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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**

**SERBIA**

**2<sup>nd</sup> thematic monitoring round**

**“The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)”**

Replies registered by the Secretariat on 23 October 2017

## Prevention

### Question 1 Awareness-raising or educational activities/tools/materials/measures

- 1.1. Are there awareness-raising or educational activities/tools/materials/measures addressed to children, about the risks they face when they produce and/or share:
- self-generated sexually explicit images and/or videos?
  - self-generated sexual content?

Ministry of Education Answers:

The awareness-raising or educational activities about the risks the children face when they produce and/or share self-generated sexually explicit images and/or videos, and self-generated sexual content are carried out under various projects, programmes and activities focused to the prevention of violence in schools, of gender-based violence and digital violence, in particular:

- “School without Violence” Project implemented by the Ministry of Education, Science and Technological Development (MoESTD) as of 2005 in cooperation with the UNICEF. Currently there are 19.000 and 229.000 teachers and their parents, and over 60 active mentors who comprise the “School without Violence” network.

- Under the “Integrated Response to Violence against Women in Serbia” project, the component about the educational system, implemented jointly by the UNDP, UNICEF, UN WOMAN, MoESTD, Faculty of Political Sciences, Faculty of Philosophy, Belgrade Institute for Psychology, a research has been conducted on gender-based violence in schools across Serbia, the deliverables of which are training programmes developed for schools and the publication of a manual on prevention of gender-based violence at schools. The research was undertaken on 24.982 participants (i.e. 13.609 primary school pupils and 8.755 secondary school students).

- The first national study on sexual abuse of children as a social issue has been undertaken in cooperation with civil society organizations (CSOs), on the sample of 2.053 pupils in 97 schools across Serbia. The outcomes informed the forum and discussions with pupils, students, teachers about the protection against gender-based violence.

- The Gender Awareness and Prevention of Discrimination and Violence in the Preschool Education project supported by UNICEF and CIP) has been implemented in 50 primary and secondary schools. In phase 2 of the Project, which is on-going, the training for schools, mentors, and partner schools shall be delivered (for a total of 1.600 pupils).

A pilot phase in pre-school institutions is planned (for a total 1.200 children from 3 and 6,6 years of age).

- In cooperation with the UNICEF and Telenor company, MoESTD developed and implemented the project “Stop Digital Violence” the objective of which is to prevent abuse of digital media and raise awareness on the role and significance of digital media in contemporary conditions of living. The target group consisted of elementary school pupils and secondary school students across Serbia, and their teachers and parents. The first research of the frequency of digital violence among children and students has been conducted within the scope of larger efforts to prevent digital violence. The sample consisted of **3.786 students and pupils. A manual “Digital violence: prevention and response” has been developed and circulated to all the schools in Serbia. A Facebook help application has been developed to provide assistance and help to pupils and students in situations of digital violence, where those who are exposed to digital violence may receive professional expert assistance upon reporting it. Special attention has been paid to the preventive measures of precaution (posting a photo, data, sensitive data, etc.). 3.784 pupils and students have been covered by the activities aimed at the prevention of digital violence.**

NGO Astra Answers:

Since October 2015 on Facebook page Biraj reči, hejt spreči ([www.birajreციhejtspreცი.rs](http://www.birajreციhejtspreცი.rs)) an online SOS service for support to children and youth who suffered any form of digital violence. Additionally, this Facebook page informs children and youth about consequences of the irresponsible behaviour on the internet and social networks. The project was initialized by UNICEF Serbia, Ministry of Education, Science and Technological Development and Telenor Company.

In 2016, publication digital violence – prevention and reaction was published with in the project Development of the capacities of the system to fight violence and abuse of children on the internet. The project was supported by the government of Great Britain and realized by the Ministry of Education, Science and Technological Development, Pedagogical society of Serbia and UNICEF. Publication is also a part of the project Stop digital violence that was realized by the UNICEF Serbia, Ministry of Education, Science and Technological Development and Telenor Company.

In 2017, National contact centre for online safety of children (phone: 19833, email: [bit@mtt.gov.rs](mailto:bit@mtt.gov.rs), web: [www.pametnoibezbedno.gov.rs/rs-lat/kontakt-centar](http://www.pametnoibezbedno.gov.rs/rs-lat/kontakt-centar), Facebook: [www.facebook.com/pametnoibezbedno](http://www.facebook.com/pametnoibezbedno)) start running by the Ministry of Trade, Tourism and Telecommunications, in cooperation with Asseco SEE company. The contact centre provides parents, teachers and all other citizens, and the children themselves, who might have suspicions that online safety or rights of children are violated, with the opportunity to report such a case or suspicion, but also to get informed about potential online dangers as well.

In 2017, Ministry of Trade, Tourism and Telecommunication in cooperation with Ministry of Education, Science and Technological Development and Ministry of interior affairs, supported by Save the Children and Microsoft company started the project IT caravan “Smart and safe” about safe use of the internet. The workshops were organized in 15 schools across Serbia.

Some of the other educational material that are developed by CSOs include:

- i. “KIKO and the Hand” short educational movie developed by pupils from elementary school “Djuro Daničić”, Belgrade in 2015 together with Incest Trauma Centre
- ii. “Let’s talk about sexual violence” short educational movie developed by the peer team of Incest Trauma Center in 2015.

1.2. Are there awareness-raising or educational activities/tools/materials/measures specifically targeting children as bystanders/observers of other children producing and/or sharing:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

Ministry of Education Answers:

Given that the awareness-raising or educational activities on damaging effects of generating sexually explicit images, content and their distribution simultaneously cover pupils and students who generate such content, etc. by themselves, or distribute and peruse them themselves, the programmes in question are cited under items 1.1 and are identical for item 1.2.

NGO Astra Answers:

According to our knowledge there are no such awareness-raising or education activities.

- 1.3. Are there awareness-raising activities/tools/materials/measures addressed to parents and persons who have regular contact with children (teachers, psychologists, health care professionals, etc.) about the risks children face when they produce and/or share:
- a. self-generated sexually explicit images and/or videos?
  - b. self-generated sexual content?

Ministry of Education Answers:

Awareness-raising and education of parents, teachers, and practitioners on risk to which the children are exposed when generating or sharing sexually explicit contents (images, videos, etc.) is conducted under projects related to prevention of violence in schools, gender-based violence and digital violence, in particular :

- Under the project “School without Violence” implemented by MoESTD in cooperation with UNICEF (it has no longer been supported financially by UNICEF). Currently, 19.000 teachers with 229.000 pupils and students and their parents, and more than 60 active mentors are members of the ever increasing School without Violence Network.

- Under the programme "Integrated response to violence against women in Serbia", the section concerning education, jointly implemented by UNDP, UNICEF, UN WOMAN, MoESTD, Faculty of Political Sciences, Faculty of Philosophy, Belgrade Institute for Psychology – a gender-based research has been conducted in the schools across Serbia to inform training programmes for schools and manual “Prevention of Gender-Based Violence in Schools” has been developed. The research covered 2619 school staff (teachers and practitioners, i.e. professional associates). Based on the results of the research the training courses on gender-based violence and response in situation of gender-based violence have been delivered for more than 1.800 staff. Following its needs and context, and in accordance with its own basic matrix and set of other workshops, every school has organised trainings for its staff, parents and pupils/students, which were facilitated by the mentors of the training programme “School without Violence” who pre-emptively participated in the training i.e. have been themselves duly trained in the field of expertise, which was organised by the MoESTD.

- A section of the manual “Protection for Women and Girls from Violence in Serbia” issued by UNDP, UNICEF, a special chapter is about “Procedure and follow up by educational institutions in cases of violence against girls and women”.

In cooperation with CSOs, the first National study on sexual abuse of children as a social issue and concern has been conducted on the sample of 2.053 pupils and students in 97 schools across Serbia. The findings informed fora and interviews with pupils, students, teachers on the protection from gender-based violence. Public debates on the topic “From national study to strategy on preventing sexual violence in education” have been organised in 11 cities of Serbia, at which 533 educational staff and students have took part.

- Under the project “Gender awareness, prevention of violence in kindergartens and schools (in cooperation with UNICEF and CIP) the implementation has been completed in 50 primary and secondary schools. In the second phase of the project which is on-going, a training course will be delivered for mentors and partner schools (in total 100 teachers). A pilot phase is planned for implementation in pre-schools (100 pre-school educators, 500 parents and 35 practitioners).

- In cooperation with UNICEF and Telenor Company the MoESTD has created and implemented the project “Stop Digital Violence” with an objective to prevent abuse of digital media and awareness raising on the role and significance of digital media in contemporary living conditions.

The project target group consisted of pupils (primary school) and students (secondary schools) and their parents as well. The first research on the sample of 3.786 pupils and students about the frequency of digital violence among children and students has been conducted within the scope of larger efforts to prevent digital violence. **A manual “Digital violence: prevention and response” has been developed and circulated to all the schools in Serbia. A Facebook help application has been**

developed to provide assistance and help to pupils and students in situations of digital violence, where those who are exposed to digital violence may receive professional expert assistance upon reporting it. Under the project, over 6.000 pupils and students, and practitioners (staff) have been trained to recognize and respond in the situations of digital violence, and for safe use of the Internet. The same training was delivered to 1.900 teachers via organized and hosted professional consultations and meetings, as well as 2.031 parents and 1.349 teachers.

160 educational advisors at all school administrations/authorities have been trained to provide support to schools in responding to the situations of digital violence through the training courses on “Empowering of school administration staff to provide support in protecting students and pupils from digital violence”.

- A training course was delivered from school staff under the M Programme implemented in cooperation with CARE INTERNATIONAL and CENTRE E8. High school professional associates attended training courses in Belgrade, Nis, Novi Sad, Kragujevac, and Prokuplje. A total number of participants so trained is 300 professional associates – psychologists and pedagogues, and high school teachers).

- Under the project on protection of children from trafficking in human beings, a training course on application of the preliminary indicators in identification of children who are victims of trafficking in human beings was delivered for 50 educational staff.

NGO Astra Answers:

According to our knowledge there were no such awareness-raising activities.

→ Please specify which entities carry out the above-mentioned awareness raising or educational activities (questions 1.1, 1.2 and 1.3) and how they coordinate their action.

Ministry of Education Answers:

Ministry of Education, Science and Technological Development (MoESTD), jointly with its partners ensures the implementation of projects and project activities in primary and secondary schools. The schools participate in special training courses and implement the referred to activities and programmes. The Anti-Violence and Anti-Discrimination Group at the MoESTD conducts programmes on protection from all forms of violence.

Trained professionals at school administrations provide permanent support to schools.

→ Please share links to awareness-raising or educational materials (e.g. booklet, video, smart phone application, manual on non-formal education, tool-kit, internet tools) produced for the above mentioned activities (questions 1.1, 1.2 and 1.3).

Ministry of Trade, Tourism and Telecommunication Answer:

In February 2017 Ministry of Trade, Tourism and Telecommunications established National Contact Center for Child Online Safety, which is the helpline for children, parents and teachers, who are advised on the advantages and risks of Internet use, and on the safe ways for using the Internet, including the advising on risks of video games and Internet use addiction. Ministry established Internet portal [“Smart and safe”](#) containing information and articles about risks on the Internet (such as stealing personal data, Internet frauds, Internet stalking, sexual harassment, a. self-generated sexually explicit images and/or videos, self-generated sexual content, bullying, offensive and disturbing messages and other risks).

Through helpline and internet portal, it is possible to report harmful, illicit and illegal content and behaviour on the Internet. In case that report indicates the harmful or illicit content on web site, the Ministry sends the notification to the web site administrators. If there are indications on existing of criminal offence, the report is sent to competent prosecutor office, and the Ministry of Interior (Service for combating cybercrime) is informed. The report is sent to the competent center for social work if there are indications on the infringement of children`s rights, health status, well-being or child integrity, and also the report is sent to the competent healthcare institutions in the case of risk of internet use addiction. After the reception of the report, centers for social work, in accordance with their competence, assess the attitudes of the parents and other persons which take care of child, and determine the degree of influence of illegal ICT content on child, and provide assistance in accordance with the law and their competence.

Ministry of Trade, Tourism and Telecommunications organized in August 2017 presented the activities of National Contact Center and measures for child online safety to the employees in health institutions in Serbia. The presenters exchanged ideas for improving child online safety. From September 2017 it is planned that representatives of Ministry take presentations in other institutions, and especially in centers for social works.

During 2016 and 2017 Ministry of Trade, Tourism and Telecommunications, in cooperation with the Ministry of Education and "Microsoft", conducted the campaign "Smart and Safe" within the project "IT caravan", which was organized in the elementary schools in the cities in the Republic of Serbia. A great number of pupils attended the school presentations, and thousands of citizens attended the programs, that were organized at the city squares, which aim was to raise awareness of children online safety. These activities will also be organized in 2018.

Ministry of Justice Answer:

*1.1. – 1.3.: During June 2017. CSO organisation Save the Children organized in Serbia and Bosnia and Herzegovina educational and awareness raising campaign #Misliš da znaš mračnu stranu interneta? (#you think you know the dark side of internet?) Said campaign produced, on social networks and in the media, content that provided information and education for children and parents for safer use of the Internet, including dangers of sharing pictures and not reporting cyber violence. <https://childhub.org/sh/djecija-zastita-multimedijalni-izvori/nauci-da-koristis-internet-sigurno-infografika-infographic>*

Ministry of Education Answers:

<http://www.mpn.gov.rs/grupa-za-prevenciju-nasilja/>

<http://sbn.mpn.gov.rs/>

<http://e8.org.rs/services/program-m/>

<http://www.mpn.gov.rs/prevenција-trgovine-decom-i-mladima-u-obrazovanju/>

## Question 2. Civil society involvement

2.1. How do State authorities encourage the implementation of prevention projects and programmes carried out by civil society with regard to:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

Ministry of Trade, Tourism and telecommunication Answer:

Every year Ministry of Trade, Tourism and Telecommunications co-finances programs of Non-governmental organizations (NGO) which are related to child online safety. Programs are related to production and distribution of booklets, videos, Smartphone application, manuals on non-formal education and other activities. The participators and users of these projects are educated, inter alia, on risks of self-generated sexually explicit images and/or videos and self-generated sexual content. From 2013 Ministry has supported 51 projects with about 41 million dinars (around 340.000 Euros).

Ministry of Education Answers:

The support is provided and ensured through the implementation of joint programmes under the mentioned projects.

2.2. Please provide information on prevention activities (including awareness-raising and educational activities, research etc.) implemented by civil society (including those carried out by civil society at their own initiative) with regard to:

- a. self-generated sexually explicit images and/or videos;
- b. self-generated sexual content?

Ministry of Education Answers:

The activities implemented in cooperation with the representatives of civil society have already been referred to and enlisted under items 1.1., 1.2., 1.3.

NGO Astra Answers:

Some of the other educational material that is developed by CSOs includes:

- i. "KIKO and the Hand" short educational movie developed by pupils from elementary school "Djuro Daničić", Belgrade in 2015 together with Incest trauma centre
- ii. "Let's talk about sexual violence" short educational movie developed by the peer team of Incest Trauma Center in 2015.

Tijana Jurić Foundation started a project "Tijana click" which involves the education of children from elementary schools and their parents about safe use of internet and dangers that may occur.

In 2016, Center for Public Policy Research in the Policy brief "Child safety on the Internet in Serbia: Exposure without coordinated care", advocates for children to be recognized as vulnerable groups in the Strategy of development information security.

### **Question 3. National curriculum**

Does national curriculum (primary and secondary schools, and vocational education) include awareness-raising about the risks of:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

NGO Astra Answers:

In 2016, Incest Trauma Center developed, together with Ministry of Education, Science and Technological Development developed Educational packages for prevention of sexual abuse of children.

After complains of parents and trade union of education because of the contents of the Educational packages, Ministry decided to withdraw it from the public and to review it.

### **Question 4. Higher education curriculum and continuous training**

Do higher education curriculum and continuous training for those who will or already work with children include the issues raised by:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

Ministry of Education Answers:

Defining the content of study programme curricula is under the competence of autonomous university institutions. Thus, the data on the content of such study programme curricula are not available with the Ministry of Education, Science and Technological Development.

NGO Astra Answers:

We do not have such information.

### **Question 5. Research**

5.1. Have public authorities or other bodies initiated/supported research on the issues raised by:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

Ministry of Education Answers:

“The Youth in the World of Internet“

“The Research of Gender-Based Violence at Schools across Serbia“

“National Study on Social Issue of Sexual Abuse of Children“

NGO Astra Answers:

We do not have such information.



- 5.2. Have public authorities or other bodies conducted or supported research in particular on the psychological effects on those persons whose:
- a. self-generated sexually explicit images and/or videos as children have been shared online?
  - b. self-generated sexual content as children has been shared online?

Ministry of education Answers:

Such a research has not been undertaken.

NGO Astra Answers:

We do not have such information.

→ Please specify whether the public authorities or other bodies having initiated/supported the research above (questions 5.1 and 5.2) are aware of their outcomes.

Ministry of Trade, Tourism and telecommunication Answer:

Ministry supports the NGO programs on child safety. One of the outputs of these programmes are handbooks, brochures and other written materials which include research data and information n about child safety and, inter alia, information about self-generated sexually explicit images and/or videos.

## Protection

### Question 6. Assistance to victims

- 6.1. What specific reporting mechanisms, including helplines, are in place to ensure that child victims of exposure online of:
- a. self-generated sexually explicit images and/or videos are provided with the necessary support, assistance and psychological help?
  - b. self-generated sexual content are provided with the necessary support, assistance and psychological help?

Public Prosecutor Answer:

Criminal charges are filed with the Offices of Public Prosecutors of the Republic of Serbia for sexual offences as provided for under Criminal Code. The charges may be filed in writing, over the phone or by e-mail.

In addition on 27 February 2017, National Call Centre for Online Safety of Children became operative. It forwards all the received criminal charges to the Special Prosecution Office for High-Tech Crime of the Republic of Serbia. Therefore, the Republic Prosecution Office has established contact with the Ministry of Trade, Tourism and Telecommunication (MoTTT) in the capacity of a founder of the Call Centre. Thus, the representatives of the Special Prosecution Office for High-Tech Crime of the Republic of Serbia have delivered the training to their staff.

Every office of high public prosecutor have a service established the duty of which is to provide required information to injured parties/victims (plaintiffs) and witnesses. Based on the Memorandum of cooperation concluded between the Republic Office of Public Prosecutor and Victimological Society of Serbia, cooperation was established with the civil society organisation and with all other organisations specializing in the provision of assistance and support to underage persons who injured parties/victims i.e. plaintiffs in criminal procedure instituted by filing criminal charges.

NGO Astra Answers:

In 2017, National contact centre for online safety of children (phone: 19833, email: [bit@mtt.gov.rs](mailto:bit@mtt.gov.rs), web: [www.pametnoibezbedno.gov.rs/rs-lat/kontakt-centar](http://www.pametnoibezbedno.gov.rs/rs-lat/kontakt-centar),

Facebook: [www.facebook.com/pametnoibezbedno](https://www.facebook.com/pametnoibezbedno)) start running by the Ministry of Trade, Tourism and Telecommunications. The contact centre provides parents, teachers and all other citizens, and the children themselves, who might have suspicions that online safety or rights of children are violated, with the opportunity to report such a case or suspicion, but also to get informed about potential online dangers as well.

Besides this one, since 2002, ASTRA runs and SOS hotline for protection of victims of human trafficking, which also include support to children who are victims of any form of trafficking and exploitation. Additionally, since 2012, ASTRA started running European number for missing children 116 000 in Serbia as well. All information received through both hotlines regarding violation of children rights and safety is forwarded to the relevant institutions. All victims have access to different support services as well.

Since 2005, in Serbia also functions National children line (NADEL) that offers telephone counselling to children who contact numbers 116 111 or 0800 123456

6.2. What legislative or other measures have been taken to ensure that child victims of online exposure of:

- a. self-generated sexually explicit images and/or videos are provided with the necessary support, assistance and psychological help?
- b. self-generated sexual content are provided with the necessary support, assistance and psychological help?

Public Prosecutor Answer:

A criminal prosecution is undertaken *ex officio*, and a criminal procedure in which a plaintiff is a minor which is conducted under the Law on Juvenile Criminal Offenders and Criminal Law Protection of Juveniles is urgent.

When conducting the procedure for criminal offences perpetrated to the detriment of a minor, the public prosecutor, investigation magistrate, and judges on a panel/council shall treat the plaintiff/victim in such a manner so as to take due care of their age, personality traits, education and life circumstances, in particular endeavouring to avoid detrimental and adverse consequences the process may have on their personality, character and development. Minors shall be heard with the assistance and support of a psychologist, pedagogue or any other practising expert.

If a minor is being heard in the capacity of a witness, the hearing shall be conducted two times at maximum, or exceptionally more if required for the purpose of criminal procedure. In case the minor is heard more than twice, the judge conducting the criminal procedure shall take due care of the protection of the personality and development of the minor concerned.

If, given the particularities of a criminal offence and traits of the minor's personality, the judge assesses that such step is required, they shall order the minor to be heard with an aid of technical video and audio devices, and the hearing in question shall be conducted in absence of any parties to the procedure or other participants, in a room where only the witness is present. Thus, the parties or entitled persons may pose questions to the witness child only through a judge, psychologist, pedagogue, social worker or any other expert practitioner.

Minors, as witnesses-plaintiffs-victims, may be heard in their apartment or any other room, and/or authorized institution-organisation professionally trained for hearing and interweaving minors.

When a minor is heard in this manner, the records/protocol on their statement shall always be read out at the main hearing, or recording of the hearing shall be listened to.

If a minor is being heard who due to the nature of the criminal offence, consequences of other circumstances is particularly sensitive, and/or is in particularly serious and difficult state of mind, the encounter and facing with the defendant shall be forbidden.

A minor must as a plaintiff in the procedure shall have an authorised person representing their interests from the moment of the first hearing.

In case the minor does not have such an authorised, i.e. empowered person who represents their interests, such an authorised/empowered person shall be appointed based on the decision issued by the president of the court from among the barristers or attorneys at law who are duly equipped with particular knowledge and skills regarding the right of the child and criminal law protection of minors. The costs of representation shall be defied out of the court funds.

If a minor is identifying a defendant, the court shall act with particular prudence and vigilance, and such identification shall be conducted in all the phases in such a manner so as to fully disable the defendant to see the identification.

NGO Astra Answers:

According to our knowledge there is no any legislative measure to ensure that child victims of online exposure are provided with support, assistance and psychological help. When it comes to children, Social welfare centres are the only in-charge so they can on their own assessment refer children to support services. According to our knowledge, there are no developed specific support services for children who are victims of these forms of violence.

→ Please provide, if any, information on the number of victims who received support, assistance and psychological help in the above mentioned specific contexts (questions 6.1 and 6.2).

NGO Astra Answers:

We do not have information regarding the number of victims who received support, assistance and help in this contexts.

Ministry of Trade, Tourism and Telecommunication Answer:

In 2016 Government of Serbia adopted the Regulation on child safety and protection when using ICT. On the basis of that regulation, Ministry of Trade, Tourism and Telecommunications established The National Contact Center for Child Online Safety, which is the helpline for children, parents and teachers, who are advised on the advantages and risks of Internet use, and on the safe ways for using the Internet, including the advising on risks of video games and Internet use addiction. Through helpline and internet portal, it is possible to report harmful, illicit and illegal content and behaviour on the Internet. The report is sent to the competent center for social work if there are indications on the infringement of children's rights, health status, well-being or child integrity, and also the report is sent to the competent healthcare institutions in the case of risk of internet use addiction. After the reception of the report, centers for social work, in accordance with their competence, assess the attitudes of the parents and other persons which take care of child, and determine the degree of influence of illegal ICT content on child, and provide assistance in accordance with the law and their competence.

### **Question 7. Cooperation with civil society**

Please describe cooperation with non-governmental organisations, other relevant organisations and other representatives of civil society engaged in assistance to victims of the offences covered by the present questionnaire (see questions 9-11) through e.g. child helplines, victim support organisations.

Ministry of Trade, Tourism and Telecommunication Answer:

Ministry regularly cooperates with the NGO's which projects on child safety are supported by Ministry. Also, Ministry has signed the Protocol on cooperation with Foundation "Tijana Juric", where cooperation on child helpline is defined. Ministry has a good cooperation on child safety policies and activities with UNICEF. The representatives of UNICEF had participated in the process of drafting Cyber Security Strategy and contributed in the area of child safety.

Public Prosecutor Answer:

As mentioned in the reply to question no. 6.1, The Office of the Republic Prosecutor has concluded the Agreement on Cooperation with the Victimological Society of Serbia. The cooperation with organisations of civil society is reflected in the referral of victims by the existing information services and witnesses to specialized organisations of civil society organisations to provide required assistance and support.

NGO Astra Answers:

At the beginning of 2016, the Center for Human Trafficking Victims Protection and ASTRA signed a Memorandum of understanding, thus formalizing cooperation regarding the protection and support of human trafficking victims.

The Ministry of Trade, Tourism and Telecommunications signed a Memorandum of understanding with the organization Save the Children for North West Balkans. This cooperation involves the creation of a strategic document, the Roadmap for the Prevention of Violence against Children on the Internet based on examples of good practices from other countries and the capacity of Serbia. It

is also planned to raise awareness among students and parents about violence against children via Internet, and that these topics find their place in curriculum through a regular educational program.

Save the Children also supported the campaign of the Ministry of Trade, Tourism and Telecommunications "IT Caravan 02" in the period from April to May in 13 cities in Serbia. The presentations of IT caravan were attended by over 5500 students and 90 teachers from 17 primary schools from Serbia. The first IT caravan in 2016, was conducted in 15 cities and attended by over 5,000 principals.

In 2017, the Ministry of Trade, Tourism and Telecommunications and the Foundation "Tijana Juric" signed a Memorandum of understanding, agreement on mutual cooperation in the field of security and child protection on the Internet. The aim of the agreement is to prevent internet violence against children and children through the education of children, teachers and parents. The agreement includes communication through the National Contact Center for Children's Safety on the Internet of the Ministry of Trade, creation and realization of joint projects, as well as the participation in educational lectures and workshops in primary and secondary schools.

## Prosecution

### Question 8. Legislation

- 8.1. Does national law contain any reference to:
- self-generated sexually explicit images and/or videos in the context of offences covered by the Lanzarote Convention (Art. 18-23)?
  - self-generated sexual content in the context of offences covered by the Lanzarote Convention (Art. 18-23)?

#### Public Prosecutor Answer:

Under Article 185, paragraph 6 of the Criminal Code, any material visually presenting a minor involved in an actual or simulated sexually explicit behaviour shall be regarded as an object of pornographic content generated through an abuse of a minor (child pornography), as shall any presentation of genital organs of a child for sexual purposes. Thus, there is no difference under national legislation whether the material is generated by a child or any other person if an abuse of a minor is in question.

It should be noted here that, in accordance with the national legislation, a child is a person who has not completed fourteen years of age, and a minor is a person who has completed fourteen years of age, but has not completed eighteen years of age.

- non-pictorial self-generated sexual content produced by children (e.g. sound, text) in the context of offences covered by the Lanzarote Convention (Art. 18-23)?

#### Ministry of Justice Answer:

Serbian Criminal code contains definition of child pornography in line with Lanzarote convention ( (6) *The items of pornographic content resulting from the abuse of a minor (child pornography) shall be considered to include each material that is visually representing a minor involved in actual or simulated sexually explicit behavior, as well as each instance of displaying of a child's genitals for sexual purposes.*) Beside, Criminal code, Special protocol on acting of judicial authorities in the

protection of juveniles from abuse and neglecting, states that: *"It is not considered sexual abuse behavior in the form of a research of one's own body that corresponds to the age of a minor when, especially in adolescents, they investigate their own body and sexuality in a way that does not involve activities between a minor and an adult."*

Public Prosecutor Answer:

Under Article 185, paragraph 1 of the Criminal Code whoever selling, showing or public displays or otherwise making available texts, pictures, audio-visual or other items of pornographic content to a minor or showing to a child a pornographic performance is classified as a criminal offence under criminal code.

NGO Astra Answers:

Law on special measures for the prevention of crimes against sexual freedom against minors ("Off. Gazette of the RS", no. 32/2013), is applicable on offenders who performed the following crimes on minors:

- 1) rape ( Article 178 paragraph 3 and 4 of the Criminal Code);
- 2) sexual intercourse with a helpless person (Article 179 paragraph 2 and 3 of the Criminal Code);
- 3) sexual intercourse with a child (Article 180 of the Criminal Code);
- 4) sexual intercourse through abuse of position (Article 181 of the Criminal Code);
- 5) prohibited sexual acts (Article 182 of the Criminal Code);
- 6) pimping and procuring (Article 183 of the Criminal Code ) ;
- 7) mediation in prostitution (Article 184 , paragraph 2 of the Criminal Code);
- 8) Showing, obtaining and possessing pornographic materials and the abuse of minors in pornography (Article 185 of the Criminal Code);
- 9) Incitement of a minor to be present during the sexual acts (Article 185a of the Criminal Code);
- 10) Abuse of a computer network or communication with other technical devices for committing sexual offences against a minor (Article 185b of the Criminal Code)

The Criminal Code in Article 185 introduces the crime of "Display, acquisition and possession of pornographic material and exploitation of a minor for pornography" and in Article 185b "Utilization of a computer network, or other means of communication to commit offences against sexual freedom of a minor." The following behaviours are declared as prohibited: Display, acquisition and possession of pornographic material and exploitation of a minor in pornography (Article 185), taking advantage of computer network, or other means of communication to commit offences of sexual abuse of a minor (Article 185b).

8.2. Does national law tackle the involvement of more than one child (i.e. consensual posing) in generating the:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

Public Prosecutor Answer:

The exploitation of a minor and/or children for the production of pictures, audio and visual, or other objects of pornographic content or for pornographic performance shall be regarded of as a criminal offence, (Art. 185, paras. 2 and 3 of the CC). Participation of more than one child in generation of such a material, if an exploitation of a minor is in question, may be treated as an aggravating circumstance when sanction is weighted and pronounced.

NGO Astra Answers:

**Presentation, acquisition and possession of pornographic material and  
the exploitation of a minor for pornography  
Article 185**

(1) Who sells, displays, or publicly presents or otherwise makes available texts, images, audio-visual or other objects of pornographic content to the juvenile, or portrays a pornographic performance, shall be punished by a fine or imprisonment for up to six months.

(2) Whoever uses a child to produce pictures, audio-visual or other pornographic content or pornographic performances shall be punished by imprisonment for a term between six months and five years.

(3) If the act referred to in paragraph 1. and 2. of this Article are performed against the child, the offender shall be punished for the offense referred to in paragraph 1 by imprisonment of six months to three years, and for the offense referred to in paragraph 2 by imprisonment of one to eight years.

(4) Whoever acquires for himself or another, owns, sells, displays, publicly exhibits or electronically or otherwise makes available images, audio-visual or other objects of pornographic content created by the exploitation of a minor shall be punished by imprisonment of three months to three years.

(5) Who, through the use of information technology means, consciously accesses images, audio-visual or other objects of pornographic content created by the exploitation of a minor, shall be punished by a fine or imprisonment for up to six months.

(6) Items of pornographic content created by the exploitation of a minor (child pornography) shall be any material that visually depicts a minor person dealing with real or simulated sexually explicit behavior, as well as any display of the child's sexual organs for sexual purposes.

(7) Items referred to in Paragraphs 1 to 4 of this Article shall be confiscated.

**Incitement of a minor to be present during the sexual acts  
Article 185a**

(1) Whoever persuade a child to attend rape, intercourse or other sexual action, shall be punished by imprisonment for one to eight years.

(2) If the offense referred to in paragraph 1 of this Article has been committed by the use of force or threat, the offender shall be punished by imprisonment of two to ten years.

**Utilizing a computer network or communication with other technical means for the commission of  
criminal offenses against sexual freedom against a minor  
Article 185b**

(1) Who in the intention of committing the criminal offense referred to in Art. 178 (4), 179 (3), (180), 1st and 2nd, 181st, 2 and 3, 182, paragraph 1, 183, paragraph 2, 184, paragraph 3, 185, paragraphs 2 and 185a of this Code, using a computer network or communication by other technical means, arrange with a minor meeting and appear at the agreed place for the meeting, shall be punished by imprisonment of six months to five years and a fine.

(2) Whoever commits the act referred to in paragraph 1 of this Article to the child, shall be punished by imprisonment for one to eight years.



- 8.3. Are there specificities related to the fact that more children appear on the:
- a. self-generated sexually explicit images and/or videos when these children accept that their image and/or video are produced and shared through ICTs?
  - b. self-generated sexual content when these children accept that their image and/or video are produced and shared through ICTs?

Public Prosecutor Answer:

The consent of a child for the generation of such a material and to make it available via ITC technologies does not have an impact to the existence of a criminal offence. The elements of the criminal offence shall not exist only if the material is made available via the ICT by a person who is not criminally responsible (has not yet completed 14 years of age).

### Question 9. Criminalisation

- 9.1. Does national law criminalise cases when adults:<sup>1</sup>
- a. possess child self-generated sexually explicit images and/or videos?
  - b. distribute or transmit child self-generated sexually explicit images and/or videos to other adults?

a and b. under Article 185, paragraph 4 of the Criminal Code, whoever obtains for himself or another, possesses, sells, shows, publicly exhibits or electronically or otherwise makes available pictures, audio-visual or other items of pornographic content resulting in the exploitation and abuse of a juvenile is classified as a punishable criminal offence.

- c. distribute or transmit child self-generated sexually explicit images and/or videos to other children than those depicted on such images and/or videos?

Ministry of Justice Answer:

Criminal code, Showing, Procuring and Possessing Pornographic Material and Minor Person Pornography

Article 185

(1) Whoever sells, shows or publicly displays or otherwise makes available texts, pictures, audio-visual or other items of pornographic content to a minor or shows to a minor a pornographic performance, shall be punished with a fine or imprisonment up to six months.

(2) Whoever uses a minor to produce photographs, audio-visual or other items of pornographic content or for a pornographic show, shall be punished with imprisonment of six months to five years.

(3) If the act specified in paragraph 1 and 2 of this article is committed against child, the offender shall be punished for the act specified in paragraph 1 with imprisonment of six months to three years, and for the act specified in paragraph 2 with imprisonment of one to eight years.

(4) Whoever procures for himself or another and possesses, sells, shows, publicly exhibits or electronically or otherwise makes available pictures, audio-visual or other items of pornographic content resulting from abuse of minor person, shall be punished with imprisonment of three months to three years.

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<sup>1</sup> If the replies of Parties to the General Overview Questionnaire as regards the implementation of Article 20 of the Lanzarote Convention (see replies to question 16) are still valid, please refer to them. Otherwise, please up-date such replies in the context of this question.



(5) Whoever uses the means of information technologies to deliberately access the photographs, audio-visual or other items of pornographic content resulting from the abuse of a minor\* shall be punished with a fine or imprisonment of up to six months.\*

(6) The items of pornographic content resulting from the abuse of a minor (child pornography) shall be considered to include each material that is visually representing a minor involved in actual or simulated sexually explicit behaviour, as well as each instance of displaying of a child's genitals for sexual purposes.\*

(7)\* Items specified in paragraphs 1 through 4 of this Article shall be confiscated.

#### Public Prosecutor Answer:

Under Article 185, paragraph 1 of the Criminal Code whoever selling, showing or public displays or otherwise making available texts, pictures, audio-visual or other items of pornographic content to a minor or showing to a child a pornographic performance is classified as a criminal offence under criminal code.

#### NGO Astra Answers:

The Criminal Code in Article 185 introduces the crime of "Display, acquisition and possession of pornographic material and exploitation of a minor for pornography" and in Article 185b "Utilization of a computer network, or other means of communication to commit offences against sexual freedom of a minor." The following behaviours are declared as prohibited: Display, acquisition and possession of pornographic material and exploitation of a minor in pornography (Article 185), taking advantage of computer network, or other means of communication to commit offences of sexual abuse of a minor (Article 185b).

9.2. Are there special circumstances (including alternative interventions) under which the above cases (9.1.a-c), although established in fact and in law, are not prosecuted and/or do not lead to conviction?

#### Public Prosecutor Answer:

Under Art. 283 of the Criminal Procedure Code the public prosecutor may defer prosecution for criminal offences punishable by a fine or a term of imprisonment of up to five years if the suspect accepts a criminal prosecution for criminal offences for which pecuniary fine is provided for or accepts one or more of the following obligations:

- 1) to rectify the detrimental consequence caused by the commission of the criminal offence or indemnify the damage caused;
- 2) to pay a certain amount of money to the benefit of a humanitarian organisation, fund or public institution;
- 3) to perform certain community service or humanitarian work;
- 4) to fulfil maintenance obligations which have fallen due;
- 5) to submit to an alcohol or drug treatment programme;
- 6) to submit to psycho-social treatment for the purpose of eliminating the causes of violent conduct;
- 7) to fulfil an obligation determined by a final court decision, or observe a restriction determined by a final court decision.

In the order deferring criminal prosecution the public prosecutor will determine a time limit during which the suspect must fulfil the obligations undertaken, with the proviso that the time limit may not exceed one year.

If the suspect meets the obligations so imposed upon them, the public prosecutor shall dismiss the criminal complaint by a ruling and notify the injured party.

9.3. What are the legal consequences of the above behaviours (9.1.a-c)?

Public Prosecutor Answer:

The referred to acts have characteristics of criminal offence of showing, procurement and possession of pornographic material and exploitation of a minor for pornographic purposes, as referred to in Art. 185 of the CC, in particular

NGO Astra Answers:

**Presentation, acquisition and possession of pornographic material and  
the exploitation of a minor for pornography  
Article 185**

(1) Who sells, displays, or publicly presents or otherwise makes available texts, images, audio-visual or other objects of pornographic content to the juvenile, or portrays a pornographic performance, shall be punished by a fine or imprisonment for up to six months.

(2) Whoever uses a child to produce pictures, audio-visual or other pornographic content or pornographic performances shall be punished by imprisonment for a term between six months and five years.

(3) If the act referred to in paragraph 1. and 2. of this Article are performed against the child, the offender shall be punished for the offense referred to in paragraph 1 by imprisonment of six months to three years, and for the offense referred to in paragraph 2 by imprisonment of one to eight years.

(4) Whoever acquires for himself or another, owns, sells, displays, publicly exhibits or electronically or otherwise makes available images, audio-visual or other objects of pornographic content created by the exploitation of a minor, shall be punished by imprisonment of three months to three years.

(5) Who, through the use of information technology means, consciously accesses images, audio-visual or other objects of pornographic content created by the exploitation of a minor, shall be punished by a fine or imprisonment for up to six months.

(6) Items of pornographic content created by the exploitation of a minor (child pornography) shall be any material that visually depicts a minor person dealing with real or simulated sexually explicit behavior, as well as any display of the child's sexual organs for sexual purposes.

(7) Items referred to in Paragraphs 1 to 4 of this Article shall be confiscated.

**Incitement of a minor to be present during the sexual acts  
Article 185a**

(1) Whoever persuade a child to attend rape, intercourse or other sexual action, shall be punished by imprisonment for one to eight years.

(2) If the offense referred to in paragraph 1 of this Article has been committed by the use of force or threat, the offender shall be punished by imprisonment of two to ten years.

**Utilizing a computer network or communication with other technical means for the commission of  
criminal offenses against sexual freedom against a minor  
Article 185b**

(1) Who in the intention of committing the criminal offense referred to in Art. 178 (4), 179 (3), (180), 1st and 2nd, 181st, 2 and 3, 182, paragraph 1, 183, paragraph 2, 184, paragraph 3, 185, paragraphs 2

and 185a of this Code, using a computer network or communication by other technical means, arrange with a minor meeting and appear at the agreed place for the meeting, shall be punished by imprisonment of six months to five years and a fine.

(2) Whoever commits the act referred to in paragraph 1 of this Article to the child, shall be punished by imprisonment for one to eight years.

9.4. Does national law criminalise cases when adults:<sup>2</sup>

- a. possess child self-generated sexual content?
- b. distribute or transmit child self-generated sexual content to other adults?

Public Prosecutor Answer:

a and b under Article 185, paragraph 4 of the Criminal Code, whoever obtains for himself or another, possesses, sells, shows, publicly exhibits or electronically or otherwise makes available pictures, audio-visual or other items of pornographic content resulting in the exploitation and abuse of a juvenile is classified as a punishable criminal offence.

- c. distribute or transmit child self-generated sexual content to other children than those depicted such sexual content?

Public Prosecutor Answer:

Under Article 185, paragraph 1 of the Criminal Code whoever selling, showing or public displays or otherwise making available texts, pictures, audio-visual or other items of pornographic content to a minor or showing to a child a pornographic performance is classified as a criminal offence under criminal code.

NGO Astra Answers:

The Criminal Code in Article 185 introduces the crime of "Display, acquisition and possession of pornographic material and exploitation of a minor for pornography" and in Article 185b "Utilization of a computer network, or other means of communication to commit offences against sexual freedom of a minor." The following behaviours are declared as prohibited: Display, acquisition and possession of pornographic material and exploitation of a minor in pornography (Article 185), taking advantage of computer network, or other means of communication to commit offences of sexual abuse of a minor (Article 185b).

9.5. Are there special circumstances (including alternative interventions) under which the above cases (9.4.a-c), although established in fact and in law, are not prosecuted and/or do not lead to conviction?

Public Prosecutor Answer:

See point 9.2

9.6. What are the legal consequences of the above behaviours (9.4.a-c)?

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<sup>2</sup> If the replies of Parties to the General Overview Questionnaire as regards the implementation of Article 20 of the Lanzarote Convention (see replies to question 16) are still valid, please refer to them. Otherwise, please up-date such replies in the context of this question.

Public Prosecutor Answer:

See point 9.3.

NGO Astra Answers:

See the answer to question 9.3.

- 9.7. Does national law criminalise cases when children:<sup>3</sup>
- a. produce self-generated sexually explicit images and/or videos?

Public Prosecutor Answer:

The production of such materials by a minor is not punishable/sanctioned, unless in case of sexual exploitation and abuse of the minor.

- b. possess self-generated sexually explicit images and/or videos?

Minors who are 14 years of age and are older are criminally liable, i.e. they shall be on legal grounds subjected to criminal proceedings and a sentence shall be pronounced in case the material is produced on the basis of an abuse and exploitation of a minor.

- c. distribute or transmit self-generated sexually explicit images and/or videos of themselves to peers?

There is criminal liability if a minor who has completed 14 years of age has made available to their peers such material produced by him/herself.

- d. distribute or transmit self-generated sexually explicit images and/or videos of themselves to adults?

There are no elements of criminal offence in the referred to actions.

- e. distribute or transmit self-generated sexually explicit images and/or videos of other children to peers?

There is criminal liability if a minor who is at least 14 make available in any fashion whatsoever, the referred to material.

- f. distribute or transmit self-generated sexually explicit images and/or videos of other children to adults?

Public Prosecutor Answer:

There are no elements of criminal offence in the referred to actions.

Ministry of Justice Answer:

The Law on Juvenile Offenders and Criminal Protection of Juveniles, states the following:

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<sup>3</sup> This question does not in any way suggest that these behaviours should be criminalised.

## Article 2:

A person who at the time of the commission of an unlawful act, in the law envisaged as a criminal offense, has not reached the age of fourteen years, cannot be imposed to criminal sanctions or apply other measures provided for by this law.

### NGO Astra Answers:

If a child appears as the perpetrator of the offense, possession, acquisition and display of pornographic content and exploitation of another child for pornography, the Law on Juvenile Offenders and Criminal Protection of Juveniles (Official Gazette No. 85/2005) is applied. The criminal procedure itself, as well as the sanctions provided for, differs from the criminal procedure that is conducted against adults.

9.8. Are there special circumstances (including alternative interventions) under which the above cases (9.7.a-f), although established in fact and in law, are not prosecuted and/or do not lead to conviction?

### Public Prosecutor Answers:

In accordance of the Law on Juvenile Criminal Offenders and Criminal Law Protection of Juveniles, One or more diversion orders may be applied to a juvenile offender for criminal offences punishable by a fine or imprisonment of up to five years.

The relevant state prosecutor for juveniles or a Juvenile judge may apply a diversion order to a juvenile.

The requirements to apply a diversion order are: juvenile's confession of a criminal offence and his attitude towards the offence and the injured party.

The purpose of diversion order is to avoid instituting criminal proceeding against a juvenile or to suspend proceeding and/or, by application of the diversion order, to influence proper development of a juvenile, enhance his personal responsibility in order to avoid a relapse into crime in future.

Diversion orders include:

- 1) Settlement with the injured party so that by compensating the damages, apology, work or otherwise, the detrimental consequences would be alleviated either in full or partly;
- 2) Regular attendance of classes or work;
- 3) Engagement, without remuneration, in the work of humanitarian organisations or community work (welfare, local or environmental);
- 4) Undergoing relevant check-ups and drug and alcohol treatment programs;
- 5) Participation in individual or group therapy at suitable health institution or counselling centre.

### NGO Astra Answers:

According to this law the child until the age of 14 years cannot be criminally responsible, while the children between 14 to 16 as well as the between 16 to 18 years of age are criminally liable.

9.9. What are the legal consequences of the above behaviours (9.7.a-f)?

### Public Prosecutor Answer:

Educational measures, juvenile detention and security measures, stipulated by the Criminal Code, may be pronounced to juvenile offenders, with the exception of restraint to be engaged in his occupation, business activities or duties.

Only educational measures may be pronounced to younger juveniles (between 14 and 16 years of age).

Educational measures and exceptionally juvenile prison may be pronounced to elder juveniles (between 16 and 18 years of age).

NGO Astra Answers:

According to Law on Juvenile Offenders and Criminal Protection of Juveniles (Official Gazette No. 85/2005) children who have committed a criminal offense may be sentenced to the following penalties, depending on the severity of the offense: educational measure, educational order, juvenile prison, and security measures.

- 9.10. Does national law criminalise cases when children:<sup>4</sup>
- a. produce self-generated sexual content?

Public Prosecutor Answers

The production of the referred to material is by a minor is not criminalized.

- b. possess self-generated sexual content?

Possession of own photographs of the referred to content is not a criminal offence. There is criminal liability if a minor who is 14 possesses such a type of material only if the material consists of pictures/images or audio and visual content produced by another minor.

- c. distribute or transmit self-generated sexual content to peers?

There is criminal liability if a minor who is 14 years of age makes available in any manner whatsoever the referred to material generated by him/herself to the peers.

- d. distribute or transmit self-generated sexual content to adults?

These acts are not criminal offences.

- e. distribute or transmit self-generated sexual content of other children to peers?

There is criminal liability if a minor who is 14 years of age makes available in any manner whatsoever the referred to material generated by him/herself to the peers.

- f. distribute or transmit self-generated sexual content of other children to adults?

These acts are not criminal offences

NGO Astra Answers:

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<sup>4</sup> This question does not in any way suggest that these behaviours should be criminalised.

Children who committed the crime described in the Criminal code are prosecuted as specified in The Law on Juvenile Offenders and Criminal Protection of Juveniles.

9.11. Are there special circumstances or alternative interventions under which the above cases (9.10.a-f), although established in fact and in law, are not prosecuted and/ or do not lead to conviction?

Public Prosecutor Answers:

See point 9.8.

NGO Astra Answers:

The same as in the question 9.8

9.12. What are the legal consequences of the above behaviours (9.10.a-f)?

Public Prosecutor Answers:

See point 9.9.

NGO Astra Answers:

The same as in the question 9.9

## **Question 10. Production and possession of self-generated sexually explicit images and/or videos by children for their own private use**

10.1. For Parties having made a reservation in accordance with Article 20(3) indent 2<sup>5</sup>

What measures have been taken to ensure that the production and/or possession of self-generated sexually explicit images and/or videos is not criminalised when it involves children who have reached the age set in application of Article 18(2) where these images and/or videos are produced and possessed by them with their consent and solely for their own private use?

10.2. For Parties that have not made a reservation in accordance with Article 20(3) indent 2<sup>6</sup>

Does national law criminalise the production and/or possession of self-generated sexually explicit images and/or videos when it involves children who have reached the age set in application of Article 18(2) where these images and/or videos are produced and possessed by them with their consent and solely for their own private use?

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<sup>5</sup> Denmark, Germany, Liechtenstein, the Russian Federation, Sweden, Switzerland.

<sup>6</sup> Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Georgia, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, "The former Yugoslav Republic of Macedonia", Turkey and Ukraine.

Ministry of Justice Answer:

*The law criminalises cases defined in art 185 CC, paragraph (4) Whoever procures for himself or another and possesses, sells, shows, publicly exhibits or electronically or otherwise makes available pictures, audio-visual or other items of pornographic content resulting from **abuse of minor person (minor person is anyone under age of 18 as per CC)**, shall be punished with imprisonment of three months to three years., and (5) Whoever uses the means of information technologies to deliberately access the photographs, audio-visual or other items of pornographic content resulting from the abuse of a minor shall be punished with a fine or imprisonment of up to six months. CC is covering cases when there is abuse of minor.*

Public Prosecutor Answers:

The acts herewith referred to do not contain elements of any criminal offence whatsoever.

### **Question 11. Reference in law to ICT facilitated sexual coercion and/or extortion**

How does national law address ICT facilitated sexual coercion and/or extortion of children and/or other persons related to the child depicted on the:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

Ministry of Justice Answer:

Law does not explicitly mention self-generated sexual content, but para. 5 of art 185 CC, states that“(5) Whoever uses the means of information technologies to deliberately access the photographs, audio-visual or other items of pornographic content resulting from the **abuse of a minor** shall be punished with a fine or imprisonment of up to six months.”

Public Prosecutor Answers:

National legislation does not proscribe any particular provisions on coercion and/or extortion regarding the material and content of this kind, but the referred to acts are qualified as a criminal offence of coercion under Article 135 of the Criminal Code, extortion under Article 214 of the CC and criminal offence of blackmail under Article 215 of the CC. For the existence of criminal offences of extortion under Article 214 and blackmail under Article 215, unlawful acts need to be committed with an intention to obtain wrongful gain. Coercion under Article 135 of the CC is not conditioned by it.

Also, acts of use of children for pornographic purposes, by force or under a threat, but in a situation when the force or threat have not been used, may be qualified as a criminal offence of trafficking in human beings under Article 388 of the CC.

NGO Astra Answers:

Beside Articles 185, 185a and 185b, mentioned above, Article 388 of the Criminal Code regarding the human trafficking, states the following:

Whoever by force or threat, deception or maintaining deception, abuse of authority, trust, dependency relationship, difficult circumstances of another, retaining identity papers or by giving or



accepting money or other benefit, recruits, transports, transfers, sells, buys, acts as intermediary in sale, hides or holds another person with intent to exploit such person's labour, forced labour, commission of offences, prostitution, mendacity, **pornography**, removal of organs or body parts or service in armed conflicts, shall be punished by imprisonment of three to twelve years.

If the offence specified in paragraph 1 of this Article is committed against a minor, the offender shall be punished by imprisonment of minimum five years.

## Question 12. Jurisdiction rules<sup>7</sup>

Please indicate which jurisdiction rules apply under which conditions to the offences described above (questions 9-11) when the victim is not present in the Party when the offence is committed or when the offender is not present in the Party when the offence is committed.

Ministry of Justice Answer:

Regarding jurisdiction rules, Serbian CC states that regarding applicability of Criminal Legislation of Serbia to Serbian Citizen Committing Criminal Offence Abroad **Article 8 (1)** Criminal legislation of Serbia shall also apply to a citizen of Serbia who commits a criminal offence abroad other than those specified in Article 7 hereof, if found on the territory of Serbia or extradited to the Republic of Serbia. (2) Under the conditions specified in paragraph 1 of this Article, criminal legislation of Serbia shall also apply to an offender who became a citizen of Serbia after the commission of the offence. Also CC states that regarding applicability of Criminal Legislation of Serbia to a Foreign Citizen Committing a Criminal Offence Abroad **Article 9 (1)** Criminal legislation of Serbia shall also apply to a foreigner who commits a criminal offence against Serbia or its citizen outside the territory of Serbia other than those defined in Article 7 hereof, if they are found on the territory of Serbia or returned to the Republic of Serbia. (2) Criminal legislation of Serbia shall also apply to a foreigner who commits a criminal offence abroad against a foreign state or foreign citizen, when such offence is punishable by five years' imprisonment or a heavier penalty, pursuant to laws of the country of commission, if such person is found on the territory of Serbia and is not returned to the foreign state. Unless otherwise provided by this Code, the court may not impose in such cases a penalty heavier than set out by the law of the country where the criminal offence was committed.

Public Prosecutor Answers:

In accordance with Article 6 of the Criminal Code, criminal legislation of the Republic of Serbia shall apply to anyone committing a criminal offence on its territory.

Criminal legislation of the Republic of Serbia shall apply to anyone committing a criminal offence on a domestic vessel, regardless of where the vessel is at the time of committing of the act.

Criminal legislation of the Republic of Serbia shall apply to anyone committing a criminal offence in a domestic aircraft while in flight or domestic military aircraft, regardless of where the aircraft is at the time of committing of criminal offence.

If criminal proceedings have been instituted or concluded in a foreign country in respect of cases specified in paragraphs 1 through 3 of this Article, criminal prosecution in Serbia shall be undertaken only with the permission of the Republic Public Prosecutor.

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<sup>7</sup> Please answer this question taking into account the requirements of Article 25 of the Lanzarote Convention.

Criminal prosecution of foreign citizens in cases specified in paragraphs 1 through 3 of this Article may be transferred to a foreign state, under the terms of reciprocity. Criminal legislation of Serbia shall also apply to a citizen of Serbia who commits a criminal offence abroad, if found on the territory of Serbia or if extradited to Serbia.

Under Article 9 of the CC, criminal legislation of Serbia shall also apply to a citizen of Serbia who commits a criminal offence abroad other than those specified in Article 7 hereof, if found on the territory of Serbia or if extradited to Serbia.

Criminal legislation of Serbia shall also apply to a foreigner who commits a criminal offence abroad against a foreign state or foreign citizen, when such offence is punishable by five years' imprisonment or a heavier penalty, pursuant to laws of the country of commission, if such person is found on the territory of Serbia and is not extradited to the foreign state. Unless otherwise provided by this Code, the court may not impose in such cases a penalty heavier than set out by the law of the country where the criminal offence was committed.

NGO Astra Answers:

According to our knowledge all jurisdiction rules stated in the Article 25 apply.

### **Question 13. Specialised units/departments/sections**

13.1. Are there specialised units/departments/sections in charge of dealing with ICT facilitated sexual offences against children, such as those referred to in this questionnaire (see questions 9-11):

- a. in law enforcement?
- b. in prosecution?

Public Prosecutor Answers:

The Law on Organisation and Competence of Government Authorities in Combating High-Tech Crime governs education, organisation, competences and powers of special organizational units of state authorities for detection, prosecution and trying for criminal offences. Under the Law, the cybercrime is a commission of a criminal offence where computers, computer systems, computer networks, computer data and their tangible and virtual outputs are objects or tools of the commission.

The Law is applicable for the purpose of detection, persecution and trying, inter alia, for property crimes (blackmail and coercion), as well as sexual offences, which may be regarded of as a cybercrime due to the method of their commission or means used to commit the crime.

In 2005, a separate anti-cybercrime division for the territory of the Republic of Serbia was set up within the Higher Prosecution Office in Belgrade, which is in charge to prosecute cybercrimes.

The Anti-Cybercrime Service has been set up within the Ministry of Interior, which carries out the activities of the Ministry of Interior regarding cybercrime. It follows up on the requests of the Special Prosecutor, in compliance with the law.

- c. in courts?

Public Prosecutor Answers:

The Higher Court in Belgrade is in charge for cybercrime cases for the territory of the Republic of Serbia. The appellate decisions (second instance) are made by the Appellate Court in Belgrade. However, there is no advanced training (specialization) organized for judges in this field of expertise.

Ministry of Justice Answer:

*The Higher Public Prosecutor's Office in Belgrade is responsible for the handling of criminal cases on the basis of the Law on Organization and Jurisdiction of State Authorities for Combating Cyber Crime for the whole territory of the Republic of Serbia.*

NGO Astra Answers:

There is a unit within the police and Higher Prosecutor's Office in charge for high-tech crime. The Office of High Technological Crime is prosecuting perpetrators of crimes whose targets or means of execution are computers (i.e. "every electronic device that automatically processes and exchanges data on the basis of the program"), computer systems, computer networks, computer data, computer programs etc.

13.2. Please specify if there are specialised units/departments/sections in charge of dealing with ICT facilitated sexual offences against children committed by juvenile offenders.

Public Prosecutor Answers:

Prosecution of minors who have committed criminal offences are under the competence of specialized divisions for juvenile delinquency set up within higher public prosecution offices in the Republic of Serbia. The minor is brought before a judge or a panel for juveniles of higher courts. Public prosecutors and their deputies, and judges and lawyers who participate in such procedures are the persons who have acquired special knowledge on the right of the child and juvenile delinquency.

NGO Astra Answers:

Within the police there is a Department for Prevention and Suppression of Juvenile Delinquency, in charge of monitoring and analyzing the dynamics of juvenile delinquency and the protection of minors in criminal proceedings, controlling activity and providing professional assistance in the application of police powers to minors, improvement of the functioning of the organizational units responsible for combating juvenile crime by prescribing unique standards and procedures, as well as permanent professional training of police officers. There is also a special prosecutor for juvenile offenders as well as a judge who are in charge for all cases involving children.

→ Please specify how the specialised units/departments/sections referred to above (questions 13.1 and 13.2) are organised (number of staff, structure, specialised in which areas within ICTs, etc.)?

Public Prosecutor Answers:

In the special prosecution office for cybercrime, in addition to the special prosecutor, there are four more deputies of the special prosecutor and five prosecutor's assistants, specialized to follow up on and act as per all types of cybercrime cases.

Public prosecutor deputies at the juvenile delinquency divisions of high public prosecutor offices shall be assigned in such a number so as to be reciprocal to a total number of appointed deputies in

every public prosecution office which so as to be adequate to take up the cases of juvenile delinquency. The deputies are versed in the right of the child and juvenile delinquency. In cybercrime cases are dealt with in consultation and coordination with the special prosecution office.

→ As regards law enforcement, please indicate if:

- a. there is a victim identification function?
- b. there is an active contribution to the INTERPOL's International Child Sexual Exploitation (ICSE) image database? If not, why?

NGO Astra Answers:

ASTRA does not have information regarding this question.

#### **Question 14. Challenges in the prosecution phase**

What challenges do law enforcement, prosecution and courts face during the prosecution of ICT facilitated sexual offences against children involving the sharing of:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

Public Prosecutor Answers:

Anonymity offered by the Internet, and closed nature of groups/networks within which such contents are shared are main challenges that Service for Cybercrime of the Ministry of Interior of the Republic of Serbia is faced with as a body in charge to detect crime offences and perpetrators and the Special Prosecution Office for Cybercrime that manages pre-investigation and investigation proceedings.

#### **Question 15. Training of professionals**

Are the offences referred to in this questionnaire (questions 9-11) addressed in training for professionals such as:

- a. law enforcement agents (in particular for front desk officers)?
- b. prosecutors?

Public Prosecutor Answers:

Child pornography is one of the most represented subjects of the trainings delivered for the representatives of Special Prosecution Office for Cybercrime. Previously, the trainings were often delivered by international partners and organisations. However, under the project "Advancement of the training courses on protection of children from cybercrime for judicial personnel" financially supported by the international civil society organisation Save the Children, a curriculum on cybercrime and protection of juveniles on the Internet has been developed for judges and public prosecutors. A representative from the Special Prosecution Office was a member of a working group tasked with the development of the curriculum in question. Thus, the training courses on prosecution of cybercrime offenders and protection of juveniles at the Internet has been classified in the curriculum of the Judicial Academy to train public prosecutors and their deputies, and public prosecution offices in general rather than only the Special Prosecution Office for Cybercrime. Under the same project and in cooperation with the Judicial Academy and Save the Children a manual has been developed for judges and public prosecutors on the topic of protection of children from violence on the Internet.

c. judges?

→ If so, please share the details of the training offered, specifying whether the training is mandatory.

Ministry of Justice Answer:

*Trainings in the field of Cybercrimes were included in the training program of the Judicial Academy, and Judicial Academy is implementing basic and advanced training on the topic of high-tech crime and child safety on the Internet.) Judicial Academy and the international civil society organization Save the Children cooperate in realization of said training. The "Guide for judges and prosecutors on the topic of high-tech crime and protection of minors in the Republic of Serbia" is prepared and contains clear rules and guidelines for the process.*

NGO Astra Answers:

According to our knowledge there has not been any mandatory training for professionals regarding the mentioned offences.

## Partnerships

### Question 16. International co-operation

16.1. What measures have been taken to co-operate with other Parties to the Lanzarote Convention for:

- a. preventing and combatting sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?
- b. protecting and providing assistance to the victims of sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?
- c. investigating and prosecuting sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?

Public Prosecutor Answers:

Given that in practically all the referred to cases computers and computer networks are instrumental, it is relevant to note that the Republic of Serbia has ratified *The Convention on Cybercrime of the Council of Europe* (CETS No.185), the *Budapest Convention* on 19 March 2009 laying down the framework of rules and norms of criminal law and criminal procedure law, and sets the ground for international cooperation in the area of cybercrime.

In particular, in Article 9 of the Convention the framework for criminal offences concerning child pornography is set out, which is fully transposed into the Criminal Code of the Republic of Serbia.

On the basis of the Convention and the Law on Organisation and Competence of Government Authorities in Combating High-Tech Crime, specialized bodies have been set up to undertake activities regarding the matter, in particular the Special Division of the Anti-Organized Crime Service of the Ministry of Interior and Special Prosecution Office for Cybercrime.

Both of the bodies have been designated as the over the clock accessible focal points for the Convention of the Council of Europe on Cybercrime which are operational as of 2009.

Given that Lanzarote Convention does not envisage such type of connection between competent bodies of the Signatory States, and that increasing number of countries has ratified both the Conventions, the network is also used for the exchange of information. Also, the competent bodies rely on the network in their actions towards prevention, protection and investigation of the acts that may be classified as different criminal offences.

Also, the Republic of Serbia is actively involved in the work of the T-CY Cybercrime Convention Committee. The Republic of Serbia has had its members in the Bureau of this Committee for two terms. Further, it should be noted that Serbian experts are actively involved in the events and training courses organized by the Council of Europe in the field, in particular under the projects GLACY, GLACY+, EAP i IPROCEEDS.

Finally, given that the two Conventions of the Council of Europe are by the matter they treat interlinked, the Republic of Serbia avails itself actively of all the components of the international cooperation offered under these two Conventions, placing its competent authorities in the situation of constant operation at the international level.

NGO Astra Answers:

According to our knowledge Serbia did not take any special measures regarding the cooperation with other Parties to the Lanzarote Convention.

16.2. What measures have been taken to co-operate with other Parties to the Lanzarote Convention for:

- a. preventing and combatting sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?
- b. protecting and providing assistance to the victims of sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?
- c. investigating and prosecuting sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?

Public Prosecutor Answers:

See item 16.1

NGO Astra Answers:

According to our knowledge Serbia did not take any special measures regarding the cooperation with other Parties to the Lanzarote Convention.