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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

FOCUSED QUESTIONNAIRE

Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse

SPAIN

(Replies sent by the State)

Replies registered by the Secretariat on 28 September 2016

DATA (Lanzarote Convention, Chapter III)

- 1) How many migrant and asylum-seeking children (accompanied and unaccompanied)¹ are in your country as a result of the refugee crisis?
 - a) Please provide estimates, if exact data is not available, for the period between 1 July 2015 and 30 June 2016,² and specify how many of these children are victims or presumed victims of sexual exploitation and sexual abuse;

In 2015, 3.754 applicants for international protection were considered to be minors (3.728 accompanied and 26 unaccompanied). In 2016 (data available on 29 August), this number has reached 2.083 (1.115 accompanied and 968 unaccompanied). A Nigerian minor has been identified as an alleged trafficking victim during the reference period.

As regards the concepts of accompanied and unaccompanied children in Spain, they are defined as follows:

- Accompanied minor: non-EU national or stateless person below the age of 18 accompanied by an adult who has illegally entered the Spanish territory or crossed a border post claiming to be the birthparent, a relative or another adult responsible for the minor.
 - Unaccompanied minor: foreign minor below the age of 18 who arrives on the Spanish territory unaccompanied by an adult responsible for him or her whether by law or by the practice, and for as long as he or she is not effectively taken into the care of such a person. It includes a minor who is left unaccompanied after she or he has entered the Spanish territory.
- b) Describe how the victims of sexual exploitation and sexual abuse were identified or describe the challenges faced to identify them. Specify whether a distinction is made between victims of sexual exploitation/abuse prior to the entry on your territory (Group 1) and after entry (Group 2) and provide data/estimates of the two groups of victims. Please also explain how the age is determined in case of doubt;

The protocol to identify trafficking victims, which has been developed with NGO input since 2013, applies to applicants for international protection. It establishes indicators to detect the victims of trafficking for the purpose of sexual exploitation, which are applied by specialised trained police officers in cooperation with specialised entities. Interviews with the victims are carried out by specialised professionals; the victim may be accompanied by other persons or professionals.

With respect to the age assessment procedure, article 35.3 of Organic Act 4/2000 on the Rights and Freedoms of Foreigners in Spain and their Social Integration states that: "In the event that the State Security Forces locate an undocumented foreigner for whom it cannot be firmly established that they are a minor, they will give them, by way of social services trained in the protection of minors, the immediate attention they need, in

¹ Please provide the definition of accompanied/unaccompanied children in your country and, if available, provide separate figures for accompanied and unaccompanied children. If such data is not available, please provide data on migrant and asylum-seeking children.

² If figures for this period are not available, please provide the most recent annual data.

accordance with the established legislation on the legal protection of minors. They will immediately alert the Public Prosecutor's Office, who will provide age assessment, for which appropriate health institutions will conduct any necessary tests with priority."

In addition, Royal Decree 557/2011, which establishes a new regulation implementing Organic Act 4/2000, sets forth the obligation to put under the guardianship of the protection services unaccompanied foreigners located by the State Security Forces for whom it cannot be determined with certainty if they are a minor. The Public Prosecutor's Office will be alerted about the incident too.

Furthermore, a framework protocol on unaccompanied foreign minors was adopted in July 2014. It is an agreement between the Public Prosecutor's Office and the Ministries of Justice, Employment and Social Security, Health, Social Services and Equality, Home Affairs and Foreign Affairs and Cooperation. The purpose of this Protocol is to coordinate the intervention of institutions and administrations concerned once the minor or alleged minor is found (identification, age assessment, placement under the care of the social services and documentation). It is also aimed at successfully operating the Unaccompanied Foreign Minors Register.

The procedure to assess the age involves medical examinations conducted by specialised medical professionals. Prior to rendering her/his consent, the minor is informed by the police officer and the professional about the scope and the nature of the tests respectively.

The decree by the Public Prosecutor's Office determines the minor's age and decides on her/his placement. Both the identifying data and the decree are registered in the Unaccompanied Foreign Minors Register that is coordinated by the Public Prosecutor's Office.

On another point, the Civil Guard created a special anti-trafficking unit in 2014. Besides, the Family and Women Unit of the National Police was created a year later to investigate and prosecute gender-based violence offences and sexual offences and ensure a child-sensitive conduct of actions under the best interest of the child principle.

This Unit monitors the operation of the database of missing children and coordinates the investigations conducted by regional units to identify children at risk. It has contacted UNHCR to collaborate in protecting refugee children from criminal organisations. It is also working to improve the quality of the protection services granted to refugee children assuring their non-discriminatory access.

- c) Indicate also how the data collected is used to offer a coordinated response between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children;

Once a child victim is detected, the Protocol on unaccompanied foreign minors is implemented: the State Security Forces report the fact to the Public Prosecutor's Office and contact NGOs involved to provide her/him any assistance required (interpreter, psychologist, accommodation centres). All relevant actors collaborate smoothly to

ensure that actions are carried out in the best interest of the child and taking due account of her/his particular vulnerability.

- d) Identify the institution(s) responsible for the collection of above data.

The Office for Asylum and Refuge and the Sub-Directorate General for International Police Cooperation (both Units are attached to the Ministry for Home Affairs).

PREVENTION (Lanzarote Convention, Chapter II)

- 2) What are the specific measures taken to prevent that children affected by the refugee crisis fall victims of sexual exploitation and sexual abuse?

- a) Highlight in particular the measures (e.g. awareness raising material, specialised training, screening of professionals, etc.) which have proven to be effective;

The Police action plan against trafficking in human beings has been developed since 2013. It includes many measures: specialised training together with NGO for law enforcement officers who investigate trafficking offences, participation in conferences organised by public and private institutions, release of guidelines on detection of trafficking victims in Europe and participation in awareness raising television programmes.

The Police launched in 2013 a free helpline to report suspected cases of sex trafficking that have proved to be effective (147 minors have been released). It has also takes part in many awareness raising campaigns through television, radio and newspapers to bring trafficking closer to society. An example of good practice is the television campaign "Stand up for trafficking victims" that has increased the number of the helpline calls.

Furthermore, the Comprehensive Plan to combat Trafficking in Women and Girls for the Purpose of Sexual Exploitation 2015-2018, agreed by the Council of Ministers on 18 September 2015, focus on protection and damage redress. The Plan collects contributions from the Social Forum against Trafficking that brings together NGO assisting victims of human trafficking. It has five main axes: prevention, training, identification of victims, crime prosecution and collaboration.

As regards training, specialised training on trafficking is provided for the Office of Asylum and Refuge staff, interviewers at the border posts and the staff of Foreign Internment Centres and Foreign Offices. Special attention is paid to border guards, coast guards, law enforcement officers working at Ceuta y Melilla and Migration Centres staff so as to improve the detection of victims, their protection and assistance. Besides, relevant NGO have access to potential victims before the interview with the enforcement law officer.

PROTECTION (Lanzarote Convention, Chapter IV)

- 3) Has a coordinated child protection approach been put in place to cater for the specific needs of migrant and asylum-seeking children victims of sexual exploitation and/or sexual abuse?

- a) Describe the measures taken to address the situation and cater for the children's specific needs (multiple traumas, language/cultural differences, etc.), including with respect to guardianship/placement;

The Ministry of Health, Social Services and Equality coordinates the programmes developed by child protection services. The framework protocol on unaccompanied foreign minors stipulates that the minor has to be informed about her/his rights by the law enforcement officers or the staff of the protection services that assume the guardianship in a manner adapted to the child's age and maturity and in a language that he/she may understand. Once the minor is located, she/he must be declared to be in a situation of helplessness to access the protection system and services. The guardianship exercised by NGOs financed by the protection services implies the responsibility of protecting and promoting the child's best interests. The minor is guaranteed access to education and proper training, legal assistance or interpretation services when necessary, social insertion and adequate care.

Moreover, a new Instruction about the fight against the trafficking in human beings has recently been adopted by the State Security Forces. It has created the figure of the "social partner" at a national and regional level, who acts as focal point to promote cooperation and the exchange of information.

- b) Indicate also what measures have been taken to protect the children concerned from further exploitation/abuse and to assist the victims in seeking redress (please highlight any differences between Groups 1 and 2 of children as outlined above);

See answer above

COOPERATION (Lanzarote Convention, Chapter IX)

- 4) Provide examples of successful cooperation with other Parties to the Lanzarote Convention for the purpose of:
 - a) Preventing and combating sexual exploitation and sexual abuse of children affected by the refugee crisis;
 - b) Protecting and providing assistance to victims;
 - c) Investigations or proceedings concerning the offences established in accordance with the Lanzarote Convention.

Regarding trafficking for the purpose of sexual exploitation, the National Police cooperates closely with other States parties and non-parties to the Convention (exchange of information, joint operations). In particular, Spain collaborates with Serbia and Albania in the framework of SELEC (Southeast European Law Enforcement Centre). It also collaborates with other States within the scope of intervention of EUROPOL (Denmark, France, Greece, Malta, Netherlands and San Marino). Finally, there is bilateral cooperation with the countries of origin either of the victim or the criminal organisation.

ANY OTHER ADDITIONAL INFORMATION

- 5) Please provide any other additional information which may be useful to identify areas for targeted cooperation aimed at ensuring that children affected by the refugee crisis are effectively protected from sexual exploitation and sexual abuse and in guaranteeing their human dignity and physical and psychological integrity.