



Strasbourg, 11 April 2013

T-ES(2013)03\_en

Council of Europe Convention on the protection of children  
against sexual exploitation and sexual abuse  
(CETS No. 201)

**REVISED DRAFT**

**Questionnaire for the 1<sup>st</sup> thematic monitoring round on:  
“SEXUAL ABUSE OF CHILDREN IN THE CIRCLE OF TRUST”**

[As adopted by the Lanzarote Committee on 16 May 2013]

The questionnaire is available online at:

[http://www.coe.int/t/dghl/standardsetting/children/Documents5thmeeting\\_en.asp](http://www.coe.int/t/dghl/standardsetting/children/Documents5thmeeting_en.asp)

## Introduction

1. The *Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse* (hereinafter “the Lanzarote Convention” or “the Convention”), which entered into force in July 2010, requires criminalisation of all kinds of sexual offences against children. It sets forth that States in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

2. The Committee of the Parties to the Convention (also known as the “Lanzarote Committee”), established to monitor whether Parties effectively implement the Convention (Article 1, para. 2), decided that:

**“1. The monitoring of the implementation of the Convention in the Parties shall be based on a procedure divided by rounds, each round concerning a theme decided by the Lanzarote Committee or any other approach deemed appropriate by the Lanzarote Committee within the scope of the Convention.**

2. The Lanzarote Committee will determine the length of each monitoring round in the light of the themes selected and the provisions of the Convention to be monitored.

3. The monitoring round will be initiated by addressing a questionnaire on the implementation of the relevant provisions of the Convention with respect to the selected theme.

4. All Parties for which the Convention has entered into force within three months from the adoption of the questionnaire shall undergo the monitoring round. Parties for which the Convention enters into force three months after the adoption of the questionnaire, shall join in the following monitoring round.” (Rule 24 of the Lanzarote Committee’s *Rules of Procedure*)

3. As available data shows that the majority of sexual abuse against children in Council of Europe countries is “committed within the family framework, by persons close to the child or by those in the child’s social environment” (see *Lanzarote Convention Explanatory Report, paras 49 and 123-125*), the Lanzarote Committee decided that the first monitoring round would focus on “sexual abuse in the circle of trust”.

4. In [~~March~~May] 2013, the Lanzarote Committee adopted this thematic questionnaire. Its purpose is to collect specific information on how Parties implement the Lanzarote Convention with respect to the situation of sexual abuse in the circle of trust. [The calendar for the examination by the Committee of the replies received is appended.] The replies ~~to this questionnaire~~ will be assessed against the related background information provided by Parties when answering to the general overview questionnaire on the implementation of the Convention (see document T-ES(2013)02) and any other relevant information from reliable sources.

5. It is recalled that in accordance with Rule 26 of the Committee’s Rules of Procedure:

“(…) 2. The Secretariat shall address such questionnaires to the Parties through the member in the Lanzarote Committee representing the Party to be monitored, who will act as “contact person”.

**3. Parties shall submit their replies in one of the official languages of the Council of Europe to the Secretariat within the time-limit set by the Lanzarote Committee. The replies shall be detailed, answer all questions and contain all relevant reference texts. The replies shall be made public unless otherwise requested by the Party concerned.**

4. The Secretariat also addresses the same questionnaire to representatives of civil society, NGOs and any other bodies involved in preventing and combating sexual exploitation and sexual abuse of children. The latter shall be invited to reply to the questionnaire in one of the official languages of the Council of Europe within-in the same deadline as the Parties. The replies shall be made public if the NGO or other body submitting them so requests.

5. The Secretariat may request additional information if it appears that the replies are not exhaustive or unclear. Where warranted, with the consent of the Party(ies) concerned and within the limits of budgetary appropriations, the Bureau of the Lanzarote Committee may decide to carry out a visit in the Party(ies) concerned to clarify the situation.”

## Preliminary remarks

6. As in the general overview questionnaire (hereinafter “GOQ”), the provisions of the Lanzarote Convention have been grouped under different sections in this questionnaire without automatically following the structure of the Convention. This methodological choice in no way intends to prioritise the various provisions of the Convention: equal importance is in fact attached to all rights and principles therein.
7. This thematic questionnaire does not seek to collect information on the general legislative and institutional framework established by Parties to implement the Convention. It focuses only on the specific legislative or other measures taken or envisaged to prevent and protect children from sexual abuse in the circle of trust and how perpetrators of these offences are sanctioned.
8. Responses to this thematic questionnaire will be understood against the background information submitted by Parties in reply to the general questionnaire GOQ. Whenever warranted, Parties are thus invited to refer to such information. Where questions overlap between the GOQ and this one, the replies to the latter will be assessed by the Committee while preparing its implementation reports of the Convention with respect to the monitoring theme. Parties are thus requested to include only the additional specific information related to the theme of “sexual abuse of children in the circle of trust” in their replies to this questionnaire.
9. If different with respect to the indications provided while replying to the general questionnaire GOQ, Parties are kindly requested to specify which State body/agency was responsible for collecting the replies to this questionnaire and which State bodies/agencies and, where relevant, NGOs contributed to responding to this questionnaire.
10. As with the general questionnaire GOQ, Parties are kindly requested to:
- Answer the questions with regard to central, regional and local levels to the extent possible. Federal States may, in respect of their sovereign entities, answer the questions in a summarized way;
  - Whenever questions/answers refer to the legislation or other regulations provide the relevant text (or a summary) in English or French.

## GENERAL

*Questions in this section aim at appreciating whether Parties have integrated the specific definitions which are relevant to assess the situation with respect to sexual abuse in the circle of trust. The replies will be considered against the background information concerning the general definitions and principles submitted to the general overview questionnaire.*

### **Question 1: — Definition of sexual abuse**

~~Has the concept of “sexual abuse” as defined by the Lanzarote Convention been integrated in internal law/case law (see Articles 3 and 18 as well as Explanatory Report paras. 48, 49 and 124)? If so, please provide the definition and indicate where it is to be found.~~

### **Question 21: Notion of “circle of trust”**

Please indicate whether the notion of “persons close to the victim”, i.e. forming the victim’s “circle of trust” is integrated in internal law/case. Please specify who is included in such notion beyond members of the family, e.g. ~~members of the family~~, neighbours, teachers, close social surroundings, etc. (*Explanatory Report para. 48 and 124*).

**Question 32: Data on sexual abuse in the circle of trust**

Please indicate whether data are collected for the purpose of observing and evaluating the phenomenon of sexual abuse of children in the circle of trust. If so, please:

- Specify what mechanisms have been established for data collection or whether focal points have been identified especially with regard to statistical data on victims and offenders within the circle of trust (*Article 10 (2) (b), Explanatory Report, paras. 83 and 84*);
- ~~Describe how such data is classified and specify whether this includes reference to the position of the alleged perpetrator (e.g. parent, teacher etc.) (Article 37 (1), Explanatory Report, paras. 243-250);~~
- Include any relevant data in an Appendix.

**PREVENTION**

*Questions in this section aim specifically at collecting information on policies and strategies to prevent sexual abuse particularly in the child's circle of trust. The questions thus concern awareness-raising of children themselves as well as of persons working in regular contact with them, thus forming a part of their circle of trust.*

**Question 43: Education for children**

~~The reply to question 8 of the GOQ will be examined by the Committee to assess the implementation of Article 6 with respect to the theme of the monitoring round. While replying to this question, please therefore only add whether a specific focus-special attention is drawn on children's education. Have policies or strategies been implemented to ensure that children are educated at primary and secondary level on concerning the risks of sexual abuse of children, particularly in the circle of trust, and how children should to protect themselves and request help in this regard. If so, please provide details. ? If so, how is the information adapted to the evolving capacities of children? (Article 6, Explanatory Report, paras.59-62)~~

**Question 54: Raising awareness on sexual abuse in the circle of trust**

Have policies or strategies been implemented for the promotion or ~~institution-conducting~~ of awareness ~~raising~~ campaigns where the focus is directed especially towards the risks and realities of sexual abuse of children in the circle of trust? If so, please specify for which public these campaigns were/are run (*Article 8, Explanatory Report, paras. 65-66*). ~~Please include examples by including providing links to what has been developed.~~

**Question 65: Specialised Training**

Have legislative or other measures been taken to ensure that persons, units or services in charge of investigations are trained in dealing with cases where the alleged perpetrator of child sexual abuse is a member of the victim's immediate family or has otherwise been in a recognised position of trust or authority towards him or her? (*Article 34 (1), Explanatory Report, paras. 233-235*)

**Question 76: Participation of children, the private sector, the media and civil society**

~~Replies to questions 4 and 11 of the GOQ will be examined by the Committee to assess the implementation of Article 9 with respect to the theme of the monitoring round. Please therefore only add here whether Have any specific steps have been taken to encourage participation by children, the private sector, the media and/or civil society in the development and implementation of policies, programmes or other initiatives specifically concerning sexual abuse of children in the circle of trust. ? If so, please specify which and explain how participation takes place. (Article 9, Explanatory Report, paras. 67-75)~~

**Question 87: Preventive intervention programmes or measures**

Have ~~legislative or other~~ measures been taken to ensure that persons, especially those forming a part of a child's circle of trust, who fear that they may commit offences of sexual abuse established in accordance with the Convention, have access, where appropriate, to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed? *Is so, please specify.* (Article 7, Explanatory Report, para. 64)

## PROTECTION

*The questions in this section aim at identifying what specific legislative or other measures have been taken to protect in particular children victims of sexual abuse in the circle of trust.*

**Question 98: Reporting suspicion of sexual abuse**

The reply to question 13 of the GOQ will be examined by the Committee to assess the implementation of Article 12 with respect to the theme of the monitoring round. While replying to this question, please therefore only add whether ~~Have~~ specific legislative or other measures ~~have~~ been taken to encourage ~~any person who knows about or suspects, in good faith reporting of,~~ sexual abuse of children in the circle of trust ~~to report these facts~~ to the competent services? (Article 12 (2), Explanatory Report, para. 91)]

**Question 109: Assistance to and special protection for victims**

- a. If and to what extent does internal law provide for the possibility of removing the victim from his or her family environment when parents or persons who have care of the child are involved in his or her sexual abuse? If internal law so provides:
  - Are the conditions and duration of such removal to be determined in accordance with the best interests of the child? (Article 14 (3), Explanatory Report para. 99)
  - Have legislative or other measures been taken to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care? (Article 14 (4), Explanatory Report para. 100.)
- b. Does internal law provide that sanctions for offences of child sexual abuse within the circle of trust include denying the perpetrator, temporarily or permanently, the exercise of the professional or voluntary activity involving contact with children in the course of which the offence was committed? (Article 27 (3) (b), Explanatory Report, para. 187.)

## PROSECUTION

*The questions in this section focus on those provisions that deal with criminalising and sanctioning intentional conduct which amounts to sexual abuse within the child's circle of trust as well as some theme-specific issues relating to whether the investigative, prosecutorial and court stages of proceedings take adequate account of the special nature of cases that have a circle of trust component.*

**Question 110: The offence of sexual abuse**

The reply to question 16 of the GOQ will be examined by the Committee to assess the implementation of Article 18 with respect to the theme of the monitoring round. The reply to question 1 of the GOQ will also be considered while assessing the situation in the party with respect to Article 18. While replying to this questionnaire, please therefore only add

- a. ~~Does internal law criminalise the following intentional conduct:~~
  - ~~— engaging in sexual activities with a child who has not reached the legal age for sexual activities (Article 18, para. 1, letter a, Explanatory Report, para. 118 and 121);~~

~~— engaging in sexual activities with a child where abuse is made of a recognised position of trust, authority or influence over the child, including in the family, (Article 18, para. 1, letter b, second indent, Explanatory Report, paras. 120-121 and 123-125)~~

~~b.a. Is there a definition of What is understood by “intentional conduct” in internal law/case-law? If so, please provide the definition? (Article 18, Explanatory Report, para. 117)~~

~~e.b. Is there a definition What is understood by of “sexual activities” in internal law/case-law? If so, please provide the definition? (Article 18, Explanatory Report, para. 127)~~

~~d. What is the age below which it is prohibited to engage in sexual activities with a child? Are there any plans to rise this age? (Article 18, para. 2, Explanatory Report 128)~~

**Question 1211: Corporate liability**

~~Does internal law provide that a legal person can be held liable for the commission of sexual abuse, especially where the lack of supervision or control by a natural person, who has a leading position within the legal person, has made possible the commission of the offence of sexual abuse for the benefit of that legal person by a natural person acting under its authority? (Article 26, Explanatory Report, paras. 177-181.)~~

[The reply to question 17 of the GOQ will be examined by the Committee to assess the implementation of Article 26 of the Convention with respect to the theme of the monitoring round.]

**Question 1312: Aggravating circumstances**

Does internal law ensure that if an offence of sexual abuse, established in accordance with the Convention, is committed by a member of the family, a person cohabiting with the child or a person having abused his or her authority or any other person in the child’s circle of trust, that such circumstances will be considered an aggravating factor in the determination of sanctions, in so far as they do not form a part of the constituent elements of the offence? If so, does internal law provide different sanctions depending on whether the relationship of the perpetrator to the child is within the context of family relations or of a professional or voluntary activity (e.g. care providers in institutions, teachers, doctors, etc.)? (Article 28 (c and d), Explanatory Report, paras. 198-199)

**Question 1413: Best interest of the child**

- a. Please specify whether in situations where the alleged perpetrator is a member of the victim’s family or has otherwise been in a recognised position of trust or authority towards him or her, legislative or other measures have been taken to ensure that investigations and criminal proceedings are carried out in the have been taken to protect the rights and best interests and respecting the rights of the child victim of sexual abuse. (Article 30, para. 1, Explanatory Report para. 215);
- b. May judicial authorities appoint a special representative for the victim when, by internal law, he or she may have the status of a party to the criminal proceedings and where the holders of parental responsibility are precluded from representing the child in such proceedings as a result of a conflict of interest between them and the victim? If so, what situations would be considered a "conflict of interest" in this regard? (Article 31 para. 4), Explanatory Report, para. 227.)
- c. Please also indicate whether internal law provides that sanctions, as a result of offences committed by a person considered to be in the relevant victim’s circle of trust, include withdrawal of parental rights or monitoring or supervision of convicted persons (Article 27, para. 4, Explanatory Report, para. 191)

**Question 1514: Child friendly justice**

- a. Please specify whether in situations where the alleged perpetrator is a member of the victim’s immediate family or has otherwise been in a recognised position of trust or authority towards him or her, a protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate,? (Article 30 para. 2 and Explanatory Report, paras. 211-215.)

- b. Have legislative or other measures been taken to ensure that investigations or prosecutions of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement, especially in cases where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognised position of trust or authority towards him or her? (*Article 32, Explanatory Report, para. 230.*)
- c. Have legislative or other measures been taken to ensure that a judge, in a criminal trial regarding an offence which can be considered to involve sexual abuse of a child within the circle of trust, may order the hearing to take place without the presence of the public or that the victim may be heard in the courtroom without being present? (*Article 36 para. 2 and Explanatory Report, para. 242.*)