outcomes

The Feasibility Study aims at supporting the Montenegrin authorities in their implementation of the Barnahus model. In doing so, the Study analyzes the domestic legal, regulatory and policy framework, takes stock of the existing good practices and identifies gaps and barriers to successful introduction of the Barnahus model in an effort to inform the process of Children's House introduction in Montenegro.

The Feasibility Study pursues the following objectives:

- Review the viability of the initiative to introduce the Barnahus model in the current country context, in particular through:
 - Identifying the factors that are expected to facilitate the implementation
 - Identifying gaps and barriers to implementation
 - Assessing the existing institutional capacities in terms of a) the applicable legislative, regulatory and policy framework, b) organizational resources and setup, c) human capacities
- Propose context-aware, relevant and appropriate recommendations to facilitate the introduction of the Barnahus model.

The expected outcomes of the Feasibility Study are as follows:

- An analysis of the relevant domestic legislative and regulatory framework completed
- A stakeholder analysis and mapping completed
- Institutional capacities of key stakeholders assessed
- Gaps, challenges and barriers to implementation identified
- A set of context-aware, relevant and appropriate recommendations to facilitate the introduction of the Barnahus model proposed for the consideration of the relevant authorities.

3. SITUATION ANALYSIS

3.1. Legislative and regulatory framework

3.1.1. *Procedural treatment of child victims and witnesses of crime*

3.1.1.1. **Child victims and witnesses of crime: Status and rights**

The Constitution of Montenegro guarantees children a right to special protection and the enjoyment of the full panoply of rights and freedoms appropriate to the child's age and maturity. The Constitution also recognizes the need for special protection of children from psychological, physical, economic and any other exploitation or abuse.

In addition, Article 9 of the Constitution provides that ratified international treaties and generally accepted rules of international law form an integral part of the internal legal order and that they have primacy over national legislation and are directly applied when they regulate relations differently from national legislation.

In this context, it is important to note the key international instruments ratified or acceded to by Montenegro, which are therefore of legally binding character. These include the Convention on the Rights of the Child,¹ as well as the Lanzarote Convention.² The latter, in particular, includes a range of detailed provisions on investigations, child investigative interviewing and criminal proceedings in CSEA cases.

In the legal system of Montenegro, the criminal treatment of minors is specially recognized and legally treated within the framework of the criminal justice system through the adoption of the Law on Treatment of Minors in Criminal Proceedings³, which is a specialized act that addresses both substantive and procedural aspects and provides for special protection measures for children as participants in criminal proceedings, including children who have been victimized by a crime as well as child witnesses.

The Code of Criminal Procedure⁴ prescribes special rules for the hearing of a child as a witness, who has the right to testify in a separate room before the judge and using a recorder,

¹ Ratified by Montenegro on 23 October 2006.

² Ratified by Montenegro on 25 November 2010.

³ Official Gazette of Montenegro 64/2011 and 1/2018.

⁴ Official Gazette of Montenegro 57/2009, 49/2010, 47/2014, 2/2015, 35/2015, 58/2015, 28/2018, 116/2020 and 145/2021.

while the prosecutor, the defendant and the defense attorney watch the broadcast from another room, with the possibility to ask questions of the witness, about which the court is obliged to inform. The Law on the Treatment of Minors in Criminal Proceedings gives the prosecutor the ground to request that the interview be conducted by an expert from the Professional Support Service, using audiovisual equipment. Furthermore, during the hearing of a minor, especially if they have been harmed by a criminal act, care must be taken so that the hearing does not adversely affect the mental state of the minor. If necessary, the hearing of a minor will be conducted with the help of a psychologist or other professional.⁵ Special rules are also envisaged by the Law on the Treatment of Minors in Criminal Proceedings with the usage of the Professional Support Service.

The Law on Treatment of Minors in Criminal Proceedings in the separate chapter IV foresees special measures for the protection and examination of children who are victims and as witnesses of crime (Articles 90-97). The Law prescribes the obligation to respect the child's right to the privacy, including the requirement to preserve the confidentiality of personally identifying information. No information that could reveal the identity of a child victim or witness of crime may be published without an express permission by the judge or the state prosecutor handling the case.

Furthermore, the Law on Treatment of Minors in Criminal Proceedings requires the involvement in criminal proceedings where a child victim or witness participates of specially trained professionals with relevant knowledge of child rights. It also requires adherence to child-friendly rules of procedure, taking into account the age, personal characteristics, education and personal circumstances of the child.

Article 93 of the Law on Treatment of Minors in Criminal Proceedings addresses child interviewing. The Law provides that a child may be interviewed only once, but Article 93(1) specifies that "in exceptional circumstances" the child may be interviewed again "if there are justified reasons for doing so." The Law is, however, silent on what specifically constitutes these "justified reasons" or "exceptional circumstances." This provision tends to be interpreted as allowing to interview a child once in the State Prosecutor's Office and once before the Court, and that it is not allowed to interview the child twice in the State Prosecutor's Office or twice before the Court.

Article 93 stipulates that the interview of a child, as a rule, performed by the state prosecutor and a judge of the same gender as the minor, in a special room equipped with technical devices for audio-visual recording.

The hearing is conducted in the presence of the minor's legal representative and, as a rule, with the help of professionals, if this is not against the interests of the procedure or the minor. However, in the of Law on Treatment of Minors in Criminal Proceedings there are no

⁵ These rules are prescribed in Article 113(4) and (5) of the Criminal Procedure Code.

specific provisions governing the situations of conflict of interest with the parent or legal guardian and appointment of guardian ad litem.

In accordance with Article 356 of the Family Law, in the event that there is a conflict of interest between the child and their legal representative, the child shall be represented by a guardian *ad litem*. A child who has reached the age of 10 and who is capable of reasoning can personally or through another person/institution petition the guardianship authority to appoint a guardian *ad litem* invoking a conflict of interest between the child and their legal representative. The guardian *ad litem* is appointed from a roster of suitably trained lawyers. However, these provisions of the family law apply only to court proceedings concerning the relationship between parents and children. Similar provisions must be incorporated in the Law on Treatment of Minors in Criminal Proceedings. It should be noted that, to an extent, this requirement can be met through applying Article 95, which allows the child victim's lawyer to act in *de facto* guardian *ad litem* capacity. However, there is no provision for involving a guardian *ad litem* in addition to the lawyer.

Hearing of a minor who has not reached the age of 14, as a victim or a witness in the proceedings, must be conducted with the help of an expert.

The parties and the defendant's counsel ask questions to the minor through the judge or the state prosecutor. If the hearing of a minor is carried out with the help of an audio-visual recording device, the recording will be sealed and attached to the record. Exceptionally, a child may be heard outside a courthouse if there are justified reasons for doing so. Child victims and witnesses may in exceptional circumstances be even heard from their own residence, including a residential institution, regardless of whether it is technically equipped.

In order to ensure the protection of the child and avoid secondary victimization, the law provides for safeguards against confrontation between a victim/witness under 14 and the defendant. These safeguards also extend to cases where the child of age 14 or above has been especially seriously impacted by the crime psychologically.

The new Act on the Treatment of Juveniles in Criminal Proceedings introduced the new institute of the Professional Support Service. Staffed by professionals of various specializations (social workers, psychologists, special teachers, etc), the Professional Support Service is competent to issue professional opinions and provide other assistance in proceedings against children alleged as, charged and/or recognized as having infringed the penal law. In performing its tasks the Professional Support Service cooperates with the relevant social and child protection institutions, as well as with educational institutions that must report and submit their opinion at the request of the Service. Of particular relevance to the introduction of the Barnahus model, the Professional Support Service provides support in the process of interviewing child victims and witnesses of crime, as discussed below.

Finally, the modalities of the provision of free legal aid constitute an important factor insofar as the treatment of child victims and witnesses is concerned. In accordance with the Law on Free Legal Aid, those eligible for free legal aid include victims of domestic violence and

trafficking in human beings, persons (including children) with disabilities as well as children left without parental care. Article 95 of the Law on the Treatment of Minors in Criminal Proceedings provides for the possibility of appointing an attorney for the child victim or witness.

3.1.1.2. Giving evidence at the pretrial stage

In accordance with the Criminal Procedure Code, investigation is prosecutor-led. The Code vests the state prosecutor with discretionary powers to decide whether a child should be heard as a victim in a specific case.

Child victims and witnesses are usually interviewed in the state prosecutor's office. The state prosecutor decides whether to hear the child with or without the help of the Professionalized Service and with the help of audio-visual technology or directly. The Law on Treatment of Juveniles in Criminal Procedures prescribes the mandatory involvement of a professional when the child victim is under 14 years of age.

The Law on Treatment of Minors in Criminal Proceedings foresees mandatory training for prosecutors who work on children's cases. Judges are also specialized in this sense.

The Supreme Court of Montenegro and the Supreme State Prosecutor's Office, in cooperation with the UNICEF Office in Podgorica, developed the Guidelines for the Work of the Professional Support Services with Children in Conflict with the Law, Victims and Witnesses in Criminal Proceedings. These Guidelines define the way of work and activities of Professionalized Service in accordance with the Law on Treatment of Juveniles in Criminal Proceedings and international human rights standards in cases where children are involved in court proceedings either as children in conflict with the law or victims/witnesses. The document covers all aspects of cooperation between the Professional Support Service and competent institutions in the area of social welfare and child protection, with educational institutions, health and other institutions.

According to the Guidelines, the Professional Support Service of the prosecution or the court depending on the stage during the procedure helps in interviewing the child victim and/or witness by: preparing the child for the interview; giving an opinion on his/her willingness and ability to talk; deciding on the manner of conducting the interview; collecting data on the child's personal and family circumstances in order to form an expert opinion on further actions related to the circumstances that contributed to the commission of the criminal offense or influenced the commission of the criminal offense that caused harm to the child; informing the guardianship authorities about further activities to be undertaken in order to protect the child; conducting the interview using audio-visual equipment; providing information and guidance to parents/guardians of child victims and/or witnesses in connection with criminal proceedings against adult offenders.

The Guidelines provide that interview with the child is carried out by a professional from the Professional Support Service of the prosecution in accordance with the requirements and

instructions of the state prosecutor for minors and adapting it to the abilities and needs of the child.

In the case of an indictment, the audio-visual recording of the conversation with the child is available to the judge and is shown at the trial, thus protecting the child from secondary victimization and from confrontation with the defendant. Exceptionally, the judge may decide, having previously requested an opinion of the Professional Support Service, to hear the child in court once again if there are justified reasons for doing so. In such cases, the interview with the child is conducted in court with the help of an expert from the court's Professionalized Service.

3.1.1.3. CSEA-related crimes and other serious crimes against children: Treatment under the national law and child safeguarding considerations

Criminal acts related to child sexual exploitation and abuse are criminalized by Chapter XVIII of the Criminal Code of Montenegro⁶ and include the following: rape (Art. 204), sexual assault on a helpless person (Art. 205), sexual intercourse with a child (Art. 206), sexual intercourse through abuse of position (Art. 207), illicit sexual acts (Art. 208), pimping and facilitating sexual intercourse (Art. 209), mediation in prostitution (Art. 210), child pornography (Art. 211), inducing a minor to witness the commission of a sex crime (Art. 211a) and child enticement (grooming) (Art. 211b).

The victim's age is treated as an aggravating circumstance in relation to some of these crimes. For example, if the criminal offense of rape referred to in Article 204 of the Criminal Code of Montenegro is committed against a person below the age of 18, the perpetrator will be punished with imprisonment of five to fifteen years, or if the crime is committed against a child below the age of 14, the perpetrator will be punished with imprisonment for at least ten years or long-term imprisonment.

If the criminal offense of rape against a helpless person referred to in Article 205 of the Criminal Code of Montenegro is committed against a person below the age of 18, the perpetrator will be punished with imprisonment of five to fifteen years, while if the crime is committed against a child below the age of 14, the perpetrator will be punished with imprisonment for at least ten years or long-term imprisonment.

For the basic form of the criminal offense of sexual intercourse with a child under the age of 14 prescribed in Art. 206 para 1 of the Criminal Code of Montenegro, a prison sentence of five to fifteen years is prescribed. If, as a result of the act, serious physical injury occurred to the child against whom the act was committed, or the act was committed by several persons, or the act resulted in pregnancy, the perpetrator shall be punished by imprisonment for at

⁶ Official Gazette of the Republic of Montenegro 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro 40/2008, 25/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017, 49/2018, 3/2020, 26/2021, 144/2021 and 145/2021.

least ten years, and if the death of the child occurred as a result of the act, the perpetrator shall be punished by imprisonment for at least ten years or by long-term imprisonment.

Article 207 of the Criminal Code of Montenegro prescribes the criminal offense of intercourse through the abuse of authority. If a teacher, educator, guardian, adoptive parent, parent, stepfather, stepmother or other person who, by abusing his position or authority, commits intercourse or an act equivalent to it with a person aged 14 to 18 entrusted to him for the purpose of learning, education, care, a prison sentence is prescribed from three to twelve years. If committed against the child under the age of 14 the minimum penalty is 10 years and if death of the child occurs the penalty is at least ten years or long-term imprisonment.

The criminal offense of pimping and facilitating sexual intercourse from Art. 209 of the Criminal Code of Montenegro is committed by a person who pimps a child under the age of 18 for the purpose of committing sexual intercourse, an act equivalent to it or another sexual intercourse (para. 1), that is, a person who facilitates the performance of sexual intercourse, an act equivalent to it or other sexual acts with a child under the age of 18 (para 2). The perpetrator will be punished by imprisonment from two to ten years or by imprisonment from three to fifteen years respectively.

Pursuant to Article 210 of the Criminal Code of Montenegro, for the criminal offense of intermediation in prostitution, if the offense is committed against a child under the age of 18, imprisonment is from two to fifteen years.

The crime of child pornography from Article 211 of the Criminal Code of Montenegro is punishable with imprisonment of up to 15 years.

Special criminal acts: inducing a minor to attend the commission of a sex crime from Art. 211a of the Criminal Code of Montenegro (moral corruption of a child) and child enticement from Art. 211b of the Criminal Code were introduced into the criminal legislation in 2011 and 2013 in order to fulfill the obligations from the Convention of the Council of Europe on the Protection of Children from Sexual Exploitation and Sexual Abuse.

The criminal offense of inducing a child under the age of 14 to participate in the commission of a sex crime carries imprisonment from one year to five years. If committed by the use of force or threat, a prison sentence of three to ten years is prescribed. When the crime is committed against a child aged 14 -18 by the use of force or threat, a prison sentence of two to eight years is prescribed.

In the Criminal Code of Montenegro, for the criminal offense of child enticement a prison sentence of at least ten years is prescribed.

The Criminal Code also criminalizes trafficking in human beings, and specifically child trafficking as an aggravated offense.

Concerning the possibility for protecting the child victim at the pretrial stage, the court may detain the defendant on remand.

3.1.1.4. Forensic examinations. Expert witnesses

Under the Criminal Procedure Code, expert examinations are ordered where specialist knowledge is required in order to establish or assess a material fact. The expert examination is ordered by the authority conducting the procedure by way of a written order that must contain, among other things, the task and scope of the expert opinion and the designation of the person who will perform the expert opinion and who is entered in the Register of Court Experts or the Register of Legal Entities for conducting expert opinions. Expert examinations of a more complex nature are as a rule, if possible, entrusted to an expert institution or a state body, which in turn nominate one or more experts of the appropriate specialty who will perform the expertise. In case there are no appointed court experts for a specific type of expert examination or they are not available, the expert examination can be performed by a person with a residence or headquarters in another country or a person who is not registered in the Register.

The authority in front of which the proceedings are conducted ensures that all important facts are established and clarified through the expert examination and for this purpose it shows the expert the objects to be considered, asks him questions and, if necessary, asks for explanations regarding the given findings and opinions.

The Criminal Procedure Code does not define the types of examinations possible in CSEA/OCSEA cases, rather it is up to the state prosecutor or the court to decide which expert witness should be engaged. However, among the several types of examinations defined in more detail in the Criminal Code, medical examinations for injuries and psychiatric examinations are most relevant for CSEA/OCSEA cases. Under the Criminal Procedure Code, physical injuries are assessed, as a rule, by examining the victim, and if this is not possible or necessary — on the basis of medical documentation or other information in the files. The expert is under a duty to accurately describe the injuries and provide an opinion particularly on the type and severity of each individual injury and their overall effect, considering their nature or the special circumstances of the case, what effect these injuries usually produce, and what they are in the specific produced in the case, with which the injuries were caused and in what way.

However, regarding psychiatric examinations, the Criminal Procedure Code only provides rules in cases where an examination of the defendant is required. There are no specific rules prescribed for psychiatric examinations of victims or witnesses.

The procedure for the appointment of expert witnesses is governed by the Law on Expert Witnesses. An expert is appointed and dismissed by the Commission for Experts, formed by the Minister of Justice. The Commission consists of five members, namely one member from the ranks of judges, one member from the ranks of state prosecutors, two members from the ranks of court experts and one member from the Ministry of Justice.

Experts are obliged to respond to the summons of the court, state prosecutor's office or other authority leading the proceedings, but they are not employed by these authorities.

The law on court experts establishes the obligation of experts to perform expert testimony conscientiously, impartially and in accordance with the rules of science or skill. There are no special acts that provide guidance for forensic examinations.

3.1.2. Victim protection and support

There is no comprehensive end-to-end victim support service in Montenegro. The Law on Social and Child Protection⁷ entrusts the Centers for Social Work with a leading role in providing social welfare and child care, including through funding, emergency accommodation, urgent interventions and psychosocial counselling.

In all Montenegro courts that hear cases related to trafficking in human beings, domestic violence and sexual offenses, victim/witness support services have been established, however, these serve only to minimize secondary victimization and facilitate the victim's participation in the proceedings. Although the Guide for witnesses/victims of domestic violence and human trafficking, which describes the support provided by these Services also addresses the protection of children, in practice they provide support only to adults.⁸

In the absence of a regulatory basis for the victim support services, a protocol has been drawn up to regulate the activities of the services, which include emotional and logistical support, as well as legal information to victims and witnesses.

With regard to specific crimes, the third Strategy for the combating trafficking in human beings for 2019-2024 is currently in force. It defines the key principles, goals and directions of state action for the next five-year period. Within the strategic area related to the protection of victims, it pays special attention to the improvement of victim identification methods, shifting the focus from a prosecution-based approach to a victim-oriented approach.

In order to achieve a better balance of results achieved in the investigation and processing of cases of human trafficking, the Supreme State Prosecutor and the Director of the Police Administration of Montenegro formed an Operational Team for combating trafficking in human beings. This Team consists of representatives of the Ministry of Interior, the Police Directorate, the Higher State Prosecutor's Office and the Ministry of Justice. An additional Team for the formal identification of victims of trafficking in human beings has also been formed.

Another key document in this area is the Standard Operating Procedure for the treatment of separated and unaccompanied children, with a special emphasis on proactive identification of presumed victims and victims of trafficking in human beings. This document defines the responsibilities of individual institutions and organizations involved in the processes of identification, assistance, protection and reintegration of persons especially vulnerable to

⁷ Official Gazette of Montenegro 27/2013, 1/2015, 42/2015, 56/2016, 66/2016, 1/2017, 31/2017, 42/2017, 50/2017, 59/2021, 145/2021-I, 145/2021-II and 3/2023.

⁸ For more information please see: <https://sudovi.me/static/vrhs/doc/6308.pdf>

the risk of human trafficking, through a matrix of answers to the questions: what, who, when and how.

Against this backdrop of positive progress, certain gaps still remain. Of special concern is the discrepancy between the procedure for issuing of restraining orders in misdemeanor and felony criminal cases concerning domestic violence in which children victims of domestic crimes are often invisible (including violence against children).⁹ Under the domestic law, the issuance of restraining orders is regulated by two distinct legislative acts: the Law on Domestic Violence Protection¹⁰ (LDVP) for the misdemeanor offense of domestic violence and the Criminal Code for the criminal offense of domestic violence. However, while under the LDVP restraining orders may be imposed early on in the case, which serves the needs of urgent protection of the victims, the criminal law essentially treats the restraining order as a type of penalty rather than a safety measure, and only allows for issuing them in the event of a conviction (see Articles 77a and 77b). This undermines the victims' right to protection, effectively putting them at a risk of harm, which is understandably higher in criminal cases, where the defendant would be more likely to retaliate.

3.1.3. Interagency coordination and cooperation in child protection: Existing structures

While numerous efforts have been undertaken in Montenegro to establish and improve interagency coordination and cooperation, there are no statutory norms that prescribe the obligation of cooperation of the structures involved in child protection or victim-centered response to crime. The only relevant provision is found in Article 5(1) of the Law on Domestic Violence Protection, which expressly provides that the police, the misdemeanor authority, the State Prosecutor's Office, the Centre for Social Work and/or other social and child protection institutions, healthcare providers, as well as other relevant authorities and institutions are required to provide comprehensive and coordinated protection as necessary for the protection of the victim, depending on the degree of their vulnerability. Article 17 of the Law on Domestic Violence Protection also introduces multidisciplinary teams which "organise, monitor and promote coordinated and efficient protection."

In the area of non-domestic violence, there are no statutory obligations emphasizing the need for interagency coordination and cooperation. However, in 2020, the Ministry of Labor and Social Welfare/Institute for Social and Child Protection issued Standard Operating Procedures (SOP) for Intersectoral Cooperation in Working with Child Victims of Violence and Exploitation¹¹, which are intended as a guide for all stakeholders responsible for protection and work with child victims of violence and exploitation in Montenegro.

⁹ This gap is noted in the GREVIO Baseline Evaluation Report for Montenegro, paras 228-233.

¹⁰ Official Gazette of Montenegro 46/2010 and 40/2011.

¹¹ <https://www.zsdzcg.me/images/Biblioteka/UNICEF%20%20SOP%20za%20medjusektorsku%20saradnju%20WEB.pdf>

The goal of these SOPs is to standardize and summarize procedures for an intersectoral approach in terms of protection and work with child victims of violence, which should be followed by all relevant institutions and organizations; ensure respect for internationally agreed human rights standards; and ensure compliance with relevant national laws, strategies, procedures and protocols.

In accordance with the national legislation, the SOP identifies the police, judicial institutions (state prosecutor's office, court), Centres for Social Work, health institutions, educational institutions and NGOs as key institutions responsible for the protection of children.

In addition to the above, the Standard Operating Procedure for the treatment of separated and unaccompanied children, mentioned in Section 3.1.2. above also prescribes mechanisms for interagency cooperation and coordination, and there are special coordination mechanisms in place to support victims of trafficking in human beings and domestic violence.

The Agreement on Mutual Cooperation in the Field of Combating Human Trafficking, which dates back to 2017 and was last revised in 2020, defines multisectoral cooperation of relevant actors on prevention, education, reporting and prosecution of perpetrators and protection of victims of human trafficking. The signatories of the Agreement are: the Supreme Court, the Supreme State Prosecutor's Office, the Ministry of Health, the Ministry of Labor and Social Welfare, the Ministry of Education, the Ministry of Internal Affairs/Police Directorate, Public Institution Centre for Child and Family Support Bijelo Polje, the Red Cross of Montenegro and non-governmental organizations (Montenegro Women's Lobby, Women's Safe House, Centre for Security, Sociological and Criminological Research of Montenegro, Institute for Social and Educational Policy).

In accordance with the Agreement, the Ministry of Labor and Social Welfare ensures the provision of social and child protection to potential victims of human trafficking, citizens of Montenegro and foreign citizens, through Centers for Social Work, giving them priority over other cases. Centers for Social Work are responsible for providing psychosocial assistance, appointment of guardians, development of individual plans for services and protection of victims in cooperation with other signatories of the Agreement, placement in a shelter, as well as assessment of socio-economic status of victims.

The Protocol on the Treatment, Prevention and Protection against Domestic Violence of September 2018¹² aims to promote multidisciplinary coordination and interagency response in cases of domestic violence. Under the Protocol, Centers for Social Work have a coordinating role among all the relevant stakeholders and practitioners from other systems.

¹² <https://www.gov.me/dokumenta/b945931e-01be-417d-a6b5-215ecb635af3>

3.2. Stakeholder analysis and mapping

3.2.1. Key stakeholders

<i>Stakeholder</i>	<i>Type</i>	<i>Relevance</i>
Ministry of Justice	Line ministry	<ul style="list-style-type: none"> - General strategy and policymaking relevant to Barnahus introduction - Coordination role
Ministry of Labor and Social Welfare	Line ministry	<ul style="list-style-type: none"> - General strategy and policymaking relevant to Barnahus introduction - Coordination role
National Police Directorate under the Ministry of the Interior	Government agency under a line ministry	<ul style="list-style-type: none"> - General strategy and policymaking relevant to Barnahus introduction - Coordination role - First response to incidents involving child victimization - Investigations of crimes against children, including child investigative interviewing - Awareness raising
Chief State Prosecutor's Office	Government agency	<ul style="list-style-type: none"> - Investigations of crimes against children, including child investigative interviewing - Protection of victims' rights
Ombudsperson	National human rights institution	<ul style="list-style-type: none"> - Monitoring of child rights - Advocacy - Awareness raising
Ministry of Health	Line ministry	<ul style="list-style-type: none"> - Standards of practice in the area of forensic medical examinations of child victims - Capacity building of forensic medical examiners

Ministry of Education	Line ministry	<ul style="list-style-type: none"> - Regulation of mandatory reporters - Trauma-informed practices for educators - Awareness raising
Courts	Judiciary	<ul style="list-style-type: none"> - Child-friendly justice as relevant to child victims and witnesses of crime at pretrial and trial stages
Clinical Center of Montenegro	Public institution under the Ministry of Health	<ul style="list-style-type: none"> - Standards of practice in the area of forensic medical examinations of child victims - Capacity building of forensic medical examiners
Professionalized Service (<i>Stručna služba</i>)	Service under the State Prosecutor's Office and the courts that provides victim- and witness-oriented services including those of interviewers	<ul style="list-style-type: none"> - Standards of practice and protocols in the area of child investigative interviewing - Capacity building in the area of child investigative interviewing
Centers for Social Work	Public institutions under the Ministry of Labor and Social Welfare	<ul style="list-style-type: none"> - Provision of support to children affected by crime or at risk of criminal victimization - Referral mechanism for child victims of crime
Primary healthcare providers	Community-based public institutions under the Ministry of Health providing direct first-contact healthcare services	<ul style="list-style-type: none"> - Referral of child victims for forensic medical examinations

3.2.2. Direct beneficiaries

The direct beneficiaries of the Feasibility Study are the key stakeholders that form the skeleton of the multisectoral response to child victimization, including the state prosecution offices, police, social services and forensic medical examiners. As a result of the Feasibility Study, they stand to receive evidence-based recommendations that will help them optimize

their services and the interagency coordination model to better serve child victims of crime in the context of criminal proceedings.

3.2.3. Indirect beneficiaries

The indirect beneficiaries of the Feasibility Study are Montenegro's children, especially those victimized or at risk of victimization by crime, who, if the recommendations of the Feasibility Study are taken into account, will be better protected in the context of criminal proceedings through minimized secondary victimization and more child-friendly environment. The indirect beneficiaries also include the wider community through an increased sense of safety and trust in justice.

3.3. Institutional capacities of key stakeholders

3.3.1. Investigative interviewing of child victims and witnesses of crime

A cornerstone of the Barnahus model is a developmentally appropriate and trauma-sensitive investigative interviewing of child victims and witnesses of crime. The deployment of evidence-based child investigative interviewing protocols both helps to minimize secondary victimization and promotes excellence in the investigation by obtaining quality evidence that has not been contaminated through repeat interviewing and leading or otherwise inappropriately worded questions. It also ensures methodological consistency and provides for a reference framework against which the interviews conducted in practice may be continuously reviewed and assessed as part of the quality management cycle.

Another important prerequisite of effective child investigative interviewing is the existence of child-friendly interviewing facilities. Yet again, the adoption of a unified standard for such facilities serves to promote consistency, thereby contributing to quality.

The key informants in this Feasibility Study were interviewed on a) the methodologies and standards of practice for investigators¹³ and psychologist interviewers in relation to child investigative interviewing and b) the existing facilities such as child-friendly interview rooms, separate rooms in courthouses for remote testimony, mobile investigative interviewing units, etc.

In practice, child investigative interviews in Montenegro take place in child-friendly interviewing rooms equipped specifically for this purpose with donor support.¹⁴ The rooms are outfitted with audio-visual recording facilities. It is understood that recording is not mandatory but recommended,¹⁵ and that in a vast majority of cases interviews recorded at

¹³ "Investigator" is not a term of Montenegrin law, but is used for the purposes of this Study to denote the practitioner who investigates a case. This is not a job role, but a function, and may be assigned to a police officer or prosecutor, depending on the system.

¹⁴ Including bilateral funding from Norway and the UK; some of the State Prosecutor's Offices also received audiovisual recording devices through a US Embassy donation.

¹⁵ Law on the Treatment of Minors in Criminal Proceedings, Article 93(1) ("The interviewing of a juvenile, as a rule, is conducted by the state prosecutor and a judge of the same gender as the juvenile, in a special room equipped with technical devices for audiovisual recording.").

the pre-trial investigation stage are admitted in court as evidence effectively substituting the appearance by the child, which is a good practice and fully in line with the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.¹⁶ The investigative judge plays no role in certifying the authenticity of the recording, and therefore would not need to be made part of the Barnahus model when such is introduced. Currently there are 4 fully operational interviewing rooms on police premises, 4 at prosecutor's offices and 3 at courts.

The **interviewing room layout and setup** are the same or similar across the facilities that have been launched so far. However, there is no formal design or space planning standard for interviewing facilities that would be of binding nature. At this point, this poses no challenges since the facilities have been set up in the framework of a project. In the long run, however, a formal standard will be highly desirable, if not indispensable, to ensure quality and consistency after donor funding ceases. In this respect, the introduction of the Barnahus model, underpinned by stringent standards, would present an optimal solution.

The interviewing facilities consist of 2 adjacent rooms each.¹⁷ One room serves for the actual interview, which is conducted by an interviewer (a member of the Professional Support Service (*Stručna služba*) under the state prosecutor's office). Only the child and the interviewer (and a support person, if needed) are present in the room. The prosecutor (who serves as the interview lead) is in the adjacent room and asks questions through the interviewer using a headset. The prosecutor can see the child, but the child cannot see the prosecutor. Other persons present in the adjacent room – including the suspect – can pose questions to the child through the prosecutor, however, the prosecutor has the discretionary powers to allow or refuse a specific question, which is then transmitted to the interviewer from the Professional Support Service.

Prior to conducting an interview, an **assessment of the child is conducted (usually by the Professional Support Service, although any suitably qualified psychologist or a team of court-appointed experts may be engaged)**. This assessment is sometimes seen as an assessment of the child's competence to testify, however, as clarified by the Professional Support Service and the prosecutor's office, in reality it is a regular information gathering step undertaken as part of the interview planning process to obtain a comprehensive picture of the child's environment, family situation, health status and other factors that may have a bearing on devising the interview strategy. Only in exceptional cases have such assessments strongly advise against interviewing the child, and this advice was made based on the considerations of the potential negative impact of the interview on the child rather than because the child was not assessed as competent. Courts have assessed the quality of the assessments made by the Professional Support Service as consistently and markedly high, while assessments performed by external experts were assessed as varying in quality.

The Study findings show that while there is no **investigative interviewing protocol** that has been formally adopted through a regulatory instrument at the interagency or agency level, the Professional Support Service under the system of state prosecutor's offices has

¹⁶ Para 59, "Interview methods, such as video or audio-recording or pre-trial hearings in camera, should be used and considered as admissible evidence."

¹⁷ The rooms do not necessarily have to be adjacent because the audiovisual recording device has a long range.

informally adopted a structured protocol based on the NICHD and ABE protocols. Despite this positive fact, few outside of the Professional Support Service – even if working for the prosecutor’s office – are aware of the existence of this informal protocol. While prosecutors are routinely trained at the Centre for Training in Judiciary and State Prosecution, including on the NICHD protocol, the awareness remains limited, at least judging from the interviews conducted. There is also limited acceptance of the utility of structured investigative interviewing protocols to prosecutors, as such protocols are seen exclusively as a tool to be used by interviewers. While under the existing approach it is the interviewer who poses questions to the child – and therefore needs to actively use the protocol – prosecutors and interviewers routinely engage in interview planning sessions, as confirmed by the interviewed stakeholders, and prosecutors and police need at least basic understanding of the standard protocol used for child investigative interviewing to promote quality in interviewing.

The core function of the Centers for Social Work to act as the guardianship authority, providing support persons to child victims of crime. Their involvement is triggered by prosecutorial referral (in cases involving children under 14, this is mandatory). However, despite the fact that investigative interviewing is outside these Centers’ mandate, interviews showed that Centers for Social Work do play a certain role in child investigative interviewing, however, this role is more of a backup in cases where an interviewer is urgently required but cannot be provided for reasons of staff shortages. Since investigative interviewing is not a core function of the Centers, Center for Social Work staff does not possess the requisite qualifications to conduct interviews, and while they can and should act as support persons to child victims of crime where such are required, they should not be utilized as a substitute for the Professional Service. The requisite standard of quality in investigative interviewing can hardly be upheld without investing into building the capacities of the Professional Service.

The understaffing of the Professional Service deserves a special mention. The current staffing schedule for the Professional Service provides for only 3 interviewer posts at the prosecutor’s office level and 6 posts at the court level, which is insufficient. Moreover, since criminal investigations in Montenegro are prosecutor-led and pre-trial recordings of children’s investigative interviews are admissible as evidence in court, the staffing appears to be mismatched to the actual demand.

Recommendations:

- Adopt a formal interagency binding standard for design/space planning standard of child interviewing facilities to be made part of the set of underlying national standards for Barnahus.
- Adopt an evidence-based structured protocol for child investigative interviewing based on an internationally recognized protocols such as NICHD or ABE as a formal standard for child investigative interviewing.
- Conduct multidisciplinary multisectoral capacity building for interviewers and investigators (prosecutors and the police) on child investigative interviewing.

- Invest in developing a cadre of specialized interviewers using the Professional Service as a basis. This should include increasing the staffing numbers. Ideally, the Professional Support Service should be envisaged as an interagency pool of experts under the joint jurisdiction of the Chief State Prosecutor's Office and the Supreme Court, which will allow for more flexibility in allocating interviewers to specific cases. Once the pilot Barnahus hub has been launched, the Professional support Service will be immediately able to serve it without the need to change its institutional affiliation.
- Develop and adopt a competency framework for interviewers and integrate the interviewer profession in the national qualification frameworks, in order to define the competencies, skill sets and minimum criteria of admission to the interviewer profession.
- Develop and adopt a code of practice for interviewers to address, inter alia, issues such as professional ethics, conflict of interest and safeguards against third-party interference such as false accusations of victim/witness coaching.

3.3.2. Forensic examinations of child victims

Forensic medical examinations of child victims of crime are commonly ordered in cases of serious crime, especially sexual offenses. Forensic medical examinations are routinely ordered where there is suspicion of contact sexual abuse, and are conducted by a gynecologist in the case of girls and a surgeon in the case of boys. Forensic psychiatric examinations may also be ordered in certain cases.

In Montenegro, there is no regulation of forensic service providers as such. While there is a roster of the so-called court experts administered by the judicial system, and this roster is tapped into whenever a need for an expert witness arises, the interviewed stakeholders have noted that the roster does not cover all needs for specialized expertise, and non-rostered experts have to be solicited in many cases. There is also a Forensic Center under the National Police Directorate, however, it serves as a centralized forensic science laboratory facility and does not provide forensic medical expertise.

There is **no accreditation or licensing procedure for medical practitioners allowed to conduct forensic medical examinations of child victims of sexual offenses**. However, in practice is the practitioners employed by the Children's Hospital of Montenegro and the Clinical Center (both located in the capital city of Podgorica) who conduct these examinations, since these two institutions are widely recognized to possess relevant expertise. General hospitals in Kotor, Nikšić, Bijelo Polje and Berane also conduct forensic medical examinations of children.

Pediatric and adolescent gynecology is not among the medical specializations recognized in Montenegro, and **there is no relevant board certification or focused practice designation for pediatric and adolescent gynecologists**. However, there are practitioners who are certified as gynecologists and have acquired additional expertise specific to pediatric and adolescent gynecology through postgraduate studies. This is, however, a very rare combination of skills and expertise, and at present there is only one gynecologist (employed by the Clinical Center) who is recognized as a senior expert in pediatric and adolescent gynecology and accordingly invited to conduct forensic examinations of girl child

victims of contact sexual abuse. In the event that she is not available, other (non-pediatric) gynecologists at the Clinical Center are called on to substitute. It is a common practice to only invite female medical practitioners to examine girls.

Child victims of sexual abuse are **examined exclusively in hospital settings**. Since appropriately qualified medical practitioners only practice in Podgorica, children from other locations are transported to the capital. According to one key informant, sometimes child victims of serious sex crimes from remote locations are brought to a local hospital first where the first examination takes place, following which the child is examined at the Clinical Center. This was explained by the fact that local-level medical practitioners lack the qualifications to conduct forensic medical examinations, however, may be required to examine children in urgent cases. The Clinical Center expert does not merely review the report by the hospital gynecologist but conducts an actual examination, which poses serious risks to the child in terms of secondary victimization.

There is currently **no protocol of forensic medical examinations** of child victims of sexual offenses nor of victims of sexual offenses in general. While at the level of the Ministry of Health this is not seen as a serious impediment (indeed, the Ministry of Health at this time is prioritizing the development and adoption of a generic protocol on the treatment of children who are victims of violence, which is of multidisciplinary nature and not specific to the role and functions of medical practitioners), the medical practitioners interviewed have voiced strong support for the adoption of a specialized forensic medical examination protocol. In addition to improving quality and consistency and reinforcing safeguards against secondary victimization, such a protocol is seen as a key tool to shield medical practitioners from third-party interference.

Some cases that have been recounted by the medical practitioners interviewed involve parents insisting on being present in the examination room and attempting to influence the examination through refusal of consent in cases involving suspected intra-family sexual abuse. The absence of safeguards against the conflict of interest puts medical practitioners at a disadvantage, essentially impeding their professional performance.

Another factor cited by the medical practitioners as a barrier to quality forensic medical examinations – and which may be successfully addressed through a combination of protocol adoption and legislative amendments – lies with the fact that the current personal data legislation does not permit photo-documentation of medical examinations, and forensic medical examinations are treated identically to regular medical examinations. As a result, **no photo-documentation of forensic medical examinations takes place**, which undermines the evidentiary value of such examinations. While it is understood that the State Prosecutor who refers a child to the forensic medical examination orders what the examination should contain, including photographic documentation, in order to ensure that it is admitted as evidence in criminal proceedings, such instruction is of *ad hoc* nature and cannot replace a clear protocol that would be uniformly binding for all medical practitioners.

Recommendations:

- Introduce an accreditation procedure for medical practitioners allowed to conduct forensic medical examinations of child victims of sexual offenses.

- Support the introduction of a focused practice designation for pediatric and adolescent gynecologists and expand the pool of suitably qualified medical practitioners.
- Develop and adopt a protocol for forensic medical examinations of victims of sexual offenses, with a sub-protocol for the examinations of prepubescent children. The categorization of children to determine which protocol/sub-protocol they should be examined under should be made based on a recognized model of sexual development staging, such as the Tanner staging model, rather on the child's documented age.
- Review and amend the personal data legislation to ensure that photo-documentation for the purposes of forensic medical examination is allowed if performed strictly in accordance with the relevant data protection and privacy safeguards, and include provisions on photo-documentation in the protocol for forensic medical examinations.
- Promote the examination of children in child-friendly non-hospital settings, within easy reach of their habitual place of residence insofar as possible.

3.3.3. Vulnerable victim support services

Currently, there exists no comprehensive end-to-end victim support system in Montenegro. Certain elements of victim support are within the responsibility of Centers for Social Work as well as – insofar as relevant to support to facilitate the victim's ability to testify – of the Professional Support Service. However, the approach to victim support is fragmented, which is also recognized by the key informants interviewed.

Court representatives, in particular, stressed the importance of both a comprehensive end-to-end victim support system and an integrated national child protection system as highly conducive for a fully functional Barnahus. While it is understood that the existence of these systems is external to the introduction of the Barnahus model as such and should not be considered an insurmountable or even serious barrier, advocacy for the creation of a comprehensive end-to-end victim support system and an integrated national child protection system should ideally go hand in hand with the introduction of Barnahus proper.

The fragmented nature of the services spills over to external providers as well. The current service provider landscape is dominated by shelter-type organizations and hotlines. While these serve a critical role in child protection, their services primarily contribute to better child abuse detection and emergency response. The continuum of care for child victims of crime remains unachieved.

Moreover, the existing service providers primarily target domestic violence survivors, which leaves out children who are victimized outside the household (including those victimized in the circle of trust by perpetrators other than household members). While the key informants interviewed on this matter asserted that child abuse victims, regardless of the type of abuse, are welcome to contact them for services, the fact that the organization brands itself as catering to domestic violence survivors may deter at least some children. Furthermore, the existing approach lumps together children and adults (almost exclusively women), which are very distinct categories of victim with different trajectories of victimization and different needs. While conclusive evidence on this issue is lacking, the predominant focus on domestic

violence at the expense of other forms of child abuse appears to be at least partially donor-driven, which calls for a donor dialogue to be initiated at the early stages of Barnahus introduction.

Given the scarcity of victim support service providers, there is currently no vetting system. It remained unclear if external providers have child safeguarding policies in place.

Rather concerningly, there is a significant degree of misconception about the nature of Barnahus among those working in social welfare, both in the public sector and in non-profit organizations. The prevailing view is that Barnahus is a victim support hub (rather than a multidisciplinary response hub focusing in a large part on preventing secondary victimization in criminal proceedings) and that it is supposed to include a residential facility. Likewise, there is a misconception that Barnahus will act as long-term psychological counseling provider (beyond short-term emergency interventions). This calls for an emphasis on awareness raising and capacity building, with a focus on the social welfare sector.

At the same time, given the magnitude of misconception about Barnahus as essentially a social welfare service provider, the role of the Ministry of Labor and Social Welfare as the coordinating body may need be reconsidered in favor of a line ministry with a more comprehensive and justice-oriented mandate. The Ministry of Justice may be recommended as a potential candidate for this role. The government stakeholders interviewed overwhelmingly supported this change.

Recommendations:

- Advocate for the creation of a comprehensive end-to-end victim support system and an integrated national child protection system in parallel with steps to introduce the Barnahus model.
- Raise awareness and build capacities of the social welfare sector – including both public sector bodies and non-profit organizations – about the Barnahus concept to avoid the common misconceptions.
- To avoid a sectoral, narrow approach, appoint the Ministry of Justice as the coordinating body for the working group on Barnahus introduction.
- Invest into building an extended demand-driven (rather than donor-driven) network of external service providers qualified to provide specialized services to child victims of crime. In parallel, initiate a donor dialogue to emphasize the distinct nature of children’s needs and the importance of funding victim support projects not directly related to domestic violence.
- Build external provider capacities on child safeguarding and PSEA and create a robust external service provider vetting system for the nascent Barnahus.

3.3.4. Gaps and challenges

The main gaps and challenges identified are concerned with the following:

- Insufficient interagency coordination
- Lack of a uniform understanding of the Barnahus concept that would be in line with the internationally accepted understanding and the quality standards

- Insufficiency of the regulatory basis
- Shortage of key professionals, including interviewers and pediatric and adolescent gynecologists, as well as properly trained child surgeons
- Absence of a comprehensive end-to-end victim support system and an integrated national child protection system.

The insufficiencies in interagency coordination may be remedied through appointing a coordinating body with a comprehensive justice-related mandate. The Ministry of Justice is seen as the line ministry best suited for this role.

Lack of a uniform understanding of the Barnahus model may be addressed within a relatively short timeframe through a series of multidisciplinary multisectoral capacity-building interventions, targeting the key actors (Ministry of Labor and Social Welfare, Police Directorate, prosecutor's offices and courts, as well as selected non-profit organizations as relevant) at once. The development of a booklet on Barnahus specifically developed for the domestic professional audience may be recommended.

With regard to regulatory gaps, the formalization of the adoption of a structured investigative interviewing protocol, the adoption of a set of standards of the design and setup of interviewing facilities, and the adoption of a protocol for forensic medical examinations of victims of sexual offenses, with a sub-protocol for the examinations of prepubescent children, should be prioritized, as these can be put in practice immediately, before the Barnahus pilot is launched, and continue to be used once the Barnahus facility has become operational.

The shortage of professionals in the investigative interviewing and forensic medical examination areas is expected to be more challenging to address as it would require a two-pronged approach covering both a) capacity building and b) the creation of additional positions and recruitment of suitable practitioners. This, in turn, would necessitate a costing exercise as a matter of priority. At the transitional stage, additional positions may be created on a temporary basis and funded through donor funding, however, a sustainable funding solution would need to be found within the next 2-3 years. With regard to gynecologists, a dialogue with the medical university and the Chamber of Physicians, which license medical practitioners, as well as the national authority responsible for national qualification frameworks, may be necessary to pave the way for the eventual introduction of a focused practice designation for pediatric and adolescent gynecologists. The provision of specialized training to pediatric surgeons to improve their skills in handling boy victims of sexual abuse is likewise a priority.

Finally, the absence of a comprehensive end-to-end victim support system and an integrated national child protection system, while not a barrier in terms of sheer feasibility, is likely to form an impediment to long-term effectiveness and efficiency of the Barnahus hub, unless addressed. The introduction of Barnahus would therefore need to be accompanied by advocacy for the creation of these two systems.

4. ASSUMPTIONS, RISKS AND LONG-TERM SUSTAINABILITY VISION



5. KEY CONCLUSIONS

Montenegro possesses the requisite political will, institutional and human capacity to introduce the Barnahus model. At the legislative level, there are no fundamental barriers to Barnahus introduction, although gaps have been identified that need to be addressed to promote effectiveness.

Still, in order for Barnahus to be effective and sustainable in the long term, it is essential to achieve a streamlined understanding of the Barnahus concept by all key stakeholders concerned before any tangible steps have been taken to implement the pilot. The appointment of a new coordinating body is an important safeguard in this respect.

While, as indicated above, the legislative framework is largely sufficient for the Barnahus introduction, the supporting regulations reflect a fragmented institutional landscape and a lack of multidisciplinary multisectoral thinking. It is therefore essential that the development of a package of supporting regulations be given an immediate priority, for which international expertise may be solicited to ensure a more comprehensive approach in line with the Council of Europe, EU and other relevant standards.

Finally, there are significant shortages of some key practitioners. Some skill sets are so rare that the retirement of the leading expert may virtually spell the end to the provision of the quality service that is their field of expertise. This renders isolated training efforts non-sustainable and translates into the need to accompany any capacity building by a push to recruit (or subcontract) more personnel. For some professions, this also implies the need to create new specializations (as is the case with pediatric and adolescent gynecology).

6. RECOMMENDATIONS FOR ACTION

- A. Determine the lead ministry for the introduction of the Barnahus model. To avoid a sectoral, narrow approach, appoint the Ministry of Justice as the coordinating body for the working group on Barnahus introduction.
- B. Set up an intersectoral working group to guide the process of Barnahus introduction and operationalization, ensuring the representation of all key stakeholders.
- C. Adopt a formal interagency binding standard for design/space planning standard of child interviewing facilities to be made part of the set of underlying national standards for Barnahus.
- D. Adopt an evidence-based structured protocol for child investigative interviewing based on an internationally recognized protocol such as NICHD or ABE as a formal standard for child investigative interviewing.
- E. Conduct multidisciplinary multisectoral capacity building for interviewers and investigators (prosecutors and the police) on child investigative interviewing.
- F. Invest in developing a cadre of specialized interviewers using the Professional Service of the Chief State Prosecutor's Office as a basis. This should include increasing the staffing numbers. Ideally, the Professional Support Service should be envisaged as an interagency pool of experts under the joint jurisdiction of the Chief State Prosecutor's Office and the Supreme Court, which will allow for more flexibility in allocating interviewers to specific cases. Once the pilot Barnahus hub has been launched, the Professional Support Service will be immediately able to serve it without the need to change its institutional affiliation, on the basis of temporary deployments of suitably qualified Professional Support Service staff to the Barnahus.
- G. Develop and adopt a competency framework for interviewers and integrate the interviewer profession in the national qualification frameworks, in order to define the competencies, skill sets and minimum criteria of admission to the profession.
- H. Develop and adopt a code of practice for interviewers to address, inter alia, issues such as professional ethics, conflict of interest and safeguards against third-party interference such as false accusations of victim/witness coaching.
- I. Introduce an accreditation procedure for medical practitioners allowed to conduct forensic medical examinations of child victims of sexual offenses.

- J. Support the introduction of a focused practice designation for pediatric and adolescent gynecologists and expand the pool of suitably qualified medical practitioners.
- K. Develop and adopt a protocol for forensic medical examinations of victims of sexual offenses, with a sub-protocol for the examinations of prepubescent children. The categorization of children to determine which protocol/sub-protocol they should be examined under should be made based on a recognized model of sexual development staging, such as the Tanner staging model, rather on the child's documented age.
- L. Review and amend the personal data legislation to ensure that photo-documentation for the purposes of forensic medical examination is allowed if performed strictly in accordance with the relevant data protection and privacy safeguards, and include provisions on photo-documentation in the protocol for forensic medical examinations.
- M. Promote the examination of children in child-friendly non-hospital settings, within easy reach of their habitual place of residence insofar as possible.
- N. Advocate for the creation of a comprehensive end-to-end victim support system and an integrated national child protection system in parallel with steps to introduce the Barnahus model.
- O. Make restraining orders available for all cases (both of child victims and witnesses) where a need for such has been identified, regardless of the type and stage of proceedings, and the charging decision.
- P. Raise awareness and build capacities of the social welfare sector – including both public sector bodies and non-profit organizations – about the Barnahus concept to avoid the common misconceptions.
- Q. Invest into building an extended demand-driven (rather than donor-driven) network of external service providers qualified to provide specialized services to child victims of crime. In parallel, initiate a donor dialogue to emphasize the distinct nature of children's needs and the importance of funding victim support projects not directly related to domestic violence.
- R. Build external provider capacities on child safeguarding and PSEA and create a robust external service provider vetting system for the nascent Barnahus.

ANNEX: Agenda for the field mission

29, 30 November and 1 December 2022

Tuesday, 29 November 2022

Time	Person/institutions	Address
07:45-08:45	Snezana Vujovic , inspector for juveniles, the Police Directorate	Ministry of Interior, main building, Address: Boulevard Sv. Petra Cetinjskog
10:00-11:00	Mirjana Djuric , Head of Service for Children and Youth Marija Popovic , Director Centre for Social Work Podgorica	UN Eco House, Address: Stanka Dragojevica bb,
11:30-13:00	Bojana Bandovic , Advisor, Supreme Court Valentina Smolovic , Professional Support Service, High Court	Supreme Court, Address: Njegoseva 10
13:00-14:00	Lunch break	
14:00-15:00	Maja Knežević , Prosecutor for juveniles, Basic state prosecution	UN Eco House, Address: Stanka Dragojevica bb,
15:00 – 16:00	Nada Djurovic Martinovic , Child Protection Officer, Milena Karisik , Child Protection Consultant, UNICEF Montenegro	UNICEF, UN Eco House, Address: Stanka Dragojevica bb

Wednesday, 30 November 2022

Time	Person/institutions	Address
8:00-9:00	Dijana Popovic Gavranovic , Head of Professional Support Service, Supreme State Prosecution	UN Eco House, Address: Stanka Dragojevica bb,
10:00-11:00	Sladjana Coric , State Secretary,	Ministry of Health, Address: Rimski trg 46 (Vektra square)

	Dragana Mijovic , Head of Directorate for Quality Control, Ministry of Health	
11:30-13:00	Svetlana Sovilj , Head of Department for the Protection of Children and Youth Ministry of Labour and Social Welfare	Ministry of Labour and Social Welfare, Address: Rimski trg 46 (Vektra square)
13:00-14:00	Lunch break	
14:00-15:00	Snezana Mijuskovic , Deputy Ombudsman for child rights	UN Eco House, Address: Stanka Dragojevic bb,
15:15-16:30	Marela Savic , Director Sanela Josipovic , Psychologist Shelter for children victims of violence, Children's Home "Mladost", Bijela	Zoom

Thursday, 1 December 2022

Time	Person/institutions	Address
11:30-13:00	Dr Velibor Majic, Dr Iva Ivanović , child psychiatrist, Bojana Drljevic , social worker, Children's Hospital, Clinical Centre of Montenegro	Children's Hospital, Clinical Centre of Montenegro, Address: Ljubljanska bb
13:00-14:00	Lunch break	
14:00-15:00	Ivana Becic , judge of the Basic Court Goran Djukovic , judge of the Basic Court	Basic Court, Address: Ul. 13, jula bb
15:30-16:30	Nada Koprivica , SOS Niksic (shelter and line for victims of violence)	Zoom
16:30 -17:00	Nada Djurovic Martinovic , Child Protection Officer,	UN Eco House,

	Milena Karisik , Child Protection Consultant, UNICEF Montenegro, wrap up	Address: Stanka Dragojevic bb,
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Monday, 12 December 2022

Time	Person/institutions	Address
15:00	Ivana Masanovic , Director General for Criminal and Civil Legislation, Ministry of Justice	Via Zoom platform