



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

T-ES(2014)THE-GR

LANZAROTE CONVENTION

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

Replies to the thematic questionnaire

GREECE

1st thematic monitoring round

“Sexual abuse of children in the circle of trust”

Replies registered by the Secretariat on 11 September 2014

Data Collection

Question 1: Data on sexual abuse in the circle of trust

Thus far, there is no mechanism established for collecting data on sexual abuse of children.

However, the Institute of Child Health collected nationwide data on child abuse and neglect including sexual victimization for 11, 13 and 16 year old children in the context of B.E.C.A.N Project, “Balkan Epidemiological Study on Child Abuse and Neglect” (EU/FP7/223478). These data are concerning field survey of self-reported child victimization experiences for school-years 2010-2012 as well as case-based surveillance study of administratively collected data of child abuse and neglect by authoritative agencies of health, welfare, justice, law enforcement and education sectors (NGOs and governmental organizations) for the year 2010. Additionally, ICH within the framework of EU’s DAPHNE program is currently coordinating a project (“CAN-MDS”/DAP/3) for specifying the minimum dataset indicators required for a pan-European surveillance child maltreatment mechanism that could be feasible in most European countries.

The Institute of Child Health has taken the initiative under the overall framework of the a project funded by EU’s National Strategic Framework Program (MIS 372071) to develop a national database (national registry for child abuse and neglect cases), where all professionals and related services from the sectors of health, education, social welfare, justice, law enforcement will be able to enter data concerning child abuse and neglect in a unified database. At this system under development, there are specific variables for the type of abuse and the perpetrator. It is anticipated that the national registry will be operational within year 2015. Moreover, within the EU’s National Strategic Framework Program, “EKKA” is currently developing a more wide-scope project (“e-pronoia”) in which all social welfare related cases are to be registered and thus is anticipated to include also child sexual victimization cases among others. As soon as these initiatives conclude successfully, the issue of registration and storage of comprehensive data records at national level is anticipated to be substantially improved and treated.

Prevention

Question 2: Education for children

The introduction of sexual education within the contexts of which certain topics of children’s awareness raising are included has been adopted by the Ministry of Education; appropriate and age-specific educational material has been produced and despite some considerable delays in the implementation of the entire project it is anticipated that such a training course will eventually be introduced in the syllabus in due course. However, it should be noted that certain initiatives at local or national level have already applied such modules in training programs to schools. For instance in the town of Rethymnon, in which the most extensive case of paedophilia in Greece had been disclosed in 2011, the Institute of Child Health, Department of Mental Health under the overall framework of the a project funded by EU’s National Strategic Framework Program (MIS 375809) conducts the most extensive training program for awareness raising on the subject matter, a project in which insofar more than 5.000 students have participated. Additionally, the Children’s Ombudsman conducts on a

regular basis nation-wide training activities in regards to children's awareness of their own rights focusing mostly on adolescents' grades at schools; a part and parcel of these activities were also their training for acknowledging their rights to be protected from sexual victimization.

Question 3: Recruitment and screening

In order to be hired in the public sector the candidate must submit a copy of his/her criminal record. In the private sector employers usually require a copy of criminal records. Yet, there is no specific legislative measure requiring that in all professions that involve contact with children, candidates should be carefully recruited and screened with regard to prior convictions for child sexual abuse or sexual exploitation.

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

The Council of Europe's "One in Five" campaign had been implemented by the Representative in the CoE's Parliamentary Assembly in decades of cities and towns. Materials had been translated into Greek and communicated to thousands of people including spots and leaflets ("the underwear rule", etc.). Similarly CoE's campaign had been actualized by a number of regional authorities (probably most actively in Heraklion, Crete where a series of seminars and conferences had been organized since 2010 by the local Municipality) in collaboration with the Council's network of regional authorities. Within these campaigns topics on children's sexual victimization are usually included. The same equally applies to ICH's health promotion project in the particular case of the town of Rethymnon (see above).

Question 5: Specialised training

Insofar, no particular legislative measures or procedures have 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 someone close to the child. Although, in 2005 the Police issued a handbook on how to handle cases of domestic violence, this handbook did not focus on child victims. However, in Hellenic Police's web-resource site there are some fundamental pieces of information regarding protection of children from sexual victimization including cases occurring within the circle of trust. However, such recourses are rather outdated and insofar not fully sufficient.

Question 6: Participation of children, the private sector, the media and civil society

Currently there no distinctive steps taken in terms of formal legal provisos in order to encourage participation by children, the private sector, the media and/or civil society in the development and implementation of policies/programmes/initiatives with regard to sexual abuse of children in the circle of trust.

Question 7: Preventive intervention programmes or measures

For the time being, there is no comprehensive framework of referral for persons who fear that they might commit offences related to sexual abuse or exploitation of children and would like to participate in intervention programmes. Still, such individuals can always seek

assistance from mental health services and units of psychosocial intervention operated by the Hellenic National Health Service (“ESY”) or other public sector relevant services.

Protection

Question 8: Reporting suspicion of the sexual abuse

Under Law 3500/2006 on combating domestic violence, all school and kindergarten teachers are obligated to report any incident, hint, suspicion or disclosure by a child of domestic violence against a pupil that they have been informed about or have found out about (art. 23). They inform the Headmaster, and then he/she must report the incident to the District Attorney or the Police. It should, also, be noted that by the same piece of legislation a comprehensive and extended definition of “domestic” environment is provided facilitating thus prosecution under these special provisos of many incidents of sexual violence against children within the circle of trust that before would be prosecuted by provisos of regular penal code.

Moreover, it is provided that any person, who threatens or uses force against or bribes a witness or member of the family in order to hinder the criminal or judicial proceedings, is punished (Law 3500/2006, art. 10). Last but not least, by the same Law it is provided that perpetrators that commit such crimes against children within the domestic environment are subjected to double the sentences that would be subjected to if the same crimes were committed outside family/domestic environment.

Question 9: Assistance to and special protection for victims

- a. Under Law 3500/2006 there is the possibility of removing the perpetrator for as long as it is needed from the family’s house; of setting restraint orders such as not approaching the house, the school, the houses of close relatives, the child’s school or residential care setting (art. 15 and 18). Though in practice the victim is sometimes the one being removed in virtue of the perpetrator ownership of the place of residence and other mostly economic constraints, it is noteworthy that this measure is closer to the child’s best interests; however a possible removal of the child might be considered by him/her as “punishment” for having disclosed his/her abuse. Moreover, removing the child from its residence inflicts additional implications such as changing school, neighbourhood, etc. which can be experienced as secondary victimization by the child. Accordingly, whenever there are no constraints of economic nature such as the ones described above, the perpetrator is indeed removed from the family’ place of residence.

Although it is provided that victims of domestic violence are accorded psychological and material support (Ibid., art. 21) there is no additional provision for people close to them. However, there is a provision in Law 3727/2008 (ratification of the Lanzarote Convention) for persons close to the victim to be accorded psychological support (Chapter A, art. 2 par. 2).

- b. Under a newly passed Law 4267/2014 on the fight against sexual abuse and exploitation of children, there can be a complementary sanction imposed on the perpetrator which forbids the exercise of any profession involving contact with children for up to five years (amending art. 67 par.1 of Penal Code). Voluntary activities are not mentioned.

Prosecution

Question 10: The offence of sexual abuse

- a. By “intentional conduct” it is understood as the deliberate action of the perpetrator that aims at his/her sexual stimulation and the satisfaction of his/her sexual impulse.
- b. By “sexual activities” it is understood as sexual intercourse and any other lecherous action, gesture or proposition that offends the human dignity, the sexual and physical integrity and the unimpeded sexual development of a child.

(see also on the subject: Greek Supreme Court rulings 399/2003 and 1183/2009)

Question 11: Corporate liability

Insofar, there are no additional measures for a legal person’s corporate liability, in cases where the perpetrator belongs to the victim’s circle of trust.

Question 12: Aggravating circumstances

Under art. 342 par. 1 of the Penal Code, any adult, who engages in sexual activities with a child that he/she had the duty to take care of or supervise, even temporarily, is punished. Although the relationship with the child is a constituent element of the offence, there are 6 specific aggravating circumstances with regard to the perpetrator mentioned in par. 2:

- a. belonging to the family (stricto and lato sensu);
- b. cohabiting with the child or maintaining a friendly relationship with his/her family;
- c. being a teacher or educator of any kind for the child;
- d. being a person that accepts services from the child;
- e. providing pastoral care for the child;
- f. being a psychologist, doctor, nurse or any other professional that offers his/her services to the child.

Under art. 343 of the Penal Code, people working in residential care settings or institutions such as schools, hospitals, and prisons and engage in sexual activities with people receiving their services are punished. Under art. 345 of the Penal Code, sexual intercourse between relatives are punished. The offence is a felony, if a member was under 18 years of age. Under art. 346 of the Penal Code, any other sexual activity between relatives are punished as well.

Under Law 3500/2006 on combating domestic violence, a comprehensive and extended definition of “domestic” environment is provided facilitating thus prosecution under these special provisos of cases in which co-habitation is apparent irrelevantly from the particular nature of the perpetrator’s relationship to the child-victim or the nature of co-habitation.

Moreover, by the same Law it is provided that perpetrators that commit such crimes against children within the domestic environment are subjected to double the sentences that would be subjected to if the same crimes were committed outside family/domestic environment.

Question 13: Best interest of child

- a. Currently there are not particular legal or formal provisos for specific measures to taken in order to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child victim in cases 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/her. However, reasonable such measures are not usual in practice of law enforcement or legal authorities but without a specific reference to particular legislation on the subject matter. Thus, under prosecuting procedures often the best interests of the child represent a primary theme of consideration in cases of child sexual victimization within the circle of trust. However, given that most often professionals involved are untrained in matters of sexual abuse or children's rights, occasionally there might be incidents in which operational procedures (for prosecution, etc.) might be prioritized instead.
- b. Under art. 1517 of the Civil Code, whenever there is a conflict of interest between the parents and the child, a special representative is assigned to the child. His/her task is solely to defend the child's interests in judicial proceedings.
- c. Under art. 1537 of the Civil Code the parent, who has been convicted of an intentional crime against the life, health and morality of his/her child, is sanctioned with termination of his/her parental rights. Yet, this does not happen automatically with the conviction, rather a petition must be filed in civil court by the other parent or a close relative or the District Attorney. However, it should be noted that this is rather a common practice in Hellenic courts.

Moreover, under art. 1532 of the Civil Code the parent, who violates his/her parental duties by infringing on the rights of his/her child or is in no position to exercise his/her role as a parent may have his/her parental rights partly or entirely terminated.

Monitoring or supervision of convicted parents in practice faces substantial difficulties in implementation, mainly due to lack of staff in social services. In years 2010-2012 under the framework of EU's DAPHNE program, the Institute of Child Health had implemented a particular project (DAP/) in female prisons (Elaionas and Korydallos) for maintaining under supervision and appropriate support relationship between imprisoned mothers with their children developing also training material for prisons' social services or other relevant services in order to replicate such actions in their daily practice.

Question 14: Child-friendly justice

- a. Law 3500/2006 for combating domestic violence provides that child victims of domestic violence are not called to testify again in the court room, rather their testimony (recorded during the investigation procedure) is read or viewed during the hearing (art. 19 par. 2). There is an exception for cases where, according to the judge's decision, it is deemed necessary for the victim to testify again in court. Although victims of domestic violence

are afforded assistance (law 3500/2006, art. 21), there is no specific measure regarding the criminal justice response other than common law procedures for affording such aid or specifying that such aid should be specialized in such cases.

- b. All crimes related to sexual abuse by a person in the circle of trust are prosecuted independently from victim's complaint or withdrawal (see *Ibid.*, art. 17 par.1; Code of Criminal Procedure, art. 36; Penal Code, art. 344).

- c. Under art. 330 of the Code of Criminal Procedure the judge can order either part of or the entire hearing procedure to take place without the presence of the public for cases of sexual abuse or exploitation of children, whenever the case's publicity may cause immense emotional suffering or the child's private life is being threatened. In fact, since many years, this is rather a common practice in Hellenic courts whenever a case of child sexual abuse is being tried, especially if concerning domestic child sexual abuse.