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## **LANZAROTE CONVENTION**

## **CONVENTION DE LANZAROTE**

Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse

Convention du Conseil de l'Europe sur la protection des enfants contre l'exploitation et les abus sexuels

### **Compilation of Replies to Question 5 of the General Overview Questionnaire**

### **Compilation des réponses à la Question 5 du questionnaire « Aperçu général »**

The full replies submitted by States and other stakeholders are available at:

Les réponses intégrales des Etats et autres parties prenantes sont disponibles ici :

[www.coe.int/lanzarote](http://www.coe.int/lanzarote)

## Introduction

Since its 2<sup>nd</sup> meeting (see §5 of the meeting report)<sup>1</sup>, the Committee has considered that it should first acquire a general overview of the situation with regard to the protection of children against sexual exploitation and sexual abuse in terms of existing legislation, institutional framework and policies for the implementation of the Convention. Such an overview should serve as a basis for the thematic monitoring of the implementation of the Convention.

This approach was confirmed by the Committee during its subsequent meetings and is reflected in the indicative calendar for the 1<sup>st</sup> monitoring round as adopted by the Committee in December 2013 (see §13 of the 7<sup>th</sup> meeting report as well as its Appendix III)<sup>2</sup>. During this meeting, the Committee also decided that the Secretariat should compile the replies to the questionnaires following the indicative calendar and thus that for its 8<sup>th</sup> meeting, replies to questions 1, 3, 5 and 6 of the General Overview Questionnaire should be compiled.

This document is therefore aimed at responding to this request by compiling replies to question 5.

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Depuis sa 2<sup>e</sup> réunion (voir §5 du rapport de réunion)<sup>3</sup>, le Comité a estimé devoir acquérir d'abord une vue d'ensemble de la situation de la protection des enfants contre l'exploitation et les abus sexuels (législation en place, cadre institutionnel et politiques de mise en œuvre de la Convention). Une telle vue d'ensemble devrait servir de base au suivi thématique de la mise en œuvre de la Convention.

Cette approche a été confirmée lors des réunions suivantes du Comité et est reflétée dans le calendrier indicatif pour le 1<sup>er</sup> cycle de suivi tel qu'approuvé par le Comité en décembre 2013 (voir §13 du rapport de la 7<sup>e</sup> réunion ainsi que son annexe III).<sup>4</sup> Lors de cette réunion le Comité a également décidé que le Secrétariat devrait compiler les réponses aux questionnaires selon le calendrier indicatif et par conséquent, pour sa 8<sup>e</sup> réunion, que les réponses aux questions 1, 3, 5 et 6 du questionnaire « Aperçu général » devraient être compilées.

Le présent document vise donc à répondre à cette demande en compilant les réponses reçues à la question 5.

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<sup>1</sup> The 2<sup>nd</sup> meeting report is online at:

[http://www.coe.int/t/dghl/standardsetting/children/T\\_ES/T-ES\\_2012\\_004\\_report\\_2nd\\_mtg\\_07082012.pdf](http://www.coe.int/t/dghl/standardsetting/children/T_ES/T-ES_2012_004_report_2nd_mtg_07082012.pdf)

<sup>2</sup> The 7<sup>th</sup> meeting report is online at:

[http://www.coe.int/t/dghl/standardsetting/children/T-ES\(2013\)12Report7thMeeting\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/children/T-ES(2013)12Report7thMeeting_en.pdf)

<sup>3</sup> Le rapport de la 2<sup>e</sup> réunion est en ligne ici :

[http://www.coe.int/t/dghl/standardsetting/children/T\\_ES/T-ES\\_2012\\_004\\_rapport\\_2e\\_reunion\\_07082012.pdf](http://www.coe.int/t/dghl/standardsetting/children/T_ES/T-ES_2012_004_rapport_2e_reunion_07082012.pdf)

<sup>4</sup> Le rapport de la 7<sup>e</sup> réunion est en ligne ici :

[http://www.coe.int/t/dghl/standardsetting/children/T-ES\(2013\)12Report7thMeeting\\_fr.pdf](http://www.coe.int/t/dghl/standardsetting/children/T-ES(2013)12Report7thMeeting_fr.pdf)

### **Question 5: Specialised bodies/mechanisms**

- a. Please indicate the independent institution(s) (national or local) in charge of promoting and protecting the rights of the child. Please specify its/their responsibilities and indicate how resources are secured for it/them (Article 10, para. 2, letter (a));
- b. Which legislative or other measures have been taken to set up or designate mechanisms for data collection or focal points, at the national or local levels and in collaboration with civil society, for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children, with due respect for the requirements of personal data protection? (Article 10, para. 2, letter (b));
- c. Which legislative or other measures have been taken to organise the collection and storage of data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention? What is the national authority in charge of the collection and storage of such data? (Article 37, para. 1).

### **Question 5 : Instances ou mécanismes spécialisés**

- a. Veuillez indiquer l'/les institution(s) indépendante(s) (nationales ou locales) chargée(s) de la promotion et de la protection des droits de l'enfant. Veuillez préciser ses/leurs responsabilités et indiquer d'où elle(s) tire(nt) ses/leurs ressources (article 10, par. 2, alinéa (a)) ;
- b. Quelles mesures législatives ou autres ont été prises pour mettre en place ou désigner des mécanismes de recueil de données ou des points d'information, au niveau national ou local et en coopération avec la société civile, qui permettent, dans le respect des exigences liées à la protection des données à caractère personnel, d'observer et d'évaluer les phénomènes d'exploitation et d'abus sexuels concernant des enfants ? (article 10, par. 2, alinéa (b)) ;
- c. Quelles mesures législatives ou autres ont été prises pour organiser la collecte et la conservation des données relatives à l'identité et au profil génétique (ADN) des personnes condamnées pour des infractions établies conformément à la Convention ? Quelle est l'autorité nationale responsable de la collecte et de la conservation de ces données ? (article 37, par. 1).

## Relevant extracts from the Lanzarote Convention and its Explanatory report

### Lanzarote Convention, Article 10 – National measures of co-ordination and collaboration

- 2 Each Party shall take the necessary legislative or other measures to set up or designate:
- a independent competent national or local institutions for the promotion and protection of the rights of the child, ensuring that they are provided with specific resources and responsibilities
  - b mechanisms for data collection or focal points, at the national or local levels and in collaboration with civil society, for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children, with due respect for the requirements of personal data protection.

### Explanatory report

79. Paragraph 2 a requires Parties to set up or designate independent national or local institutions for the promotion and protection of the rights of the child. To ensure that children's rights are being promoted and respected, States should appoint an independent individual or agency, one of whose tasks should be to promote public awareness of sexual exploitation and abuse of children and their long term negative effects, as well as to ensure the respect of the rights of children.
80. A number of countries have created such positions which are known by different names and involve different responsibilities and functions – Children's Ombudsperson, Children's Advocate, Child Rights Commissioner, Committee on Child Rights, etc. There are very few policies in social and public life which do not affect children and one of the functions of an Ombudsperson or Commissioner could be to ensure that all relevant policies and practices at central and local government level are child proofed or have been developed in reference to some form of child impact assessment.
81. Further, it is also important that the development of such an approach is resourced properly and given clear responsibilities.
82. It should also be borne in mind that, in addition to the designation of independent authorities at the level of the member States, the Parliamentary Assembly of the Council of Europe suggested that the appointment, at the European level, of a European Ombudsman for Children would be a powerful resource in promoting awareness about the situation of many children throughout Europe and in co-ordinating policies to better enhance their lives and life experiences (see Recommendation N° 1460 (2000) of the Parliamentary Assembly).
83. Paragraph 2 b requires Parties to set up or designate mechanisms for data collection or focal points at the national or local levels, in collaboration with civil society, for observing and evaluating the phenomenon of sexual exploitation and abuse of children. Although there can be no doubt that the sexual exploitation and abuse of children is a serious and increasing problem, there is a lack of accurate and reliable statistics on the nature of the phenomenon and on the numbers of children involved. Policies and measures may not be best developed and appropriately targeted if reliance is placed on inaccurate or misleading information. The obligation provided in paragraph 2 b aims at taking measures to address the lack of information.
84. The data referred to are not intended to cover personal data on individuals, but only statistical data on victims and offenders. Nevertheless, the negotiators wished to highlight the importance of respecting data protection rules in the collection of any data, by including the phrase "with due respect for the requirements of personal data protection"

## **Lanzarote Convention, Article 37 – Recording and storing of national data on convicted sexual offenders**

- 1 For the purposes of prevention and prosecution of the offences established in accordance with this Convention, each Party shall take the necessary legislative or other measures to collect and store, in accordance with the relevant provisions on the protection of personal data and other appropriate rules and guarantees as prescribed by domestic law, data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention.

### **Explanatory report**

243. The negotiators' objective was to ensure that certain data on perpetrators of the offences defined in the Convention are recorded and stored for the purposes of prevention and prosecution of such offences. This obligation applies only to data relating to the identity and the genetic profile (DNA number code) of convicted persons and not to the sample itself, which have been shown to be extremely useful in criminal investigations in the identification of recidivist perpetrators of crimes. Data revealing sexual preference, medical data and data relating to previous convictions are, according to Article 6 of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108), considered as sensitive data requiring special protection.
244. The negotiators agreed that the Convention should leave to Parties as much flexibility as possible in deciding the modalities of the implementation of this obligation.
245. Article 37 does not impose the establishment of a "database", still less a single database. The data in question and the past history of the persons concerned may therefore very well be included in separate databases. This means it is also possible for information about sex offenders to exist in databases that do not necessarily contain only information about such offenders.
246. Paragraph 1 of this provision lays down that data on persons convicted of the offences set out in the Convention must be recorded and stored "in accordance with the relevant provisions on the protection of personal data and other appropriate rules and guarantees as prescribed by domestic law" in each State. As far as the former aspect is concerned, reference should be made to Convention ETS 108.
247. Article 5 specifically stipulates that "personal data undergoing automatic processing shall be: a) obtained and processed fairly and lawfully; b) stored for specified and legitimate purposes and not used in a way incompatible with those purposes; c) adequate, relevant and not excessive in relation to the purposes for which they are stored; d) accurate and, where necessary, kept up to date; e) preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored". The explanatory report states that "the different provisions of this article aim at the fulfilment of two fundamental legal standards. On the one hand the information should be correct, relevant and not excessive in relation to its purpose. On the other hand its use (gathering, storage, dissemination) should likewise be correct". Furthermore, "the reference to "purposes" in sub-paragraphs b and c indicates that it should not be allowed to store data for undefined purposes. The way in which the legitimate purpose is specified may vary in accordance with national legislation". Lastly, "the requirement appearing under sub-paragraph e concerning the time-limits for the storage of data in their name-linked form does not mean that data should after some time be irrevocably separated from the name of the person to whom they relate, but only that it should not be possible to link readily the data and the identifiers".
248. Where data security is concerned, the explanatory report to Convention ETS 108 specifies that "there should be specific security measures for every file, taking into account its degree of vulnerability, the need to restrict access to the information within the organisation, requirements concerning long-term storage, and so forth. The security measures must be appropriate, i.e. adapted to the specific function

of the file and the risks involved. They should be based on the current state of the art of data security methods and techniques in the field of data processing”.

249. The reference to "appropriate rules and guarantees as prescribed by domestic law" of each State takes into account the different national rules on the collecting and storing of DNA. They contain, for example, precise criteria for the identification of "the natural or legal person, public authority, agency or any other body who is competent according to the national law to decide what should be the purpose of the automated data file, which categories of personal data should be stored and which operations should be applied to them." (Article 2 of Convention ETS 108).

## Extraits pertinent de la Convention de Lanzarote et son rapport explicatif

### Convention de Lanzarote, Article 10 – Mesures nationales de coordination et de collaboration

- 2 Chaque Partie prend les mesures législatives ou autres nécessaires pour mettre en place ou désigner:
- a des institutions nationales ou locales indépendantes compétentes pour la promotion et la protection des droits de l'enfant, en veillant à ce qu'elles soient dotées de ressources et de responsabilités spécifiques;
  - b des mécanismes de recueil de données ou des points d'information, au niveau national ou local et en coopération avec la société civile, permettant, dans le respect des exigences liées à la protection des données à caractère personnel, l'observation et l'évaluation des phénomènes d'exploitation et d'abus sexuels concernant des enfants.

### Rapport explicatif

79. Le paragraphe 2 (a) demande aux Parties de mettre en place ou de désigner des institutions nationales ou locales indépendantes pour la promotion et la protection des droits de l'enfant. Pour garantir que les droits de l'enfant sont promus et respectés, les Etats doivent désigner une personne ou une agence indépendante, qui sera notamment chargée de sensibiliser la population à l'exploitation et aux abus sexuels concernant des enfants et à leurs effets négatifs à long terme, ainsi qu'à la défense des droits des enfants.
80. Plusieurs pays ont créé des postes de ce type connus sous des noms divers et impliquant des responsabilités et fonctions différentes – médiateur des enfants, défenseur des enfants, commissaire aux droits de l'enfant, comité sur les droits de l'enfant, etc. Comme il est rare que les politiques adoptées dans le domaine social n'affectent pas les enfants, une des fonctions du médiateur ou du commissaire pourrait être de vérifier que toutes les mesures et pratiques pertinentes des pouvoirs publics aux niveaux national et local ne sont pas néfastes pour les enfants ou ont été conçues en tenant compte de l'impact qu'elles peuvent avoir sur ces derniers.
81. En outre, il est également important de bien définir les responsabilités et de prévoir des ressources suffisantes pour l'élaboration de cette approche.
82. Il doit aussi être rappelé qu'en outre la désignation d'autorités indépendantes au niveau des Etats membres, l'Assemblée parlementaire du Conseil de l'Europe suggère que la désignation d'un médiateur européen, au niveau européen, pour les enfants constituerait une initiative très utile pour sensibiliser le public à la situation de nombreux enfants dans toute l'Europe et pour coordonner les actions des pouvoirs publics visant à améliorer leur vie et leurs possibilités d'épanouissement (voir la Recommandation n° 1460 (2000) de l'Assemblée parlementaire).

83. Le paragraphe 2 (b) demande aux Parties de mettre en place ou de désigner des mécanismes de recueil de données ou des points d'information aux niveaux national ou local, en coopération avec la société civile, afin d'observer et d'évaluer les phénomènes d'exploitation et d'abus sexuels concernant des enfants. Bien que personne ne conteste la gravité et le développement du phénomène de l'exploitation et des abus sexuels, il n'y a pas suffisamment de statistiques exactes et fiables sur sa nature et le nombre d'enfants impliqués. Les politiques et les mesures basées sur des informations inexactes ou trompeuses risquent de n'être pas correctement conçues et ciblées. L'obligation énoncée au paragraphe 2(b) vise à prendre des mesures pour combler ce manque d'informations.
84. Les données évoquées ne sont pas les données à caractère personnel concernant des individus, mais seulement les données statistiques sur les victimes et les auteurs d'infractions. Néanmoins, les négociateurs ont souhaité souligner qu'il était important que le recueil de tout type de données respecte les règles en matière de protection des données, en précisant « dans le respect des exigences liées à la protection des données à caractère personnel ».

### **Convention de Lanzarote, Article 37– Enregistrement et conservation des données nationales sur les délinquants sexuels condamnés**

- 1 Aux fins de prévention et de répression des infractions établies conformément à la présente Convention, chaque Partie prend les mesures législatives ou autres nécessaires pour enregistrer et conserver, conformément aux dispositions pertinentes sur la protection des données à caractère personnel et aux autres règles et garanties appropriées telles que prévues dans le droit interne, les données relatives à l'identité ainsi qu'au profil génétique (ADN) des personnes condamnées pour les infractions établies conformément à la présente Convention.

### **Rapport explicatif**

243. Les négociateurs ont souscrit à l'objectif tendant à assurer que certaines données relatives aux auteurs des infractions établies conformément à la Convention soient enregistrées et conservées aux fins de la prévention et la poursuite de ces infractions. Cette obligation concerne uniquement les données relatives à l'identité et au profil génétique (code ADN) des personnes condamnées et non pas l'échantillon lui-même, dont les expériences récentes ont montré l'utilité, dans l'enquête pénale, pour identifier et confondre les auteurs d'infractions récidivistes. Les données révélant la préférence sexuelle, les données médicales et les données relatives aux condamnations pénales sont considérées aux termes de l'article 6 de la Convention du Conseil de l'Europe pour la protection des personnes à l'égard du traitement automatisé des données à caractère personnel (STE N° 108), comme des données sensibles nécessitant une protection renforcée.
244. Les négociateurs sont convenus que la Convention devait laisser aux Etats parties la plus grande flexibilité pour arrêter les modalités de mise en œuvre de cette obligation.
245. Ainsi, l'article 37 n'impose pas la création de « base de données » et encore moins d'une base de données unique. Dès lors, les données en question, ainsi que les antécédents des personnes concernées, peuvent très bien figurer dans des bases distinctes. Cela comprend également la possibilité que les informations sur ces personnes existent dans des bases de données distinctes qui ne prévoient pas nécessairement que des informations sur ces délinquants.
246. Le paragraphe 1 de cette disposition prévoit que l'enregistrement et la conservation des données sur les personnes condamnées pour des infractions prévues dans la Convention doivent se faire « conformément aux dispositions pertinentes sur la protection des données à caractère personnel » et « conformément aux autres règles et garanties appropriées telles que prévues par le droit interne » de chaque Etat. S'agissant des règles applicables en matière de protection des données à caractère personnel, une référence devrait être faite à la Convention STE n° 108.

247. En particulier, son article 5 précise que « Les données à caractère personnel faisant l'objet d'un traitement automatisé sont : a) obtenues et traitées loyalement et licitement; b) enregistrées pour des finalités déterminées et légitimes et ne sont pas utilisées de manière incompatible avec ces finalités; c) adéquates, pertinentes et non excessives par rapport aux finalités pour lesquelles elles sont enregistrées; d) exactes et si nécessaire mises à jour; e) conservées sous une forme permettant l'identification des personnes concernées pendant une durée n'excédant pas celle nécessaire aux finalités pour lesquelles elles sont enregistrées. » Le rapport explicatif précise que «deux règles principales sont exprimées par les différentes dispositions de l'article 5. D'une part l'information elle-même doit être correcte, pertinente et non excessive par rapport à sa finalité. D'autre part, son utilisation (collecte, enregistrement, diffusion) doit également être correcte. » En outre, « la référence aux «finalités» dans les lettres b et c indique qu'il ne sera pas permis d'enregistrer des données pour des finalités non déterminées. La façon dans laquelle la finalité légitime est précisée peut varier selon le droit interne. » Enfin, « l'exigence figurant sous la lettre e concernant la durée limitée de la conservation des données sous leur forme nominative ne signifie pas qu'elles doivent être séparées, après quelque temps, irrévocablement du nom de la personne à laquelle elles se réfèrent, mais seulement qu'il ne doit pas être possible de relier facilement les données et les identifiants. »
248. En ce qui concerne la sécurité des données, le rapport explicatif sur la Convention 108 précise que « des mesures spécifiques de sécurité devraient être prises pour chaque fichier en fonction de sa vulnérabilité, de la nécessité d'en restreindre l'accès dans le cadre de l'organisation, des impératifs d'un enregistrement à long terme, etc. Les mesures de sécurité doivent être appropriées, c'est-à-dire adaptées aux fonctions spécifiques du fichier et proportionnées aux risques encourus. Enfin, elles doivent être fondées sur l'état actuel des connaissances relatives aux méthodes et techniques de sécurité dans le domaine de l'informatique. »
249. La référence aux « règles et garanties appropriées telles que prévues par le droit interne » de chaque Etat tient compte des différentes réglementations nationales sur l'enregistrement et la conservation des données à caractère personnel. Elles contiennent par exemple des critères précis pour l'identification de « la personne physique ou morale, l'autorité publique, le service ou tout autre organisme qui est compétent selon la loi nationale, pour décider quelle sera la finalité du fichier automatisé, quelles catégories de données à caractère personnel doivent être enregistrées et quelles opérations leur seront appliquées. » (Article 2 d de la Convention STE n° 108).



## COMPILATION of replies / des réponses<sup>5</sup>

### **ALBANIA / ALBANIE**<sup>6</sup>

#### **Question a.**

To ensure the implementation, of the Law 10347 “On Protection of Child Rights” are defined Institutional Structures for Protection of the Rights of the Child at central and local level

At central level structures include:

- a) National Council for Protection of Child Rights;
- b) The Minister responsible for coordinating action related to protection of child’s rights;
- c) State Agency for Protection of Child Rights.

At local level structures include:

- a. Child Rights Units at Regional Council;
- b. Child Protection Unit at the municipality/commune level.

Actually there are established all institutional structures at central level, defined by the law.

National Council for Protection of Child Rights is an advisory ad hoc body established by order of the Prime Minister. It is composed of ministers appointed by the Prime Minister among his cabinet members, the Ombudsman, one representative from the National Association of Municipalities and two representatives from the civil society sector and is chaired by the Minister Responsible for Coordinating Action Related to Protection of Child’s Rights, actually this role is held by the Minister of Social Welfare and Youth

The National Council for Protection of Child Rights has the duty:

- a) to coordinate national policy for enabling child rights and providing protection to children.
- b) to analyze the implementation of national policies for child protection,
- c) to assess the current situation of implementation of the rights of the child and to produce recommendations and specific instructions for state authorities
- d) to recommend programs and services specially designed for children and their families, mainly those in need of urgent protection;
- e) to submit proposals and recommendations towards improvement of laws concerning protection of the rights of the child.

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<sup>5</sup> The replies are reproduced here in the language they were received. / Les réponses sont transcrites ici dans la langue où elles ont été reçues.

<sup>6</sup> States which are underlined are Parties to the Convention included in the 1<sup>st</sup> monitoring round, that are, therefore, under an obligation to reply to the questionnaires. / Les Etats dont le nom est souligné sont les Etats parties à la Convention participant au 1<sup>er</sup> cycle de suivi et qui doivent, donc répondre aux questionnaires.

The State Agency for Protection of Child Rights is established and functions by the Order of Prime Minister No 30, date 18.03.2011. It is an executive institution under the Minister of Labour Social Affairs and Equal Opportunities.

The Agency is headed and represented by its Chairperson appointed by the Prime Minister.

His mission is:

- to monitor the implementation of this law, of the Action Plan for Children 2012-2015, the fulfillment of international obligations of Albania concerning protection of the rights of the child;
- to guarantee the collaboration among state structures in central and local level and NGO for the realization of child rights.
- to establish a systems for collection of statistics related to children's issues in cooperation with the Institute of Statistics and relevant governmental institutions,
- to impose fines for violators of legal provisions as determined in Article 40 of the law.
- to coordinate its operations with counterpart agencies in foreign countries;

In Local level are established 170 Child Protection Units at municipal/commune level and 12 Child Rights Units at Regional level.

#### Child Rights Units at Regional Level

Child Rights Units are established as part of the administration of the Regional Council, has the mission:

- a) to monitor and evaluate the implementation of laws and policies related to protection child rights, in the jurisdiction of the regional council;
- b) to identify and coordinate referrals of abuse and violation of the rights of the child

#### Child Protection Unit at the Municipality/Commune Level

The Children's Protection Unit, are established as part of the administrative structure of municipality/commune, and has the mission:

- to identify cases of children at risk and coordinate, with actors of the multidisciplinary group for the assessment, protection and referral of cases within the territory of the municipality/commune
- to assess and monitor the situation of child at risk and his families until the child is considered "not at risk";
- to cooperate with social administrators, school psychologists, family doctors, police authorities, social workers at the public and non public service centers, on improving the situation of protection of children in the territory of the municipality/commune.

The independent institution that are involved with the protection of the child's rights, are the Ombudsman and the Commissioner from Discrimination.

**Question b.**

Pursuant to the Law "On Protection of the Rights of the Child", was adopted DCM No. 267, dated 12.04.2012 "On Types and Methods of Sharing Information and Statistical Data Requested by the Agency and the Other Responsible State Institutions, at Central and Local Level"

DCM clearly defines the types and sources of statistical data, to be collected by the State Agency for the Protection of Children's Rights, as well as other responsible structures at central level. One of the indicators that is collected through this decision, it's the indicator on violence and abuse, which it collects the data by the sex gender on the number of children who have been abused, and number of child victims according to the type of violence they have suffered (domestic violence, sexual exploitation, abuse, trafficking). These indicators are annually collected by the General Directorate of Police.

Meanwhile, collected through this decision is as well, the number of denunciations according to the type of violence, the number of persons detained for committing violence and abuse against minors and the number of offenders related to the victim. While in terms of number of cases where the perpetrator was convicted or has started prosecution against the perpetrator, this information is collected annually by the Ministry of Justice.

**Question c.**

No reply

**ANDORRA / ANDORRE<sup>7</sup>**

Did not reply. / N'a pas répondu.

**ARMENIA / ARMENIE****Question a.**

In the Republic of Armenia, a three-tier system for the protection of children - community, regional and national - has been established and is functioning, the aim of which is to ensure the implementation of unified and co-ordinated child protection policy.

Guardianship and curatorship bodies stipulated by the Family Code of the Republic of Armenia are the first level dealing with protection of the children's rights, which ensure the protection of the children's rights in communities. Guardianship and curatorship commissions also function adjacent to the guardianship and curatorship bodies. The Charter of the guardianship and curatorship bodies was approved by the Decision of the Government of the Republic of Armenia No 164-N of 24 February 2011, Methodological guideline on the activities of the guardianship and curatorship commissions adjacent to the guardianship and curatorship bodies was approved by the Order of the Minister of Labour and Social Affairs of the Republic of Armenia No 69-A/1 of 13 September 2011.

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<sup>7</sup> States which are not underlined have signed but not yet ratified the Convention. They have nevertheless been invited to reply to the general overview questionnaire. / Les Etats dont le nom n'est pas souligné ont signé pas encore ratifié la Convention. Ils ont néanmoins été invités à répondre au questionnaire « Aperçu general ».

Divisions for the protection of the rights of families, women and children at marzpetarans (Yerevan Municipality) have been functioning since 2006, the task of which is to implement child protection policy approved by the Government of the Republic of Armenia, to ensure the protection of children's rights facing difficult life situations and to elaborate and implement tailor-made projects in marz (in the city of Yerevan). In 2010, exemplary charter of the Divisions for the protection of the rights of families, women and children at marzpetarans was approved by the joint Order of the Minister of Labour and Social Affairs of the Republic of Armenia and the Minister of Territorial Administration of the Republic of Armenia.

The National Commission for the Protection of Children's Rights has been functioning since 2005, in 2012, the revised charter and the composition of the National Commission for the Protection of Children's Rights were approved by the Prime Minister of the Republic of Armenia, the task of which is to support the elaboration and implementation of state policy and strategic programmes aimed at the protection of children's rights and interests, as well as the co-operation among public administration bodies and local self-governing bodies engaged in the protection of children's rights and interest, state, community and private child care protection institutions, non-governmental, political, scientific and other organisations.

According to Article 2 of the National Guidance Procedure for Persons subjected to Human Exploitation (Trafficking) approved by the Decision of the Government of the Republic of Armenia No 1385-A of 20 November 2008, the main public administration body competent for the fight against crime of trafficking in the Republic of Armenia is the Police of the Republic of Armenia adjacent to the Government of the Republic of Armenia. The information on the detected victim is immediately transferred by the authorised public administration bodies to the Police of the Republic of Armenia adjacent to the Government of the Republic of Armenia.

The Ministry of Healthcare of the Republic of Armenia is responsible for the organisation of medical care and service of children.

**Question b.**

Cases of sexual exploitation and sexual abuse of children are registered and recorded in the Centre of the Police of the Republic of Armenia.

**Question c.**

No reply

**AUSTRIA / AUTRICHE**

**Question a.**

On the basis of the Youth Welfare Law 1989 ombudspersons offices for children and adolescents were established in all nine regional governments (Laender). With the new Federal-Children and Youth Service Act 2013 their responsibilities and role have been made more concrete. The regional governments have to secure sufficient funds and freedom in

fulfilling their duties. The ombudspersons are exempted from accountability to other administrative bodies. As an independent ombudsman office, they represent and protect the interests of children and adolescents in the law making process, provide counselling on questions and problems of concern to children and adolescents and give information on children's rights. The responsibilities are described more or less similarly in the nine regional laws as follows:

- To counsel children, persons legally responsible for a child and legal guardians in all matters relating to the position of the child and the tasks of the persons legally responsible for the child;
- To act as a mediator between youth welfare institutions, the parent(s), the school, the kindergarten and the children and adolescents;
- To organize information events on issues of special importance to children;
- To evaluate and initiate legal provisions, regulations and other legal measures from the point of view of children and adolescents;
- To make recommendations to improve the living conditions of children and adolescents;
- To suggest special inspections of private youth welfare institutions in case of grievances;
- To protect the interests of children and adolescents in all planning and research projects.

Besides, the ombudsperson offices the OJV and child protection centers (see question 4) are important independent institutions in charge of promoting and protecting the rights of the child.

#### **Question b.**

1. The Austrian Federal Office of Criminal Investigation keeps the "Police Crime Statistics", which contains data about the number of offences and information about perpetrators and victims of violence, disaggregated according to gender, age and relationship of victim and perpetrator.

2. Information on judicial convictions can be found in the Judicial Criminal Statistics (Gerichtliche Kriminalstatistik) which are published by Statistik Austria. Furthermore data is published in the criminal justice report (Sicherheitsbericht 2012) which includes figures concerning the offenders as well as the victims.

3. The statistics of the youth welfare authorities contain data about the number of interventions taken in order to protect the interests and safeguard the well-being of the child (including domestic/sexual violence), age and gender of the involved children, legal circumstances but not the concrete reason of their interventions. The annual statistics of the NGO-child protection centres can be collected in reports on violence. The focal point on violence (within the Federal Ministry responsible for Family and Youth) as national partner to the Council of Europe and World Health Organization does not collect data.

4. One of the working groups (PG 1) of the Children Rights Monitoring Board is setting up a data collection system about the life situation of children in Austria in variable contexts

according to international comparable criteria. After analysing the collected data, an annual updated Factbook "Children in Austria - Kinder in Österreich" is going to be published.

**Question c.**

According to Section 65 in combination with 67 of the Security Police Law (Sicherheitspolizeigesetz – SPG) a person's DNA may be compiled in the course of identification procedures if the person concerned is suspected of having committed a dangerous assault (e.g. a sex offence) and if it can be expected with respect to this offence or the personality of the person concerned that he would leave traces when committing further dangerous attacks which would make it possible to identify him on the basis of genetic information compiled.

The competent authority in Austria is the Austrian Federal Office of Criminal Investigation (Bundeskriminalamt - .BK).

## **AZERBAIJAN / AZERBAÏDJAN**

**Question a.**

State Committee on Family, Woman & Children Affairs of Azerbaijan Republic has been established in 2006. The State Committee for Family, Women and Children's Issues (here after – the Committee) is a central executive power body implementing and regulating the state policy on family, women and children's issues. There are 11 regional children and family support centers acting under the Committee. The Committee has the following rights to fulfil its duties:

- Give proposals on main directions of the state policy in the appropriate field;
- Establish a unique information system in the appropriate field within its competence;
- Organize systematic work with women and men in compliance with gender principles;
- Participate in implementation of state programs on millennium development goals, poverty reduction, and employment strategy within its competence;
- Implement "healthy mother", "healthy child" principles, to provide study of juridical knowledge on the direction of children's rights protection;
- Carry out supervision under the implementation of state woman policy, giving children from child institutions for foster-care, protection of their rights and legal interests, and social protection as well by departments within the Committee's structure, to receive information on the way appropriate state bodies fulfil their duties in these directions;

Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan has been functioning since 2002 as an independent institution that is in charge of promoting and protecting human rights, including child rights. There are 4 regional centers of the Commissioner which are situated in Ganja, Guba, Jalilabad and Shaki. According to the Article 1.1 of the Constitutional Law of the Commissioner for Human Rights, the Commissioner is set up to restore the human rights and freedoms enshrined in the Constitution of the Republic of Azerbaijan and in the international treaties to which the Republic of Azerbaijan is a party as well as violated by governmental and municipal bodies

and officials of the Republic of Azerbaijan and to prevent violation of human rights in cases envisaged by the given Constitutional Law.

**Question b.**

Measures of protection of children against sexual abuse and sexual violence in the territory of the Republic of Azerbaijan are provided in all cases on the basis of the national laws and criminal legislation, and guilty persons are brought to trial. Prevention of such cases, public awareness and education efforts, varied aid to aggrieved persons as well as inter-departmental relations and cooperation with non-governmental organizations in prevention of this type of offences are carried out in accordance with the National Action Plan and National Program adopted in the field of human rights and freedoms protection.

**BELGIUM / BELGIQUE**

Did not reply yet. / N'a pas encore répondu.

**BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

Did not reply yet. / N'a pas encore répondu.

**BULGARIA / BULGARIE**

Did not reply yet. / N'a pas encore répondu.

**CROATIA / CROATIE**

**Question a.**

The independent institution in charge of promoting and protecting the rights of the child is the Ombudsperson for Children. His job is to inform the public about the state of children's rights, inform children about and give advice to them on the manner in which their rights and interests may be exercised and protected, and participate in procedures preceding the passing of legislation relating to children's rights. He/she may also propose the passing of and amendments to laws and other regulations relating to the rights and protection of children. The Ombudsperson for Children has access, irrespective of their degree of confidentiality, to all the data, information and legal acts relating to the rights and protection of children, is entitled to enter and inspect all the facilities, state administration authorities, legal and natural persons authorised under special legislation to take care of children, and is authorised to issue warnings, give proposals and recommendations to all state administration authorities, local and regional self-government units and legal persons that are obliged to cooperate and, at the request of the Ombudsperson for Children, submit reports. With a view to monitoring the manner in which children's rights are exercised in the Republic of Croatia, the Ombudsperson for Children also monitors the measures and activities undertaken by the competent authorities that are directed at combatting all the negative occurrences infringing, either directly or indirectly, on the rights of children as they are guaranteed by international documents and the positive law of the Republic of Croatia.

The Ombudsperson for Children is funded from the state budget.

### Question b.

The Ministry of the Interior of the Republic of Croatia monitors and analyses the security conditions and occurrences beneficial for the emergence and development of crime in the territory of the Republic of Croatia as well as within the areas of competence of particular police administrations. This is also the framework within which information relating to the sexual exploitation and sexual abuse of children are analysed and recorded (records containing data on the number of committed criminal offences, number of victims, number of perpetrators, as well as the relationship between the victim and the perpetrator).

Furthermore, health care facilities keep records containing information on the following:

1. the number of reports submitted by physicians to the Croatian Health Insurance Fund in the case of injuries inflicted by a family member;
2. the number of cases in which the victim of domestic violence is administered medical treatment;
3. costs of medical treatment of the victim of domestic violence;
4. the number of cases in which the victim of domestic violence is prescribed psychiatric treatment; and
5. the number of cases in which the perpetrator of domestic violence is prescribed psychiatric treatment.

According to the protocols for handling cases of domestic violence, sexual violence, bodily injury inflicted by a family member or by an unknown person, the physician is required to fill out the "Injury/Illness Report" form which is then submitted to the police and the local branch office of the Croatian Health Insurance Fund within the jurisdiction of which the person has a permanent or temporary place of residence.

As regards the requirements of personal data protection, one of the objectives of the Sexual Violence Protocol is to ensure data confidentiality in accordance with the provisions of the Personal Data Protection Act<sup>8</sup>, Official Statistics Act<sup>9</sup>, Media Act<sup>10</sup>, codes of ethics for professionals and international treaties on privacy protection to which the Republic of Croatia is a signatory.

Under Article 25 of the Act on the Protection of Patients' Rights<sup>11</sup>, the patient is entitled to confidentiality of his/her medical information in accordance with the professional secrecy and personal data protection legislation.

Professional legislation relating to health care workers, namely the Medical Practice Act<sup>12</sup>, Dental Practice Act<sup>13</sup>, Medical-Biochemistry Act<sup>14</sup>, Pharmacy Act<sup>15</sup>, Nursing Act<sup>16</sup>,

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<sup>8</sup> Official Gazette 103/03, 118/06, 41/08 and 130/11.

<sup>9</sup> Official Gazette 103/03, 75/09 and 59/12.

<sup>10</sup> Official Gazette 59/04 and 84/11.

<sup>11</sup> Official Gazette 169/04 and 37/08.

<sup>12</sup> Official Gazette 121/03 and 117/08.

<sup>13</sup> Official Gazette 121/03, 117/08 and 120/09.

<sup>14</sup> Official Gazette 121/03 and 117/08.

<sup>15</sup> Official Gazette 121/03, 35/08 and 117/08.

<sup>16</sup> Official Gazette 121/03, 117/08 and 57/11.



Midwifery Act<sup>17</sup> , Physiotherapy Act<sup>18</sup> , Health Care Activities Act<sup>19</sup> , as well as the codes of ethics and deontology for health care workers provide that health care workers are required to respect regulated patients' rights and the requirements of personal data protection.

Social welfare centres keep records of the application of the provisions of the Family Act that come within their area of competence. The said centres forward data to the Ministry of Social Policy and Youth which then processes the said data and drafts annual reports that are available to the public on the Ministry's website. The section Protection of the Rights of the Child and Child Welfare provides, among others, the following information (some of which refer to child abuse and, in particular, child sexual abuse):

- the number of reported cases of child abuse by type of violence and abuser;
- the number of reported cases of child abuse by source of filed report.

#### **Question c.**

The Act on the Legal Consequences of Conviction, the Criminal Record and Rehabilitation which regulates the legal consequences of conviction, the organisation of the criminal record, its keeping, access to it, entry of data on the criminal record and their deletion from it, international exchange of criminal record data, and rehabilitation has been in force in the Republic of Croatia since 1 January. This Act, inter alia, transposes into Croatia's national law Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA. A criminal record is kept for physical and legal persons convicted by a final judgment in the Republic of Croatia for criminal offences. Article 4 of the said Act explicitly provides that the criminal record also contains a list of persons convicted by a final judgment for criminal offences of child sexual abuse and child sexual exploitation.

The criminal record of perpetrators convicted by a final judgment contains the following information: full name, maiden name, personal identification number, full names of the father and mother, mother's maiden name, date, place and state of birth, nationality, permanent and temporary residence, and for the legal person: firm name, i.e., the legal person's full name, its seat and personal identification number, as well as information on the judgment itself, the criminal offence and criminal sanctions.

It should also be noted that all these data on the perpetrator may be provided upon a reasoned request; to courts, public authorities and institutions engaged in procedures for the protection of the rights and interests of children and procedures of entrusting certain tasks and activities in the field of child-related work.

The data listed refer to the conviction record check for criminal offences enumerated in the answer to question 3a).<sup>20</sup>

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<sup>17</sup> Official Gazette 120/08 and 154/10.

<sup>18</sup> Official Gazette 120/08.

<sup>19</sup> Official Gazette 87/09.

<sup>20</sup> See footnotes 4 and 5.

The Act also provides for the possibility of issuance, subject to consent from the person on whom this information is requested, of the certificate of no criminal conviction for criminal offences committed against children. This possibility exists in cases where the employer is employing a person to do a job that involves regular contacts with children. In the Republic of Croatia it is the Ministry of Justice, which is also the central authority for the international exchange of such data, that keeps, pursuant to these statutory provisions, a record of persons convicted by a final judgment for sexual criminal offences against children.

In order that these perpetrators be removed from the criminal record, i.e., in order that their convictions for these criminal offences be fully rehabilitated, a period of time twice as long as that applicable to the rehabilitation of convicted persons is prescribed.

Furthermore, the determination of the genetic identity of persons convicted for criminal offences established in accordance with this Convention is subject to the provisions of Article 327, paragraphs 1 and 2 of the CPA.<sup>21</sup> Under the CPA, the data collected by means of molecular-genetic analysis are stored and kept, as a rule, for a period of twenty years upon the termination of criminal proceedings.<sup>22</sup>

The Ordinance on the organisation and keeping of records of automatically processed data on suspect identity determination<sup>23</sup> states that the Ministry of the Interior of the Republic of Croatia is charged with setting up the following suspect identity determination records:

1. Record of signaletic photographs;
2. Record of papillary line prints; and
3. Record of DNA profiles.

The abovementioned records are kept on the information system of the Ministry of the Interior.

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<sup>21</sup> Article 327, paragraphs 1 and 2, of the CPA reads as follows: "(1) The competent authority may order the performance of molecular genetic analysis in order to enable the comparison of biological traces recovered from the crime scene or any other location at which traces of a criminal offence have been left with biological samples taken from persons referred to in paragraph 2 of this Article, or to establish the identity of a particular person, or to enable the comparison of these traces or samples with the results of molecular genetic testing obtained in accordance with this Act or any other act.

(2) Samples of biological material shall be taken for any of the purposes referred to in paragraph 1 of this Article from:

- 1) the place of commission of a criminal offence and any other location at which traces of a criminal offence exist;
- 2) the defendant;
- 3) the victim;
- 4) any other person provided the sample to be taken is not a biological sample of this person, unless otherwise prescribed by this Act.

<sup>22</sup> Article 327a, paragraph 2, of the CPA reads as follows: "The data collected by molecular genetic analysis in accordance with the provisions of Article 327 of this Act from a defendant against whom a final judgment of conviction will be brought in the criminal proceedings in question shall be stored and kept for a period of twenty years following the conclusion of the criminal proceedings. Exceptionally, where the criminal offence in question carries a sentence of ten years' imprisonment or a more severe penalty, or where it is a criminal offence against sexual freedom carrying a sentence of imprisonment in excess of five years, the said data may be kept for no more than forty years following the conclusion of the criminal proceedings.

<sup>23</sup> Official Gazette 157/09; Article 2.

The records of DNA profiles contain the following data: the name of the authority responsible for data entry, where and when the biological samples were taken, DNA profile, full or partial DNA profiles of traces taken from the site, data on the person from which samples were taken for molecular-genetic analysis: full name, citizen identification number, personal identification number, sex, full name of the father, date of birth, full name of the mother and her maiden name, place of birth, country of birth, permanent residence, street and house number, nickname, false name or alias, occupation, profession, marital status, nationality, for aliens type of border crossing document, number and date of issuance of the said document, name of the authority that issued the said document and date of expiry of the said document, name of the criminal offence of which the person is suspected and information on whether the DNA profile is in the CODIS system (Combined DNA Index System).

The national database containing data collected by means of molecular-genetic analysis (CODIS) is located at the Forensic Science Centre "Ivan Vučetić".

## **CYPRUS / CHYPRE**

### **Question a.**

The Commissioner for the Protection of Children's Rights Law (L. 74(I)/2007), came into force in 2007. Article 8(1), states that "While exercising his/her powers, the Commissioner: (a) acts independently, obeying the law, morality and conscience". Furthermore according to Article 11, the Commissioner is paid remuneration and benefits, as approved by the Council of Ministers.

The Office of the Commissioner is staffed with personnel in different fields of expertise, according to the needs and requirements of the Office, as stated in Article 12 of L. 74(I)/2007. The Office has its own budget line. All the above measures ensure the adequacy and autonomy of the Office.

In accordance with this Law, the Commissioner is responsible, inter alia, for supervising and monitoring the implementation of the Convention of the Rights of the Child in order to establish the protection and the best interest of the child. The competences of the Commissioner [Section 4(1)] are to (a) represent children and their interests at all levels; (b) inform and sensitize society on children's rights in order to motivate society to safeguard children's rights in practice, in the family, in school, in the community and in society at large; (c) procure and promote the views of children whenever they cannot be heard; (d) supervise and monitor the implementation of the UN Convention and the European Convention on the Exercise of Children's Rights; (e) examine and monitor legislation and practices and submit proposals aiming at the harmonisation of the legislation with relevant international treaties and the promotion of ratification of such treaties by the Republic of Cyprus; (f) undertake information campaigns in order to change outdated perceptions on the position of children in society;(g) submit applications on behalf of any child for the appointment of a special representative in court proceedings affecting the child, when the law or the court precludes the holders of parental responsibility from representing the child, due to conflicts of interest; (h) represent

children and their interests in proceedings affecting the child, when this is provided for in legislation, as well as in court proceedings where the Commissioner may be appointed representative of the child by the court; and (i) take any action the Commissioner deems necessary, for the fulfilment of his/her mission, within the framework of the Law.

**Question b.**

The Police gather data on child sexual abuse. Furthermore the Association for the Prevention and Handling of Violence in the Family collects data on cases of child abuse in the family.

Concerning sexual exploitation, data collection is undertaken within the framework of data collected concerning victims of trafficking, by the Office of Combating Trafficking in Human Beings.

**Question c.**

Legislative and other measures not taken.

**DENMARK / DANEMARK**

**Question a.**

Answer: In order to protect and strengthen children's rights pursuant to the UN Convention on the Rights of the Child an office for children was established in 2012 as part of the Parliamentary Ombudsman's Office. DKK 6m yearly has been allocated to the office for children. The central work areas of the office are to:

- Handle complaints regarding children in cases where the authorities have made a decision
- Visit institutions for children and monitor authorities dealing with children – including taking up cases on its own initiative
- Contribute to the monitoring of the implementation of children's rights pursuant to the UN Convention on the Rights of Child.

In addition, the advocacy role of the National Council for Children has been strengthened (see answer to question 4(a)).

**Question b.**

Answer: The Child Advocacy Centres are under an obligation to register key information about the children and adolescents who receive help in the Centres. The information is gathered for statistical purposes and is reported to the National Board of Social Services.

The plan "Coordinated measures to protect children from abuse" also introduces national statistics for all reports to the social authorities about children and young persons – including reports about children who are presumed to have been exposed to sexual abuse.

**Question c.**

Answer: According to the Administration of Justice Act, the police may request a spit or blood test with a view to later identification to be made on any person reasonably suspected of an offence with a maximum penalty of at least 18 months' imprisonment.

The DNA profile of such a person is entered into the national DNA profile register. Under the DNA Profile Register Act, such DNA profile will be deleted from the register, inter alia, (1) if the charge is withdrawn as groundless, (2) 10 years after an acquittal, or (3) when the person reaches the age of 80. It follows that the DNA profile of any person convicted of an offence with a maximum penalty of at least 18 months' imprisonment will be kept in the DNA profile register until the person reaches the age of 80. The DNA profile register is kept by the National Commissioner of Police.

## **ESTONIA / ESTONIE**

At state level, children's unit has been established with the Office of the Chancellor of Justice, with function of the children's ombudsman performed by the Chancellor of Justice, whose mission is to: the role of the Children's Ombudsman is to:

- address appeals pertaining to children's rights in relation to the authority of the state;
- verify the compliance of laws pertaining to children with the legislation and the Constitution;
- carry out verification visits to institutions that provide public services for children;
- promote children's rights;
- impartially draw attention to child protection issues;
- conduct research related to children's rights;
- assist children and young people in starting societal discussions on issues important to them.

Under the Social Welfare Act § 24, if necessary, a local government shall establish a child welfare committee as an advisory body at a rural municipality or city government.

Statistics on recorded crimes is collected annually. The Ministry of Justice publishes a yearly collection of statistics, with separate chapters on juvenile crime and sexual crime.

Several international studies are used - such as Eurobarometer, EU Kids Online, ISRD (Juvenile Delinquency) and others.

Studies (e.g. Eurobarometer, 2008) have indicated that Estonian parents have little control over the use of the Internet by their children and they are rather careless about the network risks concerning their children. For example, only fifty per cent of Estonian parents (74% on the average in EU) talk often to their child about what their child does in the on-line environment.

33% of Estonian parents are concerned about the possibility that their child is being bullied in the Internet (in EU as a whole the indicator is 54%). 39% of Estonian parents (the average of 60% of the parents in EU) are either very concerned or concerned that their child may fall victim to sexual abuse in the Internet. Only 29% of Estonian parents (the average of 49% of the parents in EU) have set restrictions to visiting certain websites.

For the collection and storage of data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention there are following registers active:

Estonia has a national DNA register, which is developed, maintained and hosted by a state agency Centre of Registers and Information Systems, administered by the Ministry of Justice, in cooperation with authorized processor. The establishment and keeping of the register was carried out in order to process data received from the analysis of legally obtained and recorded DNA samples. After a DNA sample is taken, a sample code, reference to an underlying document and a DNA profile is entered to the register. Personal information is entered into the forensic information system, which chief processor is the Ministry of Justice.

Following information is entered into the Forensic Information System:

- 1) data on expert analyses and studies, including personal data;
- 2) data on materials and physical evidence submitted for expert analyses and studies;
- 3) data on paid studies unrelated to procedural matters, including personal data;
- 4) data on reference materials.

Details of the person punished and their punishment shall be entered in the Punishment Register. The Ministry of Justice is the chief processor of the Register.

## **FINLAND / FINLANDE**

### **Question a.**

The Ombudsman for Children is an independent authority within the administrative framework of the Ministry of Social Affairs and Health. The duty of the Ombudsman for Children is to promote the interests of children and the implementation of their rights on a general societal level together with other actors in the field (Law on the Ombudsman for Children 1221/2004).

The Ombudsman raises the awareness of decision-makers and influences societal policy by speaking out on behalf of children. The Ombudsman acts as a soundboard for the voice of children and a bridge builder for child policy. The basis of the work of the Ombudsman is the UN Convention on the Rights of the Child, the implementation of which the Ombudsman assesses and promotes at general societal policy and legislative levels.

### **Question b.**

There are no specialized focal points or mechanisms for collecting data on child sexual abuse and exploitation. However some data have been collected by different bodies. There is for example a welfare questionnaire sent to certain school grades regularly where questions about sexual abuse and violence are included. Police and judicial statistics on the offences are naturally collected as well.

### **Question c.**

The Legal Register Centre keeps records of the identity of the convicted persons (Criminal Records Act (770/1993)). On the basis of notices by courts of law, data is entered in the

criminal records on decisions whereby a person in Finland has been sentenced to unsuspended imprisonment, community service, suspended imprisonment, a fine, community service or supervision supplementary to suspended imprisonment, juvenile punishment, a fine instead of juvenile punishment, or dismissal from office, or whereby sentencing has been waived under chapter 3, section 3, of the Penal Code (39/1889). Data on fines imposed on the basis of the provisions governing corporate criminal liability is also entered in the criminal records. Furthermore, entries are made in the criminal records on court decisions whereby a Finnish citizen or a foreigner permanently resident in Finland has been sentenced abroad to a sanction equivalent to one mentioned above.

The data on genetic profile (DNA) of the persons convicted of the offences established in accordance with the Convention can be collected and stored in the national database kept by the National Bureau of Investigation (see Act on the Processing of Personal Data by the Police (761/2003) section 2 paragraph 3 subparagraph 9).

## **FRANCE**

Did not reply yet. / N'a pas encore répondu.

## **GEORGIA / GEORGIE**

Did not reply. / N'a pas répondu.

## **GERMANY / ALLEMAGNE**

### **Question a.**

It is the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) that is responsible within the Federal Government for representing the interests of children and young people. In the context of interministerial coordination the BMFSFJ is responsible for safeguarding the interests of children and juveniles in all areas affecting them.

The Commission for Children's Concerns represents the interests of children and juveniles in the German Bundestag. It acts as a watchdog when it comes to children's interests and blazes a trail for child-friendly policies on all topical issues affecting children and young people. The Commission for Children's Concerns can both organise hearings and expert meetings on topical issues and develop and disseminate positions in the interests of children on that basis. In addition, the Commission is responsible for regularly indicating wherever there is a need to take legislative action in the best interests of children and juveniles and thereby to initiate discussions on improving their situation.

Implementation of the UN Convention on the Rights of the Child is coordinated by numerous committees at Länder (federal state) and local government level. These include the Standing Conference of Ministers and Senators for Youth and Families of the Länder and the Working Group of the Highest Land Youth and Family Authorities and what are known as "Children's Focal Points" that work to assert the best interests of the child within the meaning of Article 3 para. 1 of the UN Convention on the Rights of the Child. The youth welfare offices at district and county borough level are also tasked with protecting children and juveniles against threats to their best interests.

**Question b.**

As regards the collection of statistical data on the sexual exploitation and sexual abuse of children, reference can be made to the comprehensive criminal and criminal justice statistics that are kept in Germany.

The Federal Criminal Police Office is the central body responsible for annually compiling the Police Crime Statistics for the Federal Republic of Germany. These indicate, in anonymised form, the number of cases of individual categories of offences as well as information regarding perpetrators and victims, including gender, age and the relationship between the victim and the perpetrator. The Police Crime Statistics are published and are thus not only available to the police but also to the general public.

Data on decisions taken by the criminal courts are published annually by the Federal Statistical Office as part of the Criminal Prosecution Statistics.

In addition, the Independent Commissioner for Child Sex Abuse Issues performed monitoring in regard to the issues of prevention of and intervention in the case of sexualised violence as recommended by the Round Table. This monitoring covered a broad spectrum of institutions and facilities in the health, education and social affairs sectors, to whom children and juveniles are entrusted. With support from numerous civil society umbrella organisations a questionnaire has in the past been used to take stock, on the ground, of the state of development and use of protection concepts in facilities and institutions. The results were published.

**Question a.**

The storage of the genetic profile (DNA) of convicted offenders is regulated by law under section 81g (1) and (4) of the Code of Criminal Procedure (Strafprozessordnung, StPO). According to those provisions, cell tissue may be collected from a person convicted of an offence and subjected to molecular and genetic examination for the purposes of establishing the DNA profile if the nature of the offence or the way it was committed provide grounds for assuming that criminal proceedings will be conducted against him/her in future in respect of a criminal offence of substantial significance or the habitual commission of other criminal offences.

Pursuant to section 81g (5) StPO, these data may be stored at the Federal Criminal Police Office.

**GREECE / GRÈCE**

Did not reply yet. / N'a pas encore répondu.

**HUNGARY / HONGRIE**

Did not reply. / N'a pas répondu.

**ICELAND / ISLANDE**

Did not reply yet. / N'a pas encore répondu.



## **IRELAND / IRLANDE**

Did not reply. / N'a pas répondu.

## **ITALY / ITALIE**

### **Question a.**

The National Authority for children and adolescents (<http://www.garanteinfanzia.org/>) has been introduced by law 112 of 12 July 2011. It is an independent monocratic body whose role is to ensure the fullest possible implementation of the UN Convention on the Rights of the Child and of other national and international provisions for the promotion and the protection of children's rights, and to promote and protect the rights of children and adolescents according to the provisions of the UN Convention on the rights of the child, the Convention for the protection of human rights and fundamental freedoms, the European Convention on the exercise of children's rights and other European and International provisions for the protection of children and youth.

The National Authority has various functions, among which: cooperating with national and international bodies and organisations for the promotion and protection of children and youth rights; ensuring equal opportunities of access to health and education services; formulating advices on the national plan for childhood; informing other competent bodies of critical situations concerning children and adolescents; examining and investigating of complaints; undertaking of research and policy activities; chairing the Conference of regional Ombudsman for children.

The expenses for the carrying out of the National Authority's activities are ensured through a fund set aside for this purpose in the budget of the Presidency of the Council of Ministers.

As far as the Lanzarote Convention is concerned, the Italian Authority for children can formulate proposals and observations for the prevention of and the contrast against any kind of abuse of children, sexual exploitation and paedophilia, also trough internet. Art. 3, para. 11 quotes that the National Authority may "... formulate observations and proposals for the prevention and the fight against the abuses on children and minors in compliance with the provisions of Law No 228 of 11th August 2003, setting out measures against the trafficking in human beings and Law No 38 of 6th February 2008 setting out measures against sexual exploitation of children and pedo-pornography also acted via the internet...".

Moreover, in Italy there are 12 local Ombudsperson for children in the regions of Lazio, Veneto, Campania, Molise, Toscana, Liguria, Emilia Romagna, Marche, Puglia, Calabria and the two autonomous provinces of Trento and Bolzano, some existing since 1988 (Veneto Region) and the most recent one appointed in 2013 (Molise). The national and regional laws establish, among others, the resources allocated to the Ombudspersons functioning.

Local Ombudspersons promote and protect the rights of the child in the geographical area of competence within the framework set by the Regional Laws that set up the Ombudsperson. For example, the Calabria's children ombudsman, according to law (L.R.

28/2004), generally controls, promotes and protects children's rights. In the field of minor's sexual abuse and sexual exploitation, the Ombudsman's role is to promote awareness programs and activities and promote actions to set out abuse.

In Tuscany the Regional Ombudsman for children and adolescents has been introduced by regional law n. 26 of the 3rd of March 2010, with entry into force from January 2012. The Ombudsman is settled within the Regional Council; it is a public and independent authority managed through public resources. It has the specific task to monitor the implementation of the UN Convention on the Rights of the Child, to report to the local competent authorities violations of children rights, to express opinions on the local plan of action for the protection of children's rights; to report to the Region and local authorities concerned all necessary steps to ensure the full promotion of the rights of children and adolescents: It can also express opinions on draft laws and bills regarding children at regional level.

In Puglia Region the Ombudsperson for children was established in November 2011 (Regional Law n.19/2006). It is in charge of the protection and promotion of the rights children living, even on temporary base, in the Region. It implements specific actions dealing with the rights to family, education, social and health assistance, care and psychophysical wellbeing, as well as promoting child participation. In close relationship with other local institution and NGOs it carries out awareness raising campaigns, and other initiatives to contrast maltreatment, abuse and violence against children, including activities provided by Law 269/1998, against sexual exploitation, pornography and sexual tourism against children.

#### **Question b.**

Italy still does not have a coordinated monitoring and data collection mechanism. Data mainly come from the Ministry of the Interior, which takes in consideration police crime reports to the Judicial Authority; from the Social Services, which take on responsibility of sexual crime victims; from Eurispes; and from CISMAL (Coordinated Italian Services against children mistreatment and abuse).

Furthermore, the Observatory for the fight against paedophilia and child pornography set up by law no. 38/2006 is in the process of creating a database to collect, in collaboration with the public authorities, all the information which may be useful to analyze the phenomenon and to evaluate the effectiveness of measures. The approach followed by the Observatory in the construction of the database is structured in three stages:

- collection of data;
- elaboration of the available data;
- discussion with all the professionals dealing with the phenomenon.

In 2008 National Centre for Documentation and Analysis of Children and Adolescence - Istituto degli Innocenti in Florence made a feasibility study of the database. This study was carried out making use of the indications of a technical group composed of the representatives of the Administrations involved. The main purpose of the database is to organize in a systematic and integrated way the information already available through the ability to draw on sources of existing data collection. The highly innovative element of this instrument is undoubtedly represented by the change in the perspective in relation to the

existing information systems. Ultimately, the database will provide an analytical approach mainly focused on child victims of sexual violence, but without publicising sensitive data that would make the children victims and the perpetrators recognizable.

The National centre for the fight against child pornography on the web, also set up by law n. 38/2006, collects all the reports – coming also from foreign polices and from public and private subjects – concerning websites containing child pornography, their administrators and the recipients of payments. The reports are examined by the police and by the judicial authorities and, in case allegations are confirmed, the website as well as the names of its administrators and of the recipients of payments are included in a constantly updated list. The Centre must then communicate all the information and statistical data concerning child pornography on the web to the Presidency of the Council of Ministers - Family Policies Department.

Moreover, the project S.In.Ba. - Information System on the care and protection of children and their families - promoted in the year 2010 by the Ministry of Labour and Social Policy, and coordinated to the Region of Campania, in Italy is today the most important attempt to create a system at national level on children followed by the local social services. The project is part of a process of realization of the SISS - Information system of social services - as set out in article 21 of law no. 328/00.

The projects is based on the filling out of a specific file for each child who is in the care of the local social services. The minimum set of data on the card S.In.Ba. consists of the following sections:

1. Personal profile of the child (age, gender, etc. .. );
2. profile of the parents of the child (age , educational level , etc. .. );
3. profile of the child's family (composition, where the child lived at the time of registration);
4. reporting - evaluation of the application and the action taken;
5. closing the file.

As regards the Ministry of Justice, the Department of Juvenile Justice, Office I of the Head of the Department performed a survey regarding “Minors victims and perpetrators of sexual offences. Activities performed by Offices of Youth Social Services. Survey years 2011-2012”

[http://www.giustizia.it/giustizia/it/mg\\_1\\_14\\_1.wp?facetNode\\_1=0\\_6&facetNode\\_2=1\\_5\\_29&previousPage=mg\\_1\\_14&contentId=SST950014](http://www.giustizia.it/giustizia/it/mg_1_14_1.wp?facetNode_1=0_6&facetNode_2=1_5_29&previousPage=mg_1_14&contentId=SST950014)

[http://www.giustizia.it/giustizia/it/mg\\_1\\_12\\_1.wp?facetNode\\_1=0\\_6&facetNode\\_3=0\\_6\\_0\\_9&facetNode\\_2=0\\_6\\_0&previousPage=mg\\_1\\_12&contentId=SPS955053](http://www.giustizia.it/giustizia/it/mg_1_12_1.wp?facetNode_1=0_6&facetNode_3=0_6_0_9&facetNode_2=0_6_0&previousPage=mg_1_12&contentId=SPS955053)

### **Question c.**

Article 3 of Law 172/2012 that ratifies the Lanzarote Convention identifies in the Ministry of the Interior the national authority responsible in relation to the recording and storing of national data on convicted sex offenders on the basis of the provisions contained in law 85/2009 for the ratification of the Treaty of Prum (see Law 85/2009 - Establishment of the DNA database).

There is also a criminal recording register that records the sanctions given to the perpetrators for their sexual crimes.

#### DNA database

Law 85/2009 establishes the DNA database and the central laboratory for the DNA database with the aim of facilitating the identification of the perpetrators of crimes, in particular allowing the comparison of DNA profiles of people already involved in criminal proceedings.

The creation of the two structures in different administrations allows to maintain a high level of security. In particular the place of collection and analysis of DNA profiles (national database of DNA) are kept separate from the place of extraction of the aforementioned profiles and conservation of the biological samples (central laboratory at the Penitentiary Administration), as well as from the place of extraction of profiles coming from the findings. (laboratories of the police).

The national database provides for the collection of DNA profiles by:

- persons subject to any restriction of personal freedom;
- relating to biological samples acquired during criminal proceedings, in the manner regulated by law;
- missing persons or their kin and corpses and remains of unidentified corpse.

The national database has also the task to compare the DNA for identification purposes.

As regards the activities of the National and regional Ombudspersons for children and adolescents, the following activities should be noted. First of all, the Italian Authority for children - in consideration of the need to ensure a more structured and complete data collection on abuse and maltreatment against children - is promoting a project, carried out with Terre des Hommes Italia and CISMAI (Italian Coordination of Public and Private Services Against Child Abuse) with the support of ANCI (Association of Italian Municipalities) and ISTAT (Italian Statistical Office), for the collection of data concerning abuse and maltreatment (including sexual abuse) of children from over 250 local municipalities. Local social services, in fact, are the authorities in charge of providing support and services to the children victim of abuse. The results of the data collection will be published at the end of 2014. This is an experimental project aiming at providing tools to national administrations for a structural data collection.

The Ombudsperson of Calabria notes: There are no legislative or other measures to set up mechanisms for data collection, especially on this field. Generally appointed institutions do not share with Ombudsman data on children's rights. In 2011, Ombudsman –in cooperation with “Istituto degli Innocenti” and Regione Calabria- has monitored, collecting data, children's condition in Calabria. The Regional Observatory on Childhood and Adolescence in Calabria is not open and the Provincial Observatory works only in Crotona. On this field, the Ombudsman through the “Istituto degli Innocenti” proposed a project at the Calabria Region without success. The Ombudsman also met on this field Provinces, A.S.P. (provincial health services), Juvenile Courts and the Regione Calabria without

success. "Casa di Nilla" (private institution) collect data on sexual abuse, but only in provincial territory of Catanzaro.

The Ombudsperson of Tuscany notes: The main mechanism settled up at a regional level to ensure data collection on the interventions finalized to protect children right and in particular to protect children from sexual exploitation and sexual abuse is the Regional Centre of Documentation and Analysis on Children and Adolescents. The approach followed by this agency in the construction of the database is structured in three stages: collection of data, elaboration of the available data and, finally the dissemination of the results of the analysis in order to develop the future interventions.

The Ombudsperson of Veneto highlighted that in her Region a pilot project was established since 2003 aiming at the prevention, contrast and care in the cases of ill-treatment, abuse and sexual exploitation of children. The project helps in collecting useful data on the phenomenon. In 2013 out of the 5 centres active in the region, only 2 were confirmed, mainly due to financial constraints and re-organisation of the service.

The Ombudsperson of Emilia Romagna notes that it is promoting with Cismai (Italian Coordination of Public and Private Services Against Child Abuse) a research on the cases of child separation from the family of origin when heavy dysfunctional parental condition appear, that will end in 2014. It will also include the cases of sexual abuse.

## LATVIA / LETTONIE

### Question a.

The Ministry of Welfare and its subordinate body – State Inspectorate for Protection of Children's Rights are generally responsible for the protection of the children's rights:

***The Cabinet Regulation No 49 of 27 January 2004 "Regulations of the Ministry of Welfare," Article 1.***

The Ministry of Welfare is the leading state administration body dealing with employment, social protection, child and family law, as well as with equal opportunities for disabled persons and with gender equality.

***Protection of the Rights of the Child Law Section 62. Competence of the Ministry of Welfare***

(1) The Ministry of Welfare shall:

- 1) in co-operation with the Ministry of Education and Science, the Ministry of the Interior, the Ministry of Justice, the Ministry of Culture and the Ministry of Health, as well as other State and local government institutions and non-governmental organisations, develop draft long-term State policies in the field of the protection of the rights of children, including draft State policies in the field of alternative care for orphans and children left without parental care;
- 2) organise and co-ordinate the supervision of the observation of the regulatory enactments in the field of the protection of the rights of children;
- 4) co-ordinate the co-operation of State and local government institutions in issues related to the protection of the rights of children and family law within the competence thereof;

***Protection of the Rights of the Child Law Section 65<sup>1</sup>. Competence of State Inspectorate for Protection of Children's Rights***

The State Inspectorate for Protection of Children's Rights shall supervise and control compliance with regulatory enactments in the field of protection of the rights of the child.

Though, other institutions are also competent in specific aspects of the children rights protection:

***Protection of the Rights of the Child Law Section 63. Competence of the Ministry of Education and Science***

(1) The Ministry of Education and Science shall:

- 3) in co-operation with the Ministry of Welfare, formulate educational programmes in the field of protection of the rights of the child;

***Protection of the Rights of the Child Law Section 64. Competence of the Ministry of the Interior***

The Ministry of the Interior shall:

- 1) in co-operation with the Ministry of Welfare and other responsible institutions, ensure that a draft programme is developed for a three-year period for the prevention of child crime and for the protection of the child from crime, and shall co-ordinate the implementation of such programme;

***Protection of the Rights of the Child Law Section 64<sup>1</sup>. Competence of the Ministry of Justice***

(2) The Ministry of Justice shall ensure that court work is organised so that priority consideration shall be applicable in the adjudication of matters associated with the protection of the rights and the best interests of the child.

***Protection of the Rights of the Child Law Section 64<sup>3</sup>. Competence of the Office of the Prosecutor General***

The Office of the Prosecutor General shall organise training for prosecutors with respect to issues regarding the rights of the child and shall ensure that the rights of the child are observed during pre-trial investigations.

***Protection of the Rights of the Child Law Section 65.<sup>2</sup> Competence of the Ombudsman Bureau***

The Ombudsman Bureau shall:

- 2) examine complaints regarding violations of the rights of the child, paying particular attention to violations committed by State or local government institutions and the employees thereof;
- 3) submit proposals, which promote the observance of the rights of the child.

***Protection of the Rights of the Child Law Section 66. Competence of Local Governments in Regard to Protection of the Rights of the Child***

(1) A municipality local government and a town local government shall analyse the situation in the field of observance of the rights of the child, and shall develop and implement a programme for the protection of the rights of the child in the administrative territory of the municipality or the city.

(5) The local government shall involve the public in ensuring the rights of the child and shall co-ordinate the activities of public organisations.

***Protection of the Rights of the Child Law Section 67<sup>2</sup>. Minor Persons Support information System***

(1) Minor Persons Support Information System is a constituent element of the national information system "Integrated Interior Information System", which includes information necessary for the protection of the rights of the child through integration of information of the state and local government institutions, as well as information of health care professionals about the minors in need of assistance, and, for events where preventive measures shall be taken for the protection of the child's rights.

(2) Minors Supporting Information System is designed to promote protection of children's rights and interests by providing processing of the necessary information and facilitating cross-institutional cooperation in the following matters:

- 1) protection of the minor's rights and interests;
- 2) surveillance of provision of the minor's rights and interests;
- 3) preventive work;
- 4) provision of social assistance and social services;
- 5) prevention and disclosure of criminal offences and other violations of law;
- 6) search of a minor;
- 7) ensuring of enforcement of the administrative penalties, criminal sanctions, security measures and coercive educational measures;
- 8) implementation of settlement and preparation of evaluation reports on a probation client.

***Protection of the Rights of the Child Law Section 68. Competence of Child Care, Educational and Other Institutions***

(1) Child care, instructional, cultural and educational institutions (kindergartens, children's homes, shelters, schools, health care institutions, camps and the like) shall ensure the rights of the child within the scope of their competence as determined in their articles of association or by-laws.

According to the Law on Social Services and Social Assistance, the State shall provide social services to persons through establishing its own social service providers or involving other providers of social services, as well as local government in cases provided by the law:

***Law On Social Services and Social Assistance Section 1. Terms Used in this Law***

The following terms are used in this Law:

18) social service office — an institution established by a local government, which provides social assistance, organises and provides social services to inhabitants of the local government;

***Law On Social Services and Social Assistance Section 3. Right to Social Services and Social Assistance***

(2) The Cabinet and local government shall determine the procedures for receipt of social services and social assistance.

(3) The procedures by which social services provided by local government is received shall be determined by local government binding regulations.

***Law On Social Services and Social Assistance Section 9. Duties of Local Governments in the Provision of Social Services and Social Assistance***

(1) The local government in the territory of which a person has registered his or her main place of residence has a duty to provide the person with a possibility to receive social services and social assistance corresponding to his or her needs.

(2) If a local government has received information from natural persons or institutions regarding a person who might require a social care or social rehabilitation service or social assistance, the local government has a duty in accordance with the procedures specified in the Law On Social Security to verify the received information, to evaluate the needs of the person for social services and social assistance and to inform this person or his or her lawful representative of the rights and possibilities of receiving social services and social assistance, as well as the procedures by which social services or social assistance may be received.

(3) If a person requires social services in a night shelter or a crisis centre, he or she shall turn directly to the service provider who takes a decision on the provision of a service. If necessary, the local government, in the territory in which a person without a home is located, shall ensure the person with night shelter or shelter, information and consultations, as well as one-time material assistance.

***On Local Governments Section 12***

Local governments, in the interests of residents of the relevant administrative territory, may voluntarily carry out their initiatives with respect to any matter if it is not within the competence of the Saeima, the Cabinet, ministries, other State administrative institutions, the courts or other local governments, or also if such activity is not prohibited by law.

***Law On Social Services and Social Assistance Section 13 Duties of the State in the Provision of Social Services***

(2) The State may create social care and social rehabilitation institutions or enter into agreements with other social service providers in order to provide professional rehabilitation to persons with disabilities, social rehabilitation to persons addicted to psychoactive substances, social rehabilitation of persons functional disabilities, social rehabilitation of trafficking victims, support programs for children suffering from celiac disease without established disability, and to provide implementation and development of supportive professional social work in municipalities.

(2<sup>1</sup>) The fulfilment of the State duties provided for the provision of social rehabilitation of persons with vision and hearing disabilities shall be ensured by the Latvian Society of the Blind and the Latvian Association of the Deaf; the provision of the technical aids services – tiftotechnology and surdotechnology – shall be ensured by the Latvian Society of the Blind and the Latvian Association of the Deaf. Social

rehabilitation services to children who were victims of violence shall be ensured by the Latvian Children's Fund through organization of rehabilitation services and the provision of rehabilitation services institution such foundations, of which at least one of the founders of the Latvian Children's Fund. If necessary, the Latvian Society of the Blind, the Latvian Association of the Deaf and the Latvian Children's Fund shall also select other service providers in accordance with the procedures specified in the regulatory enactments regulating public procurement.

**Question b.**

***Protection of the Rights of the Child Law Section 67<sup>1</sup>. Statistical Information regarding the Status of the Rights of the Child***

The Ministry of the Interior, the Ministry of Education and Science, the Ministry of Welfare, the Ministry of Environmental Protection and Regional Development, the Ministry of Justice, the Ministry of Health, State Inspectorate for Protection of Children's Rights and local governments shall, within the scope of their competence, provide statistical information regarding protection of the rights of the child in the State, regarding parents whose care or protection rights shall be taken away, and regarding families, who together with children have been evicted from their dwellings, regarding child adoption, the placing of children in extra-familial care, the application of compulsory measures of an instructional or medical nature to children, children being held to criminal liability, regarding children who have reached the mandatory education age and who are not attending educational institutions, and regarding children who have become victims of violence and street-children, as well as shall submit an appropriate summary report to the Central Statistics Bureau. The Central Statistics Bureau shall annually compile the information referred to and submit it to the Ministry of Welfare and the Ombudsman Bureau.

Also, the respective data are collected by the Centre of Disease Prevention and Control. This institution is subordinated to the Ministry of Health and ensures collection and compilation of data on various issues regarding public health. Data on persons who have suffered injuries as a result of violence and turned to the healthcare facility is available from the "the registry of patients suffering from maintained by the Centre for Disease Prevention and Control. It must be noted that the above data is inseparable from specific information about sexual violence. However, in 2011, the Centre for Disease Prevention and Control conducted a study on negative childhood experiences of Latvian youth in regard to violence, including sexual abuse experienced by adolescents during their childhood.

**Question c.**

The Biometric Data Processing Law provides the legal basis for the Biometric Data Processing System developed aiming at determination of the identity of natural persons, as well as at prevention the use of another person's identity. In line with the Section 7, Paragraph 1 Article 1 regarding the persons convicted, the Biometric Data Processing System includes the digital image of a face, but in accordance with Section 8, Article 1 - a digital image of a finger (palm) print. In view of the above, the Biometric Data Processing System includes also digital images of a face and finger (palm) prints of persons convicted for sexual crimes against minors. These data are considered to be persons' identity data within the meaning of Article 37, Paragraph 1 of the Convention.

The Law on Development and Use of National DNA database provides a legal basis for the national DNA database to be used for disclosure of crimes, search of missing persons and identification of unidentified corpses (dead body materials). In line with Section 4 of the above law, the National DNA database shall collect and keep information regarding DNA profiles and persons who are suspected, accused or convicted, regarding unidentified



bodies, persons missing in the Republic of Latvia and biological traces. In view of this, the national DNA database contains also data on DNA profiles of persons convicted for sexual crimes against minors. These data are also considered to be persons' identity data within the meaning of Article 37, Paragraph 1 of the Convention.

In addition, information regarding persons convicted of sexual offences against minors, are also included in the national information system "Punishment Register". Section 1 of the Punishment Register Law provides that the purpose of the Law is to establish uniform registration of persons who have committed criminal offences and administrative violations, to promote prevention and disclosure of these offences and violations, as well as the control of execution of punishment and infringement of rights prescribed to the person for those offences and violations

***Law On Biometric Data Processing Section 7.***

(1) In events provided by Section 5Articles 10 and 11 of this Law, the biometric data processing system shall contain the following data regarding a person whose finger (palm) prints have been obtained:

- 1) digital image of a face;

***Law On Biometric Data Processing Section 8.***

In the events provided bySection 5Articles 10 and 11 of this Law, the biometric data processing system regarding a person whose finger (palm) prints have been obtained the, shall contain the following data:

- 1) digital image of finger (palm) prints

***Law On Biometric Data Processing Section 5.***

The biometric data processing system shall include biometric data which are obtained:

- 10) in the result of operational, intelligence and counterintelligence activities. The obtained data shall be included in the biometric data processing system, when necessary to prevent a threat to national security and public order, and when the decision on entry of this data adopts the entity of operational activity who has acquired the respective data;
- 11) in the result of investigative activities and from detainees, suspects, accused and convicted persons;

***Law on Development and Use of the National DNA Database Section 2***

The purpose of this Law is to establish the National DNA database that shall be used to disclose criminal offences, as well as to determine and regulate the exchange of the results of DNA genetic analysis with foreign states and international organisations.

***Law on Development and Use of the National DNA Database Section 4***

Information regarding DNA profiles and that concerning persons who are suspected, have been accused or have been convicted, regarding unidentified bodies, persons missing in the Republic of Latvia and biological traces shall be compiled and kept within the National DNA database.

***Law on Development and Use of the National DNA Database Section 8***

Information regarding the citizens and non-citizens of Latvia convicted in other states, the foreigners who have received a permanent residence permit in Latvia, stateless persons and refugees and information regarding the DNA profiles thereof shall be included within the National DNA database in accordance with the international agreements binding on the Republic of Latvia.

***Punishment Register Law Section 22***

(1) The current database of the Register shall store information about:

- 1) the person against whom criminal proceedings have begun - until the person loses that status;
- 2) the detained person - until the person loses that status;
- 3) the suspected person - until the person loses that status;
- 4) the charged person - until the person loses that status;

- 5) the person against whom the proceedings of determination compulsory medical treatment take place - by the time a person loses that status;
  - 6) the convicted person - until the conviction is expunged or annulled, but in the event, where medical or coercive educational measure have been inflicted - until the compulsory medical treatment is cancelled or coercive educational measure is executed;
  - 7) the person to whom coercive medical treatment measure have been inflicted - until the respective coercive measure is cancelled;
  - 8) The person who has committed an administrative offence - until a period of one year has elapsed from serving of the sentence enforced or from the execution of the sentence enforced for the administrative offence or from the time limitation from enforcement of the sentence;
  - 9) a minor person to whom coercive educational measure have been inflicted - until the coercive measure is enforced or replaced by penalty;
  - 10) a legal entity to whom compulsory coercion measure have been inflicted - until the respective coercive measure is cancelled;
  - 11) a citizen of Latvia, non-citizen of Latvia, a citizen of the Union, to whom a registration certificate of the Union citizen or a permanent residence card of the Union citizen, as well as temporary or permanent residence permits issued to an alien who have been convicted in a country of the European Union or in a third country, have been issued - until when information is received central authority of any Member State of the European Union or a third country regarding cancellation of previously provided information, but no for more than 100 years after the birth of the person.
- (2) Information from the current database of the Register shall be transferred to the archive database, if the purpose for storage of information prescribed by Paragraph 1 Articles 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 of this Section has become extinct or the term if information storage has been expired.

As regards to the responsible body - the State Police is the body responsible for collection and storage of information regarding DNA profiles and persons who are suspected, accused or convicted, regarding unidentified bodies, persons missing in the Republic of Latvia and biological traces. While the authority responsible for collection of the convicted persons' identity and genetic profile (DNA) data is the Prison Administration.

As regards to Clauses 2 and 3 of the Article 37 of the Convention - in line with Section 15 of the Law on Biometric Data Processing System, Section 17 of the Law On Development and Use of the National DNA Database and Section 20 of the Punishment Registry Law, information included in the state information systems "Biometric Data Processing System", "National DNA Database" and "Punishment Registry" may be provided to foreign competent institutions pursuant to international agreements and laws of the European Union binding to the Republic of Latvia. Exchange of information included in the above mentioned public information systems provides competent institutions exercising international police cooperation and international cooperation in the field of criminal justice.

***Law On Biometric Data Processing Section 15.***

Data included in the Biometric data processing system shall be provided to foreign competent authorities having regard of international agreements and laws of the European Union binding to the Republic of Latvia.

***Law on Development and Use of the National DNA Database Section 17***

- (1) The information included in the national DNA database shall be allowed to issue to foreign law enforcement institutions in cases and order provided for by international agreements and laws of the European Union binding to the Republic of Latvia.
- (2) A translation to the official language shall be ensured for the DNA profiles and information received from the law-enforcement authorities of foreign states.

***Punishment Register Law Section 20***

(4) Information about judicial record of a citizen of the other Member State of the European Union or a third country shall be provided in accordance with international agreements.

**LIECHTENSTEIN / LIECHTENSTEIN**

Did not reply. / N'a pas répondu.

**LITHUANIA / LITUANIE**

**Question a.**

As far as provisions specified in item a of Paragraph 2 of the Convention are concerned, it should be noted that monitoring and control of assurance and protection of the rights and lawful interests of the child as well as investigation of infringements of the rights and lawful interests of the child are delegated to the Ombudsperson for Children's Rights as specified in the Republic of Lithuania Law on the Ombudsman for Children and Paragraph 4 of Article 59 of the Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child:

"Article 59. State Institutions and Protection of Rights of the Child (...)

4. The Ombudsperson for Children's Rights, within his competence, shall be responsible for control and monitoring of the implementation of laws and other legal acts regulating protection of children's rights".

The purpose of activities of the Ombudsperson for Children's Rights, his authorisations and other aspects of his activities are regulated by the Republic of Lithuania Law on the Ombudsman for Children. Apart from other principles, the activities of the Ombudsperson for Children's Rights are based on the principles of freedom, independence and autonomy of the activities stating that the Ombudsperson for Children's Rights shall be autonomous from state and municipal institutions, officials and other persons and shall act independently within his competence. No political, economic, psychological or social pressure or any other illegal actions that might influence the decision of the Ombudsperson for Children's Rights may be exerted on the Ombudsperson for Children's Rights.

**Question b.**

While implementing Resolution No. 695 of 8 June 2004 of the Government of the Republic of Lithuania "On the Approval of the List of Indicators of Statistical Information on Children" as per the Strategic Partnership Agreement of 2005, the Ministry of Social Security and Labour of the Republic of Lithuania cooperates with municipality administrations of cities (regions) by developing social services and other measures of children's rights protection. Pursuant to this agreement, the children's rights protection service (division) of each municipality administration gathers and submits data on the implementation of children's rights protection in municipalities to the information system of the strategic partnership. Currently, it is the Information System of Social Support to Family. The State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour has been analysing data of reports formed by the Information System of Social Support to Family since 2006. It should be mentioned that the number of children and cases of possible violence against children are registered in reports of the Information System of Social Support to Family (<http://vitrinos.spis.lt:8080/vtas.html>). The above table

presents statistical data on children who have suffered from violence (including sexual abuse) in a certain municipality and across the whole country. The number of children suffering from violence outside their close environment and the number of children experiencing violence in their close environment are highlighted. Statistical data about children who have suffered from sexual abuse in Lithuania are gathered and processed according to the gender of children.

The IT and Communications Department under the Ministry of the Interior is the registrar of the Departmental Register of Criminal Activities (Order No. 1V-36 of 26 January 2006 of the Minister of the Interior “On the Departmental Register of Criminal Activities”), and based on the data provided by the latter, the Department drafts statistical reports on criminal activities, results of investigations thereof, persons suspected (accused) of committing criminal acts and victims of criminal acts in the Republic of Lithuania. The purpose of the Register is to register objects of the Register, gather, accumulate, process, systemise, keep, use and provide data and documents of the register to pre-trial investigation institutions, courts, other state institutions and organisations, natural persons and legal entities as well as to perform other activities related to the data administration of the Register. The goals of the personal data administration of the register is investigation and prevention of criminal activities, keeping records of suspected (accused) persons and victims, drafting of statistical reports, which present information on criminal activities, suspected (accused) persons and victims. Statistical records on suspected (accused) persons and victims indicate the numbers of men and women.

The IT and Communications Department under the Ministry of the Interior is the registrar and manager of the Register of Suspected, Accused and Convicted Persons. (Provisions of the Register of Suspected, Accused and Convicted Persons are approved by Resolution No. 435 of 18 April 2012 of the Government of the Republic of Lithuania “On the Approval of Provisions and Establishment of the Starting Date of Activities of the Register of Suspected, Accused and Convicted Persons”). The following suspected, accused and convicted natural persons and legal entities are objects of the register:

- 1) Natural persons and legal entities with regard to which a notice of suspicion has been drawn up.
- 2) Natural persons, who are given the status of a suspect, when they are hiding or whose whereabouts are unknown.
- 3) Natural persons and legal entities accused in a private prosecution.
- 4) Natural persons and legal entities, in respect of which procedural decisions are made during the pre-trial investigation and the court investigation in a criminal procedure.
- 5) Natural persons and legal entities, in respect of which procedural decisions taken in the criminal procedure are implemented.

The purpose of the Register is to register objects of the Register, gather, accumulate, process, systemise, keep, use and provide the data of the Register, information and documents of the Register and perform other actions aimed at administrating data and information of the Register. The Register personal data administration is aimed at the prevention of criminal activities, judicial investigation, implementation of rulings of the

court, performance of direct functions of law enforcement and other state and municipal institutions and organisations as well as functions specified in legal acts.

It should be noted that the main provisions on protection of the right and freedom of every person's private life while administering personal data are established in the fundamental national legal act – the Republic of Lithuania Law on Legal protection of Personal Data. Data related to the health and sexual life of a natural person as well as information on convictions of a person are considered to be special categories of personal data. The Law also establishes provisions on the register of personal data (including special categories of personal data) for statistical purposes.

It should be also noted that data about children, who have been issued health care certificates after experiencing or possibly experiencing sexual abuse are accumulated in the State Patient Fund Data Base SVEIDRA, and the summarised information – in the data base of the Health Information Centre of the Institute of Hygiene. Health care statistical data are insufficient enough to reflect the actual situation unless there are enough health care institutions providing specialised support to children, who have suffered from sexual abuse and their family members. Data are accumulated according to codes of the International Classification of Diseases: Y05 – attempted rape by bodily force; Y07 – other maltreatment: sexual abuse; Z 61.4 – problems related to alleged sexual abuse of child by primary support groups; Z 61.5 problems related to alleged sexual abuse of child by person outside primary support group.

Provisions governing the protection of personal data are established in the Republic of Lithuania Law on the Rights of Patients and Compensation for the Damage to their Health and Order No. 65 of 1 February 2001 of the Minister of Health “On the Approval of the Procedure for Provision of Information about the Patient to State Institutions and Other institutions”:

“Article 8. Pursuant to Laws and other legal acts of the Republic of Lithuania, a health care institution submits information about the patient on its own initiative (without a written request of an authorised institution to receive information about the patient) and without the patient's consent in the following cases:

1. when there is a necessity to report about a crime;
2. to child rights protection divisions of municipalities according to the child's place of residence or the location of the health care institution immediately, if there is a necessity to protect the child's rights as well as if there are justified suspicions that the child's rights have been infringed;
3. in other cases”.

By Resolution No. 206 of 6 March 2013 of the Government of the Republic of Lithuania “On the Appointment of the Institution Responsible for the Implementation of the Provisions of Paragraph 1 of Article 37 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse”, the Government of the Republic of Lithuania appointed the IT and Communications Department under the Ministry of the Interior as responsible institution for the implementation of the provisions of Paragraph 1 of Article 37 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

## **LUXEMBOURG / LUXEMBOURG**

Did not reply yet. / N'a pas encore répondu.

## **MALTA /MALTE**

Did not reply yet. / N'a pas encore répondu.

## **REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA**

### **Question a.**

The institution of Parliamentary Advocates

The Center for Human Rights of Moldova (CpDOM) is an institution similar to the European and international institutions of the ombudsperson/ombudsman. It is established and operates under the Law on the Parliamentary Advocates No. 1349-XIII of 17.10.1997 since April 1998. It is an important non-judicial mechanism of defending human rights in the Republic of Moldova.

Under provisions of Article 34 of the above mentioned Law, the Center for Human Rights presents the Parliament a report on the observance of human rights in the Republic of Moldova during the previous year, at the beginning of each year, up to March 15. The report includes a chapter on the situation of child rights observance.

Under Articles 4, 5 paragraphs (1) and (2), 6 paragraph (1) and 9 paragraph (1) letters d) and e) of the Law on the Parliamentary Advocates No. 1349-XIII of 17.10.1997, the Parliament of the Republic of Moldova adopted the decision No. 222-XVI of 30.10.2008. Through this decision, the position of Parliamentary Advocate (ombudsman) for the protection of children's rights was established.

The mission of the Parliamentary Advocate for children's rights is to promote and protect the rights and interests of children and young people under the age of 18. The Parliamentary Advocate for children's rights exerts its duties in order to assure that local and central public authorities and people in positions of responsibility at all levels respect children's constitutional rights and freedoms and to fulfil the provisions of the UN Convention on the rights of the child at national level.

The basic duties of the Parliamentary Advocate for children's rights consist of:

- examining petitions, citizens' hearing and restoration of their rights;
- verifying information on mass or severe child's rights violation;
- delivering objections and proposals on citizens' rights assurance to public authorities;
- solving complaints through parties reconciliation, finding mutually acceptable solutions.

The Parliamentary Advocate for children's rights is entitled:

- to have free access to all central and local public authorities, to attend their meetings, including the meetings of their collective bodies;

- to have free access to institutions, organizations and enterprises regardless of their type of property, to public associations, police stations and places of detention within them, penitentiaries, temporary detention isolators, military units, placement centers for immigrants or asylum seekers, institutions which provide social, medical or psychiatric assistance, special schools for minors with behavioural deviance and other similar institutions;
- to have unlimited access to any information regarding the detainees' treatment and conditions of detention;
- to receive explanations from people in positions of responsibility of all levels on issues to be clarified in the process of performing the control;
- to notify the appropriate state institutions in order to carry out expertise investigations and to prepare reports on issues which are going to be examined;
- to have unlimited meetings and personal dialogues with the person staying in places mentioned in point 2, as well as with any other person who in his / her opinion could provide necessary information without witnesses and with the help of an interpreter if needed;
- to involve independent specialists and experts in different fields, including lawyers, doctors, psychologists, representatives of the civil society in carrying out preventive visits in places of detention;
- to cooperate with mass-media and civil society associations active in the field of child rights protection, both within and outside the country.

**Question b.**

In order to implement the Law on social assistance by the Government Decision no. 1356 of December 03, 2008, the structure of Information System named "Social Assistance" was approved. Social Assistance Automated Information System (SIAAS) was created for the collection, storage, processing and distribution of the information about the beneficiaries, institutions and services of social assistance system to the central and local authorities, individuals and legal entity. Meanwhile, SIAAS is a tool for social workers, helping them to go through all the needed steps to solve a case. The module of Social Services in SIAAS is enhanced to cover the following services: child and family protection, assistance and protection of victims of domestic violence, care and protection of persons infected / affected by HIV / AIDS, care and protection of persons suffering from tuberculosis, assistance and protection of victims and potential victims of human trafficking, protection of persons with disabilities (including prosthetic, orthopaedics and rehabilitation services).

In 2013 the SIAAS was put into operation.

**Question c.**

In the Republic of Moldova does not exist a DNA analysis laboratory and the Law on using DNA profile and analysis in the criminal proceedings is currently being drafted

**MONACO / MONACO**

**Question a.**

L'Ordonnance Souveraine n° 4.524 du 30 octobre 2013 a institué un Haut Commissariat à la protection des droits, des libertés et à la médiation.

Dans le respect des garanties statutaires et procédurales qui lui sont propres, le Haut Commissaire apparaît comme le point focal du mécanisme de protection à l'adresse des sujets de droits dans leur ensemble. Ainsi :

- en ce qui concerne la protection des droits et libertés de l'administré dans le cadre de ses relations avec l'Administration : toute personne physique ou morale qui estime que ses droits ou libertés ont été méconnus par le Ministre d'Etat, le Président du Conseil National, le Directeur des Services Judiciaires, le Maire, de même que les établissements publics, ou par le fonctionnement d'un service administratif relevant d'une de ces autorités ou d'un établissement public, peut saisir le Haut Commissaire (article 15 de l'Ordonnance Souveraine n° 4.524 du 30 octobre 2013 précitée) ;
- le Haut Commissaire peut être saisi de réclamations émanant de personnes physiques ou morales estimant avoir, dans la Principauté, été victimes de discriminations injustifiées (article 28 de l'Ordonnance Souveraine) ;
- le Haut Commissaire peut être saisi de demandes d'avis ou d'études sur toute question relevant de la protection des droits et libertés de l'administré dans le cadre de ses relations avec l'Administration, ainsi que de la lutte contre les discriminations injustifiées (article 33 de l'Ordonnance Souveraine).

Le Haut Commissaire accomplit les missions qui lui sont dévolues avec neutralité, impartialité et de manière indépendante. Ce principe tutélaire est posé par le premier alinéa de l'article 6 de l'Ordonnance Souveraine susmentionnée. Le Haut Commissaire ne reçoit en outre, dans le cadre de l'exercice de ses missions, notamment de la part du Ministre d'Etat, du Président du Conseil National, du Directeur des Services Judiciaires et du Maire, aucun ordre, instruction ou directive de quelque nature que ce soit (deuxième alinéa de l'article 6 de l'Ordonnance Souveraine).

S'agissant de l'indépendance du Haut Commissaire, elle est d'abord financière. L'article 13 de l'Ordonnance précitée précise que l'Etat garantit au Haut Commissaire les moyens matériels d'exercice desdites missions. En outre, les crédits nécessaires à la rémunération du Haut Commissaire, à celle des personnels mis à sa disposition ainsi que, de manière plus générale, au financement des moyens matériels d'exercice de ses missions font l'objet d'une inscription spécifique au budget de l'Etat (article 46 de l'Ordonnance Souveraine).

Son indépendance tient également au fait que les fonctions de Haut Commissaire sont incompatibles avec celles de Conseiller national, de Conseiller communal, de membre du Conseil économique et social ainsi qu'avec l'exercice, à Monaco ou à l'étranger, de tout mandat électif à caractère politique (alinéa premier de l'article 10). Par ailleurs, l'exercice desdites fonctions est également incompatible avec l'exercice, à Monaco ou à l'étranger, de toutes autres fonctions publiques ou de toute activité lucrative, professionnelle ou salariée (second alinéa de l'article 10 de l'Ordonnance Souveraine).

En outre, le principe est clairement posé, en vertu duquel le Haut Commissaire ne peut avoir, par lui-même ou par personne interposée, sous quelque dénomination ou forme



que ce soit, des intérêts de nature à compromettre son indépendance (premier alinéa de l'article 11 de l'Ordonnance Souveraine).

Par ailleurs, il s'abstient de toute démarche, activité ou manifestation incompatible avec la discrétion et la réserve qu'impliquent les missions qui lui sont dévolues, que ce soit pour son propre compte ou pour celui de toute autre personne physique ou morale (second alinéa de l'article 11 de l'Ordonnance Souveraine).

L'indépendance et l'autonomie du Haut Commissaire reposent également sur les différentes garanties dont bénéficie l'administré durant la procédure d'instruction de la requête. Celles-ci consistent ainsi en l'application d'une procédure d'instruction de la requête intégrant une phase d'investigation et garantissant le respect du contradictoire, et l'information de l'administré (articles 19 et 20 de l'Ordonnance Souveraine).

Au bénéfice d'une relation directe avec l'administré, le Haut Commissaire l'informe des suites susceptibles d'être réservées à sa saisine, et peut en outre lui communiquer toutes informations pertinentes au sujet de la médiation et notamment, s'il y a lieu, quant à l'échéance des délais de recours (article 19 de l'Ordonnance Souveraine).

Cette indépendance fonctionnelle ressort, en outre, du pouvoir d'investigation dont dispose le Haut Commissaire : consultation et audition des services concernés, examen de dossiers, entretien avec le requérant. Ainsi, le Haut Commissaire dispose de la faculté de requérir des services administratifs compétents tout document, information ou assistance nécessaire à l'accomplissement de sa mission. Le Haut Commissaire peut également demander verbalement à l'administré et aux services susmentionnés des éléments complémentaires propres à éclairer sur tout différend. Il veille au respect du principe du contradictoire en entendant leurs explications, si nécessaire et sauf impossibilité, l'administré ou son représentant de même que l'autorité administrative concernée (article 20 de l'Ordonnance Souveraine).

Par ailleurs, le Haut Commissaire bénéficie, dans l'exercice de ses prérogatives, d'une protection fonctionnelle, au bénéfice de laquelle l'Etat lui assure, selon des instructions données par décision souveraine, la protection contre les menaces, outrages, injures, diffamations ou attaques de toute nature dont il serait l'objet lors de l'accomplissement des missions qui lui sont dévolues (premier alinéa de l'article 12). A cet effet, l'Administration est par ailleurs subrogée aux droits de la victime pour obtenir des auteurs des faits délictueux, la restitution des indemnités qu'elle aurait versées à titre de réparation. L'Administration dispose, enfin, dans l'exercice de cette protection fonctionnelle à l'endroit du Haut Commissaire, d'une action directe qu'elle peut exercer par voie de constitution de partie civile devant la juridiction pénale (article 14 de la loi n° 975 du 12 juillet 1975 portant statut des fonctionnaires de l'Etat).

Enfin, et à l'instar de ses homologues étrangers, indépendants comme institutionnels, le Haut Commissaire possède, en application des articles 23 et 30 de l'Ordonnance Souveraine n° 4.524 du 30 octobre 2013 précitée, un réel pouvoir de recommandation – c'est-à-dire de proposition – à l'adresse du Ministre d'Etat, du Président du Conseil National, du Directeur des Services Judiciaires et du Maire, fondé sur l'analyse des faits, du

droit et de l'équité. Le Haut Commissaire assure enfin, s'il y a lieu, le suivi de l'application de la décision ou de l'accord qui aura été pris sur la base de sa recommandation.

En toute hypothèse, il appert que l'indépendance du Haut Commissaire se décline à maints égards, qu'il s'agisse des modalités de sa saisine, des garanties procédurales applicables durant la procédure d'instruction de la requête, des pouvoirs d'investigation et de recommandation dont le Haut Commissaire dispose ou, notamment du suivi de ces préconisations.

**Question b.**

En ce qui concerne spécifiquement les abus sexuels, chaque Direction en charge de la prévention, de la répression et de la prise en charge des victimes dispose de toutes les informations utiles et, par conséquent, de données statistiques.

Il convient également de rappeler que l'observation et l'évaluation des phénomènes d'exploitation et d'abus sexuels sont facilités par le faible nombre d'affaires et le dialogue permanent entre chaque autorité.

**Question c.**

L'enregistrement et la conservation des données sur les personnes condamnées pour des infractions prévues dans la Convention sont effectués conformément aux dispositions pertinentes européennes sur la protection des données à caractère personnel, et plus particulièrement la Convention (STE n° 108) du Conseil de l'Europe pour la protection des personnes à l'égard du traitement automatisé des données à caractère personnel. Cet instrument international a en effet été signé par la Principauté le 1er octobre 2008, ratifié le 24 décembre 2008 et rendu exécutoire à son endroit par Ordonnance Souveraine n° 2.118 du 23 mars 2009.

En outre, les données sur les personnes condamnées susmentionnées sont enregistrées et conservées conformément aux règles et garanties prévues par le droit interne, constitué en l'occurrence de la loi n° 1.165 du 23 décembre 1993 relative à la protection des informations nominatives, telle que modifiée par la loi n° 1.353 du 4 décembre 2008, et plus particulièrement, les articles 20 et 20-1.

## **MONTENEGRO**

**Question a.**

The Constitution of Montenegro establishes the Institution of the Protector of Human Rights and Freedoms (Ombudsman), as an independent one; with the mandate to protect human rights and freedoms when they are violated through an act, action or inaction of state authorities; to promote human rights and to take measures to improve human rights. Within the Institution, there is a special department for the protection and promotion of children's rights. Annual Report of the Ombudsman, which is reviewed and approved by the Parliament of Montenegro, contains a special section that relates to the rights of the child. Through this Report, in addition to the Parliament, the citizens and the general public, including NGOs, become familiar with the situation in the field of children's rights, and the measures proposed by the Ombudsman in order to improve the position of

children in Montenegro. The Ombudsman also submits reports on the exercise of human rights to international bodies. In accordance with the reporting requirements, the Institution of the Protector of Human Rights and Freedoms submitted special reports on the implementation of the Convention on the Rights of the Child and the Optional Protocols to the Convention, as well as the UPR report, to the Committee on the Rights of the Child.

The mandate of the Deputy Protector of Human Rights and Freedoms for the rights and freedoms of the child is explicitly defined in the Act on job descriptions, following his / her appointment by the Parliament. Since the appointment, in addition to the regular work on the complaints filed, the Deputy Protector of Human Rights and Freedoms is active in various fields, such as the implementation of promotional activities, workshops on the rights of the child, various projects, campaigns, publications. Children and their parents are informed of the availability of filing complaints to the Protector of Human Rights and Freedoms through workshops held in schools, presentation of children's blog on the official website of the Protector of Human Rights and Freedoms and on the Facebook page.

Currently, within the Institution of the Protector of Human Rights and Freedoms, in addition to the Deputy Protector of Human Rights and Freedoms for the rights and freedoms of the child, there are two advisers working exclusively with children's rights, and an intern. The procedure for capacity expansion in the department of children's rights is underway. The Institution, in accordance with the law, hires specialized experts in certain areas as needed.

The continued strengthening of the role of Deputy Protector of Human Rights and Freedoms in monitoring and reporting on compliance with the rights of the child in Montenegro is of great importance to the strengthening of the system of independent monitoring.

The Institution of the Protector of Human Rights and Freedoms is financed from the state budget. The civil society also monitors the implementation of the rights of the child within the limits of their capabilities.

**Question b.**

All the competent authorities have their own internal records.

In the field of social and child welfare, as a part of the Project "Social Card", the plan is to collect, among other things, the data related to sexual exploitation and sexual abuse of children, as well as the measures and actions taken in particular cases by the competent authorities. In this way, a unique database of child victims of sexual violence will be established and the flow of information between authorities will be ensured.

In the network of parliamentarians for the fight against violence against children, Montenegro designated a contact person, who is also the contact person for the implementation of the campaign "One in Five", and this is Dr Zoran Vukčević, Head of

Delegation of the Parliament of Montenegro in the Parliamentary Assembly of the Council of Europe.

At the initiative of the Office for the Fight against Trafficking in Human Beings, a Tripartite Commission was formed, that is composed of representatives of the Supreme Public Prosecutor's Office, the Supreme Court and the Police Administration. Each of these institutions has a designated contact person who is required to monitor the statistics about trafficking in human beings / children within his / her institution and to submit the data, on a monthly basis, to the Office for the Fight against Trafficking in Human Beings, which, as a coordinating body, consolidates the data and creates uniform statistics on trafficking in human beings / children in Montenegro. Statistics include information about both the perpetrators and the victims of this criminal offence, as well as the complete description of the criminal process. The above detailed statistical data are public and are available 24/7 on the website of the Office ([www.antitrafficking.gov.me](http://www.antitrafficking.gov.me)). The Office for the Fight against Trafficking also receives information from representatives of NGOs on all protégés staying in their shelters, and who are believed to be potential victims of trafficking in human beings / children. On the basis of the data obtained, an observation and evaluation of all forms of trafficking in human beings / children in our country is carried out.

**Question c.**

The collection and storage of data relating to the identity and genetic profile (DNA) of persons convicted of criminal offences established in accordance with this Convention is organised in accordance with the Law on DNA Register.

The national body responsible for the collection and storage of such data is the Forensic Center. However, a separate database of perpetrators of sexual offences has not yet been established.

**NETHERLANDS / PAYS-BAS**

**Question a.**

For the new action plan on child abuse and neglect for 2012 to 2016, The State Secretary for Health, Welfare and Sport and the Minister of Security and Justice established a special Task Force in 2012 (reference is made to answer 3b). Its ambassadors monitor the implementation of the action plan with a critical eye, keep certain themes high on the agenda and encourage new promising initiatives.

In 2009 the mandate of the National Rapporteur on Trafficking in Human Beings was extended to include child pornography. The first report on the subject was published in October 2011 and highlighted both current efforts to protect children from sexual violence and areas for improvement. It reported, for example, that the production of child pornography is almost always linked directly to sexual violence against children. The core message was: 'Children have a right to protection against all forms of sexual violence. Efforts to tackle child pornography must be part of an integrated strategy for dealing with sexual violence against children. Cohesion, coordination and monitoring are all essential elements in this respect.' In accordance with the recommendations of the National

Rapporteur on Trafficking in Human Beings, the Rapporteur's responsibility regarding child pornography has been extended to the area of sexual violence against children, including child pornography (National Rapporteur on trafficking of human beings and on sexual violence against children Act, Bulletin of Acts and Decrees 2013, no. 444). A second report, which will report on the broader task of the National Rapporteur will be published this spring (March/April 2014).

Since 1 April 2011, the Netherlands has had a Children's Ombudsman. This is a new, independent, national institution set up to address the observance of the rights of children and young people (up to 18 years of age). It was established in accordance with the Paris Principles, within the organizational structure of the National Ombudsman (Children's Ombudsman Act, Bulletin of Acts and Decrees 2010, no. 716). The House of Representatives appointed Mr Marc Dullaert as the Netherlands' first Children's Ombudsman on 1 April 2011. The Children's Ombudsman advises Parliament and government authorities, and is also responsible for raising awareness of children's rights among adults, children and young people. The field of the Children's Ombudsman is government in general, but it also includes organizations that are active in youth care, education, child care and health care.

The Youth Monitor was set up to inform policymakers, researchers, and other interested parties about the situation of the country's young people. It contains indicators and lists publications about young people aged up to 25 across the entire spectrum of youth-related issues. Statistics Netherlands devised this Monitor for VWS. The website of the Youth Monitor has been online since the end of 2007. This website presents indicators and publications relating to young people aged up to 25. It distinguishes a range of subject areas: youth and families, health and welfare, education, employment, and security and justice. The Monitor provides information compiled at both regional and national level.

Municipalities are playing an ever increasing important role in youth policy. Youth and Family Centers (CJGs) were set up in the vast majority of Dutch municipalities in the reporting period. The support provided by these centers is aimed as much as possible at consolidating children's regular upbringing and enhancing the strengths and autonomy of children and their parents. CJGs are easily accessible and identifiable places, to which children, young people and their parents can apply for information, advice and support on matters relating to growing up and upbringing. Their key objectives are to give parents timely advice and support (prevention), both in the immediate social environment and by improving cooperation between different agencies. CJGs bring together, under one roof, a range of tasks relating to preventive health care, support in children's upbringing, and help and guidance for families. In the new youth system, they serve as 'front office' for all youth care. CJG's comprise of well-trained professionals who are able to respond immediately to most requests for help from young people and parents, if necessary after consulting others working within the Centre or elsewhere. If more specialized help is needed, the Centre can arrange for it. CJG staff are also alert to signs of possible child abuse, and can provide help or report their observations so that the matter can be investigated. CJGs collaborate closely with schools in pupil support and advisory terms (ZATs) to improve care together with and at schools.

Next to this Dutch Youth Care also includes some independent bodies like the Child Care and Protection Board (Raad voor de kindbescherming) who take up their respective obligations in youth care.

The ministries for Health, Welfare and Sport and of Security and Justice monitor and evaluate at the moment six regional project in which a multidisciplinary approach to child abuse is administered. In the course of 2014 the success and fail factors will be known and decisions will be prepared to introduce a broader and more national implementation. Local governing bodies will be included in this process.

**Question b.**

I refer again to the above mentioned National Rapporteur on trafficking of human beings and on sexual violence against children and to the Children's Ombudsman.

Over the next few years, the Healthcare Inspectorate will inspect the entire healthcare system to see whether institutions have a domestic violence and child abuse protocol and whether their staff are trained in its use. The municipal healthcare sector (particularly adult psychiatry) will be scrutinized, especially in regard to adult patients with responsibility for children.

The Netherlands reports periodically on the implementation of the UN Convention on the Rights of the Child.

The minister of Security and Justice receives periodical reports by the police and public prosecutor's office on the law enforcement actions with regard to child sexual abuse. Those reports are used in periodical reports to Parliament.

Every year the hotline "meldpunt kinderpornografie op internet" publishes an annual report.

A periodic review of the prevalence of child abuse is executed.

**Question c.**

DNA research is regulated in articles 138a, 151a-z and 191a-q of the Dutch Code of Criminal Procedure. DNA research is possible in cases where people are suspected of having sexually abused children. The national unit for child pornography and child sex tourism within the Dutch national police force manages a register on investigations against suspects of child sexual abuse.

**NORWAY / NORVEGE**

Did not reply. / N'a pas répondu.

**POLAND / POLOGNE**

Did not reply. / N'a pas répondu.

## **PORTUGAL**

### **Question a.**

The promotion of rights and the protection of children and young people at risk are ensured:

- (i) By the entities competent in matters regarding children and young people, public or private, with activities in areas related to children or to young people – schools, social solidarity private institutions (such as, “Misericórdias”, parents’ associations, Institute for Child Support);
- (ii) By the Commissions for the Protection of Children and Young People, non-judicial official institutions that usually operate at municipality level (administrative territory). They have functional autonomy and decide independently, being their intervention dependent upon the consent of the parents and of the child that is 12 years old or older.
- (iii) By the Family and Minors Courts that intervenes in situations where the Commission for the Protection of Children and Juveniles either cannot intervene or can no longer intervene or whenever the protective measure applied is not complied with.
- (iv) By the Public Prosecutors, that are in charge of representing the children and young people at risk and is entrusted with bringing legal actions, requiring civil tutorial measures (such as the inhibition of exercise of parental responsibilities) and resorting to judicial means whenever necessary to the promotion and defence of the children’s rights and to their protection.

### **Question b.**

In the framework of criminal investigations, the Criminal Police collects data on sexual criminality against minors, according to the type of relationship between the offender and the victim (Please see the statistic data, attached to the present Questionnaire).

### **Question c.**

Portugal made a declaration regarding Article 37 of the Lanzarote Convention, whereby it has designated the Institute for Legal Medicine and Forensic Sciences as the competent entity to record and store national data of persons convicted of the offences established in accordance with the Convention. The identity and genetic profile (DNA) database is regulated under Law nr. 5/2008, of 12 December, which allow for the collection of samples in criminal cases.

The Law of Criminal Identification (Law nr. 57/98, of 18 August) applies to all convicted persons and not only to those convicted for the crimes specified in the Convention. This registration comprises the identification elements of the convicted person, with extracts of criminal decisions and the communication of facts related to said person. It also includes elements on the civil identification of the suspect, the date, form and contents of previous court decisions and provisions applied. As they are decisions on convictions, the corresponding register specifies the type of crime and the date in which it has been committed as well as the violated legal precepts and main penalties, either of replacement or ancillary, or the security measures applied.

As an additional identification means, the fingerprints of natural persons convicted by the Portuguese courts are also collected; these are filed and ordered by formula, for dactyloscopic file organization purposes.

It should also be mentioned that the judges and the public prosecutors may accede to criminal identification data for criminal investigation purposes, in order to conduct fact-finding cases, to enforce sentences and to decide on the adoption, custody, guardianship, foster care, civil sponsorship, delivery or custody of minors or to regulate the exercise of parental responsibilities.

A draft Law is under preparation in the Ministry of Justice in order to establish a data base of persons convicted by sexual crimes involving minors.

## **ROMANIA / ROUMANIE**

### **Question a.**

The independent institution in Romania which includes within its duties the protection of children's rights is the Ombudsman (Law No. 35/1997 concerning the organization and functioning of the institution of the Ombudsman).

The institution of the Ombudsman is in charge with the protection of the rights and freedoms of natural persons in their relation with public authorities.

The Ombudsman has, inter alia, the following duties:

- coordinates the activity of the institution of the Ombudsman;
  - decides on the petitions filed by natural persons whose rights and freedoms have been infringed by the authorities of the public administration;
  - checks the activity of legal processing of in-coming petitions and requests the authorities or civil servants in question to stop the infringement of the rights and freedoms of natural persons, the reinstatement of the petitioner in his rights and compensation;
  - drafts reports at the request of the Constitutional Court;
  - can seize the Constitutional Court in relation with the un-constitutionality of laws, prior to their promulgation;
  - can seize the Constitutional Court directly with incidents of un-constitutionality of laws and ordinances;
- (...)

The Ombudsman can delegate the exercise of these duties to his deputies or to persons with managerial function within the institution.

The Ombudsman is assisted by deputies who specialize in different fields of activity, one of which being the protection of the rights of children, family, young people, retirees, disabled people.

The Ombudsman's deputies fulfil inter alia the following duties:

- coordinate the activity in their field of activity;



- inform the Ombudsman about the activity in their field of activity;
- distribute petitions within their field of activity;
- fulfil any other duties established by the Ombudsman within the legal provisions.

According to its law concerning its organization and functioning, in fulfilling its role of protector of civil rights and freedoms the Ombudsman has the following competences:

In case, after the examination of in-coming petitions, it is established that the petition of the natural person is grounded, the Ombudsman shall write to the authority of the public administration which has infringed the rights of the natural person and shall request it to repair or revoke the administrative act and to compensate the damages, as well as to reinstate the natural person in his rights.

The public authorities in question shall take immediately all necessary measures for removing the illegal acts ascertained, compensation and removing of all causes which have generated or favoured the infringement of the natural person's rights and shall inform the Ombudsman to this effect.

In case the authority of the public administration or the public servant do not remove within 30 days from the date of the intervention the illegal acts, the Ombudsman shall inform the higher public authorities which shall inform the Ombudsman within 45 days at the latest about the measures taken.

The Ombudsman is entitled to inform the Government about any illegal administrative act or fact emanating from the central public administration and from the prefects.

Non-adoption by the Government within 20 days at the latest of the measures concerning the illegality of the administrative acts or facts reported by the Ombudsman shall be communicated to the Parliament.

According with the same law concerning the organization and functioning, the financing of the Institution of the Ombudsman is performed from the state budget.

**Question b.**

Administrative measure since 2006: Monitoring form for situations of child abuse, neglect and exploitation, which contains also disaggregated data regarding sexual abuse and exploitation. This data is collected at national level by the Department for Child Protection within the Ministry of Labour, Family, Social Protection and Elderly (DPC-MMFPSPV) and is provided from local level by the 47 GDSACP. Data collection from GDSACP is based on the mandatory reporting stipulated by Law no. 272/2004 on the protection and promotion of child rights, reporting could be made by any person or institution, including non-governmental organizations (NGO). Data is available on [www.copii.ro/statistici](http://www.copii.ro/statistici) starting with 2008. The most recent statistics are attached to the current report.

GD no. 49/2011 for the approval of the Framework Methodology on multidisciplinary and networking prevention and intervention in case of violence against children and domestic

violence includes operational definitions for all forms of violence against children and domestic violence and stipulates a monitoring mechanism for these phenomena. An unitary set of tools will be approved by the minister of labour, family, social protection and elderly.

Data collected by central and local public authorities are in line with the requirements of personal data protection.

#### **Question c.**

In order to prevent and fight some categories of offences by which fundamental rights and liberties of the individual are seriously affected, especially the right to life and to physical and mental integrity, as well as to identify bodies with unknown identity, missed persons or casualties resulted from natural disasters, mass accidents, homicide or terrorist acts, based on Law No.76/2008<sup>24</sup>, the National System for Forensic Genetic Data (S.N.D.G.J.) has been created covering whole Romania.

According with art. 9 para. (1) of the above mentioned Law, the authority which is responsible for the processing of the data in the S.N.D.G.J. is the General Inspectorate of the Romanian Police within the Ministry for Internal Affairs via the Forensic Institute (Institutul de Criminalistică) which is the administrator of the S.N.D.G.J.

The beneficiaries of the data in the S.N.D.G.J. are criminal prosecution authorities and courts, the Romanian Security Service for the fulfilment of legal duties in the field of the prevention and fight of terrorism, as well as judicial authorities of other states, based on reciprocity or based on international treaties to which Romania is a party, according with art.9 para. (3) of Law No.76/2008.

It contains:

- the personal data base;
- the data base for data concerning the file and the data base with data concerning genetic profiles;
- the personal data base – the S.N.D.G.J. component which contains: personal data base with data concerning the persons provided for in art. 4 para. (1) lit. a) and b) (suspects and persons convicted based on a final court decision) and data about the offence committed or subject to investigation;
- the data base for data concerning the file - the S.N.D.G.J. component which contains information concerning the offence and other information relevant for police work, correspondences of genetic profiles of the biological evidence secured at the site of crime and not ascribed to an offender;
- data base with data concerning forensic genetic profiles - the S.N.D.G.J. component which contains the genetic profiles of persons provided for in art. 4 para. (1) lit. a) and b) and of biological evidence secured at the site of crime;

In Annex No. 1 to the Methodological Rules for the Application of Law No.76/2008 concerning the organization and functioning of the National System for Forensic Genetic

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<sup>24</sup> concerning the organization and functioning of the National System for Forensic Genetic Data, with subsequent amendments and supplements;

Data and for the Creation of the Internal Legal Framework for the Implementation of the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, related to the automatic transfer of genetic profiles, with subsequent amendments and supplements, based on which the National System for Forensic Genetic Data (S.N.D.G.J.) is created, in order to prevent and fight some categories of offences by which fundamental rights and liberties of the individual are seriously affected, especially the right to life and to physical and mental integrity, as well as to identify bodies with unknown identity, missed persons or casualties resulted from natural disasters, mass accidents, homicide or terrorist acts, approved by the Government's Decision No. 25/2011, the offences are listed in relation to which biological evidence can be secured with a view to feeding the genetic profiles in the S.N.D.G.J.

Among these offences we also have rape, sexual intercourse with a minor, sexual perversion, sexual corruption, trafficking in minors, ill-treatments applied to a minor, procuring.

### **RUSSIAN FEDERATION / FEDERATION DE RUSSIE**<sup>25</sup>

Did not reply yet. / N'a pas encore répondu.

### **SAN MARINO / SAINT MARIN**

Did not reply yet. / N'a pas encore répondu.

### **SERBIA / SERBIE**

#### **Question a.**

Ministry of Interior:

To protect children's rights, different institutional mechanisms have been in place, both at national and local levels, including:

- Council for the Right of the Child of the Republic of Serbia
- Council for Young Persons of the Government of the Republic of Serbia;
- Council for monitoring and promoting activities of the authorities for criminal procedure and enforcement of criminal sanctions against juveniles
- Working group for the promotion and monitoring implementation of the Action plan of the National strategy for prevention and protection of children from violence;
- Working group of the Ministry of Youth and Sports for monitoring implementation of the National Strategy for Young Persons;
- Working group of the Ministry of Education for monitoring implementation of the Framework action plan for prevention of violence in educational institutions and of the Programme "School Without Violence" – Towards safe and stimulative environment;

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<sup>25</sup> The Russian Federation became a State party after the 1<sup>st</sup> monitoring round was launched. As all Parties it has to reply to the General Overview Questionnaire. Its reply should be received by 31 July 2014 at the latest. / La Fédération de Russie est devenue Etat Partie après le lancement du 1<sup>er</sup> cycle de suivi. Comme toutes les Parties, elle doit répondre au Questionnaire « Aperçu Général ». Ses réponses doivent être reçues au plus tard le 31 juillet 2014.

Council for Fight against Trafficking in Human Beings (Coordinator for fight against trafficking in human beings; Republic team for fight against trafficking in human beings, and Service for coordination of protection of victims of human trafficking);

NGO Astra:

Ombudsman of the Republic of Serbia (Ombudsman for Children) acts on complaints from citizens and children in cases of violation of rights in different areas of children's rights, or on his own initiative when he possesses the knowledge and information about a possible violation of the rights of the child. In every case where he/she controls the work of the administration, the best interests of the child guide the Ombudsman. Work of the Ombudsman is financed from the state budget.

Protector of Citizens:

The Protector of Citizens (Ombudsman) is an independent and autonomous public authority established under the Constitution of the Republic of Serbia<sup>26</sup> and the Law on the Protector of Citizens<sup>27</sup>, responsible for protecting the rights of citizens and controlling the work of public authorities, the authority in charge of legal protection of property rights and interests of the Republic of Serbia and other bodies and organisations, enterprises and institutions vested with public powers. The Protector of Citizens is not authorised to control the work of National Assembly, President of the Republic, Government of Serbia, Constitutional Court, courts and public prosecution's offices. The Protector of Citizens is appointed and dismissed from office by National Assembly, in accordance with the Constitution and the law. The Protector of Citizens has four deputies, wherein appropriate specialisation in protection and promotion of child's rights is ensured.

The Protector of Citizens exercises his control role by acting on citizens' complaints and on his own initiative, upon learning of any potential violation of child's rights<sup>28</sup>. Children may refer the Protector of Citizens personally or a complaint may be lodged on their behalf by their parents or legal representatives<sup>29</sup>. In the investigation procedure, the Protector of Citizens may request any records and documents, carry out control visits (announced or unannounced) in the institutions where children stay and interview the management and staff of relevant authorities; the authorities under investigation have a duty to respond to all requests of the Protector of Citizens and to provide him with all requested information and documents. Authorities have a duty to cooperate with the Protector of Citizens, to grant him access to their premises and all information they hold that may be relevant for the procedure carried out by the Ombudsman or for the achievement of the objective of his preventive action, regardless of their classification level, unless it is contrary to the law<sup>30</sup>.

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<sup>26</sup> Article 138 of the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia" No. 98/2006).

<sup>27</sup> "Official Gazette of the Republic of Serbia" Nos. 79/2005 and 54/2007.

<sup>28</sup> Article 24 of the Law on the Protector of Citizens.

<sup>29</sup> Article 25 of the Law on the Protector of Citizens.

<sup>30</sup> Articles 21 and 29 of the Law on the Protector of Citizens.

The Protector of Citizens has the power to propose bills within his sphere of competence and to launch initiatives with the Government and the National Assembly for the amendment of laws and other regulations and general acts, if he deems that violations of citizens' rights are caused by deficiencies in legislation. The Ombudsman is also authorised to initiate the enactment of new laws, other regulations and general acts when he finds it relevant for the exercise and protection of citizens' rights. The Government or the competent Committee of the National Assembly has a duty to consider the initiatives made by the Protector of Citizens<sup>31</sup>. The Protector of Citizens has been using these competences in the child's rights area, since he has found that the existing legislation requires substantial amendments for further improvement of protection and exercise of the rights of the child in Serbia.

Another power vested with the Protector of Citizens is the initiation of proceeding before the Constitutional Court for the assessment of the constitutionality and legality of laws, other regulations and general acts<sup>32</sup>.

Under the Law on the Protector of Citizens, the funds for the operations of this authority are provided in the national budget, on the basis of a proposal submitted by the Protector of Citizens to the Government for inclusion of that proposal in the draft national budget. The Law further stipulates that the annual funds for the Protector of Citizens should be sufficient to enable him to effectively and efficiently exercise his function, but within the constraints of the country's overall macroeconomic policy<sup>33</sup>.

#### **Question b.**

NGO Atina:

The Law on specific measures to prevent commission of criminal offences against sexual freedom of juveniles was adopted in 2013<sup>34</sup>. This law prescribes special measures conducted toward the perpetrators of criminal offence against sexual freedom committed against juveniles, defined by this law, and governs the conduct of special records of persons convicted for such offences. In addition to that, the law stipulates the prohibition of mitigating and parole, as well as the prohibition of obsolescence of prosecution and keeping special records. There are still no records and register that this law predicts.

NGO Astra:

When it comes to human trafficking in Serbia there is no body that is responsible for coordinating the collection of data on trafficking and related offences. There are several sources of data on victims of trafficking, from the Ministry of Interior, which records information on the number of criminal charges that were filed in a given period for this criminal act, through the Centre for the Protection of Victims of Human Trafficking, which keeps track of identified trafficking victims, social welfare centres, including non-governmental organizations that provide assistance to victims and keep records of their clients. These data are not coordinated and comparable, primarily due to the different criteria of recording.

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<sup>31</sup> Article 18 of the Law on the Protector of Citizens.

<sup>32</sup> Article 19 of the Law on the Protector of Citizens.

<sup>33</sup> Article 37 of the Law on the Protector of Citizens.

<sup>34</sup> Official Gazette of RS No.32/2013

Regarding the data on conducted investigations, prosecutions, court proceedings and rulings, there is also no centralized database, which would enable easy access to data. Republic Public Prosecutor's Office has information on conducted investigations, charges rejected, prosecuted, first and second instance rulings (including information on the type of sentence), but these data are collected on persons who are the subject of the indictment, while the information about the injured parties do not exist. Data on persons against whom proceedings are conducted is provided as an aggregate number, i.e. without sorting by gender, age, etc.

Republic Institute for Statistics also keeps a record for the crime of human trafficking and other offences, but the data that they publish represents the aggregate number of court rulings, without detailed information on the type and length of sentence. Data on the length of the sentence awarded to traffickers is not available in a centralized form.

It is expected that, for the purposes of negotiating with the EU, some judicial data is to be collected in more details, and to be more accessible, but it is still necessary to design and implement a systematic approach to collecting data on the criminal offence of trafficking and victims of human trafficking, which will provide a valid picture of the extent of the problem in our country and the activities undertaken in the field of criminal prosecution and victim protection and assistance.

#### **Question c.**

Ministry of Justice:

Law on Special Measures for the Prevention of Sexual Offences Against Minors special measures are laid down which shall be undertaken against offenders committing sexual offences against minors and regulates introduction of a special register of persons sentenced for such crimes. Under Article 6 of this Law, the sentence pronounced for a criminal offence referred to in Article 3 thereof shall have the following legal effects:

- 1) termination of office;
- 2) termination of employment and/or practicing profession or occupation related to work with minors;
- 3) prohibition of appointment to office;
- 4) prohibition of entering employment and/or practicing profession or occupation related work with minors;

Legal effects of the conviction referred to in paragraph 1 thereof shall come into force as of the day when the judgement becomes final.

Legal consequences of the conviction referred to in paragraph 1, points 3) and 4) thereof shall last 20 years.

Time spent serving a penalty shall not be credited to duration of legal consequences of conviction.

The final judgement referred to in paragraph 2 thereof shall also be communicated to the employer of the convicted person.

Abovementioned provisions regarding Article 6, paragraph 1, point 4 shall include all professions.

Under Article 13 of the Law

A special register shall be kept on persons convicted for the criminal offence referred to in Article 3.

The special register referred to in paragraph 1 thereof shall include:

- 1) Full name of the convict;
- 2) Individual identification number of the convict;
- 3) convict's address;
- 4) data on the convict's employment;
- 5) data of relevance for physical recognition of the convict and his/her photograph;
- 6) convict's DNA profile;
- 7) data on the criminal offence and type of penalty;
- 8) data on legal effects of the conviction;
- 9) data on the enforcement of special measures under the law.

Under Article 14, the Criminal Sanctions Enforcement Authority of the Ministry of Justice and Public Administration shall maintain the special register referred to in Article 13 thereof.

All the authorities of the state and other bodies, as well as legal persons or entrepreneurs shall, submit to an authorised officer of the Criminal Sanctions Enforcement Authority the data which under the law are entered into the special register maintained by the Authority, no later than within 3 days from the date of their receipt.

The special register data shall be maintained permanently and may not be deleted.

Minister responsible for judiciary shall proscribe the method of maintenance of the special register in further detail.

Under Article 15 thereof, the data kept in the special register may be provided to the court, public prosecutor or police in connection with the criminal proceedings conducted against the person entered in the special register, and / or competent organisational police unit, as well as organisational unit of the Criminal Sanctions Enforcement Authority responsible for the treatment and alternative sanctions, when it is required for the purpose of the activity falling under their competences. The data kept in the special register may be communicated upon reasonable request to an authority of the state, other organisation or entrepreneur, and if legal consequences of the conviction are still in effect and if there is reasonable interest grounded in the law. The state authorities and other bodies, as well as legal persons or entrepreneurs whose activities involve work with minors are bound to request the data on whether the person who is supposed to enter employment relation with them, i.e. to perform duties of a job that involves work with the minor, is entered into the special register. The data in the special register may also be communicated to foreign state authorities, under international agreements. To the data

contained in the special register, unless otherwise provided for under the provision of this Law, legal provisions of the Law regulating protection of the personal data and data confidentiality shall apply.

Also, under Article 102 of the Criminal Code, there is a permanent criminal records maintained on all the convicted persons. Ended court cases on criminal offences are kept in the archives, in the manner proscribed under the court rules of proceedings.

Ministry of Interior:

Under the Law on Special Measures for the Prevention of Sexual Offences Against Minors (Official Gazette of RS, 32/13), a special register shall be maintained on persons sentenced for sexual offences committed to detriment of children and minors. The Criminal Sanctions Enforcement Authority of the Ministry of Justice and Public Administration shall maintain the special register.

NGO Astra:

In April 2013, Law on special measures for the prevention of crimes against sexual freedom against minors, known as "Marija's Law" was adopted. Article 14 of the proposed law stipulates that the Directorate should keep special records for Execution of Criminal Sanctions, and that the Ministry of Justice will regulate the record keeping in closer detail. The deadline for submission of data to the responsible person in the Directorate for Execution of Criminal Sanctions who keeps separate records is within three days. All state and other authorities, as well as legal entities or entrepreneurs are required to submit the obtained information on which special records are kept in this time period. It was proposed that the data in special records is kept permanently, as well as that it is not allowed to delete data from special records. This database has not yet been established.

## **SLOVAK REPUBLIC / REPUBLIQUE DE SLOVAQUE**

Did not reply. / N'a pas répondu.

## **SLOVENIA / SLOVENIE<sup>35</sup>**

Did not reply yet. / N'a pas encore répondu.

## **SPAIN / ESPAGNE**

### **Question a.**

The following authorities have powers in the area of promotion and protection of children's rights:

- Ministry of Health, Social Services and Equality, through the General Directorate of Services for Family and Children.
- Autonomous Regions.
- Local entities.

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<sup>35</sup> Slovenia became a State party after the 1<sup>st</sup> monitoring round was launched. As all Parties it has to reply to the General Overview Questionnaire. Its reply should be received by 31 August at the latest. / La Slovénie est devenue Etat Partie après le lancement du premier cycle de suivi. Comme toutes les Parties, elle doit répondre au Questionnaire "Aperçu Général". Ses réponses doivent être reçues au plus tard le 31 août 2014.



- Public Prosecution Service.

Furthermore, article 10.2 of the Organic Act 1/1996 on the Legal Protection of Minors stipulates that the minor can lodge a complaint with the Ombudsman so as to defend and guarantee his rights. A Deputy Ombudsman is in charge of children matters.

Some Autonomous Regions have created similar institutions for the defence of citizens' rights that also follow up the observance of children's rights. Andalusia stands up for the creation of the Children's Ombudsman.

**Question b.**

The working group on child abuse of the Spanish Observatory on Children published in 2001 a manual entitled "Child abuse. Detection, notification and recording of cases", which has served as a basis for the detection and action protocols of the Autonomous Regions. The manual included a tool, the notification sheet, to elaborate statistics on child abuse.

The Ministry of Health, Social Services and Equality in cooperation with the Autonomous Regions started setting up an on-line database for the notification of child abuse cases (RUMI) in June 2008. All protection services have access to it at present.

RUMI (unified register of child abuse) provides global data related to the following factors: age, sex, type of abuse, origin of notification, nationality of the victim and degree of abuse. 2012 data are the following:

NOTIFICATIONS BY SEX AND TYPE OF ABUSE

| TYPE OF ABUSE | Female | Male  | Total  |
|---------------|--------|-------|--------|
| SEXUAL ABUSE  | 340    | 148   | 488    |
| EMOTIONAL     | 1.424  | 1.564 | 2.988  |
| PHYSICAL      | 1.060  | 989   | 2.049  |
| NEGLECT       | 3.124  | 3.898 | 7.022  |
|               | 5.948  | 6.599 | 12.547 |

The successive Plans of Action against the Sexual Exploitation of Children and Adolescents have always devoted a specific section to statistical information based on information from the Ministry for Home Affairs.

The following table provides data on the number of complaints about offences against sexual freedom on minors:

|        | 2008  | 2009  | 2010  | 2011  | 2012  |
|--------|-------|-------|-------|-------|-------|
| Female | 3.011 | 2.781 | 2.673 | 2.566 | 2.582 |
| Male   | 801   | 678   | 648   | 607   | 608   |
| Total  | 3.812 | 3.459 | 3.322 | 3.177 | 3.190 |

On another point, the Ministry of Justice, in collaboration with the Ministry of Health, Social Services and Equality and the civil society, has addressed the collection of best practices in two aspects: the fight against child violence and the fight against child sexual abuse.

**Question c.**

A comprehensive legal structure regulating the database for identifiers obtained from DNA was established by Organic Act 10/2007 within the framework of the Organic Act 15/1999 on the Protection of Personal Data. However, law enforcement authorities already managed DNA databases prior to the above-mentioned law coming into force for the purposes of criminal investigations and comparison of samples relating to missing persons. These databases, together with the database created by the National Institute of Toxicology and Forensic Science, feed into the national police database created in October 2007, which comes under the State Secretary for Security of the Ministry for Home Affairs.

**SWEDEN / SUEDE**

**Question a.**

The Ombudsman for Children in Sweden is a government agency tasked with representing children regarding their rights and interests on the basis of the UN Convention on the Rights of the Child (CRC).

The Ombudsman for Children monitors how the CRC is complied with in society and pushes for its implementation in Sweden's municipalities, county councils/regions and government agencies. Every year, the Ombudsman for Children submits a report to the government. This includes analyses and recommendations for improvements for children. The Ombudsman for Children shall, by law, provide information and build opinion on issues relevant to children's rights and interests.

The Ombudsman for Children holds regular dialogues with children, particularly those in vulnerable situations, to obtain knowledge of their conditions and their opinions on relevant issues.

The Ombudsman for Children has legal powers to request information and to summon parties to talks, but has no regulatory powers. The Ombudsman for Children may not interfere in individual cases, but does have a duty of notification. The Ombudsman for Children shall immediately submit a report to the Social Welfare Board if it becomes aware that a child is abused at home or is otherwise aware that the Board needs to intervene to protect a child.

**Question b.**

Official Swedish crime statistics present yearly data on the number of reported cases of purchasing a sexual act by a child under the age of 18 and human trafficking of children under the age of 18 for sexual purposes and other purposes, respectively. Additionally, data is presented on reported cases of a) child rape, b) sexual exploitation of children, and c) sexual abuse of children. The data under a, b and c is divided into crimes against children under the age of 15 and against children aged 15–17.

Official criminal statistics presents incidents according to type of crime and relevant section of the law. There is no information in the statistics that makes it possible to discern whether the crimes have any connection with tourism. Development of statistics and methods is continuous. The extensive project which will mean the introduction of an electronic flow of information between authorities in the legal chain will eventually bring considerable scope for development of statistics, including more detailed presentations.

**Question c.**

DNA profiles from persons who have been sentenced by a final and non-appealable judgment to a penalty other than a fine, or have accepted a summary imposition of a punishment consisting of a suspended sentence, are registered in the DNA register kept by the Swedish National Police Board (RPS). When a person is removed from the criminal record, the DNA profile is also removed from the DNA register. DNA register legislation is found in the Police Data Act (2010:361, chap 4, § 1-10) and the Code of Judicial Procedure (chap 28).

**SWITZERLAND / SUISSE**

Did not reply. / N'a pas répondu.

**"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" / L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE**

Did not reply yet. / N'a pas encore répondu.

**TURKEY / TURQUIE**

**Question a.**

No information has been received from the relevant governmental bodies on this question yet.

**Question b.**

This matter is regarded as significant within the framework of the preparations for "National Action Plan on Combating Violence against Children (2014-2018)," which was prepared by the Ministry of Family and Social Policies in cooperation with relevant institutions and which is currently at the implementation stage. Therefore, one of the eight strategic objectives included in the Action Plan is devoted to address it.

The second Strategic Objective in the draft Action Plan is "Regular Monitoring of the Extent of Violence against Children." This strategic objective aims to achieve two goals: 1- to ensure the systematic follow-up of the qualitative and quantitative extent of the violence against children issue by official data and studies to be conducted among the general child population. 2- to assess the efficiency and performance of public policies which are already in place and which will soon be in place.

In order to realize the said Strategic Objective, 3 main targets and activities to be carried out in order to reach them have been identified. These targets are as follows:

- 1- Determining the concept of “violence against children,” its extent, indications and institutions that collect data related to these indications, as well as their data collection strategies,
- 2- Identifying strategies on the sharing of data collected by different institutions and on gathering these data in a common data repository,
- 3- Setting standards for studies to be conducted on a regular basis on the “experience of violence” among the general child population and to collect data through at least one study.

#### **Question c.**

Because collection and storage of data related to DNA of persons whose convictions have been finalized for the offences which is related to public morality and public order such as sexual exploitation of the children is closely related with protection of personal data, any proceedings cannot be conducted without a legal regulation.

Article 20/3 of Turkish Constitutional Law titled “Privacy and Protection of Private Life” governs that “Everyone has the right to request the protection of his/her personal data. This right includes being informed of, having access to and requesting the correction and deletion of his/her personal data, and to be informed whether these are used in consistency with envisaged objectives. Personal data can be processed only in cases envisaged by law or by the person’s explicit consent. The principles and procedures regarding the protection of personal data shall be laid down in law. ”In accordance with this article, collection and storage of DNA samples which is in the nature of personal data can only be possible under a legal regulation.

With regard to this issue, within the scope of the mentioned article of Turkish Constitutional Law and article 37 of the Convention, the legal works have been started and they are about to be concluded. It is expected that the law concerning this issue will take effect.

## **UKRAINE**

#### **Question a.**

According to Article 1 of the Law of Ukraine “On Bodies and Agencies dealing with Children and Special Institutions for Children”, social protection of children as well as prevention of juvenile offences, are entrusted, within the determined limits of authority, to:

- Relevant units of the Ministry of Internal Affairs (including the Juvenile Criminal Police, Human Trafficking Prevention Units, Interpol and others);

According to Article 4 of the Law of Ukraine “On Bodies and Agencies dealing with Children and Special Institutions for Children”, the State Service for Children is the body within the executive branch system, which implements state policy on adoption, and ensures protection of children’s rights.

Within the scope of their relevant powers, other executive branch institutions, local government bodies, enterprises, entities and organizations (regardless of their ownership) as well as individuals partake in ensuring protection of children’s rights.

The main body of the Ministry of Internal Affairs to prevent offences amongst children is the Juvenile Criminal Police, entrusted with:

- ensuring activities within local educational institutions called to prevent administrative and criminal offences committed by children;
- providing for individual activities to prevent recurrent offences by children who have committed administrative and criminal offences, were sentenced to a punishment not connected to deprivation of freedom or those who have been released from specialized disciplinary institutions;
- conducting activities to prevent recurrent crime amongst children;
- ensuring necessary and urgent activities to determine the location of those children, who have been announced missing;
- solving criminal cases where children have committed offences;
- uncovering and stopping cases of cruel treatment of children, committing violence against them, including cases where it originates from parents or legal representatives;
- providing legal and psychological aid to children who have fallen victims of criminal offence or are witnesses of a criminal offence.

**Question b.**

Unified registry of pre-trial investigations, report on performance of the Juvenile Criminal Police and the work of temporary shelters for children (statistical data); report on performance of Ministry of Internal Affairs units to prevent domestic violence (statistical data).

**Question c.**

Not determined.

**UNITED KINGDOM / GRANDE BRETAGNE**

Did not reply. / N'a pas répondu.