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COMMITTEE OF THE PARTIES

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

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Draft General Overview Questionnaire on the Implementation of the Lanzarote Convention

Drafted by prof. dr. sc. Ksenija Turković, Professor of Criminal Law, Faculty of
Law, University of Zagreb

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Justice and Human Dignity Directorate

www.coe.int/children; www.coe.int/lanzarote

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Preliminary questions

Question 1:

Please specify which State body/agency was responsible for co-ordinating and collecting the replies to this questionnaire. Please specify the name and professional title of the person heading this State body/agency. Please indicate if this person is the “contact person” appointed by your country to sit in the Committee of the Parties to the Convention or a different person.

Question 2:

Which State bodies/agencies contributed to responding to this questionnaire? Please indicate the main responsibilities and/or fields of competence of each of these bodies/agencies.

Question 3:

Did any non-governmental organisations (NGOs) or other entities of civil society contribute to responding to this questionnaire? If so, please indicate the main activities of each of the NGOs and/or other entities of civil society which contributed.

II. Overview of the current situation and trends in the area of sexual exploitation and sexual abuse of children

Question 4.

a) Please give the official police/court data on sexual abuse of children

Sexual abuse of minor: sexual intercourse, or any other form of physical sexual contact, with a person below the age of consent (legal age for sexual activities)				
<i>Please indicate the <u>age of consent</u>¹ in your country:</i>				
	Indicate whether <u>included</u> or <u>excluded</u>:			
	in police statistics		in conviction statistics	
	incl.	excl.	incl.	excl.
Include the following:				
• sexual intercourse or any other form of physical sexual contact committed without violence				
• acts committed by a person below the age of consent				
• acts committed by persons above the age of consent				
• Attempts				
Exclude the following:				
• verbal or any other form of non-physical molestation				
• child pornography				
• acts considered as rape (<i>see below</i>)				

¹ Age of consent means the age under which a minor cannot validly consent to have sexual contacts.

Sexual assault: physical sexual contact with a child (any person under the age of 18) against her/his will				
	Indicate whether <u>included</u> or <u>excluded</u>:			
	in police statistics		in conviction statistics	
	incl.	excl.	incl.	excl.
Include the following:				
• any sexually motivated physical contacts committed with violence (coercion, force, or threats)				
• any sexually motivated acts committed with abuse of position of trust, authority or influence over the child (including within the family)				
• any sexually motivated acts committed abusing a particularly vulnerable situation of the child (mental or physical disability, situation of dependence)				
• Attempts				
Exclude the following:				
• any verbal or any other form of non-physical molestation				
• pornography				
• acts committed without violence				
• acts committed against persons under the age of consent (<i>considered as abuse of minors; see above</i>)				

b) Please give the official police/court data on sexual exploitation of children

III. Overview of the legal and policy framework in the field of action against sexual abuse and sexual exploitation of children

Question 5.

- a) Please indicate to which international treaties (Council of Europe, UN and ILO) related to protection of children against sexual exploitation and sexual abuse is your country a party.

Council of Europe and other international documents relevant to the protection of children against sexual abuse or sexual exploitation			
	Indicate whether your country is a party or not:		
	NO	YES	
		SIGNED	RATIFIED
• Council of Europe Convention on protection of children against sexual exploitation and sexual abuse			
• Council of Europe Convention on Cybercrime			
• Council of Europe Convention on Action against Trafficking in Human Beings			
• European Convention on Exercise of Children's Rights			
• UN Convention on the Rights of Child			
• Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography			
• UN Convention against Transnational Organized Crime			
• Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children			
• ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour			
• Other (please list)			

- b) Please indicate what is the status in national legal system of the international treaties ratified by Parliament.

Question 6:

Please list the titles of the main internal legal acts and/or regulations containing measures to prevent sexual abuse and sexual exploitation of children, to protect and assist their victims and to criminalise sexual abuse and sexual exploitation of children and prosecute perpetrators. Please indicate when and why they were enacted or amended.

Question 7:

Does your country have a comprehensive national policy and/or a National Action Plan to combat sexual abuse and sexual exploitation of children? If so, please indicate its title, date of adoption and duration, main fields of action and the body/bodies responsible for its implementation.

Section IV. Implementation by parties of measures aimed to prevent sexual exploitation and sexual abuse of children, protect and assist its victims, promote and ensure intervention programs, coordinate all actors and actions

Section IV.1. Implementation of measures to prevent sexual exploitation and sexual abuse of children

Question 8.

What legislative or other measures has your country taken to encourage among persons who have regular contacts with children in education, health, social protection, sports, culture, leisure activities:

- a) sufficient awareness of the rights of children and their protection
- b) adequate knowledge of sexual exploitation and sexual abuse of children

Question 9:

What legislative and other measures has your country taken to ensure that the candidates who accede to those professions whose exercise implies regular contacts with children have not been convicted of acts of sexual exploitation or sexual abuse of children? For how long is criminal record of a person who was convicted for such crimes kept in your country?

Question 10:

In your country are there persons or entities specialised in the fight against sexual exploitation and sexual abuse of children and the protection of victims? If so, please describe the type and the periodicity of the training provided for these persons or the staff of these entities? Please specify the financial resources (in euros) allocated to this training.

Question 11:

Do children in your country during primary and secondary education receive information on the risks of sexual exploitation and sexual abuse as well as on the means to protect themselves? Could you describe how is this information given and whether it includes the risks of the use of new information and communication technologies?

Question 12:

Has a national/regional/local campaign or programme to alert the potential victims of the phenomenon of sexual exploitation and sexual abuse of children and on the preventive measures which can be taken been carried out in your country during the last two years? If so, was it based on research for determining effective prevention methods? Was it addressed to a particular group of potential victims? Which bodies, governmental or nongovernmental, were in charge of implementing it? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of the impact of the campaign/programme. If more than one campaign or programme was

carried out please provide the details for each of them. If there are currently plans for launching a new campaign or programme, please provide details.

Question 13:

What kind of measures if any is your country taking to prevent or prohibit the dissemination of materials advertising the offences established in accordance with this Convention?

Question 14:

What steps have been taken by your country to encourage the participation of children in the development and the implementation of state policies, programmes or other initiatives concerning the fight against sexual exploitation and sexual abuse of children?

Question 15:

What steps have been taken by your country to encourage the private sector (in particular the information and communication technology sector, the tourism and travel industry, the banking and finance sectors, civil society) to participate in the elaboration and implementation of policies to prevent sexual exploitation and sexual abuse of children? Could you explain the ways in which they participate in the elaboration and implementation of these policies? Do they implement internal norms through self-regulation or co-regulation? Please give examples of such norms.

Question 16:

Please describe any measures taken to encourage the media to provide appropriate information concerning all aspects of sexual exploitation and sexual abuse of children.

Question 17:

What funds have been allocated to the above-mentioned preventive measures in the state budget (central and/or regional/local)? Are there any special funds created for the projects and programs carried out by civil society? Please specify amounts in euros.

Question 18:

Has an assessment of the impact of the above-mentioned preventive measures taken by your country been carried out? If so, please specify the results of the assessment.

Section IV.2. Implementation of measures to protect and promote the rights of victims of sexual exploitation and sexual abuse

Question 19:

What has been done in your country to ensure that when the age of the victim is uncertain and there are reasons to believe that the victim is a child, the protection and assistance measures provided for children are accorded to such person pending verification of his or her age?

Question 20:

Are professionals working in contact with children obliged by confidentiality rules? Do these rules constitute an obstacle for reporting to the services responsible for child protection, or police, or prosecutor any situation where they have reasonable ground for believing that a child is a victim of sexual exploitation or sexual abuse? Is reporting of sexual exploitation and sexual abuse of children mandatory for professionals in your country or is it left to their discretion? What kind of measures is your country taking to encourage persons who know

about or suspect, in good faith, sexual exploitation or sexual abuse of children to report these facts to the competent services? To which services reporting may be done?

Question 21:

What kind of information services (eg. telephone or Internet helplines) are set up in your country to provide advice to victims of sexual exploitation and sexual abuse of children? Do they honour confidentiality and anonymity? Could you describe their main characteristics?

Question 22:

Please indicate which types of assistance described in Article 14 of the Convention are provided in your country to victims of sexual exploitation and sexual abuse of children. Please specify who provides the different types of assistance and in which way is this assistance adapted to victims' age and maturity. Are there multidisciplinary structures in place? Is this assistance (in particular emergency psychological care) also provided for victims' close relatives and persons responsible for their care? In which way these services take due account of child's views, needs and concerns?

Question 23:

Please describe which intervention procedures may be taken when the parents or persons who have care of the child are involved in his or her sexual exploitation or sexual abuse (e.g. the possibility of removing the alleged perpetrator or the possibility of removing the victim from his or her family environment).

Question 24:

Does your state budget allocate specific funding for assistance and protection measures? Please indicate the amount (in euros), the criteria for receiving such funding and who receives it.

Section II.2. Preventive intervention programs or measures

Question 25:

Are there in your country intervention programs or measures designed to evaluate and prevent risk of offences of sexual exploitation and sexual abuse of children being committed? Could you please describe them? Who has access to these programmes and measures (convicts, persons subject to criminal proceedings, recidivists, young offenders, persons who have not committed a crime yet)? Do you use assessment of dangerousness to identify appropriate programmes or measures for each person? Is your country following the procedures for getting informed consent prior to including person into the programme? Do persons have right to refuse proposed programme? Please describe.

Question 26:

Are there specific programs for young offenders? Please describe them.

Question 27:

Has an assessment of the effectiveness and impact of the above-mentioned preventive programs and measures taken by your country been carried out? If so, please specify the results of the assessment.

Section IV.3. Specialized authorities and coordinating bodies

Question 28:

Is there, within your governmental structure, a national or local body responsible for promoting public awareness of sexual exploitation and sexual abuse of children and their

long term negative effects and for ensuring the respect of the rights of children (regardless of the denomination and whether it was set up for this specific purpose or whether this responsibility was assigned to an already existing governmental body)? If so, please specify its name, administrative status, annual budget (in euros), human resources, composition and competences. If there is currently no such co-ordinating body, are there any plans to set one up in the near future? If so, please give details.

Question 29:

Is this co-ordinating body also responsible for observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children and the co-ordination of the collection of administrative data or population survey data on sexual exploitation and sexual abuse of children? If not, please specify which body/entity has this responsibility.

Question 30:

Please list the agencies in your country in charge of the protection from, prevention of and fight against sexual exploitation and sexual abuse of children as well as NGOs in your country active in this field. Please indicate their responsibilities.

V. Criminal law responds to sexual exploitation and sexual abuse of children, substantive criminal law and prosecution of perpetrators

Section V.1. Implementation of measures concerning substantive criminal law

Question 31:

Please indicate which of the following forms of sexual exploitation and sexual abuse of children are recognised under your internal law:

Offence	YES	IF PARTIALLY EXPLAIN	SANCTIONS²	ATTEMPT³
Sexual Abuse:				
engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities				
engaging in sexual activities with a child where:				
use is made of coercion, force or threats				
abuse is made of a recognised position of trust, authority or influence over the child, including within the family				
abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence				
something else				
Child Prostitution				
recruiting a child into prostitution or causing a child to participate in prostitution				
coercing a child into prostitution or profiting from or otherwise exploiting a child for such purposes				
having recourse to child prostitution				
Child Pornography (intentional conduct, when committed without right)				
producing child pornography				
offering or making available child pornography				
distributing or transmitting child pornography				
procuring child pornography for oneself or for another person				
possessing child pornography				
knowingly obtaining access, through information and communication technologies, to child pornography				
something else				
A Child in Pornographic Performances				
recruiting a child into participating in pornographic performances or causing a child to participate in such performances				
coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes				
knowingly attending pornographic performances involving the participation of children				
something else				
Corruption of Children				
the intentional causing, for sexual purposes, of a child who has not reached the internal legal age				

² Which sanctions does your internal law provide for criminal offences established in accordance with the Convention? Please specify the criminal, civil and administrative sanctions.

³ Please check if the attempt is incriminated for each of the offences listed.

for sexual activities, to witness sexual abuse or sexual activities, even without having to participate				
Solicitation of Children for Sexual Purposes (grooming)				
the intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the internal legal age for sexual activities, for the purpose of committing sexual abuse or producing child pornography, where this proposal has been followed by material acts leading to such a meeting				

Question 32:

Are there in your country any other offences (except those listed in the above table) incriminating sexual exploitation and sexual abuse of children? Please provide their definitions.

Question 33:

Please describe which offences were enacted or amended under the influence of the Convention and how the definitions of the offences have consequently changed in your internal law.

Question 34:

Has your country introduced any special sanctions or measures for perpetrators of the offences established in accordance with this Convention such as withdrawal of parental rights, monitoring or supervision of convicted persons, 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, enabling the temporary or permanent closure of any establishment used to carry out any of the offences established in accordance with this Convention, others? Please describe.

Question 35:

Indicate for which of the following offences, if any, has your country reserved the right not to incriminate attempts:

- offering or making available child pornography;
- distributing or transmitting child pornography;
- procuring child pornography for oneself or for another person;
- possessing child pornography;
- knowingly obtaining access, through information and communication technologies, to child pornography;
- knowingly attending pornographic performances involving the participation of children;
- corruption of children and/or solicitation of children for sexual purposes.

Are there any other offences in your country related to sexual exploitation and sexual abuse of children for which the attempt is not incriminated?

Question 36:

What is in your country the age before which it is prohibited to engage in sexual activities with a child?

Question 37:

Are consensual sexual activities between minors allowed in your country? Please explain.

Question 38:

Under your internal law is „child pornography“ defined the same way as in Article 19. para. 2. of the Convention. If not please provide the translation of the definition of „child pornography“ in your internal law. Does your country exclude from the notion of pornographic materials simulated representations or realistic images of a non-existent child and/or images involving children who have reached the age for sexual activities according to your internal law, where these images are produced and possessed by them with their consent and solely for their own private use? Has your country put a reservation to the Convention in this respect?

Question 39:

Has your country made a reservation to Art. 20. para. 1.f. of the Convention (knowingly obtaining access, through information and communication technologies, to child pornography)? Provide the reasons if possible.

Question 40:

Has your country limited the application of Art. 21. para. 1.c. of the Convention (knowingly attending pornographic performances involving the participation of children) to cases where children were recruited or coerced into participating in pornographic performances? Provide the reasons for introducing such limitation, if possible.

Question 41:

Are there any specific rules in your legal system related to jurisdiction over the offences established in accordance with this Convention such as:

- establishing jurisdiction when such offences are committed by a person who has his or her habitual residence in its territory
- establishing jurisdiction where such offences are committed against a person who has his or her habitual residence in its territory,
- jurisdiction is not subordinated to the condition that the acts are criminalised at the place where they were performed,
- the jurisdiction is not subordinated to the condition that the prosecution can only be initiated following a report from the victim or a denunciation from the state of the place where the offence was committed

Question 42:

Has your country created a special fund in order to finance prevention and assistance programmes for victims of any of the offences established in accordance with this Convention? Please describe functioning of such fund, amount of resources in it and for which purposes these resources may be used.

Question 43:

Please indicate which circumstances in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration in your legal system as aggravating circumstances in the determination of the sanctions in relation to the offences established in accordance with this Convention:

the offence seriously damaged the physical or mental health of the victim	
the offence was preceded or accompanied by acts of torture or serious violence	
the offence was committed against a particularly vulnerable victim	
the offence was committed by a member of the family, a person cohabiting with the child or a person having abused his or her authority	
the offence was committed by several people acting together	
the perpetrator has previously been convicted of offences of the same nature	
the offence was committed within the framework of a criminal organisation	
Other (please describe)	

Question 44:

Does your internal law provide for the possibility to take into account previous convictions in another party when determining the penalty in relation to offences established in accordance with the Convention?

Section V.2. Implementation of measures concerning investigation, prosecution and procedural law

Question 45:

What measures has your country taken to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child and that the investigations and criminal proceedings do not aggravate the trauma experienced by the child?

Question 46:

What measures has your country taken to ensure that the investigations and criminal proceedings of the offences established in accordance with this Convention are treated as priority and carried out without any unjustified delay?

Question 47:

Please describe under which circumstances is the use of covert operations allowed in relation to the investigation of the offences established in accordance with this Convention.

Question 48:

Please describe what kind of techniques your country has developed for examining material containing pornographic images of children.

Question 49:

Please describe the measures taken in your internal law to inform child victims of their rights and the services at their disposal, relevant judicial and administrative proceedings, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role as well as the outcome of their cases. What is done in your country to provide such information in a manner adapted to child's age and maturity and in a language that they can understand?

Question 50:

Is it possible in your legal system to inform victims and their families when the person prosecuted or convicted is released temporarily or definitely from detention or custody? Who and how is delivering this information?

Question 51:

Please describe the measures taken in your internal law to enable child victim to be heard, to supply evidence and to choose the means of having his/her views, needs and concerns presented, directly or through an intermediary, and considered.

Question 52:

What kind of support services are provided to child victims and their families so that their rights and interests are duly presented and taken into account?

Question 53:

Please describe the measures taken in your internal law to protect the identity and safety of child victims before, during and after investigations and legal proceedings.

Question 54:

Please describe the measures taken to ensure that contact between victims and perpetrators within court and law enforcement agency premises is avoided.

Question 55:

Under which conditions in your country have children victims of the offences established according to this Convention access to legal aid provided free of charge?

Question 56:

Has your country provided for the possibility for the judicial authorities to appoint a special representative for the victim where the holders of parental responsibility are precluded from representing the child in proceedings related to sexual exploitation or sexual abuse of children as a result of a conflict of interest between them and the victim? According to your internal law who may be appointed as a representative and what are his/her tasks? When, by internal law, the representative may have the status of a party to the criminal proceedings?

Question 57:

Please describe how your internal law allows for groups, foundations, associations or governmental or non-governmental organisations assisting or supporting victims to participate in legal proceedings (for example, as third parties)? Please specify the conditions for this participation as well as their legal status during these proceedings.

Question 58:

Does your internal law provide for the initiation of legal proceedings by the victim and/or ex officio (for example, by the public prosecutor)? Does your internal law ensure that investigations or prosecution of offences established in accordance with this 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 statements? Does your internal law ensure that uncertainty as to the actual age of the victim does not prevent the initiation of criminal investigations?

Question 59:

For which offences related to sexual exploitation and sexual abuse of children has your internal law extended the statute of limitation so that it continues for a period of time sufficient

to allow the efficient starting of proceedings after the victim has reached the age of majority?
In which way has this been provided?

Question 60:

Are there in your country persons, units or services in charge of investigations that are specialised in the field of combating sexual exploitation and sexual abuse of children? Please describe their organization, functioning, training, financial resources on their disposal.

Question 61:

Please describe how are interviews with child victim done:

- do they take place without unjustified delay;
- do they take place, where necessary, in premises designed or adapted for this purpose;
- are they carried out by professionals trained for this purpose;
- is the same person, if possible and where appropriate, conducting all interviews with the child;
- are numbers of interviews as limited as possible and in so far as necessary for the purpose of criminal proceedings;
- may the child be accompanied during the interview by his or her legal representative or, where appropriate, an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.

According to the rules provided by your internal law could all interviews with the victim or, where appropriate, those with a child witness, be videotaped and could these videotaped interviews be accepted as evidence during the court proceedings? When the age of the victim is uncertain and there are reasons to believe that the victim is a child, could the above mentioned measures be applied pending verification of his or her age?

Question 62:

What kind of trainings are organized in your country for judges, prosecutors and lawyers on children's rights and sexual exploitation and sexual abuse of children? Please describe.

Question 63:

Under which conditions the judge may order the hearing to take place without the presence of the public and the child victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies?

VI. Recording and Storing of Data

Question 64:

How your country has organized 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 name and address of a national authority in charge of collection and storage of data? Under which conditions can these data be transmitted to the competent authority of another Party to the Convention?

VII. International co-operation

Question 65:

Please describe the legal basis for international co-operation between your country and other countries in the fight against sexual exploitation and sexual abuse of children and in protecting and providing assistance to victims:

- national legislation;
- international instruments/agreements (bilateral and/or multilateral).

Please indicate the title of the legal instruments.

Question 66:

What steps have been taken by your country to ensure that victims of an offence established in accordance with this Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their state of residence?

Question 67:

What steps have been taken by your country to consider this Convention the legal basis for mutual legal assistance in criminal matters or extradition in respect of the offences established in accordance with this Convention if it receives a request for legal assistance or extradition from a Party with which it has not concluded a treaty on mutual legal assistance in criminal matters or extradition?

Question 68:

Has your country integrated prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states? Please give examples.