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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**

**“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”**

**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 1 November 2017

## 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 or and/or share:
- self-generated sexually explicit images and/or videos?
  - self-generated sexual content?

The Ministry of Education and Science replied that the following filters and limitations are provided for in the technical specifications of the procurement procedure conducted by the Ministry for procurement of Internet and Internet services for the needs of primary and secondary schools and student dormitories:

Traffic supervision and content filtering system.

Functional traffic supervision and web content filtering system needs to be provided for every accessible point that will enable:

- detecting and blocking access to inappropriate material on the basis of previously defined bases of unwanted URLs.
- blocking access to sites with pornographic content, sites promoting use of forbidden drugs, sites promoting and supporting violence, hatred, weapon, alcohol and gambling.
- providing appropriate mechanism for filtering/blocking web pages and social network contents, inadequate contents (pornography, inciting national, religious and racial hatred, inciting terrorism, offensive content and other inappropriate contents) youtube, torrents and other traffic consumers.
- blocking access to unmoderated forums, IMS (instant messaging services), web mail services, chats, dating sites, as well as personal and social networks.
- blocking proxy services that bypass the filtering system.
- blocking unknown/uncategorised web sites.
- allowing traffic only to URL from an allowed URLs base.
- the economic operator, at the request of the Ministry of Education and Science, to turn on/off certain web services/sites.

The bidder delivers the base of unwanted URLs and allowed URLs as a component of the offer and has an obligation to continuously update the base in accordance with the modern trends, as well as at the request of the Ministry of Education

The Ministry of Education and Science established a Commission for examining the requests by the schools for additional cancelation of internet contents or (temporary) release of a content which was previously forbidden and may be used for educational purposes.

- 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:
- self-generated sexually explicit images and/or videos?
  - self-generated sexual content?

See reply to question 1.1.

- 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:
- self-generated sexually explicit images and/or videos?
  - self-generated sexual content?

Same answer as to question 1.1.

## **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?

The Ministry of Labour and Social Policy has informed us that by now it has not conducted activities directed specifically to raising the awareness of the children about the risk if they produce and/or share self-generated explicit images or videos with sexual content or only self-generated sexual content.

The preventive activities undertaken by the Ministry of Labour and Social Policy, as well as protection, apply to all children for the prevention and protection against sexual abuse, as well as child trafficking for the purposes of sexual abuse.

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?

There is not enough relevant information to provide an answer.

## **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?

The Ministry of Education and Science informed that the objective the curricula for III, IV and V grade for computer work and programming is:

- to explain the consequences of sharing private information on the Internet;

The curricula provides for appropriate activity for this purpose:

- Discussing security issues regarding Internet communication (all issues, as well as the issue of sexual harassment would arise here).

The contents and activities for sexual education of pupils are contained and already conducted under the programme 'Life Skills Education'.

The topic 'My Health and I' in the curricula for fourth to sixth grade continues to elaborate concrete contents, objectives and activities referring to sexual health:

### **OBJECTIVES:**

The pupil:

- knows what physical changes occur as a result of reaching sexual maturity;
- knows what is sexual harassment (unwanted touches, words with sexual connotation);
- knows what procedures may be undertaken in order to confront sexual harassment;
- knows what is paedophilia (sexual abuse of children by an adult);
- knows where and whom to address in case of sexual harassment and sexual abuse;
- is able to recognise/react against/confront sexual harassment in everyday situation;
- is able to request help in the event of sexual harassment;
- accepts sexuality as natural part of the human development;
- accepts masturbation as part of the sexuality;
- understands that he/she does not have a right to sexually harass and abuse others.

### **ACTIVITIES (WORKSHOPS):**

- The story about Inga;
- Changes;

- Puberty-quiz;
- Protection against sexual abuse;
- Sexual harassment;
- Situations.

The topic 'My Health and I' in the curricula for seventh to ninth grade also elaborates contents, objectives and activities referring to sexual health:

#### OBJECTIVES:

Pupil:

- knows what physical and physiological changes occurred as a result of reaching sexual maturity;
- knows about types of contraceptives and where they can be found;
- knows the consequences of sexual intercourse (unwanted pregnancy);
- knows what is sexual abuse (rape, solicitation of prostitution, trafficking in human beings);
- knows what procedures may be undertaken in order to confront sexual abuse;
- knows where to find help in the event of sexual abuse;
- knows that there are different sexual orientations;
- knows how to put on a condom;
- is able to recognise/react against/confront sexual harassment in everyday situations;
- accepts sexuality as natural part of human development;
- accepts that sexual intercourse may be based on different sexual orientations;
- accepts that sexual harassment and sexual abuse are criminal acts.

#### ACTIVITIES (WORKSHOPS):

- Quiz-puberty;
- How to use a condom?;
- Condoms without prejudice;
- Intercourse;
- Inadequate questions-adequate answers;
- Crossword puzzle.

The topic 'Healthy Lifestyle' in the curricula for secondary education (first to fourth year) elaborates contents, objectives and activities referring to sexual health:

Social networks

#### OBJECTIVES:

The pupil should know:

- what contributes to maintenance, promotion or destruction of different relationships among people;
- what are the reasons and possible consequences of emotional relationships with an older person;
- what are the problems in relation to child marriages and parenthood.

The pupil should be able to:

- see/assess what should be changed in his/her behaviour towards other persons in order to keep/improve relationships with them;
- make right emotional relationship choice;
- give advice/support for overcoming some problems in relation to child marriages and parenthood.

The pupil should accept (understand) that:

- he/she should adapt his/her behaviour in order to improve the relationships with others;
- adolescent marriages and adolescent parenthood should be avoided due to consequences on the future wellbeing.

#### ACTIVITIES (WORKSHOPS):

- Friendly and emotional relationships (different kinds of relationships established with different people. What is needed for a relationship to be successful);
- Relationships with older persons (a relationship of a minor with an adult. Consequences of this relationship);

- Adolescent parents (consequences of adolescent pregnancy, recommendations for adolescents to avoid adolescent pregnancy);
- How not to lose friends? (insincerity/ disrespect/ abuse as threats to interpersonal relations);
- Peer groups (group membership and feeling of security and satisfaction, undertaking affirmative actions, building positive values and harmonious interpersonal and/or group relations);
- Black sheep (what if we always agree with others? Is there a problem in that? Is it desirable to have a “black sheep” in school, family, society?)

#### Safety

##### OBJECTIVES:

The pupil should know about:

- the existence of different forms of bullying;
- in what procedures and in what circumstances sexual harassment appears;
- stereotypes and prejudice influencing relations among different social groups;
- causes of a conflict;
- what cannot be seen in conflict situations but is in the essence of the conflict;
- different forms of behaviour in conflict situations (visible side of conflicts);
- what are the unfulfilled needs that are the basis of the conflicts;
- the importance of the facts and feelings to better understand others;
- basic characteristics of non-violent communication helping in the resolution of the conflict.

The pupil should be able to:

- assess what relationships with others are potentially risky and to choose groups that are constructive instead of destructive for him/her and the environment;
- resist social/peer pressure;
- undertake appropriate anti-bullying action;
- react appropriately in situations when sexual harassment is caused;
- recognise own stereotypes and prejudice;
- identify reasons for conflict and to recognise the unsatisfied needs in the conflicts;
- express his/her feelings, worries and opinions in the conflict situation and to recognise feelings of others occurring in conflict situations;
- express his/her needs and to listen to/understand the needs of others in conflict situations;
- use skills of paraphrasing and “I-address” skills (non-violent communication).

The pupil should accept (understand) that:

- membership in certain groups may lead him/her to risky behaviour;
- he/she should react to bullying both when he/she is a victim or an observer;
- he/she should react in the events of sexual harassment;
- conflicts should be accepted as inevitable part of human life
- conflicts should be approached constructively (with communication and cooperation) so not to disturb mutual relations
- mediation by a third party should be requested whenever the conflicts cannot be resolved directly by the parties;
- peace is quality of life built with the efforts of all and applies to all countries.

##### ACTIVITIES (WORKSHOPS):

- Bullying (physical and emotional abuse, forms of bullying, bullying victims);
- Sexual harassment (where it can happen, who may be sexually harassed);
- Sexual violence (sexual violence is mainly “hidden” and therefore it needs to be defined, as well as to raise public awareness and to publicly spoke about this type of violence);
- Conflicts (defining, positive and negative conflicts and their resolving);
- Conflict sources (causes of conflict: limited resources, unsatisfied basic needs and different values);
- Emotions and needs (what kind of feelings dominate conflict situations);
- My impression-your impression (behaviour in conflict situation: attack, avoidance, giving in, consensus, cooperation);
- Conflict questionnaire (facing as most constructive strategy for improving and strengthening of the relations between the parties involved in the conflict);

- Paraphrasing (learning about paraphrasing, how to show the interlocutor that we hear and understand what he/she wants to tell us);
- 'I' address (addressing in first person) (expressing negative feelings, not attacking the personality of the other person but his/her actions that caused negative feelings);
- Mediation (resolution of conflicts with the help of a third party; peer mediators);
- Peace.

**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?

The subjects: ICT in Teaching and (as optional subject) Educational Software covering topics for protection against sexual harassment of children via Internet contents are studied at the faculties of pedagogy (faculties for educating cadres which will work with children in preschool and school education). A new study programme for Programming and Computer Work is underway where these contents are also introduced.

**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?

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?

We do not have any relevant information regarding this question therefore we are not able to provide an answer.

**Question 6. Assistance to victims**

6.1. What specific reporting mechanisms, including help lines, 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 are provided with the necessary support, assistance and psychological help?

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 are provided with the necessary support, assistance and psychological help?

Pursuant to the Law on Juvenile Justice, Article 145:

(1) The child – victim to a criminal act shall have the following rights:

- right to be treated well and to respect his/her dignity,
- right to be protected against all kinds of discrimination,

- right to be informed about his/her rights in a language that he/she understands and that is age-appropriate, and to respect his/her right to privacy,
- right to have his/her parent(s), or his/her guardian(s) informed about all questions in regard to the criminal act and in regard to the suspect, the accused and the convict,
- the child, or parent(s) or guardian(s) shall have the right to participate in the criminal procedure as a harmed party by being part of the criminal prosecution or file a property and legal compensation claim,
- right to special protection of his/her safety and the safety of his/her family, right to being treated with care and attention by the authorities and subjects participating in the criminal procedure,
- right to special protection from secondary victimization or re-victimization, and
- right to psychological and other expert assistance and support by the authorities, facilities and organisations for assisting children – victims to criminal acts.

### **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 help lines, victim support organisations.

We do not have any relevant information regarding this question therefore we are not able to provide an answer.

### **Question 8. Legislation**

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

Article 193 of the Criminal Code of the Republic of Macedonia lays down the criminal act of 'displaying pornographic materials to a child' corresponding to Article 21 of the Convention. Article 193-a lays down the criminal act of 'production and distribution of child pornography' corresponding to Article 20 of the Convention. Simultaneously, Article 122 item 24 lays down a definition of the term child pornography: 'child pornography shall mean pornographic material visually depicting obvious sexual acts involving a minor or an adult resembling a minor, or depicting the minor or the adult resembling a minor in an obvious sexual posing, or real images depicting obvious sexual acts with a minor or depicting the minor or the adult resembling a minor in an obvious sexual posing.'

- 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?

The Criminal Code does not regulate consensual posing amongst the aforementioned criminal acts (Answer to 8.1). Also, the issue regarding the involvement of more than one child is not explicitly regulated in Articles 193, 193-a and 193-b. Implicitly, Article 122 item 28 of the Criminal Code defines the term - group: 'A group, gang or another criminal association or organisation shall mean at least three persons, including the organiser of the group, associated for the purpose of committing criminal acts.'

- 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 sexually explicit content when these children accept that their image and/or video are produced and shared through ICTs?

In regard to items a) and b), Articles 193, 193 –a and 193-b of the Criminal Code the involvement of several children has not been explicitly regulated.

## **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?
  - 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?

In terms of this question we would like to make reference to the replies to the General Overview Questionnaire as regards to the implementation of Article 20 of the Convention.

- 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?

The aforementioned criminal acts are prosecuted *ex officio*. Pursuant to the Law on Criminal Procedure, the Public Prosecutor's Office shall be obliged to initiate criminal prosecution if there is evidence of a committed criminal act being prosecuted *ex officio*, except otherwise laid down by this law. Also, Article 42 stipulates that the Public Prosecutor's Office may cancel the criminal prosecution until the end of the criminal procedure, in cases laid down by law.

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

A prison sentence is imposed for the above mentioned criminal acts. If the act was committed by a legal entity a fine is imposed. Also, the items used for the perpetration of the criminal act are seized.

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

See reply to question 9.1.

- 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?

See reply to question 9.2 (A prison sentence is imposed for the above mentioned criminal acts. If the act was committed by a legal entity a fine is imposed. Also, the items used for the perpetration of the criminal act are seized.)

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

See reply to question 9.3.

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<sup>1</sup> If the replies of the 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 update such replies in the context of this question.

<sup>2</sup> If the replies of the 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 update such replies in the context of this question.



- 9.7. Does national law criminalise cases when children<sup>3</sup>:
- a. produce self-generated sexually explicit images and/or videos?
  - b. possess self-generated sexually explicit images and/or videos?
  - c. distribute or transmit self-generated sexually explicit images and or videos of themselves to peers?
  - d. distribute or transmit self-generated sexually explicit images and or videos of themselves to adults?
  - e. distribute or transmit self-generated sexually explicit images and or videos of other children to peers?
  - f. distribute or transmit self-generated sexually explicit images and or videos of other children to adults?

Both children and adults may be perpetrators of the aforementioned criminal acts because the law uses an impersonal pronoun for perpetrators of these criminal acts: 'One who...'

If the perpetrator is an adult, the provisions of the Criminal Code and Law on Criminal Procedure shall apply.

If the perpetrator is a child the provisions of the Law on Juvenile Justice (Official Gazette of the Republic of Macedonia No.148/2013) shall apply.

- 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?

The Law on Juvenile Justice entails forms of restorative justice. Article 19 lays down a definition of a child at risk:

- **A child at risk** is a child at the age of at least seven, but under the age of 18 who has a physical or mental disability, who is a victim of violence; who has been educationally or socially neglected; who is in such a state that aggravates or impedes the exercising of the upbringing by the parent, or the legal guardian; who has been excluded from the educational and upbringing system; who was drawn into begging, vagrancy or prostitution; who uses drugs and other psychotropic substances and precursors or alcohol; and who due to such a situation, in the context of a law, is or may become a victim or a witness to an act defined by law as a criminal act.

- **A child at risk up to 14 years of age** is a juvenile who at the time of perpetrating an act defined by law as a criminal act for which a fine or a prison sentence of over three years has been imposed or an act defined by law as a misdemeanour has reached seven, but not 14 years of age and

- **A child at risk between 14 and 18 years of age** is a juvenile who at the time of perpetrating the act defined by law as a criminal act for which a fine or a prison sentence of over three years has been imposed or an act defined by law as a misdemeanour, was at the age of 14, but had not reached 18 years of age.

Chapter II of this Law lays down provisions for measures for assistance and protection. In accordance with these provisions, the measures for assistance and protection shall be applied for a child at risk under the age of 14 and a child at risk over 14 years of age only if the centre for social work assesses that the risk situation is reflected in the development of the personality of the child and the proper upbringing thereof. The measures may be applied for the parent or legal guardian if they have neglected or misused their rights and obligations regarding the protection of the personality, the rights and the interests of the child. The measures for assistance and protection are laid down by law in the area of education, health, social, family and other forms of protection. (Article 23)

These provisions stipulate that the Centre for Social Work shall be informed about an act of a child at risk under the age of 14, which is defined by law as a criminal act for which a prison sentence of over three years has been stipulated, as well as if there are other persons involved in perpetrating of this act, against whom a court procedure may be initiated, and about an act of a child of over 14 years of age, defined by law as a criminal act for which a prison sentence of up to three years or a fine has been stipulated, and the Centre shall initiate a classified procedure for determining the factual circumstances of the specific risk event or risk state. The team of experts of the Centre shall implement a Plan on the Measures and Activities for an individual work with a child and a parent with an aim of removing the reasons for the child's behaviour and the risk state.

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

If the parent does not implement the plan of the Centre, in case of having a child at risk of over 14 years of age, and if the Centre, after all attempts, fails to implement it, within seven days as of establishing such a circumstance, shall inform the competent judge about the child, and the judge, within three days shall adopt a decision on application of the measures contained in the Plan, provided with guidelines by the Centre. If the parent does not act in accordance with the court's decision, the court shall inform the Public Prosecutor's Office about further acting thereof.

Also, if through the act, defined by law as a criminal act or a misdemeanour, the child at risk acquired proceeds of crime or caused damage to another person, the Centre for Social Work shall perform a mediation procedure between the child at risk or the child's parent or legal guardian and the harmed person for mutual reconciliation and a promise that the act will not be perpetrated again as well as for returning the proceeds of crime or compensating for the caused damage.

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

If the perpetrator is an adult, a prison sentence is imposed for the above mentioned criminal acts. A fine is imposed if the perpetrator of the criminal act is a legal entity. Also, the items used for the perpetration of the criminal act are seized.

If the perpetrator is a child the provisions of the Law on Juvenile Justice shall be applicable: Article 34 of this Law contains provisions on sanctions for children and the purpose thereof: A child between the age of 14 and 16 may be imposed only educational sanctions for an act determined as a criminal act.

A child between the age of 16 and 18, for an act determined as a criminal act, may be imposed educational sanctions, and exceptionally may be imposed a sanction or an alternative measures. A child between the age of 16 and 18 may be exempt from punishment under the general conditions laid down in the Criminal Code.

- 9.10. Does national law criminalise cases when children:<sup>4</sup>
- a. produce self-generated sexual content?
  - b. possess self-generated sexual content?
  - c. distribute or transmit self-generated sexual content to peers?
  - d. distribute or transmit self-generated sexual content to adults?
  - e. distribute or transmit self-generated sexual content of other children to peers?
  - f. distribute or transmit self-generated sexual content of other children to adults?

See reply to question 9.7.

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?

See reply to question 9.8.

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

See reply to 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?

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

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

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?

The Criminal Code of the Republic of Macedonia in paragraph 1 of the criminal act of Article 193 'Showing pornographic materials to a child' criminalises the actions of a person who sells, shows or by public presentation in some other way makes available pictures, audio-visual or other materials with a pornographic content, as well as the actions of the person who would take part in the presentation. These persons shall be sentenced to prison between six months and three years.

Paragraph 2 stipulates imprisonment between three to five years if the act was committed with the use of media.

Paragraph 3 stipulates that the sentence referred to in paragraph 2 will be imposed to a person abusing a minor under the age of 14<sup>7</sup> for the purposes of audio-visual materials or other items with pornographic content or for pornographic presentation.

Paragraph 5 stipulates imprisonment of at least eight years for a person forcing a child under the age of 14 to produce or generate images or other materials with pornographic content or for a pornographic presentation.

However, this criminal act does not contain explicit criminalisation of self-generated production and/or possession of images/videos with sexually explicit content where the children produced these with their consent and solely for their own private use.

**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

Article 193-b regulates the criminal act: *enticing a child under the age of 14 to sexual intercourse or other sexual act*. The following actions are criminalised: A person who through a computer communication devices by scheduling a meeting or in other way shall entice a child below the age of 14 to sexual intercourse or other sexual act or to production of child pornography and if the person has arranged a meeting with the minor with such an intention. The Criminal Code stipulates imprisonment between one and five years.

**Question 12. Jurisdiction rules<sup>8</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.

Regarding criminal jurisdiction, the Criminal Code of the Republic of Macedonia has accepted the territoriality principle (Article 116), real (protective) principle (Article 117), the active (Article 118) and passive (Article 119) personality principle and the universality principle (Article 119 paragraph 2). Article 116 regulates the territoriality principle:

Criminal jurisdiction applies to anyone committing a criminal act on the territory of the Republic of Macedonia. Criminal jurisdiction applies to anyone committing a criminal act on a national vessel, regardless of the location of the vessel at the time of committing the crime. Criminal

<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.

<sup>7</sup> Article 188 of the Criminal Code of the Republic of Macedonia incriminates the actions of a person having sexual intercourse or performing other sexual act to a minor under the age of 14 who will be punished with at least twelve years imprisonment.

<sup>8</sup> Please answer this question taking into account the requirements of Article 25 of the Lanzarote Convention.

jurisdiction applies to anyone committing a criminal act in a national civil aircraft while it is operating or in a national civil aircraft regardless of the location of the aircraft at the time of committing the crime.

**The real protective principle** is contained in Article 117 regulating the applicability of criminal jurisdiction on certain criminal acts committed abroad. It stipulates that: "Criminal jurisdiction is applicable to anyone who has committed a criminal act abroad, as referred to in Article 268 of this Law, if counterfeiting refers to national money, and as referred to in Articles 305 to 326, 357 to 359-a and 403 to 422 of this Law". The amendments to the Criminal Code of April 2011 expanded the applicability of the national criminal jurisdiction so that it would include the following acts: acts against the state, corruption and other acts of abuse of official authority, as well as the acts of international crimes in line with the obligations of the Republic of Macedonia contained in international conventions and recommendations for establishing a jurisdiction for prosecution of these acts regardless of the law of the state where they were committed. Along these lines, this provision indicates that for these crimes committed abroad, the Macedonian criminal jurisdiction shall be applicable whether the crime had been regulated in the legislation of the country where it was committed and whether the perpetrator had stood trial abroad. This means that the double criminality principle and non bis in idem principle are not applicable.

Articles 118 and 119 contain the **active and passive personality principle**:

Thus, Article 118 regulates the applicability of criminal jurisdiction to a citizen of the Republic of Macedonia committing a crime abroad.

Namely, this provision contains the principle of active (national) personality stipulating that: "Criminal jurisdiction applies to all citizens of the Republic of Macedonia, even when they have committed a criminal act abroad, with the exclusion of criminal acts referred to in Article 117, if found within the territory of the Republic of Macedonia or if they are extradited".

Article 119 regulates the applicability of criminal jurisdiction to a foreigner committing a criminal act abroad:

Paragraph 1 contains the **passive personality principle** stipulating that Macedonian criminal jurisdiction applies to all foreigners committing a criminal act against the state from abroad or committing a criminal act against a citizen of the Republic of Macedonia from abroad, with the exclusion of the criminal acts referred to in Article 117, if found on the territory of the Republic of Macedonia or if they are extradited.

Paragraph 2 of this Article contains **the universality principle**: "Criminal jurisdiction is applicable to foreigners who have committed a criminal act against a foreign state or against a foreigner from abroad, that may be punished with imprisonment of five years or with a more severe sentence, once those foreigners have been found on the territory of the Republic of Macedonia and have not been extradited to the foreign state. Unless otherwise provided for by this Criminal Code, the court in such a case does not have the power to impose a more severe sentence than the one prescribed by law of the country where the crime was committed".

Article 120 regulates the scope of **applicability of the double criminality principle and non bis in idem principle**.

Regarding the territoriality principle, prohibition of non bis in idem is a relative one: upon the approval of the public prosecutor of the Republic of Macedonia, prosecution in the Republic of Macedonia may be initiated in those cases when a criminal procedure has been initiated or completed against the perpetrator abroad (Article 119 paragraph 1).

Paragraph 2 of Article 119 consistently stipulates the **prohibition of double jeopardy**:

"In cases referred to in Articles 118 and 119, prosecution will not be initiated provided that:

- 1) the perpetrator has fully served the sentence abroad,
- 2) an adequate security measure has been taken against the perpetrator abroad, one that consist of deprivation of liberty,
- 3) the perpetrator has been acquitted with an effective verdict or the statute of limitations has expired or the sentence has been pardoned, and
- 4) for a criminal act regulated with a foreign law that is prosecuted upon the request of the damaged party and no such request has been filed".

The principle of **double criminality** is a relative principle with the active and passive personality principle and the universality principle and is regulated in paragraph 3 of this Article: "In cases referred to in Articles 118 and 119 prosecution will be initiated only when a criminal act is tried under the law of the country where the act was committed. When, in cases referred to between Article 118 and 119 paragraph 1, this act is not criminalised under the law of the country where the act was committed, prosecution may be initiated only with a consent of the public prosecutor of the Republic of Macedonia".

In cases referred to in Article 119 paragraph 2, prosecution may be initiated only with the consent of the public prosecutor of the Republic of Macedonia regardless of the law of the country where the crime was committed, if the act was considered as a criminal act at the time of committing under the general legal principles recognised by the international community. (Article 119 paragraph 4)

Paragraph 5 regulates legal representative jurisdiction: "In cases of Article 116, prosecution of a foreigner may, under the reciprocity principle, be given to a foreign state".

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

13.1. Are there specialized 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?
- c. in courts?

The Sector for Computer Crime and Digital Expertise within the Ministry of Interior of the Republic of Macedonia is competent for investigating cases of sexual abuse of children on the internet.

In addition, the Departments of Computer Crime within the composition of the Sectors for Internal Affairs at the whole territory of the Republic of Macedonia have such a competence.

Pursuant to the Law on Public Prosecution, Article 15:

(1) In a Public Prosecutor's Office with a larger amount of homogeneous cases, with the purpose of improved efficiency and specialisation of the work of the Public Prosecutor's Office, sections as internal organisational units may be formed for a more narrow area of its competence. Sections are managed by a Public Prosecutor assigned according to the annual work schedule of the Public Prosecutor's Office on the basis of a narrower specialisation and professionalism of the public prosecutor assigned as section head.

Pursuant to Article 101 of the Law on Juvenile Justice:

- (1) The specialised court departments for child crimes formed in the basic courts with extended competence shall be composed of judges specialised for juvenile cases, councils for children and counsellors for children.
- (2) The judge specialised for juvenile cases shall conduct the preparatory procedure, shall make decisions pursuant to Article 86 of this Law, shall chair the Council for Children and shall perform other tasks as defined by Law.
- (3) The judge specialised for juvenile cases, the public prosecutor and the authorised competent persons from the Ministry of Interior shall undergo specialised training for juvenile justice in the country or abroad, for at least five days a year.

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

→ 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.)?  
See reply to question 13.1.

- 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?

For the cases requiring international cooperation the Sector for Computer Crime and Digital Forensics, the Section for Investigations of Computer Crime uses the resources of the Sector for International Police Cooperation (Europol and Interpol) within the framework of the Ministry of Interior.

Additionally, with the purpose of capacity building the Sector for Computer Crime and Digital Forensics is right now at a stage of application for membership into the European Cybercrime Centre.

The Ministry of Interior of the Republic of Macedonia as an INTERPOL member actively cooperates with all member states in exchange of data in relation to investigations of sexual exploitation and abuse of children.

NCB INTERPOL Skopje initiated a procedure for enabling this area's experts employed at the Ministry a direct access to the INTERPOL ICSE (INTERPOL's International Child Sexual Exploitation database). Access will be fully enabled following procurement of the necessary technical equipment.

The Agreement on Operational and Strategic Cooperation between the Republic of Macedonia and Europol enables participation of the Ministry in the working files for analysis of Europol (AWF - Analysis Work File).

Namely, in accordance with the existing concept of the Analysis Work Files, two work files have been formed (for organised crime and for countering terrorism) and each of them consists of the so-called Analytical projects specialised for specific areas of work.

The Ministry of Interior of the Republic of Macedonia is participating in five Analytical projects and there is an on-going procedure for joining the AP Twins (Internet child pornography).

#### **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?

There is no sufficient information for an adequate response.

#### **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?
- c. judges?

Pursuant to the Law on Juvenile Justice, Article 101 paragraph 3:

The judge specialised for juvenile cases, the public prosecutor, the lawyer and the authorised officials of the Ministry of Interior shall undergo specialised training on a juvenile justice for at least 5 days a year, whether in that country or abroad.

#### **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?

The Republic of Macedonia is a signatory to the European Convention on the Transfer of Sentenced Persons, European Convention on Extradition and the European Convention on Mutual Assistance in Criminal Matters. Bilateral agreements of international legal cooperation in criminal matter have been ratified.

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 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 sexual content?
- c. investigating and prosecuting sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?

See reply to question 16.1.