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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

ICELAND

1st thematic monitoring round

“Sexual abuse of children in the circle of trust”

Replies registered by the Secretariat on 7 April 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.

As explained in the Answer 5b of the GOQ, the Government Agency for Child Protection (GACP) serves as the hub for the collection of statistical data on child sexual abuse and exploitation. Other Agencies including the State Prosecution, the Courts Council and the University Hospital, hold statistics of cases according to their respective roles.

The Appendix to answers to this questionnaire contains a variety of statistical data, including the number of cases reported to the local child protection services (Fig. 10.), data on number of court testimonies by children (Fig. 11.), data on number of police investigations referred to the State Prosecution, data on indictments and sentencing (Fig. 12.). Furthermore, the GACP has analysed statistical data with regard to circle of trust with regard to all disclosures from investigative interviews in *Barnahus* for the past three years. This information reveals that in 72.6% (2012) to 84.7% (2013) of all substantiated cases where children disclosed sexual abuse and exploitation, the perpetrator belonged to the circle of trust (Fig. 9.).

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).

In the Answer to Question 8 b. of the GOQ, a reference was made to few preventive projects that are designed for children. Few of them address abuse in the circle of trust specifically. These are particularly the puppet theatre "*Kids on the Block*" by the *Awareness Awakening* and the animated film "*Secrets*" by *Blátt Áfram*.

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.

As explained in question 9 of the GOQ persons that have been convicted of crimes identified in the Convention are not allowed to be recruited or work which involves regular contacts with children, including those who have committed crimes within the circle of trust.

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.

As explained in the answer to question 8 of the GOQ there are number of efforts in awareness raising some of which specifically address sexual abuse in the circle of trust. Examples in case are the *Educational Conferences*, the handbook "*Protecting them*".

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**).

As explained in the answer to question 8 of the GOQ there are numerous trainings for professionals most of which do address sexual abuse within the circle of trust. This is in particular the case with the training provided by the Government Agency for Child Protection and *Barnahus* for the local child protection services and their collaborative partners.

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**).

This issue has been addressed in the answer to questions 4. and 11. of the GOQ, in particular concerning the participation of the *UNICEF* children's focus group who consists of child survivors of sexual abuse and has been regularly consulted in all major decision making with regard to policy making.

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).

Reference is made to the answer to question 10 a) and 6 c) of the GOQ.

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).

See answer to question 13 of the GOQ. This topic has been addressed with regard to those professions which are more likely than other to receive confessions by individuals that have committed sexual offences in the circle of trust such as medical doctors and priests. The Government Agency for Child Protection has been clear in interpreting the law in that no exceptions should be made to the principle of mandatory reporting. Reference is also made to the reply to question 14 of the GOQ concerning the contract between the Government Agency for Child Protection and the Emergency line 112 to facilitate reports from the general public on child abuse.

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);**

See answers to question 15b) and 15c) of the GOQ. It should be noted that the removal of the perpetrator is generally the preferred course of action if the safety of the child is ensured and the child victim is supported by other family members, esp. the non-offending parent.

- **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).**

See answers to question 15c). It should be added that the local child protection services have extensive legal obligations to support parents. Hence in situations where emergency psychological care is needed the parents would be provided appropriate support free of charge.

- 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).**

A reference is made to the answer to question 9 in the GOQ. The general legislative provisions concerning children, such as pre-schools, primary and secondary schools, leisure activities etc. as well as special services, including residential or foster care, denies anyone sentenced for sex offenses against a child the exercise of professional or voluntary activity involving contact with children.

With regard to other professional activities, Art. 68 para. 2 of the General Penal Code can be relevant in this respect. The Art. stipulates that a person convicted of an offence may, in criminal litigation against him/her, be deprived of authority he/she has acquired to pursue an occupation for which an official licence, authorization, appointment or examination is required, provided the offence indicates that there is considerable danger that the guilty person will commit an offence in his/her position or occupation. In case of a grave offence a person can also be deprived of the aforementioned right if he/she is no longer considered worthy of pursuing the occupation or enjoying the rights.

A person may be deprived of the rights referred to in para. 2 for a specified period of up to five years or for life.

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);**

All levels of intentional conduct apply in relations to sexual offences against children under Icelandic law, see article 202 in the GPC. This also includes the lowest threshold, *dolus eventualis*. Where violations of Article 201 or Article 202 have been committed in ignorance of the age of the victim, a relatively more lenient punishment may be imposed; however, it may not be reduced to less than the minimum prescribed imprisonment, which is 30 days according to Article 204.

- b. what is understood by “sexual activities” in internal law? (Explanatory Report, para. 127).**

Article 202 in the GPC lists three types of punishable sexual conducts: sexual intercourse, other sexual relations and sexual harassment.

The term *other sexual relations* refers to sexual exploitation of a child's body that is the surrogate of sexual intercourse. Examples are oral sex, anal intercourse, the conduct of putting a finger into vagina or rectum, licking and sucking genitals, to let the victim masturbate the perpetrator, to have sexual intercourse between the thighs of the victim, on his backside or stomach.

The term *sexual harassment* refers to fondling and other sorts of physical contact, as well as sexual photography. An example of this conduct is touching breasts and genitals for a brief time that does not result in full satisfaction (ejaculation) for the perpetrator.

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.

Reference is made to the reply to question 17 of the GOQ

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 answer 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);**

See answer to question 21 of the GOQ

- 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;**

See answer to question 21a) and 21b) of the GOQ

- 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).**

See answer to question 9.b regarding article 25 and 27 in the Child Protection Act as well as answer 15. b of the GOQ.

According to Article 29 in the Child Protection Act, the local child protection services can make the claim of custody deprivation in court. Among the conditions for that claim is that a child has been sexually abused by the parent or failed to protect the child from sexual abuse or sexual exploitation.

Also, if a child has been sexually abused by its parent, the non-offending parent can seek sole custody. When parents disagree on custody or their child's domicile, and if attempts at mediation prove fruitless, a judge shall resolve the issue by a judgement, according to Article 34 in The Children's Act no 76/2003. The judge shall decide the arrangements regarding the custody or domicile of a child in accordance with the child's best interests. According to Article 46 in The Children's Act a child has the right to regular access to the parent that he or she does not live with, providing it would not be at variance with the child's best interests. If parents disagree about access the district commissioner shall decide on access by means of a ruling according to Article 47 in The Children's Act. Decisions shall at all times be taken according to the best interests of the child. The district commissioner shall assess the danger that the child will be exposed to violence or harsh treatment. If the district commissioner considers that access between the child and the parent would be contrary to the child's best interests and needs, he may decide that no right of access shall apply. Also, when there is particular reason to do so, the district commissioner may specify in the ruling that access is to take place under the supervision of a specialist in children's affairs.

With regard to monitoring and supervision of a convicted person a reference is made to the answer to question 9.b regarding Article 37 in the Child Protection Act.

Furthermore, according to Article 5 in The Act on Expulsion of a Person from the Home and Injunctions no 85/2001 it is possible to exclude a person from its home if he or she is accused of committing a crime that is punishable according to chapter XXII on sexual offences in The General Penal Code no. 19/1940. It is also possible to prohibit the accused person from being in a certain place or area, and from following, visiting or otherwise making contact with a child if it is considered necessary to ensure the safety of the child.

There are no sanctions in The General Penal Code, no. 19/1940 that include the withdrawal of parental rights.

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 answer to questions 21, 22 and 23 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 answer to question 22b 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 answer to question 21d of the GOQ.