



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

T-ES(2015)THE-MK

## **LANZAROTE CONVENTION**

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

**Replies to the thematic questionnaire**

**"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"**

**1<sup>st</sup> thematic monitoring round**

**"Sexual abuse of children in the circle of trust"**

Replies registered by the Secretariat on 24 February 2015



## 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.*

#### Ministry of Labour and Social Policy

There is a Resource Center for children at social risk operating within the Public Institution – Institute for Social Activities, where data are collected and records are kept for all children at risk that the Centres for Social Work are working with.

## 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 Science

Children are continuously educated via the school subject of biology, as well as the "Life skills" school subject, which contain special chapters on this matter.

Aiming at faster and more efficient education with the purpose of achieving better prevention in this area, the relevant authorities consider introducing a new subject in higher education institutions (Faculties of Pedagogy) via which the student of the aforementioned faculties would be continuously and timely educated on the current issues that children are facing today, including the problem of sexual abuse and paedophilia.

### **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.*

### **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.*

See the reply to question 8 (b) of the GOQ.

### **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).*

#### Ministry of Interior

As one of the key institutions responsible for the proceedings where minors are found victims of sexual abuse, the Ministry of Interior undertakes activities prescribed in Article 37 from the Law on Police (Official gazette no. 114 from 2006), and Article 15 from the Law on amending the Law on Police.

Article 37 from the Law on Police prescribes:

#### Paragraph 1

In cases where minors are involved police officers who are specialized to work with minors shall apply police authorizations.

#### Paragraph 2

In exceptional cases police officers who are not specialized in working with minors may apply police authorizations, only if the police officers prescribed in paragraph 1, because of certain circumstances are not able to apply police authorizations.

#### Paragraph 3

The police authorizations shall be applied on minors in presence of a parent or guardian, exceptions may be made in cases where the circumstances or the urgency of the case does not allow the presence of the parents.

Article 15 of the Law on amending the Law on Police stipulates that the police authorizations shall be applied on minors under special conditions determined by Special Law.

The Ministry of Interior apply its authorizations under the Criminal Procedure Code (Official gazette no.150 from 18.11.2010) entered into force from 01.12.2103, and under the Child Justice Act (Official gazette no.148 from 2013).

The number of the police officers trained to work with minors is composed by previously made analysis, in total 51 police officer of the Ministry of Interior is specialized to work with minors and they are divided in the Sectors of Internal Affairs as follows:

- Sector for Internal affairs Skopje 20 police officers;
- Sector for Internal affairs Shtip 4 police officers;
- Sector for Internal affairs Bitola 5 police officers;
- Sector for Internal affairs Strumica 4 police officers;
- Sector for Internal affairs Tetovo 6 police officers;
- Sector for Internal affairs Ohrid 6 police officers;
- Sector for Internal affairs Kumanovo 4 police officers;
- Sector for Internal affairs Veles 2 police officers.

In the External Offices and Police Stations were trained police officers for working with minors are not provided, the inspectors for crime offence are covering the cases involving minors but for more specific cases they should always ask for assistance from the trained police officer provided in the Sectors for Internal Affairs.

Furthermore, 41 Inspector for prevention is involved in the area of prevention of child abuse and prevention of juvenile offences.

Every Sector for Internal Affairs provides four working positions, except in the Sector of Internal Affairs Skopje were in the Police Stations of basic authorizations are provided with additional 9 working positions (Assistant Commander for prevention).

The Ministry of Interior regularly conducts basic and specialized trainings of police officers and organizes Inter-Agency trainings in cooperation with the Ministry of Labour and Social Policy, Ministry of Health, Ministry of Justice and other Non-Governmental Organizations.

In compliance with the Child Justice Act, taking statement from a minor is conducted in specially equipped premises. For this purpose the Ministry of Interior has equipped 8 premises for interviewing minors and they are allocated in the Sectors as follows:

- Sector for Internal Affairs Skopje-External Office for Criminal Intelligence Kisela Voda;
- Sector for Internal Affairs Strumica;
- Sector for Internal Affairs Tetovo;
- Sector for Internal Affairs Bitola;
- Sector for Internal Affairs Veles;
- External Office for Criminal Intelligence Gostivar;
- External Office for Criminal Intelligence Gevgelija;
- External Office for Criminal Intelligence Kocani.

The premises are equipped with the help provided by the Embassy of France and Nederland, UNICEF and the Local Self-government of Gostivar. The premises are equipped

with up to date audio and video equipment used to produce audio and video data which can be used as evidence in the proceedings.

The premises can be used by the representatives from the Ministry of Labour and Social Policy, Ministry of Health, Ministry of Justice, Ministry of Education and Science and the Public Prosecutor.

### **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).*

#### Ministry of Labour and Social Policy

The *Law on Prevention, Combating and Protection against Domestic Violence* ("Official Gazette of the Republic of Macedonia" No. 138/14) especially focuses on the prevention of domestic violence, and it stipulates that the Local Self-Government Units and the associations undertake preventive measures for combating and alleviating of domestic violence, in compliance with their competences provided by law.

Preventive measures are taken by:

- promoting social and cultural values of behaviour based on equality of women and men;
- introducing programmes for non-violent behaviour from an early age in preschool institutions;
- introducing programmes for non-violent behaviour and understanding of gender equality in primary schools;
- introducing programmes for developing skills for peaceful resolution of conflicts, understanding and appreciation of the principle of equal opportunities for women and men in secondary schools;
- introducing programmes for developing skills for peaceful resolution of conflicts, respecting the dignity of the person, non-discrimination and equality between women and men in higher education institutions;
- providing expert advice and counselling within the counselling services for marriage and family, the Centres for Social Work, and other institutions;
- conducting campaigns or programmes for raising the awareness and understanding of the general public about the recognition and consequences of domestic violence;
- introducing continuous training for professionals to carry out activities within their competencies and gender-based violence;
- raising the level of responsibility of the printed and electronic media for objective reporting about cases of domestic violence, in which cases the circumstances that may be deemed as violation of human rights and dignity of the person should not be provided and any discrimination of women and men should be avoided.

## Question 7: 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).*

### Ministry of Education and Science

Via the current curricula and study programmes, i.e. via the conducted classes, in accordance with children's age, students are regularly educated (informed) on how to recognize in a timely manner a possible perpetrator who might harm them, and are encouraged to talk about the problem openly if such problem does happen.

## 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).*

## 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).*

### Ministry of Labour and Social Policy

Pursuant to the Family Law, the Center for Social Work, upon obtaining information that there is danger of abuse of parental rights and danger of severe neglect of parental duties, is obliged to undertake measures for protection of the person, rights and interests of the child immediately.

The Center for Social Work shall remove the child-victim of sexual abuse from the home, and shall provide the child with adequate accommodation, healthcare, urgent psycho-social

protection for the child and close relatives, and shall take other measures, whilst constantly bearing in mind the best interests of the child.

The *Law on Prevention, Combating and Protection against Domestic Violence* is the first special systemic law in this field, which will enhance and establish a comprehensive and coordinated system for taking actions aimed at prevention, combating and protection against domestic violence. The adoption of this regulation raises the social response for non-tolerance of domestic violence by:

- continuously undertaking measures by all relevant stakeholders at the national and local level in the field of prevention of domestic violence, raising awareness and sensitizing the general and expert public;
- raising the level of responsibility for immediate, mandatory and efficient actions by officials and institutions aimed at combating domestic violence;
- providing necessary, efficient and effective protection to the victims, in compliance with the needs and interests thereof.

The institutional response is strengthened by assigning specially trained professional workers to undertake measures for assistance and protection of victims and by establishing new responsibilities. The Centre for Social Work shall coordinate the multi-sectoral expert team, with the aim of preparing a safety plan for assistance to the victim, whenever they find that the life and health of the victim and members of the family thereof are endangered, as well as when a child is a victim of domestic violence.

The liability of the perpetrator of domestic violence is increased by obliging the Center for Social Work to file criminal charges against the perpetrator for failing to comply with the provisional measure of protection imposed by the court. Misdemeanour sanctions are provided for perpetrators that fail to comply with the imposed provisional measure of protection.

The integrated national policies will be implemented with the adoption of the National Strategy for Prevention, Combating and Protection against Domestic Violence and the establishment of the National Body for Domestic Violence, with a mandate to monitor and analyse the situations of domestic violence in the country, to coordinate the activities of all competent institutions and to propose measures for improving the situation and for implementation of the envisaged activities.

#### Ministry of Interior

Under the Criminal Procedure Code, state and other authorities, legal and natural persons are bound to report criminal offences that are persecuted ex officio on which they have been notified informed or have otherwise become aware of them. Criminal Code stipulates in which cases failure to report a criminal offence shall be regarded of as a criminal act.

*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).*

See the reply to question 18 of the GOQ.



## 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).*

### **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).*

See the reply to question 20 of the GOQ.

### **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);*

*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)*

#### **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);*

See the reply to question 22 of the GOQ.

*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);*

See the reply to question 22 (b) of the GOQ.

*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).*

See the reply to question 23 of the GOQ. 7