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LANZAROTE COMMITTEE

Committee of the Parties to the Council of Europe
Convention on the protection of children against sexual
exploitation and sexual abuse (T-ES)

POSSIBLE WORKING METHODS FOR THE DRAFTING OF THE IMPLEMENTATION REPORTS FOR THE 1ST MONITORING ROUND

Working document prepared by the Secretariat of the Lanzarote Committee
for the 7th meeting of the Committee to be held in Madrid on 9 December 2013

All meeting documents are available at:
http://www.coe.int/t/dghl/standardsetting/children/Meetings_of_Committee_en.asp

Background information

1. At its previous meetings the Lanzarote Committee decided that the first monitoring round of the implementation of the Lanzarote Convention would concern “sexual abuse of children in the circle of trust”¹ and that it would assess all Parties² participating in the 1st monitoring round simultaneously, rather than proceeding on a country by country basis.³ This would allow it to build a momentum on a specific dimension of the Lanzarote Convention throughout all States Parties at the same time, which in turn would favour the exchange of good practices and the identification of shortcomings or difficulties.

2. In the light, on the one hand, of the high number of Parties already participating in the 1st monitoring round as well as of the complexity of the 1st theme chosen for such round and wanting, on the other hand, to assert its standpoint on the situation in these Parties as quickly as possible, the Committee agreed it should examine the information collected through its thematic questionnaire⁴ in two stages. In this respect, at its last meeting, the Committee agreed that it should first examine the legal criminal framework and related judicial procedures with respect to sexual abuse in the circle of trust in all Parties participating in the 1st monitoring round. It would then devote its assessment to the structures, measures and processes in place to prevent and protect children from sexual abuse in the circle of trust in the same Parties.⁵

3. While examining and agreeing upon an indicative time-table to carry out its 1st monitoring round (Appendix II),⁶ the Committee asked the Secretariat to prepare a document containing possible working methods to meet such a time-table. It was agreed that such a document should consist in a compilation of the relevant working methods of other Council of Europe monitoring bodies and some suggestions. For ease of reference, the compilation of the relevant working methods are appear in Appendix I to this document, the purpose of which is thus to set forth some suggestions to enable the Committee to reflect on the way forward.

Some suggestions

4. Firstly, it is underlined that a decision on the working methods might best be taken after the deadline for the submission of replies to the questionnaires. The quantity and

¹ See Lanzarote Committee 2nd meeting report para. 10 (document T-ES(2012)004). All meeting reports are available on line at: http://www.coe.int/t/dghl/standardsetting/children/Meetings_of_Committee_en.asp

² According to Rule 24§4 of the Rules of Procedure of the Lanzarote Committee: “All parties for which the Convention has entered into force within three months from the adoption of the questionnaire shall undergo the monitoring round. [...]” It is recalled that the questionnaires for the 1st monitoring round were adopted on 16 May 2013. According to this Rule, the 1st monitoring round will concern the following 26 States Parties: Albania, Austria, Belgium, Bulgaria, Bosnia and Herzegovina, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxemburg, Malta, Republic of Moldova, Montenegro, the Netherlands, Portugal, Romania, San Marino, Serbia, Spain, “The former Yugoslav Republic of Macedonia”, Turkey and Ukraine.

³ See Lanzarote Committee 5th meeting report para. 18 (document T-ES(2013)09).

⁴ The questionnaire for the 1st monitoring round of the Lanzarote Convention is available at: www.coe.int/lanzarote.

⁵ See Lanzarote Committee draft 6th meeting report paras. 18-20 (document T-ES(2013)12).

⁶ For ease of reference, the time-table appears in Appendix II of this document. It was agreed upon during the Lanzarote Committee’s 6th meeting (see para. 20 document T-ES(2013)12).

quality of the replies actually received by the Committee might in fact be influential in determining how best to proceed.

5. It is recalled that States Parties' replies to the questionnaire will be published on the www.coe.int/lanzarote webpage soon after receipt.⁷ It is however suggested that the Secretariat should contact the Committee's Bureau on 3 February 2014 to inform it of:

- the number of Parties having replied to the questionnaire;
- the number of representatives of civil society having replied to the questionnaire, specifying with respect to which State Parties.
- the volume of the information received.

6. It may be assumed that after the deadline of 31 January 2014 the Secretariat will be confronted with one of the following scenarios:

a. All Parties submit their replies on time and these appear to be comprehensive and straight to the point.

→ The Secretariat may prepare a preliminary version of the draft assessment document that will be submitted to the Committee for examination and approval.

b. All Parties submit their replies on time but the information is either extremely long or too succinct.

→ In both cases the Secretariat should ask the Bureau for guidance on how to proceed: Depending on the circumstances, it might seek approval to:

- reduce the number of questions to be assessed by the Committee during its first meeting in 2014 (8-10 April 2014) or to postpone this meeting to allow it to treat all the information;
- ask Parties not having submitted comprehensive information for more details and put the drafting on hold until all the required information is available, etc.

c. Only a few Parties submit replies.

→ The Secretariat should ask the Bureau to decide how to proceed. Options might include:

- seeking advice to set a new deadline for the submission of replies;
- considering the postponement of the April meeting to later to ensure that the preliminary assessment covers a critical number of States Parties, etc.

7. Expecting the best case scenario (option "a" above) to materialise and having as an objective the adoption of the first implementation report within 18 months from the receipt of the replies to the questionnaires, it is advocated that the Committee members should play an active role in the preparation of the preliminary assessments that will eventually be assembled together to form the implementation report.

8. Firstly, it is assumed that all members of the Committee will read the replies by all Parties to the questions that will be assessed during the Committee's first meeting in 2014.

⁷ According to Rule 26§4 of the Committee's Rules of Procedure, the replies to the questionnaire by representatives of civil society shall be made public if the NGO submitting the replies so requests.

For this purpose, it is necessary for the Committee to clearly identify the issues that it will be called upon to assess during each meeting. A first indication in this respect is included in Appendix II. It may obviously be modified. It might also be envisaged that the Secretariat prepare a document compiling the relevant replies to be studied to facilitate this exercise for the Committee.

9. Secondly, it is equally important to determine how the assessment of these issues should be prepared in the run-up to the meetings. In this respect, the appointment of Rapporteurs is one of the most frequent working methods used by Council of Europe monitoring bodies. The Appendix contains examples of Rapporteurs' tasks.

10. Generally (e.g. GRETA, GRECO, etc), in cooperation with the Secretariat, Rapporteurs are in charge of the preparation of the report on a given country being monitored. There are also examples of Rapporteurs in charge of preparing findings with respect to all State Parties' implementation of a specific provision of the international instrument the implementation of which is being monitored in a given cycle/round (e.g. European Committee of Social Rights).

11. In practice, the above working method consists in the Secretariat preparing a preliminary text which is submitted to the Rapporteur. She/he contributes to the elaboration of this text. The text, as approved by the Rapporteur, is made available by the Secretariat to the whole Committee in due time before its meeting. The Rapporteur has the responsibility of presenting the text during the Committee's meeting. The members of the Committee adopt the text after it has been examined during the meeting and the views of all (members, participants and observers) have been duly considered and discussed. The Secretariat has the responsibility of integrating in the text any amendment/compromise solution agreed upon during the meeting. If discussions require a complete reworking of the text, a new version will have to be prepared after the meeting by the Secretariat with the support of the Rapporteurs.

12. Since the Lanzarote Committee decided to assess all Parties in a comparative way in the same report, Rapporteurs of this monitoring process may not be country specific but may have thematic responsibilities. For the first implementation report, one might, for example, envisage appointing 3 Rapporteurs: one to deal with the replies to the questions on data collection; another to deal with the questions on the legal criminal framework and finally one to cover questions on judicial procedures. If only one Rapporteur for these three "themes" is considered not enough, the Committee may identify more specific themes or have "question" specific Rapporteurs (in charge of the assessment of all replies with regard to a question of the questionnaire).

13. An alternative to the Secretariat-Rapporteur-Committee working method might be the setting up of small drafting groups composed of a few members of the Committee and one or more participants/observers in the Committee assisted by the Secretariat. Such a group would be expected to prepare the preliminary assessment with respect to a set of questions. Unless resources are made available, the group would have to function without having to meet. The Secretariat would take care of coordinating the groups' drafting work and transmitting the draft agreed upon to the whole Committee in due time before the

plenary. The group would decide who presents the text to the whole Committee during its meeting. This kind of methodology is used by GRECO, which has “teams of experts” analysing the situation in a given country. It is also used by ECRI which may set up working groups. Something similar is also foreseen by the T-CY but the drafting group is the Bureau of T-CY (See Appendix for more details concerning these bodies).

14. Finally, another alternative might be having recourse to the services of independent experts. At the Secretariat’s knowledge no Council of Europe monitoring body is doing so for the monitoring work as such. This would therefore require further thought. One would in particular have to justify the reasons why this methodology implying further costs is required. One would therefore have to carefully reflect on the tasks to be assigned to the consultants and how their services would fit into the time constraints of the monitoring procedure.

Appendix I

Group of Experts on Action against Trafficking in Human Beings (GRETA) – <http://www.coe.int/trafficking>

GRETA is the independent body responsible for monitoring implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. GRETA regularly publishes reports evaluating the measures taken by the Parties.

Extract from the Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties:

Rule 12 – Rapporteur(s): GRETA shall appoint a Rapporteur for each report evaluating the implementation of the Convention by a party. GRETA may appoint one or more additional Rapporteurs if so required.

Rule 13 – Draft report: The Rapporteur(s) shall prepare a draft report consisting of a descriptive part, an analytical part and conclusions. The descriptive part shall contain the findings related to the implementation by the party of the provisions of the Convention under evaluation. This part shall be prepared on the basis of the replies to the questionnaire and any other information collected by GRETA. The analytical part shall contain reasoned observations on the party's implementation. The conclusions shall set out suggestions and proposals concerning the way in which the party may deal with any problems which have been identified.

The draft report shall be examined, discussed and approved by GRETA in plenary. (...)

The European Committee of Social Rights – <http://www.coe.int/socialcharter>

The European Committee of Social Rights (ECSR) is composed of 15 independent, impartial experts, elected by the Committee of Ministers for a 6-year term of office, renewable once. Its mission is to judge whether States parties are in conformity in law and in practice with the provisions of the European Social Charter. In respect of national reports, the Committee adopts conclusions, in respect of collective complaints, it adopts decisions.

Extract from the European Committee of Social Rights's Rules of Procedure:

Rule 19: Rapporteurs: The Committee shall designate a Rapporteur for each provision of the Charter, the 1988 Additional Protocol to the Charter and the Revised Charter.

The Cybercrime Convention Committee (T-CY) – <http://www.coe.int/cybercrime>

T-CY is the Committee of States Parties to the Council of Europe Cybercrime Convention. It is responsible for facilitating:

1. the effective use and implementation of this Convention, including the identification of any problems thereof, as well as the effects of any declaration or reservation made under this Convention;
2. the exchange of information on significant legal, policy or technological developments pertaining to cybercrime and the collection of evidence in electronic form;
3. consideration of possible supplementation or amendment to the Convention.

At its 6th Plenary Session (23-24 November 2011), it decided to “review the effective implementation of the Budapest Convention by the Parties” and agreed to review in 2012

the implementation of 4 specific provisions of the Convention. On 25 January 2013, the Committee adopted an assessment report based on its analysis of replies to a questionnaire it had addressed to States Parties to gather information on the implementation of the identified 4 provisions. T-CY's first assessment report covers all countries having replied to the questionnaire and is available at: http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/TCY%202013/TCY_2012_10_Assess_report_v30_public.pdf

The T-CY currently meets twice per year in Plenary and is supported by a [Bureau](#) who is in charge of the preparation of the working documents in between plenaries.

European Commission against Racism and Intolerance (ECRI) – www.coe.int/ecri

ECRI is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language (racial discrimination); it prepares reports and issues recommendations to member States.

Extract from the Appendix to Resolution Res(2002)8 on the statute of the European Commission against Racism and Intolerance

Article 6§3: Article 6: ECRI may set up working parties on specific topics.

Group of States against corruption (GRECO) - www.coe.int/greco

GRECO is responsible for monitoring compliance with Council of Europe standards concerning criminalisation of corruption in the public and private sectors, liability and compensation for damage caused by corruption, conduct of public officials and the financing of political parties. Its monitoring comprises:

- a “horizontal” evaluation procedure (all members are evaluated within an Evaluation Round) leading to recommendations aimed at furthering the necessary legislative, institutional and practical reforms;
- a compliance procedure designed to assess the measures taken by its members to implement the recommendations.

GRECO works in cycles: evaluation rounds, each covering specific themes. The evaluation process follows a well-defined procedure, where a team of experts is appointed by GRECO for the evaluation of a particular member. The analysis of the situation in each country is carried out on the basis of written replies to a questionnaire and information gathered in meetings with public officials and representatives of civil society during an on-site visit to the country. Following the on-site visit, the team of experts drafts a report which is communicated to the country under scrutiny for comments before it is finally submitted to GRECO for examination and adoption. The conclusions of evaluation reports may state that legislation and practice comply - or do not comply - with the provisions under scrutiny. The conclusions may lead to recommendations which require action within 18 months or to observations which members are supposed to take into account but are not formally required to report on in the subsequent compliance procedure.

Appendix II

1ST MONITORING ROUND - INDICATIVE TIME-TABLE⁸	
Committee meeting	Questions to be examined (from the thematic questionnaire and where appropriate the general one)
8-10 April 2014	Overview of relevant replies to the GOQ (at a minimum of questions: 1, 3, 5 and 6)
1st sub-theme	
9-11 September 2014	10 (criminal law offence of sexual abuse) 12 (aggravating circumstances) 1 (data collection) 11 (corporate liability)
9-11 December 2014	13 (best interest of the child in investigation and criminal proceedings) 14 (child friendly investigations and proceedings) 9.a (legal safeguards to assist and protect the victim)
April 2015	Draft implementation report on the 1 st sub-theme
September 2015	Finalisation and adoption of the report on the 1 st sub-theme
2nd sub-theme	
December 2015	4 (awareness raising strategies) 2 (children's education) 7 (preventive and intervention programmes) 6 (participation by children in the development and implementation of policies, programmes)
April 2016	3 (recruitment and screening) 5 (specialised training) 8 (reporting) 9.b (denial of exercise of the professional or voluntary activity)
September 2016	Draft report on the 2 nd sub-theme
December 2016	Finalisation and adoption of the report on the 2 nd sub-theme.

⁸ It should be borne in mind that **the pace at which the Committee will proceed depends on:**

- whether all Parties strictly respect the deadline of 31 January 2014 to submit their replies as well as on the number of replies received by representatives of civil society;
- whether all the replies are comprehensive or need to be completed by the submission of further information;
- what working methods the Committee will agree upon to carry out the examination of the replies to the questionnaires (e.g. the appointment or not of rapporteurs for one/several questions or small drafting groups, etc.).