

Strasbourg, 9 June 2011

T-ES (2011) 02

**COMMITTEE OF THE PARTIES TO CONVENTION ON THE PROTECTION OF CHILDREN
AGAINST SEXUAL EXPLOITATION AND SEXUAL ABUSE**

(T-ES)

INFORMATION DOCUMENT CONCERNING THE T-ES

Secretariat Memorandum prepared by
the Directorate General of Human Rights and Legal Affairs (DG-HL)

1. Following the decision of the heads of state and government of the Council of Europe at the 3rd Summit in Warsaw in May 2005 which stressed their commitment to eradicating all forms of violence against children and their sexual exploitation by taking specific action and, if appropriate, drawing up legal instruments, the Committee of Ministers entrusted the European Committee on Crime Problems (CDPC) with the task of conducting a review of the implementation of the relevant international instruments with a view to evaluating the need for a new international instrument and, if necessary, drawing up such an instrument. Owing to the need to prepare a comprehensive international instrument focusing on the preventive, protective and criminal law aspects of the fight against all forms of sexual exploitation and sexual abuse of children and setting up a specific monitoring mechanism, the Council of Europe Convention for the protection of children against sexual exploitation and sexual abuse [CETS N°201] was prepared.
2. The Convention was prepared by all member states of the Council of Europe as well as Canada, the Holy See, Japan, Mexico and the United States of America. It was adopted and opened for signature in 2007 at the occasion of the 28th Conference of European Ministers of Justice in Lanzarote, Spain. To date, 29 States have signed the Convention and 13 (Albania, Austria, Denmark, Finland, France, Greece, Malta, Montenegro, the Netherlands, Romania, San Marino, Serbia, Spain) have ratified it. The Convention entered into force on 1 July 2010 following its fifth ratification.
3. The Convention is the first international treaty which defines and criminalises sexual abuse of children in such a broad manner to ensure that all sexual offences against minors are specifically criminalised, including child prostitution, pedopornography, grooming and corruption of children through exposure to sexual content and activities. It seeks to cover abuse within the victim's family or close social surroundings and acts committed for commercial or profit-making purposes. In this regard, it ensures that States in Europe and beyond establish specific legislation and pragmatic measures with an emphasis on keeping the best interest of children at the forefront to prevent sexual violence but also to protect child victims, prosecute perpetrators, and to promote partnerships and participation policies.
4. The Convention provides for the establishment of a Committee of the Parties to monitor its implementation (see Chapter X which is appended to the memorandum). The systematic monitoring of the Convention will be one of its major strengths.
5. In accordance with the Convention, the Committee shall be composed of the representatives of the Parties to the Convention and shall meet for the first time within a period of one year following the entry into force of this Convention for the tenth signatory having ratified it.
6. The Convention provides for the traditional follow-up competencies of the Committee of the Parties (see the explanatory report of the Convention concerning Article 41 at Appendix 2) which should:
 - a) play a role in the effective implementation of the Convention, by making proposals to facilitate or improve the effective use and implementation of the Convention, including the identification of any problems and the effects of any declarations made under the Convention;
 - b) play a general advisory role in respect of the Convention by expressing an opinion on any question concerning the application of the Convention;

- c) serve as a clearing house and facilitates the exchange of information on significant legal, policy or technological developments in relation to the application of the provisions of the Convention.
7. In order to carry out the above-mentioned tasks, invitation letters were sent to:
- Permanent Representations of the Parties to the Convention on the Protection of children against sexual exploitation and sexual abuse to appoint representatives with reimbursement of travel and subsistence expenses for one representative. Each Party shall have a right to vote.
 - Permanent Representations to appoint representatives without the right to vote and reimbursement of travel and subsistence expenses of:
 - i. States which have signed but not yet ratified the Convention;
 - ii. States which have ratified or acceded to the Convention but in respect of which it has not yet come into force;
 - iii. other member states of the Council of Europe;
 - iv. non-member states which are invited to accede to the Convention;
 - v. the European Union;
 - the following Council of Europe bodies :
 - i. the Parliamentary Assembly of the Council of Europe;
 - ii. the Commissioner for Human Rights;
 - iii. the Conference of INGOS of the Council of Europe;
 - iv. the Congress of Local and Regional Authorities of Europe;
 - the following relevant International Organisations and NGOs:
 - i. United Nations Children' Fund (UNICEF)
 - ii. Interpol
 - iii. the UN Committee on the Rights of the Child
 - iv. ECPAT International
 - v. the European Center for mission and sexually exploited children
 - vi. the European Network of Ombudspersons for children (ENOC)
 - vii. the European NGO Alliance for Child Safety Online (eNACSO)
 - viii. NGO Group for the Convention on the Rights of the Child
 - ix. Save the Children Alliance
 - x. Terre des Hommes
 - the following relevant Council of Europe committees (at the charge of the corresponding Council of Europe budget sub-head):
 - i. the European Committee on Crime Problems (CDPC)
 - ii. the European Committee on Legal Cooperation (CDCJ)
 - iii. the European Committee on Social Rights (ESCR)
 - iv. the Advisory Council on Youth (CCJ)
 - v. the European Committee for Social Cohesion (CDCS)
 - vi. the Steering Committee for Human Rights (CDDH)
8. According to Articles 39 and 41 of the Convention, it is left to the Committee of the Parties, through its rules of procedure, to determine the actual method of procedure for evaluating whether or not, or to what extent, the Convention is being implemented

by the parties. Therefore, the first meeting of the Committee will aim primarily at discussing and adopting the rules of procedure of the Committee.

9. It should be borne in mind that the drafters of the Convention wanted to devise as simple and flexible a mechanism. The idea was for the Committee of the Parties to serve as a centre for the collection, analysis and sharing of information, experiences and good practices between states to improve their policies to prevent and combat sexual exploitation and abuse of children, as mentioned in paragraph 270 of the explanatory memorandum. Thanks to the flexibility of the provisions of Articles 39 and 41, and in particular through the use of the rules of procedure, a variety of possibilities exist for the structure and functions of the Committee of the Parties and several models exist within other Council of Europe which will also serve as a basis for the preliminary draft of the rules of procedure to ensure an effective and feasible monitoring procedure.

Appendix I

CHAPTER X OF THE CONVENTION ON THE PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION AND SEXUAL ABUSE

Chapter X – Monitoring mechanism

Article 39 – Committee of the Parties

- 1 The Committee of the Parties shall be composed of representatives of the Parties to the Convention.
- 2 The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention for the tenth signatory having ratified it. It shall subsequently meet whenever at least one third of the Parties or the Secretary General so requests.
- 3 The Committee of the Parties shall adopt its own rules of procedure.

Article 40 – Other representatives

- 1 The Parliamentary Assembly of the Council of Europe, the Commissioner for Human Rights, the European Committee on Crime Problems (CDPC), as well as other relevant Council of Europe intergovernmental committees, shall each appoint a representative to the Committee of the Parties.
- 2 The Committee of Ministers may invite other Council of Europe bodies to appoint a representative to the Committee of the Parties after consulting the latter.
- 3 Representatives of civil society, and in particular non-governmental organisations, may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.
- 4 Representatives appointed under paragraphs 1 to 3 above shall participate in meetings of the Committee of the Parties without the right to vote.

Article 41 – Functions of the Committee of the Parties

- 1 The Committee of the Parties shall monitor the implementation of this Convention. The rules of procedure of the Committee of the Parties shall determine the procedure for evaluating the implementation of this Convention.
- 2 The Committee of the Parties shall facilitate the collection, analysis and exchange of information, experience and good practice between States to improve their capacity to prevent and combat sexual exploitation and sexual abuse of children.
- 3 The Committee of the Parties shall also, where appropriate:
 - a facilitate the effective use and implementation of this Convention, including the identification of any problems and the effects of any declaration or reservation made under this Convention;

- b express an opinion on any question concerning the application of this Convention and facilitate the exchange of information on significant legal, policy or technological developments.
- 4 The Committee of the Parties shall be assisted by the Secretariat of the Council of Europe in carrying out its functions pursuant to this article.
- 5 The European Committee on Crime Problems (CDPC) shall be kept periodically informed regarding the activities mentioned in paragraphs 1, 2 and 3 of this article.

Appendix II

EXTRACT OF THE EXPLANATORY REPORT CONCERNING CHAPTER X

Chapter X – Monitoring mechanism

262. Chapter X of the Convention contains provisions which aim at ensuring the effective implementation of the Convention by the Parties. The monitoring system foreseen by the Convention is based essentially on a body, the Committee of the Parties, composed of representatives of the Parties to the Convention, including representatives of Parties that may accede to the Convention under Articles 45 and 46.

Article 39 – Committee of the Parties

263. This article provides for the setting up of a committee under the Convention, the Committee of the Parties, which is a body with the composition described above, responsible for a number of Convention-based follow-up tasks.

264. The Committee of the Parties will be convened the first time by the Secretary General of the Council of Europe, within a year of the entry into force of the Convention by virtue of the 10th ratification. It will then meet at the request of a third of the Parties or of the Secretary General of the Council of Europe.

265. It should be stressed that the negotiators sought to allow the Convention to come into force quickly while deferring the introduction of the monitoring mechanism until such time as the Convention was ratified by a sufficient number of States for it to operate under satisfactory conditions, with a sufficient number of representative States Parties to ensure its credibility.

266. The setting up of this body will ensure equal participation of all the Parties in the decision-making process and in the Convention monitoring procedure and will also strengthen co-operation between the Parties to ensure proper and effective implementation of the Convention.

267. The Committee of the Parties must adopt rules of procedure establishing the way in which the monitoring system of the Convention operates, on the understanding that its rules of procedure must be drafted in such a way that the Parties to the Convention, including the European Community, are effectively monitored.

Article 40 – Other representatives

268. When they drafted this article, the negotiators wanted to send out an important message concerning the participation of bodies other than the Parties themselves in the Convention monitoring mechanism. They therefore referred, firstly, to three institutions of the Council of Europe – the Parliamentary Assembly, the Commissioner for Human Rights and the European Committee on Crime Problems (CDPC) – which are listed in the Article and, secondly, to a number of committees which, by virtue of their responsibilities, would definitely make a worthwhile contribution by taking part in monitoring work on the Convention. These committees are the European Committee on Legal Cooperation (CDCJ), the European Committee of Social Rights (ECSR), the Advisory Council on Youth (CCJ) and the European Committee for Social Cohesion (CDCS), with particular emphasis on the Steering Committee for Human Rights (CDDH).

269. The importance afforded to involving representatives of civil society in the work of the Committee of the Parties is undoubtedly one of the main strengths of the monitoring system provided for by the negotiators. The possibility of admitting representatives of non-governmental organisations and other bodies actively involved in preventing and combating

sexual exploitation and abuse of children received strong support and was considered essential if monitoring of the application of the Convention was to be truly effective.

Article 41 – Functions of the Committee of the Parties

270. When drafting this provision, the negotiators wanted to devise as simple and flexible a mechanism as possible, centred on a Committee of the Parties with a broader role in the Council of Europe's legal work on combating the sexual exploitation and abuse of children. The Committee of the Parties is thus destined to serve as a centre for the collection, analysis and sharing of information, experiences and good practice between States to improve their policies for preventing and combating sexual exploitation and abuse of children.

271. With respect to the Convention, the Committee of the Parties has the traditional follow-up competencies and:

- a. plays a role in the effective implementation of the Convention, by making proposals to facilitate or improve the effective use and implementation of the Convention, including the identification of any problems and the effects of any declarations made under the Convention;
- b. plays a general advisory role in respect of the Convention by expressing an opinion on any question concerning the application of the Convention;
- c. serves as a clearing house and facilitates the exchange of information on significant legal, policy or technological developments in relation to the application of the provisions of the Convention.

272. Paragraph 5 states that the European Committee on Crime Problems (CDPC) should be kept periodically informed of the activities mentioned in paragraphs 1, 2 and 3 of Article 41.

Appendix III

Chart of signatures and ratifications

Opening for signature

Place: Lanzarote
Date : 25/10/2007

Entry into force

Conditions: 5 Ratifications including at least 3 member
States of the Council of Europe
Date : 1/7/2010

Status as of: 9/6/2011

Member States of the Council of Europe

States	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Albania	17/12/2008	14/4/2009	1/7/2010				X			
Andorra										
Armenia	29/9/2010									
Austria	25/10/2007	25/2/2011	1/6/2011				X			
Azerbaijan	17/11/2008									
Belgium	25/10/2007									
Bosnia and Herzegovina										
Bulgaria	25/10/2007									
Croatia	25/10/2007									
Cyprus	25/10/2007									
Czech Republic										
Denmark	20/12/2007	18/11/2009	1/7/2010		X		X	X		
Estonia	17/9/2008									
Finland	25/10/2007	9/6/2011	1/10/2011				X			
France	25/10/2007	27/9/2010	1/1/2011		X	X	X			
Georgia	12/3/2009									
Germany	25/10/2007									
Greece	25/10/2007	10/3/2009	1/7/2010				X			
Hungary	29/11/2010									
Iceland	4/2/2008									
Ireland	25/10/2007									
Italy	7/11/2007									
Latvia										
Liechtenstein	17/11/2008									

Lithuania	25/10/2007									
Luxembourg	7/7/2009									
Malta	6/9/2010	6/9/2010	1/1/2011				X			
Moldova	25/10/2007									
Monaco	22/10/2008									
Montenegro	18/6/2009	25/11/2010	1/3/2011			X				
Netherlands	25/10/2007	1/3/2010	1/7/2010				X	X		
Norway	25/10/2007									
Poland	25/10/2007									
Portugal	25/10/2007									
Romania	25/10/2007	17/5/2011	1/9/2011				X			
Russia										
San Marino	25/10/2007	22/3/2010	1/7/2010				X			
Serbia	25/10/2007	29/7/2010	1/11/2010				X			
Slovakia	9/9/2009									
Slovenia	25/10/2007									
Spain	12/3/2009	5/8/2010	1/12/2010			X	X			
Sweden	25/10/2007									
Switzerland	16/6/2010									
The former Yugoslav Republic of Macedonia	25/10/2007									
Turkey	25/10/2007									
Ukraine	14/11/2007									
United Kingdom	5/5/2008									

Non-member States of the Council of Europe

States	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Canada										
Holy See										
Japan										
Mexico										
United States of America										

International Organisations

Organisations	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
European Union										

Total number of signatures not followed by ratifications:	29
Total number of ratifications/accessions:	13

Notes:

a: Accession - s: Signature without reservation as to ratification - su: Succession - r: Signature "ad referendum".
R.: Reservations - D.: Declarations - A.: Authorities - T.: Territorial Application - C.: Communication - O.: Objection.

Source : Treaty Office on <http://conventions.coe.int>