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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

BULGARIA

(Replies sent by the State)

Replies registered by the Secretariat on 21 October 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;

By definition 'unaccompanied' is a minor or underage person – a foreign citizen, on the territory of the Republic of Bulgaria who is not accompanied by his/her parent or other adult person who is responsible for him/her by virtue of law or a custom. According to the data of the State Agency for Refugees (SAR) in the period 01.07.2015- 30.06.2016 the total number of registered persons seeking international protection is 20 888. The registered unaccompanied children are 2138, while the number of registered children accompanied by their parents or legal representatives is 3908.

Persons and children, who are still under procedure of international protection, shall be accommodated in SAR centers or in a designated location. The illegally residing people on the territory of the Republic of Bulgaria shall be accommodated in Special centers for temporary accommodation of foreigners. Unaccompanied children may not be housed in closed type institutions.

The Agency for Social Assistance (ASA) is also actively working on cases of unaccompanied children and foreigners, including children seeking international protection. In 2015, the Child Protection Departments (CPD) worked on nearly 200 cases of unaccompanied children - foreign nationals, including children seeking international protection.

The CPD also participates during the administrative procedure for granting status before the SAR.

When identifying an unaccompanied underage 3rd country national on the territory of Border checkpoint, firstly, police actions are conducted, under the Bulgarian legislation and procedures established by the General Directorate 'Border Police' (GDBP). When identifying, among the detainees on the border, of an unaccompanied underage 3rd country national, GDBP shall notify the competent territorial 'Social Assistance' Directorate (SAD), which shall register a signal of a child at risk and shall send a representative of CPD.

Social worker of CPD shall be present at the talks with the child, and together with the GDBP officials and other persons (translator, interpreter, etc.) shall consult and inform the unaccompanied child in a manner, consistent with their age and development, on the procedures for applying for international protection and for implementing a

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.

measure of protection, under the Child Protection Act, in case of refusal to seek international protection under the Asylum and Refugees Act (ARA).

Pursuant to the provisions of Art. 44, Para. 9 of Foreigners in the Republic of Bulgaria Act (FRBA), the accompanied minors or underage persons shall be housed in a Special Facility for Temporary Accommodation of Foreigners (SFTAF) for a period of 3 months. The foreigner shall stay in a SFTAF together with the minor or underage person, accompanied by him.

Involuntary accommodation shall not be applied to unaccompanied minors or underage persons. The authority issuing the order for imposing a compulsory administrative measure, under Art. 44, Para. 1 of the FRBA shall notify SAD, which will undertake measures of protection under the Child Protection Act (CPA).

Upon request by the unaccompanied underage 3rd country national for international protection under ARA, the SAR shall be informed and the relevant officials shall specify the place to which the child will be transported, date and time of the child's reception, as well as the documentation accompanying the child and information about his health status and other relevant information to ensure the interests of the unaccompanied minor. The unaccompanied minors, applying for international protection in the country shall be accommodated mainly in a registration and reception center, designated by SAR.

When urgent actions are needed for protection of an unaccompanied underage 3rd country national, he may be placed under 'police protection' (up to 48 hours) by the relevant Ministry of Interior (Mol) authorities. The child shall be accommodated in special premises in the Regional Police Department (RPD), in Homes for temporary accommodation of juveniles and minors to Mol or in specialized institutions, suitable for children.

For the targeted children group in question, measures for protection can be undertaken through accommodation with relatives or friends, foster families, social residential care services or specialized institutions, depending on the specifics of the case and the best interest of the child. The accommodation shall take place under the CPA.

The unaccompanied refugee children with a measure of protection, under the terms and conditions of the CPA, may be directed towards appropriate supporting social services in the community. They are provided by licensed social service providers, which are usually run by NGOs with experience and expertise in providing support to vulnerable people and children at risk.

Upon receipt in SAD of a signal for an, including a refugee child, this signal shall be registered, examined and evaluated, in line with the provisions of the current legislation on child protection.

For 2015, protection measures were undertaken for 21 unaccompanied underage 3rd country nationals. (19 children have benefited from social residential care service, 2 children – from a specialized institution).

For the period 01.01.2016 to 30.06.2016, no unaccompanied children seeking asylum or international protection have been accommodated, under the CPA.

Neither in the SAR centers, nor in the centers of Mol or social services are there registered cases of children - victims of sexual abuse. There is no research to indicate the probable number of victims of sexual violence.

- 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;

Vulnerability to sexual offenses is difficult to be identified because in most cases the victims are exposed to various forms of traditional and religious harmful practices. A particular difficulty is the discovery of sexual crimes committed outside the country, either as a harmful practice (early marriage and female genital circumcision) or other type of crime.

SAR defines the age of a person in accordance with Art. 61, Para. 3 of ARA, and in respect of the key principles of non-discrimination, respect for the child's best interests, the right to life, survival and development and respect for the child's views. Officials of the agency may set an expertise to determine the age of an unaccompanied minor during the application process, if they have doubts about the candidate's age. If, afterwards, the experts still have doubts about the applicant's age, they shall accept that the applicant is a minor. The expertise shall be carried out with the consent of the person and the representative, under Art. 25 of ARA, in full respect of human dignity, selecting the less invasive ways of medical examination, performed by a qualified medical practitioner, which allows the greatest degree of reliable result. When proceeding to conduct a medical examination, SAR shall ensure that:

- the unaccompanied minor shall be informed, prior to the examination of his/her application for international protection, in a language which he/she understands or there are enough grounds to be presumed that he/she understands, about the possibility to be subjected to medical examination in order to determine his/her age. This includes information on the method of examination and the possible consequences of the medical examination result for considering the application for international protection, including the consequences in refusal by the unaccompanied minor to undergo the medical examination;
- the unaccompanied minor and/or his/her representative must agree for a medical examination to be conducted in order to determine the age of the respective minor.

- 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;

Collected information shall be used for preparing statistical and/or situational analyzes and reports to offer a coordinated response from the various institutions responsible for protection and prevention of the fight against sexual exploitation and sexual abuse of children. It is a means for exchange of experience and knowledge between different institutions and NGOs in the country. This in turn helps to optimize collaboration and cooperation in the fight against sexual exploitation and sexual abuse of children and mobilize all responsible institutions, organizations and individuals to respect children rights, as required by the UN Convention on the rights of the child, its belonging optional protocols, international conventions, framework decisions and instruments for protection of children from offenses on them.

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

Institutions that are responsible for collecting the above information are: Ministry of Interior (MI), Ministry of Justice (MOJ), Ministry of Foreign Affairs (MFA); State Agency for Child Protection (SACP), Agency for Social Assistance (ASA), State Agency for Refugees (SAR) that work in coordination and in close cooperation with the National Commission for Combating Trafficking in Human Beings (NCCTHB) and the International Organization for Migration (IOM).

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;

Officials of GDBP are familiar with the legislative framework, governing the fight against human trafficking as a serious form of organized crime, the main features and trends in the criminal phenomenon development, the specific means and methods of prevention, detection and suppression of trafficking cases, as well as peculiarities of working with victims of trafficking.

In all territorial structures of GDBP and Border Checkpoint of the country information materials are provided. They are prepared by NCCTHB and NGOs on various projects related to combating human trafficking in all its manifestations and traffic stages.

Risk profiles have been prepared of victims of trafficking and traffickers, which are familiar to the GDBP structures and these are included in the annual training plans (incl. collecting base information from the victims and for/ from the perpetrators, identification of vulnerable persons in need of international protection, from possible victims of human trafficking, etc.). During the training special attention is paid to all forms of human trafficking, especially in the cases of child trafficking (for sexual

exploitation, labor exploitation, begging, petty theft, selling newborns and other) and issues concerning the measures to safeguard their rights are considered.

The ASA are organized and periodically conduct trainings of CPD officials to work with unaccompanied children, migrants, refugees and children-victims of trafficking and violence. Trainings are conducted jointly with experts from other institutions, international organizations and NGOs, which have experience and expertise on identifying and working with children at risk.

Territorial divisions in the country are provided with methodical instructions, recommendations and guidelines for working with children at risk, child victims of trafficking and violence and children seeking asylum and international protection in the country.

SAR performs primary prevention, targeted at the most vulnerable children who are at risk of future abuse. The tool, which is used for these persons is a Questionnaire for early identification of people with traumatic experiences, seeking protection (PROTECT). It enables to identify the special needs of vulnerable persons, including the unaccompanied underage and minors to be directed to adequate social, medical and psychological care, in order to break the cycle of abuse and to prevent a secondary trauma.

To improve the work with psychologically vulnerable individuals, who have experienced torture, rape and other serious forms of violence, SAR shall apply the following preventive measures: collect information on the legal and procedural standards for vulnerable people; raise awareness of officials about the problems of vulnerable persons through activities to enhance the capacity; provide an efficient and appropriate mechanism to identify vulnerable persons; use tools for efficient and personal approach to meet the special needs of vulnerable persons within the acceptance and procedure.

SAR officials have been involved in training for the identification and targeting of alleged victims of sexual and gender-based violence in the context of the international protection, organized by UNHCR.

- b) Underline any lessons learnt from specific challenges (e.g. in raising awareness on sexual violence amidst other urgent priorities, etc.) that had to be faced to improve prevention.

Sexual abuse of children in the family or community has many forms: incest and sexual abuse, forced marriages, female genital circumcision, pornography, prostitution, trafficking, vitiation and sexual abuse by other children. Against this we must work on several levels: local, national, European and global, and the preventive measures should be coordinated and consistent at all these levels. They should be complete, aimed at children, should be taken as soon as possible with a minimum level of intervention.

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;

An inter-institutional Coordination Mechanism for Referral and Care of Unaccompanied Bulgarian Children and Children Victims of Trafficking Returning from Abroad was established. It is a system for inter-institutional cooperation so as to facilitate and accelerate the interaction of the institutions at the return of unaccompanied minors from abroad and their care, as well as of children - victims of human trafficking.

At present, a workgroup with representatives from all interested governmental and non-governmental organizations is working on creation and adoption of 'Coordination Mechanism for Referral and Care of Unaccompanied Children - third country nationals, seeking asylum and/or international protection'.

Ministry of Interior annually provides the NCCTHB with the available information on identified cases of human trafficking in all forms of manifestation.

In order to guarantee the rights of children- foreign citizens, seeking and/ or benefiting international protection, an Agreement on cooperation, interaction and exchange of information between the State Agency for Child Protection and the SAR was signed, according to which both Contracting Parties will join efforts to implement a unified state policy for protection of minor children-foreigners, seeking and/or benefiting from international protection in the Republic of Bulgaria. In this manner the actions between the two agencies were coordinated and proposals for legislative changes were prepared, regarding the legal representation, minimum quality care standards for children-foreigners during their stay in the accommodation centers. Guaranteeing the rights of this particularly vulnerable group of children, at present, is a primary concern and responsibility of the state with a priority to provide their right to life, survival and development, prevention and non-discrimination, protection from all kinds of violence.

The SAR, together with government institutions and NGOs, is involved in updating the National Mechanism for Referral and Support of Trafficked Persons and Standard Operating Procedures for Prevention of and Response to Gender-Based Violence.

In line with Art. 22 of the UN Convention on the Rights of the Child and Art. 25 and Art. 26, Para. 1 and Para. 3 of the Asylum and Refugees Act, the Agency shall implement the measures required to ensure that a child who is seeking a refugee status or who is considered a refugee, no matter if he/she is accompanied or not accompanied by his/her parents or by a person responsible for him/her, will receive adequate protection, assistance and access to the respective rights. The process of determining the specific measures that shall be undertaken starts with assessing the best interest of the child. Unaccompanied or separated from their family children shall be considered in the

context of the UN Convention on the Rights of the Child, Directives on asylum and Directive on combating human trafficking, and Conclusion No 7 of the Executive Committee of UNHCR and are identified in Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum and Interagency Guidelines on Unaccompanied and Separated Children.

Protection measures that are tailored to the specific needs of children include: access to safe accommodation and care; age determination when necessary; family tracing; provision of appropriate social, health and psychological care and the right to education; provision of representative; legal advice/ representation; access to mechanism of complaints; interpreter; interviews and advice tailored to the child in order to ensure that his/her best interests shall be a primary consideration; interests of the child in accordance with his/her age and maturity.

Conclusion No 107 of the Executive Committee of UNHCR identifies as children at increased risk, those affected by individual risk factors, including, but not limited to: the situation of unaccompanied or separated children, particularly those in households headed by children as well as those who are accompanied by adults who benefit from them or exploit them; children who are stateless persons; adolescents, especially girls who are mothers and their children; children-victims of human trafficking and sexual abuse, including pornography, pedophilia and prostitution; survivors of violence, particularly sexual and gender-based violence and other forms of abuse and exploitation.

- 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);

Unaccompanied refugee children usually have no identity documents. They enjoy privileges in proceedings for the assessment of their asylum application, under the Asylum and Refugees Act.

Police protection may be provided to an underage foreign citizen under Art. 13, Para. 3 of Ordinance No 1 - 51/2001 on the terms and conditions for providing police protection to children. The respective embassy or consular office shall be informed, following the specified procedure.

Unaccompanied minors are children at risk, under the CPA. The SAD shall initiate casework, shall appoint a social worker to support the unaccompanied child and to help ensure his/her rights and interests during his/her stay and residence in the centers of the SAR. Children shall be informed and consulted appropriately, according to their age and level of development about their rights and interests. The social worker deals with providing the necessary information for the child, which will help him/her to form their opinion. Unaccompanied children shall be consulted about the potential consequences of their wishes and decisions of the institutions.

Social workers are trained to deal with unaccompanied children seeking and benefiting international protection in the country by UNHCR and other international and non-governmental organizations with experience and expertise to work with refugee children and victims of violence.

A priority in the work of the responsible institutions is uniting the child with his/ her parents and/ or relatives and preserving his/her identity.

Considering that, to ensure the rights and interests of minor migrant children within the country, they need to have an appointed custodian or legal representative, we inform you about the following:

Terms and conditions for the establishment of guardianship and custody of children are regulated in the Family Code. SAD, as a body for child protection at a local level, is involved in the procedure for the establishment of guardianship and custody, under the Family Code provisions. Decisions for establishing a guardian and a custodian shall be taken by the Authority for guardianship and custody – by the Municipality Mayor or by his appointed official.

For unaccompanied children- third country nationals, who have requested international protection in the country and are a party in the proceedings for granting status, in ARA were introduced relatively new amendments from 16.10.2015, to ensure and provide a legal representation of unaccompanied children- foreigners.

For the unaccompanied children- third country nationals, who have not requested international protection under ARA shall be undertaken a measure of protection under the Child Protection Act.

According to Art. 137 of the Family Code, for children who administratively or judicially have been accommodated outside the family, is provided a 'substitute care'. This care is awarded to persons who, without the parents' consent can make decisions and take legal action to safeguard the lives and health of children and to ensure their rights and interests.

- c) Underline any lessons learnt from specific challenges (in reporting suspicion of sexual exploitation and abuse, in tailoring assistance to the victims, etc.) that had to be faced to improve protection.

As a consequence of the increased number of illegal migrants and refugees in the country, it can be assumed that some of them may be involved in various forms of internal human trafficking, mainly for labor and sexual exploitation, but to date such information has not been received.

In order to protect the refugee children, in 2013 the Child Protection Act was supplemented, according to Art. 10, Para. 2 (suppl. SG. 84 of 2013) the right for protection under this Act has a person – a victim of violence or exploitation, whose age has not been identified and for whom can be made a reasonable assumption to be a child.

The aforementioned supplement allows to take adequate measures for the person, if needed, within the time to identify his/her actual age.

Regulatory framework has been improved regarding the children's representation. According to Art. 25, Para. 1 of ARA, for an unaccompanied minor or underage foreigner, seeking or benefiting international protection in the Republic of Bulgaria, shall be appointed a representative from the municipal administration, designated by the Mayor or his authorized official. The powers of the representative under Para. 1 are specifically stipulated in Para. 3 of Art. 25 in ARA.

Amendments and supplements in ARA were indispensable given the existing in practice obstacles for the implementation of the Family Code provisions, regarding the appointment of a guardian and a custodian for the unaccompanied children- foreign nationals seeking or granted international protection.

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.

Operational exchange of information takes place, in real time, about the possible victims and their traffickers, with representatives of the police authorities of the EU Member States in Bulgaria and representatives of the Ministry of Interior in the EU and third countries. The information includes signals, data received from talks with victims of trafficking and persons involved in the human trafficking, data coming from the Border Checkpoint interviewing teams, an application by the victim or his/her relatives, information received from national and international structures.

Extremely successful is the partnership with NGOs with a view to provide support to victims of trafficking and their involvement as witnesses in criminal proceedings in the country and/ or abroad against traffickers. The officials of the competent bodies shall inform the potential victims of trafficking about their rights on the reflection period, legal protection and compensation under the Bulgarian legislation.

If necessary, ASA and in particular SAD, as a body for the child protection, independently from the state authorities and institutions engaged in the child protection and human trafficking, also seeks the assistance of the social service providers, of the professionals working in crisis centers for children- victims of trafficking and violence and of non-governmental organizations with experience and expertise in the field of combating human trafficking and violence against children.

Child protection system is primarily engaged to guarantee the rights and interests of unaccompanied minors, seeking and benefiting international protection. The responsible state institutions actively interact and cooperate with the interested international

organizations and NGOs in the interests of the minor migrant children and refugee children.

In order to counteract these negative trends and to prevent crimes against children and to prevent the risk of victimization or repeated falling the victim into risky and criminal environment, ASA and its territorial divisions apply these established coordination mechanisms:

1. Coordination Mechanism for referral and care of unaccompanied children and children- victims of trafficking, returning from abroad;
2. Coordination mechanism for interaction when dealing with children- victims of or at risk of violence.

Both mechanisms have been established to ensure effective coordination in the implementation of specific obligations for cooperation between the institutions involved. The preventive action of mechanisms seeks to protect and provide a safe environment for victims and to restrict the probability for a person to become a subject of crime.

In a case of violence, abuse and/or exploitation shall be signaled the Ministry of Interior bodies and prosecutor's office for action on competence.

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.

The main problem is the difficult access to appropriate social services, in terms of ensuring the necessary conditions and specialists to respond adequately to the needs of the unaccompanied children- foreign citizens and refugee children in a short and long term.

For accommodation of minors at risk, the already built capacity of the existing social services for children throughout the country is being used.

There is need to open a temporary center with appropriate conditions for children, where the unaccompanied children- foreign citizens will be temporarily housed for a short term. During this accommodation violence identification, needs assessment and vulnerability assessment will be performed, until a more permanent solution is found in a long term.