

## Kosovo

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child			
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography			
Protocol to Prevent, Suppress and Punish Trafficking in Persons			
UN Optional Protocol on the Involvement of Children in Armed Conflict			
UN Convention for the Protection of All Persons from Enforced Disappearance			
Hague Convention on International Child Abduction		5 Aug 2004 <sup>1</sup>	

In Kosovo, there are eight laws that refer directly or indirectly to missing children:

1. Law on Social and Family Services 2005 (amended 2012);
2. Law on Travel Documents 2008;
3. Law on Identity Cards 2008;
4. Law on Missing Persons of 2011;
5. Law on Civil Status 2011;
6. Law on Civil Registration Agency 2013;
7. Criminal Code of 2013; and
8. Law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking 2013.

### General Child Protection

Though Kosovo is not a member of the United Nations, the Convention on the Rights of the Child (CRC) has been integrated into the Kosovo Constitutional Framework.<sup>2</sup> Kosovo has also worked with several international non-governmental organizations (NGOs) on building child protection into the Constitution and creating frameworks to ensure children are protected within Kosovo. A draft Law on Child

<sup>1</sup> The United Nations Interim Administration Mission in Kosovo, Official Gazette, UNMIK/REG/2004/29 – 5 August 2004, *On Protection Against International Child Abduction*, at [http://www.unmikonline.org/regulations/index\\_reg\\_2004.htm](http://www.unmikonline.org/regulations/index_reg_2004.htm) (last visited Mar. 27, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>2</sup> Constitutional Framework for Provisional Self-Government in Kosovo, 2001, at [http://www.assembly-kosova.org/common/docs/FrameworkPocket\\_ENG\\_Dec2002.pdf](http://www.assembly-kosova.org/common/docs/FrameworkPocket_ENG_Dec2002.pdf) (last visited Mar. 27, 2018) (on file with the International Centre for Missing & Exploited Children).

Protection was introduced in June 2016.<sup>3</sup> Following the general elections of June 2017, the Law was reintroduced to Parliament and, as of March 2018, has yet to be passed.<sup>4</sup>

The Coalition of NGOs for Child Protection in Kosovo (KOMF) was established in 2011, consisting of 22 local and international NGOs advocating for and protecting the rights of children.<sup>5</sup> Their main programs focus on enhancing laws and policies for children, creating best practices, raising awareness on child protection issues broadly, and increasing the participation of children in the child protection realm.<sup>6</sup>

### General Missing Child Issues

Legislation and policy in Kosovo broadly focuses on missing persons.

### Definition of “Missing Child”

While the legislation of Kosovo does not provide a clear definition of a “missing child,” Article 2 of the Law on Missing Persons defines a missing person as a person, adult or child, whose whereabouts are unknown to family members and others searching for them, and were reported missing between January 1998 and December 2000, as a consequence of the war in Kosovo in 1998-1999.<sup>7</sup>

The Law on Social and Family Services defines a child as a person under the age of 18 years, and a minor as a person between the ages of 14 and 18 years.<sup>8</sup> The Law further defines a “person in need” as any person found in Kosovo, regardless of status or place of origin, who is in need of social services and includes therein children without parental care.<sup>9</sup>

### Abandonment

Article 250 of the Criminal Code of Kosovo punishes those who abandon a child in a way that endangers his or her life with imprisonment of one to five years.<sup>10</sup>

The Law on Social and Family Services 2005 (amended 2012)<sup>11</sup> states that the Centre for Social Work must take whatever steps are necessary to safeguard a child’s safety, report the matter to the relevant department within 24 hours, and conduct a comprehensive professional assessment of the child’s need when the Centre learns that there are grounds “to suspect that a child resident in, or found in their territory is abandoned or orphaned or suffering from, or at risk of, any form of physical or mental

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<sup>3</sup> Republic of Kosovo, Draft Law on Child Protection, at <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-105.pdf> (last visited Apr. 11, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>4</sup> Global Initiative to End All Corporal Punishment of Children, *Corporal punishment of children in the Republic of Kosovo*, at <http://www.endcorporalpunishment.org/assets/pdfs/states-reports/RepublicOfKosovo.pdf> (last visited Mar. 28, 2018) (on file with International Centre for Missing & Exploited Children). See also, Coalition of NGOs for Child Protection – KOMF, *Document over the violence situation of children in Kosovo*, Mar. 7, 2018, at <http://www.komfkosova.org/wp-content/uploads/2018/03/Anglisht-Dokument-mbi-Dhun%C3%ABn-adresuar-deputeteve-te-Kuvendit-te-Kosoves-KOMF-7.03.2018-PDF.pdf> (last visited Apr. 11, 2018).

<sup>5</sup> Coalition of NGOs for Child Protection in Kosovo (KOMF), Mission, at <http://www.komfkosova.org/misioni/?lang=en> (last visited Apr. 13, 2018).

<sup>6</sup> *Id.*

<sup>7</sup> Law on Missing Persons of 2011, Code No. 04/L-023, Article 2 (1.1) – Missing Person, at <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20missing%20persons.pdf> (last visited Mar. 27, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>8</sup> Law on Social and Family Services 2005 (amended 2012), Article 1, at <http://mpms.rks-gov.net/Portals/0/Ligji/PrimarAnglisht/Law%20on%20Amending%20and%20Supplementing%20the%20Law%20on%20Social%20and%20Family%20Services.pdf> (last visited Apr. 12, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>9</sup> *Id.* at Article 1.3(e).

<sup>10</sup> Criminal Code of the Republic of Kosovo, Code No. 04-L-129, Article 250 (3) – Mistreating or Abandoning a Child, at <http://www.assembly-kosova.org/common/docs/ligjet/Criminal%20Code.pdf> (last visited Apr. 13, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>11</sup> Law on Social and Family Services 2005 (amended 2012), *supra* note 8.

violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s) or any other person who has care of the child.”<sup>12</sup>

Furthermore, the Custodian (*i.e.*, the municipal professional body responsible for protecting the interests of children and adults) has a duty of care to act as a good parent would towards a child who has been orphaned by both parents; has been placed for adoption by his/her parent(s); has been abandoned; whose parents are not known; has been placed by his/her parent(s) in the temporary care of the Centre for Social Work; or who has been placed in the care of the Centre for Social Work by the court.<sup>13</sup> Additionally, in cases where the child’s parents are unknown, when parents have consented to the abandonment, or when a parent is consistently unable to provide the necessary care and upbringing of the child due to serious illness or diagnosed severe psychological mental disability, the Custodian is required to take measures to ensure adequate long-term care for the child.<sup>14</sup>

### Kidnapping and Abduction

Article 249 of the Criminal Code of Kosovo prescribes imprisonment of up to three years for whoever unlawfully takes and/or holds a child with the intent not to release him or her and acting without the consent of the child.<sup>15</sup> If this offense is committed for material gain, it can be punishable by a fine and up to ten years of imprisonment.<sup>16</sup>

### Parental Abduction

According to the Criminal Code of Kosovo, when a parent, adoptive parent, or another guardian whose parental rights over the child have been deprived by a competent authority unlawfully takes, keeps, or abducts a child from another parent or person the child was entrusted to, the perpetrator shall be punished by imprisonment for up to one year.<sup>17</sup> In this situation, the court may waive the punishment if the perpetrator voluntarily returns the child.<sup>18</sup>

The United Nations Interim Administration Mission in Kosovo passed Regulation No. 2004/29 on Protection Against International Child Abduction in August 2004 giving power to The Hague Convention on the Civil Aspects of International Child Abduction within the territory of Kosovo.<sup>19</sup>

The Law on Travel Documents of 2008 specifies in Article 9 that a citizen under the age of 14 years may travel abroad when accompanied by parents, legal representative, or with another person with the parents’/legal guardian’s permission.<sup>20</sup> In order to receive travel documents, the application must be submitted in person to the competent body. Applications for citizens younger than age 18 must be submitted by the legal representative.<sup>21</sup> Biometric passports have been issued since 2011.<sup>22</sup>

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<sup>12</sup> *Id.* at Article 10.7.

<sup>13</sup> *Id.* at Article 11.1.

<sup>14</sup> *Id.* at Article 11.3.

<sup>15</sup> Criminal Code of the Republic of Kosovo, *supra* note 10, at Article 249 – Unlawful taking or keeping of a child.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at Article 249 (2) – Unlawful taking or keeping of a child.

<sup>18</sup> *Id.* at Article 249 (4) – Unlawful taking or keeping of a child.

<sup>19</sup> Regulation No. 2004/29 on Protection Against International Child Abduction, at [http://www.unmikonline.org/regulations/2004/re2004\\_29.pdf](http://www.unmikonline.org/regulations/2004/re2004_29.pdf) (last visited Apr. 10, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>20</sup> Law on Travel Documents 2008, Law No. 03/L-037, Article 9, at <https://mpb.rks-gov.net/Documents/Ligji%20nr.%2003-L-037%20per%20dokumentet%20e%20dhetimit%20anglisht.pdf> (last visited Apr. 13, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>21</sup> *Id.* at Article 22.

<sup>22</sup> Immigration and Refugee Board of Canada, *Responses to Information Requests (RIRs)*, Dec. 1, 2011, at <https://www.justice.gov/sites/default/files/eoir/legacy/2014/09/26/KOS103838.E.pdf> (last visited Apr. 13, 2018) (on file with the International Centre for Missing & Exploited Children).

Additionally, the Law on Identity Cards obliges each citizen older than 16 years of age to have an identity card and notes that it serves as an identification (travel) document for state border crossings.<sup>23</sup> While identity cards are generally valid for 10 years, the cards are valid for only five years for persons ages 16 to 26.<sup>24</sup> For citizens younger than age 18, the application for an identity card must be submitted by the legal guardian.<sup>25</sup> The identity cards contain a chip that holds the biometric data of the card holder including facial image, fingerprints, and residence address.<sup>26</sup>

### Reporting Mechanism

There are no clear reporting mechanisms or hotlines specifically dealing with cases of missing children. Crime generally can be reported to the Kosovo Police by mobile phone at 192, fixed line at 92038-550-999 or 080019999, email to [info@kosovopolice.com](mailto:info@kosovopolice.com), or through the police website.<sup>27</sup>

### Investigation of Missing Child Cases

There is no law or policy mandating the immediate investigation of missing children's cases. The Government Commission on Missing Persons operates to find persons missing as result of the Kosovo War, but there is no mention of missing children, regardless of the circumstances of their disappearance, on the agency's website.<sup>28</sup>

The International Committee of the Red Cross (ICRC) manages Restoring Family Links, a movement dedicated to helping connect family members displaced by conflict.<sup>29</sup> Each of the countries in the region manage similar programs based on the Restoring Family Links Strategy. For instance, the Red Cross of Kosovo (RCK) and the Red Cross of Kosovo and Metohija (RCKM) provide tracing services to help look for family members in Kosovo and restore links between family members separated as a result of the regional conflicts of the 1990s, natural disaster, or immigration.<sup>30</sup>

### National Database

Kosovo legislation requires the Government Commission on Missing Persons to establish and maintain a registry of missing persons focused on the period 1 January 1998–31 December 2000.<sup>31</sup> The Central Registry of Missing Persons, established in 2012, is a database of missing persons' cases specific to the regional events of the 1990s.<sup>32</sup> The Central Registry does not close missing persons' cases until the remains are found or the physical whereabouts of the person are known and the family has been notified.<sup>33</sup>

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<sup>23</sup> Law on Identity Cards 2008, Law No. 03/L-099, Articles 3 & 4, at [http://www.assembly-kosova.org/common/docs/ligjet/2008\\_3-L099\\_en.pdf](http://www.assembly-kosova.org/common/docs/ligjet/2008_3-L099_en.pdf) (last visited Apr. 13, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>24</sup> *Id.* at Article 10.

<sup>25</sup> *Id.* at Article 15.

<sup>26</sup> *Id.*

<sup>27</sup> Kosovo Police, *Report the crime*, at <http://www.kosovopolice.com/en/report-the-crime> (last visited Apr. 28, 2018).

<sup>28</sup> The Republic of Kosovo, Office of the Prime Minister, *Government Commission on Missing Persons*, at <http://www.kryeministri-ks.net/?page=2,132> (last Mar. 28, 2018).

<sup>29</sup> International Committee of the Red Cross, *Restoring Family Links*, at [www.familylinks.icrc.org/en/Pages/home.aspx](http://www.familylinks.icrc.org/en/Pages/home.aspx) (last visited Apr. 11, 2018) (on file with the International Centre for Missing & Exploited Children). See also, International Committee of the Red Cross, *Restoring Family Links in Kosovo*, at <https://familylinks.icrc.org/en/pages/countries/kosovo.aspx> (last visited Apr. 11, 2018).

<sup>30</sup> International Committee of the Red Cross, *Restoring Family Links in Kosovo*, at <https://familylinks.icrc.org/en/Pages/Countries/Kosovo.aspx> (last visited Apr. 11, 2018).

<sup>31</sup> Law on Missing Persons of 2011, Code No. 04/L-023, *supra* note 7, at Article 1 – Purpose and Scope.

<sup>32</sup> International Commission on Missing Persons, *Missing Persons from the Kosovo Conflict and its Aftermath: A Stocktaking 28, 2017*, at <https://www.icmp.int/wp-content/uploads/2017/05/Kosovo-stocktaking-ENG.pdf> (last visited Mar. 28, 2018) (on file with International Centre for Missing & Exploited Children).

<sup>33</sup> *Id.*

Additionally, the International Commission on Missing Persons (ICMP) maintains a DNA database of information connected to the regional events of the 1990s, in the hopes of reuniting family members or identifying remains.<sup>34</sup>

The Law on Civil Registration Agency establishes a Civil Registration Agency within the Ministry of Internal Affairs.<sup>35</sup> The Agency is responsible for managing the processes related to the application and issuance of documents for citizens of Kosovo and foreign citizens.<sup>36</sup> It also administers the database of the Civil Status Central Registry that was created by the Law on Civil Status. This registry contains birth, family status, paternity and maternity reports, death, and related information concerning every citizen of Kosovo, as well as every foreign citizen or stateless person with temporary or permanent residence in Kosovo.<sup>37</sup> When a child is found and the parents are unknown, Article 33 details how the child should be registered given the lack of information.<sup>38</sup> Failure to register the birth of a child is punished with a fine from €20-50.<sup>39</sup>

### Case Management System

The methods used by local law enforcement, social welfare organizations, and the Ministry of the Interior to record a reported missing child, as well as the investigative process, are unclear.

### Alert Mechanism

There is no mechanism currently in place to quickly notify the public about missing children cases.

### Awareness-Raising Initiatives

KOMF creates awareness events on all issues related to child protection and works to engage children by educating them on their rights generally and providing guidance on how to protect themselves from violence.<sup>40</sup> However, there does not appear to be a specific focus on missing children issues.

### Trafficking

According to the 2017 U.S. State Department Trafficking in Persons (TIP) report, Kosovo is a Tier 2 country, which means that it does not fully meet the minimum standards articulated in the Trafficking Victims Protection Act (TVPA) but is making significant effort to do so.<sup>41</sup>

In Kosovo, most sex trafficking victims are girls, forced to work in private homes and apartments, nightclubs, and massage parlors.<sup>42</sup> Traffickers often lure girls with promises of marriage or employment as dancers and singers in restaurants.<sup>43</sup> In some cases, girls already working as dancers and escorts become even more vulnerable to sex trafficking.<sup>44</sup> Traffickers also increasingly use social

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<sup>34</sup> International Commission on Missing Persons, *Kosovo*, at <http://www.icmp.int/where-we-work/europe/western-balkans/kosovo/> (last visited Apr. 11, 2018).

<sup>35</sup> Law on Civil Registration Agency Law No. 04/L-160, Article 3 – Establishment and Status of the Agency, at [https://mpb.rks-gov.net/Documents/LAW\\_No\\_04\\_L-160\\_ON\\_CIVIL\\_REGISTRATION\\_AGENCY.pdf](https://mpb.rks-gov.net/Documents/LAW_No_04_L-160_ON_CIVIL_REGISTRATION_AGENCY.pdf) (last visited Apr. 13, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>36</sup> *Id.* at Article 11 – Duties and Responsibilities.

<sup>37</sup> Law on Civil Status, Law No. 04/L003, 2011, at [https://mpb.rks-gov.net/Documents/Ligji%20Nr.04\\_L-003%20per%20Gjendjen%20Civile%20\(anglisht\).pdf](https://mpb.rks-gov.net/Documents/Ligji%20Nr.04_L-003%20per%20Gjendjen%20Civile%20(anglisht).pdf) (last visited Apr. 13, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>38</sup> *Id.* at Article 33.

<sup>39</sup> *Id.* at Article 63.

<sup>40</sup> Coalition of NGOs for Child Protection in Kosovo (KOMF), *supra* note 5.

<sup>41</sup> U.S. Department of State, *2017 Trafficking in Persons Report – Kosovo* 237-239, at <https://www.state.gov/documents/organization/271339.pdf> (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

media to target girls.<sup>45</sup> Additionally, children from Kosovo and neighboring countries are often victims of forced begging.<sup>46</sup> Government corruption has continued to enable some trafficking crimes to occur as a number of police officers, Ministry of Labor employees, and other officials have been convicted of trafficking crimes.<sup>47</sup>

Article 171 of the Criminal Code prohibits all forms of human trafficking and prescribes penalties of 5-12 years of imprisonment and a fine up to €5,000.<sup>48</sup> When the trafficking situation involves minors, the penalties increase to 15-20 years of imprisonment.<sup>49</sup> Other articles in the Criminal Code prohibit other types of trafficking: Article 169 prohibits slavery and forced labor; Article 231 prohibits receiving sexual services from a trafficking victim; Article 241 prohibits facilitating prostitution; and Article 242 prohibits the provision of facilities for prostitution.<sup>50</sup> The Criminal Code adopted in 2013 significantly increased the punishment for traffickers and criminalized the use of services from victims of trafficking, including taking a child for the purpose of exploitation.<sup>51</sup>

In 2013, the Law on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking was passed.<sup>52</sup> Article 3 defines a child as a person under the age of 18 years. The Law requires authorities responsible for social welfare, healthcare, education, NGOs, and other institutions to report to law enforcement when they have knowledge of or suspect that a child is being exploited or trafficked or is at risk of exploitation or trafficking.<sup>53</sup>

In 2015, the government licensed and funded one government-operated and two NGO-operated shelters that exclusively serve trafficking victims.<sup>54</sup> During 2016, one of the NGO-operated shelters temporarily closed due to delays in funding from the Ministry of Labor and Social Welfare.<sup>55</sup> Child trafficking victims can be placed in a short-term shelter exclusively for child victims of violence or in long-term specialized foster care.<sup>56</sup> The government also has implemented procedures to screen for potential victims among vulnerable populations, appointed a coordinator for national anti-trafficking efforts, and begun implementation of its National Strategy Against Trafficking in Human Beings 2015-2019,<sup>57</sup> including allocating and disbursing funds towards the plan's implementation.<sup>58</sup>

The government facilitated a month-long anti-trafficking awareness campaign aimed at potential child trafficking victims.<sup>59</sup> This campaign included artwork and essay contests on preventing trafficking,

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<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Criminal Code of the Republic of Kosovo, *supra* note 10, at Article 171 (1) – Trafficking in Persons.

<sup>49</sup> *Id.* at Article 171 (2) – Trafficking in Persons.

<sup>50</sup> U.S. Department of State, 2017 *Trafficking in Persons Report – Kosovo*, *supra* note 41, at 238.

<sup>51</sup> U.S. Department of State, 2016 *Trafficking in Persons Report – Kosovo* 231, at <http://www.state.gov/documents/organization/258880.pdf> (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>52</sup> Law No. 04\_L-218 on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking, at [https://mpb.rks-gov.net/Documents/LAW\\_NO\\_04\\_L-218\\_ON\\_PREVENTING\\_AND\\_COMBATING\\_TRAFFICKING\\_IN\\_HUMAN\\_BEINGS\\_AND\\_PROTECTING\\_VICTIMS\\_OF\\_TRAFFICKING.pdf](https://mpb.rks-gov.net/Documents/LAW_NO_04_L-218_ON_PREVENTING_AND_COMBATING_TRAFFICKING_IN_HUMAN_BEINGS_AND_PROTECTING_VICTIMS_OF_TRAFFICKING.pdf) (last visited Apr. 2, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>53</sup> *Id.* at Article 34 – General provisions on assistance and protection of child victims of trafficking in human beings.

<sup>54</sup> U.S. Department of State, 2017 *Trafficking in Persons Report – Kosovo*, *supra* note 41.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> Republic of Kosovo, *National Strategy Against Trafficking in Human Beings in Kosovo 2015-2019*, at [http://kryeministri-ks.com/repository/docs/NATIONAL\\_STRATEGY\\_AGAINST\\_TRAFFICKING\\_IN\\_HUMAN\\_BEINGS\\_IN\\_KOSOVO.pdf](http://kryeministri-ks.com/repository/docs/NATIONAL_STRATEGY_AGAINST_TRAFFICKING_IN_HUMAN_BEINGS_IN_KOSOVO.pdf) (last visited Apr. 11, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>58</sup> U.S. Department of State, 2016 *Trafficking in Persons Report – Kosovo*, *supra* 51, at 232.

<sup>59</sup> *Id.*



information sessions with school staff and parents, and the distribution to school officials of manuals on combatting trafficking.<sup>60</sup>

In 2016, Kosovo signed a trilateral agreement with Albania and Montenegro that unified standard operating procedures on identifying trafficking victims and providing support services.<sup>61</sup> These countries declared their institutions' commitment to ensuring the standard operating procedures for identification, assisted voluntary return, and protection of victims with a focus on trafficked children.<sup>62</sup> All trafficking cases are investigated by the Trafficking in Human Beings Directorate (THBD) within the Kosovo Police.<sup>63</sup> THBD consists of 55 investigators, four of which specialize in child trafficking.<sup>64</sup>

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<sup>60</sup> *Id.*

<sup>61</sup> Save the Children – Albania, *Joint Declaration of Albania, Montenegro and Kosovo Focusing Child Trafficking*, at <https://albania.savethechildren.net/news/joint-declaration-albania-montenegro-and-kosovo-focusing-child-trafficking> (last visited Apr. 12, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>62</sup> *Id.*

<sup>63</sup> U.S. Department of State, *2017 Trafficking in Persons Report – Kosovo*, *supra* note 41.

<sup>64</sup> *Id.*