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Council of Europe Convention on the Protection of Children
against Sexual Exploitation and Sexual Abuse
(CETS No. 201)

GENERAL OVERVIEW QUESTIONNAIRE
on the implementation of the Lanzarote Convention

As adopted by the Lanzarote Committee on 16 May 2013

Replies should be addressed to the Lanzarote Committee Secretariat

lanzarote.committee@coe.int

by 31 January 2014

This questionnaire, as well as the thematic questionnaire and reference document T-ES(2013)07
are available online at: <http://www.coe.int/lanzarote>

INTRODUCTION

1. The *Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse* (hereinafter “the Lanzarote Convention” or “the Convention”), which entered into force in July 2010, requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

2. The Committee of the Parties to the Convention (also known as the “Lanzarote Committee”), established to monitor whether Parties effectively implement the Convention (**Article 1, para. 2**), decided that:

“1. Following ratification, every Party to the Convention shall be required to reply to a questionnaire aimed at providing the Lanzarote Committee with a general overview of the legislation, institutional framework and policies for the implementation of the Convention at the national, regional and local levels.

2. States having signed the Convention shall be invited to reply to the questionnaire referred to in paragraph 1 of this Rule”. (Rule 23 of the Lanzarote Committee’s Rules of Procedure).

3. In accordance with Rule 26 of the Committee’s Rules of Procedure:

“(…) 2. The Secretariat shall address such questionnaires to the Parties through the member in the Lanzarote Committee representing the Party to be monitored, who will act as “contact person”.

3. Parties shall submit their replies in one of the official languages of the Council of Europe to the Secretariat within the time-limit set by the Lanzarote Committee. The replies shall be detailed, answer all questions and contain all relevant reference texts. The replies shall be made public unless otherwise requested by the Party concerned.

4. The Secretariat also addresses the same questionnaire to representatives of civil society, NGOs and any other bodies involved in preventing and combating sexual exploitation and sexual abuse of children. The latter shall be invited to reply to the questionnaire in one of the official languages of the Council of Europe within-in the same deadline as the Parties. The replies shall be made public if the NGO or other body submitting them so requests.

5. The Secretariat may request additional information if it appears that the replies are not exhaustive or unclear. Where warranted, with the consent of the Party(ies) concerned and within the limits of budgetary appropriations, the Bureau of the Lanzarote Committee may decide to carry out a visit in the Party(ies) concerned to clarify the situation.”

4. The purpose of this general questionnaire is thus to collect information to provide the Lanzarote Committee with an overview of the situation, which will constitute the general framework within which it will assess replies by Parties to the thematic questionnaire for the first monitoring round (see Rule 24 of the Lanzarote Committee’s Rules of Procedure).

PRELIMINARY REMARKS

5. The provisions of the Lanzarote Convention have been grouped under different sections in this questionnaire without necessarily following the structure of the Convention. This methodological choice in no way intends to prioritise the various provisions of the Convention: equal importance is attached to all rights and principles therein.

6. Parties will be invited to update their replies to this general questionnaire when they will receive the next thematic questionnaire. Responses to a thematic questionnaire should therefore be interrelated and combined with the responses provided in the context of this questionnaire.

7. Parties are kindly requested to:

- specify which state body/agency was responsible for collecting the replies to this questionnaire and which state bodies/agencies (and, where relevant, NGOs) contributed to responding to this questionnaire;
- answer the questions with regard to central, regional and local levels to the extent possible. Federal states may, in respect of their sovereign entities, answer the questions in a summarised way;
- answer the questions from a gender equality perspective, i.e. specifying, where relevant, whether and how measures for victims and/or offenders take into account gender-specific requirements;
- refer to document T-ES(2013)07, available at www.coe.int/lanzarote, for a non-exhaustive summary of the relevant children's rights case law of the European Court of Human Rights and the European Committee of Social Rights;
- bear in mind that when replying to questions related to "internal law" reference should also be made to the relevant case law;
- provide, whenever questions/answers refer to it, the relevant text (or a summary) of legislation or other regulations in English or French;
- if some of the questions below correspond to questions put to Parties by other bodies of the Council of Europe or other organisations (whether or not these are governmental bodies), Parties may refer to their initials answers (by providing a link to the relevant replies or by copying their answers) and update the information where necessary.

GENERAL FRAMEWORK

Question 1: Definition of "child"

- a. Does the notion of "child" under your internal law correspond to that set out in **Article 3, letter (a)**, i.e. "any person under the age of 18 years"?
- b. What legislative or other measures have been taken to ensure that when the age of a victim is uncertain and there are reasons to believe that the victim is a child, the protection and assistance provided for children are accorded to him or her in accordance with **Article 11, para. 2**?
- c. Please state whether the age for legal sexual activities is below 18 years of age and if so, please specify the age set out in internal law.

Question 2: Non-discrimination

Is discrimination, on grounds such as the ones mentioned in the indicative list in **Article 2**, prohibited in the implementation of the Convention, in particular in the enjoyment of the rights guaranteed by it? If so, please specify. If not, please justify.

Question 3: Overview of the implementation

Please indicate (without entering into details):

- a. the main legislative or other measures to ensure that children are protected against sexual exploitation and sexual abuse in accordance with the Convention;
- b. whether your country has adopted a national strategy and/or Action Plan to combat sexual exploitation and sexual abuse of children. If so, please specify the main fields of action and the body/bodies responsible for its/their implementation;

- c. whether your country has any guidelines to ensure a child-friendly implementation of the laws, measures and strategies referred to in letters (a) and (b) above. If so, please specify. With regard to judicial proceedings, please specify whether the Council of Europe Guidelines on Child-friendly Justice were taken as inspiration for your guidelines.

Question 4: Child participation

- a. Please indicate what steps have been taken to encourage the participation of children, according to their evolving capacity, in the development and the implementation of state policies, programmes or other initiatives concerning the fight against sexual exploitation and sexual abuse of children (**Article 9, para. 1**);
- b. In particular, please indicate whether, and if so, how child victim's views, needs and concerns have been taken into account in determining the legislative or other measures to assist victims (**Article 14, para. 1**).

Question 5: Specialised bodies/mechanisms

- a. Please indicate the independent institution(s) (national or local) in charge of promoting and protecting the rights of the child. Please specify its/their responsibilities and indicate how resources are secured for it/them (**Article 10, para. 2, letter (a)**);
- b. Which legislative or other measures have been taken to set up or designate mechanisms for data collection or focal points, at the national or local levels and in collaboration with civil society, for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children, with due respect for the requirements of personal data protection? (**Article 10, para. 2, letter (b)**);
- c. Which legislative or other measures have been taken to organise the collection and storage of data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention? What is the national authority in charge of the collection and storage of such data? (**Article 37, para. 1**).

Question 6: National or local coordination, cooperation and partnerships

- a. Please describe how coordination on a national or local level is ensured between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children. In particular, please provide information on existing or planned coordination between the education sector, the health sector, the social services and the law enforcement and judicial authorities (**Article 10, para. 1**);
- b. Is cooperation with a view to better preventing and combating sexual exploitation and sexual abuse of children encouraged between the competent state authorities, civil societies and the private sector (**Article 10, para. 3**)? If so, please specify how;
- c. Are partnerships or other forms of cooperation between the competent authorities promoted with particular regard to the recipients of intervention programmes and measures for persons subject to criminal proceedings or convicted of any of the offences established in accordance with the Lanzarote Convention (**Article 15, para. 2 and Article 16**)?

Question 7: International cooperation

Has your country integrated prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states (**Article 38, para. 4**)? Please give examples.

PREVENTION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE

Question 8: Education, awareness raising and training

- a. Which legislative or other measures have been taken to:
 - ensure that children, during primary and secondary education receive information on the risks of sexual exploitation and sexual abuse, as well as on the means to protect themselves, adapted to their evolving capacities? (**Article 6, Explanatory Report, paras. 59-62**). Please also specify whether this information includes the risks of the use of new information and communication technologies (**Article 6, Explanatory Report, para. 63**);
 - encourage awareness of the protection and rights of children among persons who have regular contacts with children in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities? (**Article 5, para. 1**);
 - ensure that persons, referred to while replying to the bullet point above, have an adequate knowledge of sexual exploitation and sexual abuse of children, of the means to identify them and of the possibility of reporting suspicions of a child being the victim of such acts? (**Article 5, para. 2**).
- b. Which policies or strategies have been implemented to promote or conduct awareness-raising campaigns targeted at the general public where the focus is directed especially towards the risks and realities of sexual exploitation and sexual abuse of children? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of the impact of the campaign/programme. If there are currently plans for launching a (new) campaign or programme, please provide details (**Article 8, para. 1**);
- c. Which legislative or other measures have been taken to prevent or prohibit the dissemination of materials advertising the offences established in accordance with this Convention? If so, please provide details (**Article 8, para. 2, Explanatory Report, para. 66**).

Question 9: Recruitment and screening

- a. Which legislative or other measures have been taken to ensure that the conditions for accessing those professions whose exercise implies regular contact with children, ensure that the candidates to these professions have not been convicted of acts of sexual exploitation or sexual abuse of children? (**Article 5, para. 3**). Please specify to which professions such measures apply. Please also indicate for how long the criminal record of a person who was convicted for such crimes is kept in your country;
- b. Does the screening of candidates apply to voluntary activities (**Explanatory Report, para. 57**)?

Question 10: Preventive intervention programmes or measures

- a. Which legislative or other measures have been taken to ensure that persons who fear that they may commit any of the offences established in accordance with the Convention, have access to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed? Please specify under which conditions, if required (**Article 7, Explanatory Report, para. 64**);
- b. Which legislative or other measures have been taken to ensure that persons subject to criminal proceedings or convicted for any of the offences established in accordance with the Convention, may have access to effective intervention programmes or measures? Please specify under which conditions, if required (**Articles 15 to 17**). Please indicate in particular:

- who has access to these programmes and measures (convicts, persons subject to criminal proceedings, recidivists, young offenders, persons who have not committed a crime yet?);
- how the appropriate programme or measure is determined for each person;
- whether there are specific programmes for young offenders;
- whether persons have a right to refuse the proposed programme/measures?

Question 11: Participation of the private sector, the media and civil society

What steps have been taken to encourage:

- a. the private sector (in particular the information and communication technology sector, the tourism and travel industry, the banking and finance sectors) to participate in the elaboration and implementation of policies, programmes or other initiatives to prevent sexual exploitation and sexual abuse of children? Please indicate which private sectors are concerned and explain how participation takes place. Please also provide information concerning any relevant code of conduct or enterprise charter aimed at protecting children from sexual exploitation and sexual abuse (**Article 9, para. 2, Explanatory Report, paras. 68-73**);
- b. the media to provide appropriate information concerning all aspects of sexual exploitation and sexual abuse of children (**Article 9, para. 3, Explanatory Report, para. 74**);
- c. the financing, including, where appropriate by the creation of funds, of the projects and programmes carried out by civil society aimed at preventing and protecting children from sexual exploitation and sexual abuse (**Article 9, para. 4, Explanatory Report, para. 75**). May the proceeds of crime be used to finance the above mentioned projects and programmes? Please provide details (**Article 27, para. 5, Explanatory Report, para. 193**).

Question 12: Effectiveness of preventive measures and programmes

- a. Please specify whether an assessment of the effectiveness and impact of the preventive measures and programmes described in replies to questions 4, 10 and 11 is regularly carried out;
- b. Please provide examples of the good practices in preventing sexual exploitation and sexual abuse of children.

**PROTECTION AND PROMOTION OF THE RIGHTS OF CHILDREN VICTIMS
OF SEXUAL EXPLOITATION AND SEXUAL ABUSE**

Question 13: Reporting suspicion of sexual exploitation or sexual abuse

- a. Are professionals working in contact with children bound by confidentiality rules? Do these rules constitute an obstacle for reporting to the services responsible for child protection any situation where they have reasonable ground for believing that a child is a victim of sexual exploitation or sexual abuse? Please indicate the criteria or guidelines which allow for the waiving of confidentiality rules (**Article 12, para. 1, Explanatory report, para. 89**);
- b. Are there any rules encouraging any person who knows about or suspects, in good faith, sexual exploitation and sexual abuse of children to report the facts to the competent authorities? If so, please specify under which conditions and to which authorities (**Article 12, para. 2, Explanatory Report, para. 91**). Please provide examples of good practice.

Question 14: Helplines

Which legislative or other measures have been taken to encourage and support the setting up of information services, such as telephone or internet helplines, to provide advice to callers, even confidentially or with due regard for their anonymity? (**Article 13, Explanatory Report, para. 92**).

Question 15: Assistance to victims

- a. Please indicate which types of assistance described in **Article 14** are provided to victims of sexual exploitation and sexual abuse of children. (**Explanatory Report paras. 93-100**) Please specify:
- how the assistance is adapted to the victims' age and maturity;
 - how due account is taken of the child's views, needs and concerns;
 - if the assistance (in particular emergency psychological care) is also provided to the victims' close relatives and persons responsible for their care.
- b. Please specify if and to what extent internal law provides for the possibility of removing (**Article 14, para. 3, Explanatory Report, para. 99**):
- the alleged perpetrator, when the parent or persons caring for the child are involved in his or her sexual exploitation or sexual abuse;
 - the victim from his or her family environment when parents or persons caring for the child are involved in his or her sexual exploitation or sexual abuse.
- c. If internal law does provide for this:
- are the conditions and duration of such removal to be determined in accordance with the best interests of the child?
 - are social programmes and multidisciplinary structures in place to provide the necessary support for victims, their close relatives and for any person responsible for their care? (**Article 11, Explanatory Report, paras. 87-88**).
- d. Which legislative or other measures have been taken to ensure that victims of an offence established in accordance with the Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their state of residence? (**Article 38, para. 2, Explanatory Report, paras. 258-259**).

**PROSECUTION OF PERPETRATORS OF SEXUAL EXPLOITATION
AND SEXUAL ABUSE OF CHILDREN**

Question 16: Criminal law offences

- a. Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law;
- b. Wherever the intentional conduct which is criminalised differs from the Lanzarote Convention benchmark, please justify;
- c. Please highlight whether there are any other offences not included in the box below incriminating sexual exploitation and sexual abuse of children in your country? Please provide their definitions and specify in which act these are included;
- d. Please also specify whether the age of a child plays a role in determining the gravity of the offence.

Sexual Abuse (Article 18)

1. Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;
2. Engaging in sexual activities with a child where
 - use is made of coercion, force or threats;
 - abuse is made of a recognised position of trust, authority or influence over the child, including within the family;
 - abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

Child Prostitution (Article 19)

1. Recruiting a child into prostitution or causing a child to participate in prostitution;
2. Coercing a child into prostitution or profiting from or otherwise exploiting a child for such purposes;
3. Having recourse to child prostitution.

Child Pornography (Article 20)

1. Producing child pornography;
2. Offering or making available child pornography;
3. Distributing or transmitting child pornography;
4. Procuring child pornography for oneself or for another person;
5. Possessing child pornography;
6. Knowingly obtaining access, through information and communication technologies, to child pornography.

Participation of a Child in Pornographic Performances (Article 21)

1. Recruiting a child into participating in pornographic performances or causing a child to participate in such performances
2. Coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes
3. Knowingly attending pornographic performances involving the participation of children.

Corruption of Children (Article 22)

The intentional causing, for sexual purposes, of a child who has not reached the internal legal age for sexual activities, to witness sexual abuse or sexual activities, even without having to participate.

Solicitation of Children for Sexual Purposes (“grooming”) (Article 23)

The intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age for sexual activities as established by internal law, for the purpose of committing sexual abuse or producing child pornography, where this proposal has been followed by material acts leading to such a meeting.

Aiding or abetting and attempt (Article 24)

1. Intentionally aiding or abetting the commission of any of the above offences.
2. The attempt to commit any of the above offences.

Question 17: Corporate liability

Does your system provide that a legal person may be held liable for an offence established in accordance with **Article 26**? Please specify under which conditions.

Question 18: Sanctions and measures

- a. Please indicate which sanctions internal law provides for the criminal offences established in accordance with the Convention with regard to both natural and legal persons. Please specify whether the sanctions are criminal, civil and/or administrative sanctions (**Article 27, Explanatory Report, paras. 182-193**);
- b. Which legislative or other measures have been taken to provide for the possibility of taking into account final sentences passed by another Party in relation to the offences established in accordance with the Convention? Please provide details and describe any good practice resulting from the taking of these measures (**Article 29, Explanatory Report, paras. 203-208**).

Question 19: Jurisdiction

With regard to the offences referred to in question 16, please indicate which jurisdiction rules apply. Please specify under which conditions, if required (**Article 25, Explanatory Report, paras. 165-176**).

Question 20: Aggravating Circumstances

Please indicate which of the circumstances referred to in **Article 28**, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration in your legal system as aggravating circumstances in the determination of the sanctions in relation to the offences established in accordance with this Convention (**Explanatory Report, paras. 194-202**).

Question 21: Measures of protection for the child victim

- a. Please describe the measures taken to inform child victims of their rights, the services at their disposal, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role as well as the outcome of their cases (**Article 31, para. 1, letter (a) and para. 2**). Please also indicate what is done to provide all relevant information in a manner adapted to the child's age and maturity and in a language that he/she may understand;
- b. Please also indicate which measures have been taken to enable the child victim to be heard, to supply evidence and to choose the means of having his/her views, needs and concerns presented, directly or through an intermediary, and considered (**Article 31, para. 1, letter (c)**);
- c. What kind of support services are provided to child victims and their families so that their rights and interests are duly presented and taken into account? (**Article 31, para. 1, letter (d)**);
- d. Please describe the measures taken to protect the privacy, the identity and the image of child victims (**Article 31, para. 1, letter (e)**);
- e. Please describe the measures taken to provide the safety of the child victims and witnesses and their families from intimidation, retaliation and repeat victimisation (**Article 31, para. 1, letter (f)**);
- f. Please specify whether the victim and his/her family are informed when the person prosecuted or convicted is released temporarily or definitely from detention or custody. Please indicate who delivers this information and how (**Article 31, para. 1, letter (b)**);
- g. Please also indicate what measures have been taken to ensure that contact between victims and perpetrators, within court and law enforcement agency premises, is avoided. Please specify under which conditions the competent authorities may authorise such contact in the best interests of the child or when the investigations or proceedings require such contact (**Article 31, para. 1, letter (g)**);
- h. Please specify under which conditions child victims of the offences established according to the Convention have access to legal aid provided free of charge (**Article 31, para. 3**).

Question 22: Investigations and criminal measures to protect the child victim

- a. What protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate? (**Article 30, para. 2, Explanatory Report, paras. 211-215**);
- b. Which legislative or other measures have been taken to ensure that investigations or prosecutions of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement? (**Article 32, Explanatory Report, para. 230**);

- c. Which legislative or other measures have been taken to ensure that the statute of limitation for initiating proceedings with regard to the offences established in accordance with **Articles 18, 19, paragraph 1.a and b, and 21, paragraph 1.a and b**, shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the crime in question? (**Article 33, Explanatory Report, paras. 231-232**);
- d. Please clarify whether your judicial authorities may appoint a special representative for the victim who may be party, where the holders of parental responsibility are precluded from representing the child in proceedings related to sexual exploitation or sexual abuse of children as a result of a conflict of interest between them and the victim. Please specify who may be appointed as a representative and what are his/her tasks (**Article 31, para. 4**). Please also describe under which conditions it is possible;
- e. Please describe how your internal law allows for groups, foundations, associations or governmental or non-governmental organisations assisting and/or supporting victims to participate in legal proceedings (for example, as third parties) (**Article 31, para. 5**). Please specify under which conditions, if so required;
- f. Please describe under which circumstances the use of covert operations is allowed in relation to the investigation of the offences established in accordance with the Convention (**Article 30, para. 5**);
- g. Please also describe what techniques have been developed for examining material containing pornographic images of children (**Article 30, para. 5**).

Question 23: Child friendly interviewing and proceedings

- a. Please describe how interviews (**Article 35**) with child victims are carried out, indicating in particular whether:
 - they take place without unjustified delay after the facts have been reported to the competent authorities;
 - they take place, where necessary, in premises designed or adapted for this purpose;
 - they are carried out by professionals trained for this purpose;
 - the same persons are, if possible and where appropriate, conducting all interviews with the child;
 - the number of interviews is as limited as possible and in so far as strictly necessary for the purpose of proceedings;
 - the child may be accompanied by his or her legal representative or, where appropriate, an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.
- b. Please also specify whether all interviews with the victim or, where appropriate, those with a child witness, may be videotaped and whether these videotaped interviews may be accepted as evidence during the court proceedings;
- c. Please describe under which conditions the judge may order the hearing to take place without the presence of the public and the child victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies? (**Article 36**).