



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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LANZAROTE CONVENTION

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

Replies to the thematic questionnaire

ALBANIA

1st thematic monitoring round

“Sexual abuse of children in the circle of trust”

Replies registered by the Secretariat on 31 January 2014

DATA COLLECTION

Question 1: 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**);
- include any relevant data in an Appendix.

Data for sexually abused children are collected from the General Directorate of Police. For the period January – September 2013:

January – September 2013	Up to 14 years old	14-18 years old
sexual./homosexual relations with minors	10	9
sex./homosex. with persons within the family		1
Immoral acts		18
Total	10	28

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 2: 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 special attention is drawn to children's education concerning the risks of sexual abuse of children in the circle of trust, and how children should protect themselves and request help in this regard. If so, please provide details. (**Explanatory Report, paras.59-62**).

Ministry of Education and Sports in collaboration with Terre des Hommes Organization is establishing a child protection system at school. This system targets and assists abused children and children at risk. It is designed "The Manual and Practical Guideline for the Protection of Children at School". The established child protection network at school cooperates with Child Protection Units (CPU) at local level, on solving problems involving children at risk, including the abused children.

In the framework of the implementation of school-based curriculum, regarding sensitive issues of community, which includes the problem of violence against children in the family and outside it, school directories are developing and implementing educational modules with students in grades I - IX.

In Pre- University education, students are learning through special subjects about their rights and the risks related to various forms of physical, emotional and sexual violence. MoES in cooperation with UNFPA has implemented the curriculum package on health and sexual education. It has been drafted didactical Package on the "Teachers and students Text" "Life Skills and Sex Education" for primary education and is in the process of drafting the didactical package on "Life Skills and Sex Education" for secondary education (for students aged 12-16 years). The Package it helps teachers and students, to inform and equip them with knowledge of basic education and appropriate skills for their age, to avoid situations that carry sexual violence and to become aware of their sexuality as well as the information on HIV and other diseases transmitted sexually.

Question 3: Recruitment and screening

The reply to question 9 of the GOQ will be examined by the Committee to assess the implementation of **Article 5, para. 3** with respect to the theme of the monitoring round, paying particular attention to the recruitment and screening of persons whose professions involve regular contacts with children.

In employment procedures of professionals who work with children, in all cases is required the document "criminal record"

Question 4: Raising awareness on sexual abuse in the circle of trust

Have policies or strategies been implemented for promoting or conducting 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 whom these campaigns were/are run (**Article 8, Explanatory Report, paras. 65-66**). Please include examples by providing links to what has been developed.

Public Health Institute in collaboration with public health departments of several districts, organize every year awareness, promotional activities involving health personnel, community members, schools. Campaigns raise awareness against domestic violence, violence against women and children. There are distributed written and audiovisual materials for this issue as: leaflets, ribbon, artistic programs etc.

A very important document concerning violence against children is the Reproductive Health Strategy Document and Action Plan 2010-2015. This strategic documents aim to cover priority areas of importance in the frame of reproductive health in Albania. Among the areas covered is that of domestic violence and violence against children.

Question 5: 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, authority or influence over him or her? (**Article 34 (1), Explanatory Report, paras. 233-235 as well as para. 123**).

Question 6: 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 whether 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. (**Explanatory Report, paras. 67-75**).

Question7: Preventive intervention programmes or measures

Which measures have 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?(**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 8: 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 specific legislative or other measures have been taken to encourage reporting of sexual abuse of children in the circle of trust to the competent authorities. (**Explanatory Report, para. 91**).

According to Decision of Council of Ministers No. 265 dated 12.04.2012 "On coordinating the work of institutions for managing cases of children at risk", any relative or person with kinship relations who suspects that child is at risk, should refer the case at Unit Child Protection in the municipality /commune. Then CPU assesses the risk of the situation and takes intervention to protect the child.

Question 9: 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**).

Based on Law No. 9669, dated 18.12.2006 "On Measures Against Domestic Violence " in cases of sexual abuse against a person (child) in family relationships, is required from the court an „Emergency Protection Order“. After evaluating the case, one of the measures that can be undertaken by court, is the immediate establishment of victim / s (minor) in temporary shelters, by considering in any case the best interests, of the child (Article 10)

In the meantime at the National Center for Rehabilitation of Domestic Violence, victims are provided with psychological, rehabilitation and educational services.

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 10: 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. what is understood by "intentional conduct" in internal law? (**Explanatory Report, para. 117**);
- b. what is understood by "sexual activities" in internal law? (**Explanatory Report, para. 127**).
 - a. In the domestic laws "intentional conduct" is specified under article 15 of Law no. 7895, dated 27.1.1995 "Criminal Code of the Republic of Albania", as amended, **Article 15**
A criminal act is committed intentionally when the person foresees the consequences of the criminal act and wants them to occur or, although he foresees but does not want them, consciously allows them to occur.
The domestic legislation in accordance to article 18 of the Convention of Lanzarote, was cited answering the question 16 of the GOQ.
 - b. "sexual activities" in internal law, does not have a specific definition, (ref. response to question 16 of the GOQ)

Question 11: Corporate liability

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. If, in addition, any other measures are foreseen, please specify.

Question 12: 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 may 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**).

The internal law considers as aggravating circumstances, committing offenses under the "Sexual Offenses" Section VI, when they are committed against children, or when are performed by benefiting from family relations, friendship or authority, respectively:

Article 50 "Aggravating Circumstances"

The following circumstances aggravate the punishment:

- c) When the criminal act is committed savagely and ruthlessly;
- e) When the act is committed against children, pregnant women, or other people who, for different reasons, cannot protect themselves;
- g) When the act is committed by taking advantage of family, friendship, or hospitable relations;
- gj) When the act is committed in collaboration;
- h) Committing the penal act more than once;

Question 13: 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 best interests and respecting the rights of the child victim of sexual abuse. (**Article 30, para. 1, Explanatory Report, para.215**);

a. In any case even in situations where the defendant is a family member or in a recognized position of trust or authority towards the child, legislative measures are taken, to ensure that all investigation and criminal proceedings are carried out in the best interests of the child. Thus, with the latest amendments of the Criminal Code, namely:

Article 1/c "Principles of Criminal Code"

The Criminal Code is based on the constitutional principles of the state that respect the right, the equality in front of the law, fairness in deciding about the guilt and punishment, protection of the best interest of the child as well as the humanism.

It is not allowed to implement the penal law by analogy

- b. The reply to question 22(d) of the GOQ will be examined by the Committee to assess the implementation of **Article 31, para. 4** of the Convention with respect to the theme of the monitoring round;
- c. Please also indicate whether internal law provides that sanctions, as a result of offences committed by a person considered to be in the 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**).

As a result of offenses committed by a person considered to be in the victim's circle of trust, the internal law provides in its sanctions, the withdrawal of parental rights. Namely, Law no. 7895, dated 27.1.1995 "Criminal Code of the Republic of Albania", as amended,

Article 43/a "The withdrawal of parental right"

The withdrawal of parental right is given by a court against a person exercising parental responsibility when he/she is sentenced as author or collaborating to an offense towards their child, or as collaborators in a criminal act performed by their child.

Question 14: 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**);

During 2012- 2013 there was conducted an adaptation of facilities of police for interviewing minors. In collaboration with French Embassy in Tirana and Save the Children Organization was signed a Cooperation Agreement "Providing special facilities for interviewing minors victims, witnesses and / or involved in crimes, based on international best practices". There are approved Standard Procedures on "Treatment of Minors in a preliminary investigation"

- b. Which legislative or other measures been taken to ensure that investigations or prosecution 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**).

According to Code of Criminal Procedure

- Article 361 / a of the: "The question of justice collaborators and protected witnesses "

The question of collaborators of justice and witnesses protected place under special measures for their protection, which are determined by the court, primarily or at the request of the parties .

When available technical means, the court may decide questioning in the distance through audiovisual connection. When the person to be questioned, has changed his identity, the court shall order appropriate measures to enable the person's face and voice are not distinctive. If necessary knowledge or examination of the person's identity, court orders or call for compulsory accompaniment for fulfilment of this action. In this case the court orders necessary measures to avoid distinct facial appearance of a person whose identity is changed.

- Article 340 "Cases closed door trial" point "ç"

The court decided that the question of witnesses takes place behind closed doors, when questioning of minors.

- Article 361 "Questioning of witnesses ", point 5,

The question of minor witnesses can be done by the judge. The judge may be assisted by a family member or a specialist in the field of education of children.